

EN BANC

ANGEL A. ARDE,
Complainant,

A.C. No. 7607

Present:

BERSAMIN, C.J.,
CARPIO,
PERALTA,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
REYES, A. JR.,
GESMUNDO,
REYES, J. JR.,*
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, JJ.

- versus -

ATTY. EVANGELINE DE SILVA,
Respondent.

October 15, 2019

X

X

DECISION

PER CURIAM:

Before the Court is a Complaint for Disbarment¹ dated August 20, 2007 filed by complainant Natural Formula International, Inc., represented by Angel A. Arde, against respondent Atty. Evangeline de Silva for grave or gross misconduct in the practice of her legal profession and violation of the Supreme Court's directive suspending her from the practice of law pursuant to its July 29, 2003 Decision in *Emilio Grande v. Atty. Evangeline de Silva*,² docketed as A.C. No. 4838.

The antecedent facts are as follows:

* On leave.

¹ *Rollo*, pp. 1-9.

² 455 Phil. 1 (2003).

Complainant alleged that sometime in 2004, it engaged the legal services of respondent to work on the licensing and registration of its products before the Bureau of Food and Drugs (BFAD);³ that it disbursed to respondent the total amount of three hundred sixty-nine thousand four hundred sixteen pesos and ninety-eight centavos (PhP 369,416.98) for the licensing and registration of its products as evidenced by vouchers and receipts issued under the name of respondent;⁴ that respondent misappropriated, misapplied, and/or converted to her personal interest the said amount as no Certificate of Product Registration was actually processed and issued by the BFAD;⁵ that despite repeated demands, respondent failed to return the said amount;⁶ that it filed a complaint for *estafa* under paragraph 1(b), Article 315 of the Revised Penal Code (RPC) against respondent before the prosecutor of Malolos City;⁷ that in a Resolution dated June 7, 2006, the Office of the Provincial Prosecutor found probable cause to charge respondent with the crime of Other Deceits under Article 318 of the RPC, as amended;⁸ and that complainant later found out that when it engaged the services of respondent in 2004, she was actually serving her two-year suspension from the practice of law imposed by the Court in its July 29, 2003 Decision in *Emilio Grande*.⁹

On October 10, 2007, the Court required respondent to file her comment on the complaint within 10 days from notice.¹⁰ However, despite receipt of the notice, respondent failed to file her comment.¹¹ Accordingly, the instant case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

On April 27, 2010, after considering the evidence submitted by complainant against respondent, the Investigating Commissioner found her guilty of violating the Code of Professional Responsibility and the Lawyer's Oath, and thus recommended that she be disbarred and her name be deleted from the Roll of Attorneys.¹²

Finding the recommendation of the Investigating Commissioner fully supported by the evidence on record and the applicable laws and jurisprudence, the IBP Board of Governors unanimously adopted and approved the same in its Resolution No. XX-2013-97 dated September 28, 2013.¹³

The Court's Ruling

The Court affirms the IBP Resolution.

³ *Rollo*, p. 1.

⁴ *Id.* at 1-2.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.* at 5-8.

¹⁰ *Id.* at 35.

¹¹ *Id.* at 40.

¹² *Id.* at 135-143; Report and Recommendation prepared by Commissioner Acerey C. Pacheco.

¹³ *Id.* at 134.

Misappropriation of funds

Rules 16.01 and 16.03, Canon 16 of the Code of Professional Responsibility state:

CANON 16 — A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.

Rule 16.01 — A lawyer shall account for all money or property collected or received for or from the client.

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Rule 16.03 — A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

As has often been emphasized, “the relationship between a lawyer and his client is highly fiduciary and ascribes to a lawyer a great degree of fidelity and good faith.”¹⁴ Because of the nature of the relationship, lawyers have the duty to account for the money or property they receive for or from their clients.¹⁵ Thus, when they receive money from a client for a particular purpose, they are bound to render an accounting of how the money was spent for the said purpose; and, in case the money was not used for the intended purpose, they must immediately return the money to the client.¹⁶ Failure of a lawyer to return the money entrusted to him/her by his/her client upon demand creates a presumption that he/she has appropriated the same for his/her own use.¹⁷

In this case, complainant accuses respondent of grave or gross misconduct for allegedly misappropriating the amount of PhP 369,416.98 intended for the licensing and registration of its products with the BFAD. It appears that sometime in 2004, complainant engaged the legal services of respondent to cause the licensing and registration of its products with the BFAD. Respondent, however, breached her client’s trust as not only did she fail to fulfill her obligation but she also failed to return the amount entrusted to her even after several demands to do so. This prompted complainant to file the instant disbarment case against her. Despite the many opportunities given to her by the Court and the Investigating Commissioner, respondent, however, made no effort to refute the accusations hurled against her. Her deafening silence, coupled with the fact that she has a pending criminal case for *estafa* for the same offense, which she likewise refused to face and which has resulted in the issuance of a warrant of arrest against her, is indicative of her

¹⁴ *CF Sharp Crew Management, Inc. v. Torres*, 743 Phil. 614, 619 (2014).

¹⁵ *Id.*

¹⁶ *Id.* at 620.

¹⁷ *Id.*

guilt. In fact, her mere refusal and/or failure to return the money to her client without any justifiable reason is sufficient reason for the Court to find her guilty of misappropriation, which is a violation of the Lawyer's Oath and the Code of Professional Responsibility.

The Court has not been remiss in reminding lawyers that Rule 1.01, Canon 1 of the Code of Professional Responsibility mandates that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." Here, respondent's unjustifiable refusal and/or failure to return her client's money constitutes dishonesty, abuse of trust and confidence, and betrayal of her client's interests.

