



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **10 June 2020** which reads as follows:*

“A.C. No. 12092 (*Elizabeth G. Catalan v. Atty. Margarita P. Tamunda*) - Before the Court is a Letter-Complaint¹ dated June 4, 2014 filed by complainant Elizabeth G. Catalan against respondent Atty. Margarita P. Tamunda for violation of Rule 16.03 and Rule 18.04 of the Code of Professional Responsibility (CPR).

The antecedent facts are as follows:

Complainant alleged that she is the sister-in-law of the deceased George T. Catalan (George); that prior to his death, George was the managing partner of Grand Georgeo² Security and Surveillance Agency, Inc. (Grand Georgeo); that sometime in 2006, she sought the assistance of respondent, a legal aid lawyer of the Integrated Bar of the Philippines (IBP)-Manila IV Chapter, regarding the two condominium units owned by George located at Burgundy Corporate Tower and Burgundy Transpacific; that in order for respondent to adequately study the case, complainant turned over voluminous documents to respondent; that respondent failed to give complainant any feedback on the case prompting her to write a letter³ on November 11, 2009 requesting respondent to return the said documents; that due to the failure of respondent to comply, complainant wrote another letter⁴ on November 27, 2009; and that despite repeated demands, respondent refused to return the said documents.

On June 10, 2014, the Commission on Bar Discipline (CBD) of the IBP issued an Order⁵ requiring respondent to file an answer.

¹ *Rollo*, pp. 2-3.

² Spelled as Georgio in some parts of the records.

³ *Rollo*, p. 4.

⁴ *Id.* at 5.

⁵ *Id.* at 6.

In a letter⁶ dated July 23, 2014,⁷ the IBP-Manila IV Chapter informed the CBD that the respondent was out of the country.

On September 9, 2014, complainant moved to declare the respondent in default for failing to file an answer,⁸ which the CBD granted in its Order⁹ dated November 10, 2014.

On June 9, 2015, the Investigating Commissioner¹⁰ submitted his Report¹¹ recommending the dismissal of the complaint for failure of the complainant to prove the existence of an attorney-client relationship between her and respondent. In dismissing the complaint, the Investigating Commissioner took into consideration the letter¹² dated July 22, 2014 of Germelina Aguiatan¹³ (Germelina), the Corporate Secretary of Grand Georgeo, to Atty. Eladia Reyes, the President of IBP-Manila IV Chapter. Based on the letter and its attachments,¹⁴ the Investigating Commissioner found that contrary to the claim of complainant, the two condominium units were owned by Grand Georgeo and that complainant was not in any way connected with the company but was only asked by Germelina to hand over the documents to respondent. Accordingly, the Investigating Commissioner ruled that respondent was justified in refusing to release the documents to complainant, who was not a duly authorized representative of her client, Grand Georgeo.

Finding the report and recommendation of the Investigating Commissioner to be fully supported by the evidence on record and the applicable laws and jurisprudence, the Board of Governors (BOG) of the IBP adopted and approved the report and recommendation, and accordingly, resolved to dismiss the complaint in its Resolution¹⁵ dated June 20, 2015.

Complainant sought reconsideration arguing that the documents were entrusted to her by George before his death as payment for the loan she obtained for him.¹⁶ The BOG, however, resolved to deny the same for lack of merit in its Resolution¹⁷ dated April 20, 2017.

The Court's Ruling

The Court adopts and accepts the findings and recommendation of the IBP.

⁶ Id. at 7.

⁷ Erroneously dated July 23, 2013, id. at 56.

⁸ Id. at 33-34.

⁹ Id. at 35.

¹⁰ Commissioner Maria Angela N. Esquivel.

¹¹ *Rollo*, pp. 55-61.

¹² Id. at 8.

¹³ Referred to as Germelina Aguiatan-Catalan in the letter dated July 22, 2014, id. at 8.

¹⁴ Id. at 9-32.

¹⁵ Id. at 54.

¹⁶ Id. at 62-66.

¹⁷ Id. at 86.

Complainant accuses respondent of violating Rule 16.03 of the CPR which states that “a lawyer shall deliver the funds and property of his client when due or upon demand” and Rule 18.04 of the same code which states that a lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client’s request for information.”¹⁸ Complainant claims that after consulting with respondent regarding a case, she handed to respondent all the pertinent documents for further study; that respondent failed to give complainant any feedback on the case; and that despite repeated demands, respondent failed to return the documents.¹⁹

Indeed, once a lawyer accepts a case, he/she is duty-bound to serve his/her client with utmost competence and diligence; thus, he/she should never neglect a legal matter entrusted to him/her, otherwise, he/she would be liable for disciplinary action.²⁰ But before the Court can impose any disciplinary action on the negligent lawyer, the existence of an attorney-client relationship must first be established. Under prevailing jurisprudence, an attorney-client relationship is said to exist when a lawyer accepts or voluntarily permits the consultation of a person, who consults him/her with the intention of obtaining professional advice or assistance.²¹

Here, no evidence was presented by complainant to prove that an attorney-client relationship exists between her and respondent. Her allegation that she consulted with respondent regarding the properties of her deceased brother-in-law will not suffice considering that her allegation was belied by Germelina, the Corporate Secretary of Grand Georgeo. Germelina, in her Affidavit,²² said that complainant had no authority to withdraw the documents of Grand Georgeo from respondent because complainant was not the client of respondent. Moreover, Germelina presented the Board Resolution and the Secretary’s Certificate of Grand Georgeo as evidence showing that respondent was retained as legal counsel by Grand Georgeo to handle its claims against Burgundy Corporation. Germelina likewise submitted documents to prove that the condominium units were owned by Grand Georgeo, not George. Germelina further explained that she only requested complainant to hand over the documents to respondent because she was unavailable at that time and that the only reason complainant wanted to get hold of the documents was because complainant was demanding a huge amount of money from her.

Considering the absence of attorney-client relationship between respondent and complainant, respondent had no legal obligation to give the complainant a feedback on the case and to return the documents to her. Accordingly, the Letter-Complaint must be dismissed. It is a basic rule in evidence that he who alleges must prove his allegations.²³

¹⁸ Id. at 47-48.

¹⁹ Id.

²⁰ *Fernandez v. Atty. Cabrera II*, 463 Phil. 352, 353 (2003).

²¹ *Virgo v. Atty. Amarin*, 597 Phil. 182, 191 (2009).

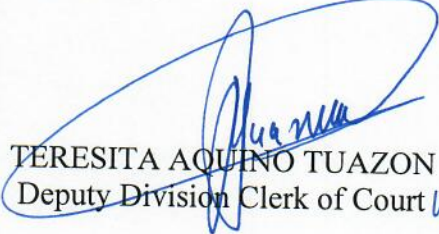
²² *Rollo*, pp. 9-12.

²³ *Spouses Boyboy v. Atty. Yabut, Jr.*, 449 Phil. 664, 668 (2003).

WHEREFORE, the Letter-Complaint is hereby **DISMISSED** for lack of merit.

SO ORDERED.”

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Utah 6/18*

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