



Republic of the Philippines
Supreme Court
 Manila

EN BANC

NORMA M. GUTIERREZ,
 Complainant,

A.C. No. 10944

Present:

SERENO, *C.J.*,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 BRION,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 PEREZ,
 MENDOZA,*
 REYES,*
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA, and
 CAGUIOA, *JJ.*

- versus -

**ATTY. ELEANOR A. MARAVILLA-
 ONA.**

Respondent.

Promulgated:

July 12, 2016

X-----

[Handwritten signature]

RESOLUTION

PER CURIAM:

We review resolution No. XXI-2014-798 of the Board of Governors of the Integrated Bar of the Philippines (*IBP*) in CBD Case No. 12-3444, which imposed on Atty. Eleonor A. Maravilla-Ona (*Atty. Maravilla-Ona*) the penalty of five-year suspension from the practice of law and ordered her

*

 On Official Leave.

to return the remaining Sixty-Five Thousand Pesos (₱65,000.00) to complainant Norma M. Gutierrez (*Norma*).

On December 12, 2011, Norma secured Atty. Maravilla-Ona's services to send a demand letter to a third person for which she paid her Eight Hundred Pesos (₱800.00). When Norma decided to pursue the case in court, she paid Atty. Maravilla-Ona an additional Eighty Thousand Pesos (₱80,000.00) to file the case. The latter, however, failed to file the case, prompting Norma to withdraw from the engagement and to demand the refund of the amounts she had paid. Atty. Maravilla-Ona failed to refund the entire amount despite several demands.

On March 15, 2012, Atty. Maravilla-Ona returned Fifteen Thousand Pesos (₱15,000.00) to Norma and executed a promissory note to pay the remaining Sixty-Five Thousand Pesos (₱65,000.00) on March 22, 2012. Atty. Maravilla-Ona reneged on her promise.

Norma filed a **complaint** for disbarment against Atty. Maravilla-Ona for grave misconduct, gross negligence, and incompetence. She also prayed for the refund of the remainder of the money she had paid.

Atty. Maravilla-Ona failed to file any pleading nor appear in the mandatory conference called on Norma's complaint; thus, she could not refute the allegations against her.

IBP's Recommendation

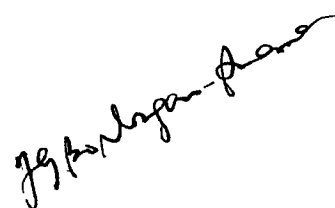
The investigating commissioner concluded that Atty. Maravilla-Ona's refusal to return her client's money is a clear violation of Canon 16, Rule 16.03 of the Code of Professional Responsibility (*Code*).

Canon 16 of the Code provides that a lawyer shall hold in trust all of the client's money or property; Rule 16.03 obligates a lawyer to deliver the client's funds and property when due or upon demand.

In the present case, Atty. Maravilla-Ona violated the Code when she failed to return Norma's money upon demand. Her act constitutes gross misconduct punishable by suspension from the practice of law. Pursuant to prevailing jurisprudence, the investigating commissioner recommended her suspension from the practice of law for two (2) years.

The Board of Governors adopted and approved the investigating commissioner's report but modified the recommended penalty of suspension from two (2) years to five (5) years.¹ The board noted that Atty. Maravilla-Ona's violation of Canon 16, Rule 16.03 of the Code is aggravated by her pending cases and the previous sanctions imposed upon her.

¹ *Rollo*, p. 17. Resolution No. XXI-2014-798, October 11, 2014.



THE COURT'S RULING

The Court concurs with the IBP Board of Governor's finding of administrative liability, but modifies the penalty of suspension from the practice of law from five years to three (3) years.

In line with the highly fiduciary nature of an attorney-client relationship,² Canon 16 of the Code requires a lawyer to hold in trust all moneys and properties of his client that may come into his possession. Rule 16.03 of the Code obligates a lawyer to deliver the client's funds and property when due or upon demand.