Worth mentioning at this point is the fact that this is not the first time respondent has been found guilty of deceit, grave misconduct, and violating the Lawyer's Oath. Neither is this the first time respondent has refused to comply with the lawful order of the Court requiring her to file an answer or a comment to the charges filed against her. As earlier mentioned by complainant, in the case of *Emilio Grande*,¹⁸ respondent was previously suspended from the practice of law for a period of two years for issuing to the complainant in that case a bouncing check as settlement of the civil aspect of the criminal case filed against her client. In that case, respondent also refused to accept the notices served on her by the Court requiring her to comment on the disbarment complaint filed against her. A criminal complaint for *estafa* and violation of *Batas Pambansa Bilang* (BP) 22 was also filed against respondent by the complainant in that case with the Office of the City Prosecutor of Marikina, which led to the filing of an Information for violation of BP 22 against respondent.

Regrettably, the penalty of suspension imposed upon respondent by the Court in *Emilio Grande* did not deter her from committing similar acts of deceit and gross misconduct. Since then and until now, respondent has not reformed or changed her ways.

Practice of law despite an order of suspension

Worse, respondent did not even have the decency to obey or follow the suspension order issued by the Court in *Emilio Grande*. Instead, she continued to practice law. As aptly pointed out by the Investigating Commissioner, respondent willfully disobeyed a lawful order of the Court when she agreed to give legal service to complainant in 2004 despite the fact that the Court had already promulgated a Decision on July 29, 2003 in *Emilio Grande* suspending her from the practice of law for a period of two years.¹⁹

¹⁸ *Supra* note 2.

¹⁹ *Rollo*, p. 140.

Disbarment

Her blatant disregard of the Court's orders, evasive attitude, depraved character, and corrupt behavior should not be tolerated, but should be sanctioned in accordance with Rule 138, Section 27 of the Rules of Court, which provides that:

Section 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do x x.

Jurisprudence is replete with cases where the Court did not hesitate to impose the severe penalty of disbarment to those lawyers who abused the trust and confidence reposed upon them by their clients as well as to those who committed unlawful, dishonest, and deceitful conduct.²⁰ The instant case is no exception.

All told, the Court hereby finds respondent guilty of gross misconduct for misappropriating and/or failing to return the money entrusted to her by her client and blatantly refusing to comply with the Court's order of suspension, and hereby imposes upon her the penalty of disbarment.

As the Court has repeatedly stressed:

[T]he practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality, including honesty, integrity and fair dealing. They must perform their fourfold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility. Falling short of this standard, the Court will not hesitate to discipline an erring lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion in consideration of the surrounding facts.²¹

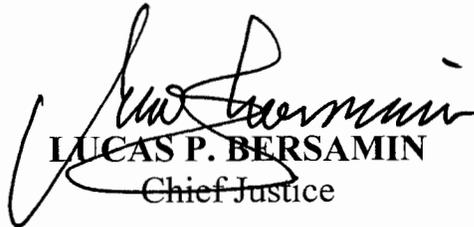
WHEREFORE, the Court **AFFIRMS** the Resolution No. XX-2013-97 dated September 28, 2013 of the Integrated Bar of the Philippines. Thus, respondent Atty. Evangeline de Silva is **DISBARRED** and her name is **ORDERED STRICKEN** off the Roll of Attorneys.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for circulation to all courts in the country. 9

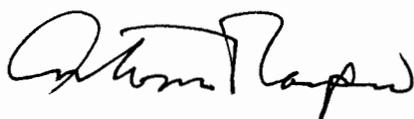
²⁰ *HDI Holdings Philippines, Inc. v. Cruz*, A.C. No. 11724, July 31, 2018.

²¹ *Del Mundo v. Atty. Capistrano*, 685 Phil. 687, 693 (2012).

SO ORDERED.



LUCAS P. BERSAMIN
Chief Justice



ANTONIO T. CARPIO
Associate Justice



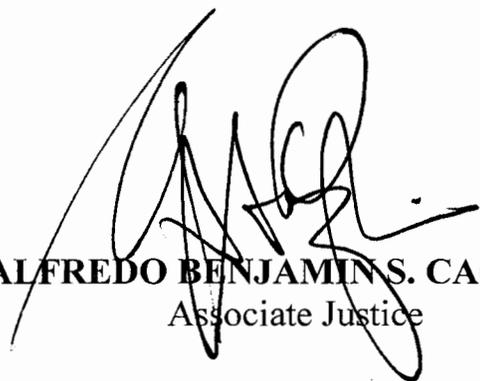
DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS BERNABE
Associate Justice



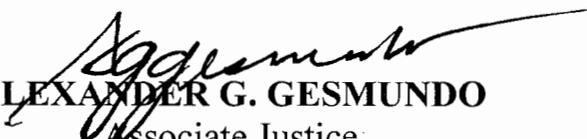
MARVIC M.V.F. LEONEN
Associate Justice



ALFREDO BENJAMINS S. CAGUIOA
Associate Justice

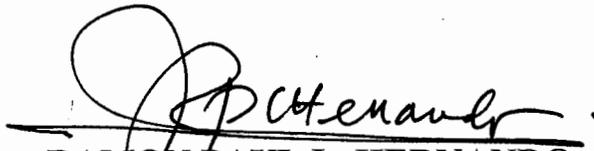


ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

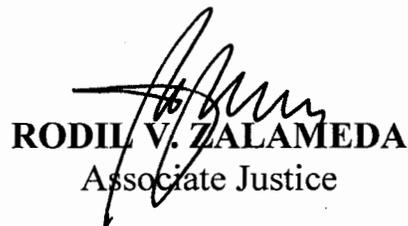
On leave
JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court