Where a client gives money to his lawyer for a specific purpose, such as: to file an action, to appeal an adverse judgment, to consummate a settlement, or to pay a purchase price for a parcel of land, the lawyer, upon failure to spend the money entrusted to him or her for the purpose, must immediately return the said money entrusted by the client.³ The Court's statement in *Del Mundo v. Atty. Capistrano* on this point, is instructive:

Moreover, a lawyer is obliged to hold in trust money of his client that may come to his possession. As trustee of such funds, he is bound to keep them separate and apart from his own. Money entrusted to a lawyer for a specific purpose such as for the filing and processing of a case if not utilized, must be returned immediately upon demand. Failure to return gives rise to a presumption that he has misappropriated it in violation of the trust reposed on him. And the conversion of funds entrusted to him constitutes gross violation of professional ethics and betrayal of public confidence in the legal profession.⁴

Simply put, money entrusted to a lawyer for a specific purpose, but not used for the given purpose, must immediately be returned to the client on demand.

In the present case, Atty. Maravilla-Ona received money from her client for the filing of a case in court. Not only did she fail to file the case but she also failed to return her client's money. These acts constitute violations of Atty. Maravilla-Ona's professional obligations under Canon 16.

The practice of law is a privilege bestowed only to those who possess and continue to possess the legal qualifications for the profession.⁵ As such, lawyers are duty-bound to maintain at all times a high standard of legal proficiency, morality, honesty, integrity, and fair dealing.⁶ If the lawyer falls short of this standard, the Court will not hesitate to discipline the lawyer by

² *Dalisay v. Mauricio*, A.C. No. 5655, January 23, 2006, 479 SCRA 307.

³ *Arroyo-Posidio v. Vitan*, A.C. No. 6051, April 2, 2007, 520 SCRA 1.

⁴ A.C. No. 6903, April 16, 2012, 669 SCRA 462.

⁵ *Jinon v. Jiz*, A.C. No. 9615, March 5, 2013, 692 SCRA 348.

⁶ *Id.*

J. Maravilla-Ona

imposing an appropriate penalty based on the exercise of sound judicial discretion.⁷

In several cases, the penalty imposed on lawyers for violating Canon 16 of the Code has ranged from suspension for six months, one year, two years, even up to disbarment, depending on the circumstances of each case.⁸

In *Jinon v. Jiz*,⁹ the lawyer failed to facilitate the transfer of land to his client's name and failed to return the money he received from the client despite demand. We suspended the lawyer from the practice of law for two years.

In *Agot v. Rivera*,¹⁰ the lawyer neglected his obligation to secure his client's visa and failed to return his client's money despite demand. We also suspended him from the practice of law for two years.

In *Luna v. Galarrita*,¹¹ the lawyer failed to promptly inform his client of his receipt of the proceeds of a settlement for the client, and further refused to turn over the amount received. As in the above cases, we suspended him from the practice of law for two years.

We agree with the board's recommendation to impose a more severe penalty on Atty. Maravilla-Ona since her misconduct in the present case is not her first violation of her professional obligations under the Code. We point out that the Court had already suspended Atty. Maravilla-Ona from the practice of law for one year in 2014 due to serious misconduct and for violating Canon 1, Rule 1.01 of the Code.¹² The Court's minute resolution, however, did not indicate the specific act she had committed.

As earlier stated, Atty. Maravilla-Ona received money from her client for the filing of a case in court, but failed to do so. She also did not return a substantial portion of the attorney's fees paid to her by her client. Under these circumstances, her unjustified withholding of her client's funds warrants disciplinary action and the imposition of sanctions.¹³

We note, too, that Atty. Maravilla-Ona's misconduct is aggravated by her failure to file an answer to the complaint and to appear at the mandatory conference. These omissions displayed her lack of respect for the IBP and its proceedings.¹⁴ While the board was correct that the penalty for the respondent's acts merit a higher penalty than the two-year suspension imposed by the investigating commissioner, we do not fully agree with the

⁷ *Supra* note 4.

⁸ *Luna v. Galarrita*, A.C. No. 10662, July 7, 2015, <http://sc.judiciary.gov.ph>.

⁹ *Supra* note 5.

¹⁰ A.C. No. 8000, August 5, 2014, 732 SCRA 12.

¹¹ *Supra* note 8.

¹² *Yatco v. Maravilla-Ona*, A.C. No. 10107, November 15, 2014, <http://sc.judiciary.gov.ph>.

¹³ See *Macarilay v. Serina*, A.C. No. 6591, May 4, 2005, 458 SCRA 12.

¹⁴ *Small v. Banares*, A.C. No. 7021, February 21, 2007, 516 SCRA 323.

J. R. Lopez-Dane

board's justification for the imposition of a graver penalty, *i.e.*, "her pending cases and previous sanctions."

The Court has consistently held that a lawyer enjoys the legal presumption that he or she is innocent of the administrative charges filed against him or her until the contrary is proved.¹⁵ As an officer of the court, a lawyer is presumed to have performed his or her duties pursuant to the lawyer's oath.¹⁶ Accordingly, the fact that other cases have also been filed against Atty. Maravilla-Ona and are pending resolution before the IBP or this Court should not be taken against her. Until these cases are resolved, such should not influence this Court's determination of the proper penalty to impose upon her in this instance. Notably, only the Court's September 15, 2014 resolution in Administrative Case No. 10107 (where we suspended Atty. Maravilla-Ona from the practice of law for one year) has attained finality at the time the board issued Resolution No. XXI-2014-798.

The appropriate penalty on an errant lawyer requires sound judicial discretion based on the surrounding facts. Considering the totality of the circumstances in the present case, we find a three-year suspension from the practice of law appropriate as penalty for Atty. Maravilla-Ona's misconduct. We emphasize, to the point of repetition, that her failure to discharge her duty properly constitutes an infringement of ethical standards and of her oath. Such failure makes her answerable not just to her client, but also to this Court, to the legal profession, and to the general public.

Since disciplinary proceedings involve the determination of administrative liability, including those intrinsically linked to the lawyer's professional engagement, such as the payment of the money she received and failed to earn by delivering her promised professional services,¹⁷ we aptly direct her to return the ₱65,000.00 to Norma.

WHEREFORE, premises considered, respondent **ATTY. ELEONOR A. MARAVILLA-ONA** is **SUSPENDED** from the practice of law for three (3) years. She is **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

Atty. Maravilla-Ona is also **ORDERED** to return to complainant Norma Gutierrez the full amount of ₱65,000.00 within ninety (90) days from the finality of this Resolution. Failure to comply with this directive will merit the imposition of the more severe penalty of disbarment from the practice of law, which this Court shall impose based on the complainant's motion with notice duly furnished to Atty. Maravilla-Ona. This penalty shall be in lieu of the penalty of suspension hereinabove imposed.

¹⁵ *Aba v. De Guzman, Jr.*, A.C. No. 7649, December 14, 2011, 662 SCRA 361.

¹⁶ *Id.*

¹⁷ *Pitcher v. Gagete*, A.C. No. 9532, October 8, 2013, 707 SCRA 13; *Sison v. Camacho*, A.C. No. 10910, January 12, 2016.

Handwritten signature

Let copies of this Resolution be furnished the Office of the Bar Confidant to be entered into the respondent's personal record. Copies shall likewise be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.


SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice




ANTONIO T. CARPIO
Associate Justice




PRESBITERO J. VELASCO, JR.
Associate Justice




TERESITA J. LEONARDO-DE CASTRO
Associate Justice




ARTURO D. BRION
Associate Justice



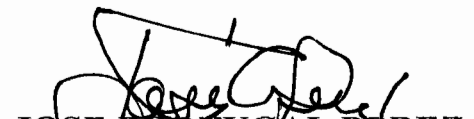
DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice




MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

(On Official Leave)
JOSE CATRAL MENDOZA
Associate Justice

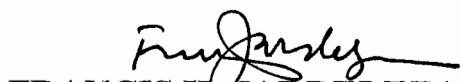
(On Official Leave)
BIENVENIDO L. REYES
Associate Justice



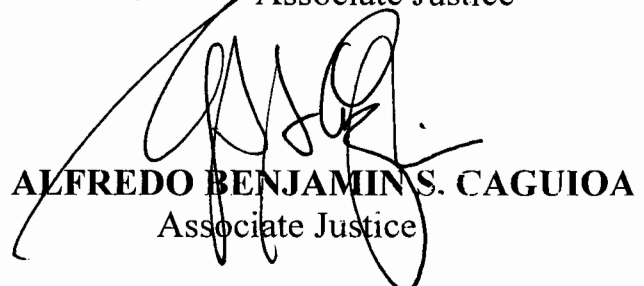
ESTELA M. PERLAS-BERNABE
Associate Justice



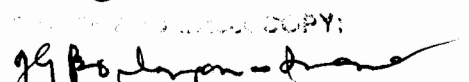
MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMINS S. CAGUIOA
Associate Justice

COPIES FOR CIRCULATION COPY:

FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT