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[A.C. No. 5118 (A.C. CBD No. 97-485). September 9, 1999]

MARILOU SEBASTIAN, *complainant, vs.* **ATTY. DOROTHEO CALIS,** *respondent.*

SYNOPSIS

After an investigation, respondent Atty. Dorotheo Calis was found to have deceived the complainant Marilou Sebatian by assuring her that he could give her visa and travel documents, that despite spurious documents, nothing untoward would happen to her. He also guaranteed her arrival in the U.S.A. and even promised to refund the fees and expenses already paid, in case something went wrong. The IBP Board of Governors found the respondent guilty of gross misconduct by engaging in unlawful, dishonest, immoral or deceitful conduct contrary to Canon 1, Rule 1.01 of the Code of Professional Responsibility.

The Supreme Court concurred with the resolution of the IBP saying that deception and other fraudulent acts by a lawyer are disgraceful and dishonorable. The lawyer's oath is not mere facile words, draft and hollow, but a sacred trust that must be upheld and keep inviolable. For his act respondent Dorotheo Calis was disbarred and his name was ordered stricken from the Roll of Attorneys. The respondent was also ordered to pay the amount of ₱114,000.00 representing the amount collected from the complainant.

SYLLABUS

1. **REMEDIAL LAW; LEGAL AND JUDICIAL ETHICS; ATTORNEYS; REQUIRED TO BE A PERSON OF GOOD MORAL CHARACTER.** — Deception and other fraudulent acts by a lawyer are disgraceful and dishonorable. They reveal moral flaws in a lawyer. They are unacceptable practices. A lawyer's relationship with others should be characterized by the highest degree of good faith, fairness and candor. This is

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the essence of the lawyer's oath. The lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and keep inviolable. The nature of the office of an attorney requires that he should be a person of good moral character. This requisite is not only a condition precedent to admission to the practice of law, its continued possession is also essential for remaining in the practice of law. The Court has sternly warned that any gross misconduct of a lawyer, whether in his professional or private capacity, puts his moral character in serious doubt as a member of the Bar, and renders him unfit to continue in the practice of law.

2. **ID.; ID.; ID.; PRACTICE OF LAW; PRIVILEGE GRANTED WITH CONDITION OF GOOD BEHAVIOR; VIOLATED IN CASE AT BAR.** — The practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege. The Court must stress that membership in the bar is a privilege burdened with conditions. A lawyer has the privilege to practice law only during good behavior. He can be deprived of his license for misconduct ascertained and declared by judgment of the court after giving him the opportunity to be heard. Here, it is worth noting that the adamant refusal of respondent to comply with the orders of the IBP and his total disregard of the summons issued by the IBP are contemptuous acts reflective of unprofessional conduct. Thus, the Court finds no hesitation in removing respondent Dorotheo Calis from the Roll of Attorneys for his unethical, unscrupulous and unconscionable conduct toward complainant.

D E C I S I O N

PER CURIAM:

For unlawful, dishonest, immoral or deceitful conduct as well as violation of his oath as lawyer, respondent Atty. Dorotheo Calis faces disbarment.

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The facts of this administrative case, as found by the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP),[1] in its Report, are as follows:

Complainant (Marilou Sebastian) alleged that sometime in November, 1992, she was referred to the respondent who promised to process all necessary documents required for complainant's trip to the USA for a fee of One Hundred Fifty Thousand Pesos (₱150,000.00).

On December 1, 1992 the complainant made a partial payment of the required fee in the amount of Twenty Thousand Pesos (₱20,000.00), which was received by Ester Calis, wife of the respondent for which a receipt was issued.

From the period of January 1993 to May 1994 complainant had several conferences with the respondent regarding the processing of her travel documents. To facilitate the processing, respondent demanded an additional amount of Sixty Five Thousand Pesos (₱65,000.00) and prevailed upon complainant to resign from her job as stenographer with the Commission on Human Rights.

On June 20, 1994, to expedite the processing of her travel documents complainant issued Planters Development Bank Check No. 12026524 in the amount of Sixty Five Thousand Pesos (₱65,000.00) in favor of Atty. D. Calis who issued a receipt. After receipt of said amount, respondent furnished the complainant copies of Supplemental to U.S. Nonimmigrant Visa Application (Of. 156) and a list of questions which would be asked during interviews.

When complainant inquired about her passport, Atty. Calis informed the former that she will be assuming the name Lizette P. Ferrer married to Roberto Ferrer, employed as sales manager of Matiao Marketing, Inc. The complainant was furnished documents to support her assumed identity.

Realizing that she will be travelling with spurious documents, the complainant demanded the return of her money, however she was assured by respondent that there was nothing to worry about for he has been engaged in the business for quite sometime; with the promise that her money will be refunded if something goes wrong.

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[1] Records, pp. 46-49.

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Weeks before her departure respondent demanded for the payment of the required fee which was paid by complainant, but the corresponding receipt was not given to her.

When complainant demanded for her passport, respondent assured the complainant that it will be given to her on her departure which was scheduled on September 6, 1994. On said date complainant was given her passport and visa issued in the name of Lizette P. Ferrer. Complainant left together with Jennyfer Belo and a certain Maribel who were also recruits of the respondent.

Upon arrival at the Singapore International Airport, complainant together with Jennyfer Belo and Maribel were apprehended by the Singapore Airport Officials for carrying spurious travel documents; Complainant contacted the respondent through overseas telephone call and informed him of her predicament. From September 6 to 9, 1994, complainant was detained at Changi Prisons in Singapore.

On September 9, 1994 the complainant was deported back to the Philippines and respondent fetched her from the airport and brought her to his residence at 872-A Tres Marias Street, Sampaloc, Manila. Respondent took complainant's passport with a promise that he will secure new travel documents for complainant. Since complainant opted not to pursue with her travel, she demanded for the return of her money in the amount of One Hundred Fifty Thousand Pesos (₱150,000.00).

On June 4, 1996, June 18 and July 5, 1996 respondent made partial refunds of ₱15,000.00; ₱6,000.00; and ₱5,000.00.

On December 19, 1996 the complainant through counsel, sent a demand letter to respondent for the refund of a remaining balance of One Hundred Fourteen Thousand Pesos (₱114,000.00) which was ignored by the respondent.

Sometime in March 1997 the complainant went to see the respondent, however his wife informed her that the respondent was in Cebu attending to business matters.

In May 1997 the complainant again tried to see the respondent however she found out that the respondent had transferred to an unknown residence apparently with intentions to evade responsibility.

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Attached to the complaint are the photocopies of receipts for the amount paid by complainant, applications for U.S.A. Visa, questions and answers asked during interviews; receipts acknowledging partial refunds of fees paid by the complainant together with demand letter for the remaining balance of One Hundred Fourteen Thousand Pesos (₱114,000.00); which was received by the respondent.[2]

Despite several notices sent to the respondent requiring an answer to or comment on the complaint, there was no response. Respondent likewise failed to attend the scheduled hearings of the case. No appearance whatsoever was made by the respondent.[3] As a result of the inexplicable failure, if not obdurate refusal of the respondent to comply with the orders of the Commission, the investigation against him proceeded *ex parte*.

On September 24, 1998, the Commission on Bar Discipline issued its Report on the case, finding that:

"It appears that the services of the respondent was engaged for the purpose of securing a visa for a U.S.A. travel of complainant. There was no mention of job placement or employment abroad, hence it is not correct to say that the respondent engaged in illegal recruitment.

The alleged proposal of the respondent to secure the U.S.A. visa for the complainant under an assumed name was accepted by the complainant which negates deceit on the part of the respondent. Noted likewise is the partial refunds made by the respondent of the fees paid by the complainant. However, the transfer of residence without a forwarding address indicates his attempt to escape responsibility.

In the light of the foregoing, we find that the respondent is guilty of gross misconduct for violating Canon 1 Rule 1.01 of the Code of Professional Responsibility which provides that a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

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[2] *Id.* at 46-48.

[3] *Id.* at 48-49.

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WHEREFORE, it is respectfully recommended that *ATTY. DOROTHEO CALIS* be *SUSPENDED* as a member of the bar until he fully refunds the fees paid to him by complainant and comply with the order of the Commission on Bar Discipline pursuant to Rule 139-B, Sec. 6 of the Rules of Court."[4]

Pursuant to Section 12, Rule 139-B of the Rules of Court, this administrative case was elevated to the IBP Board of Governors for review. The Board in a Resolution[5] dated December 4, 1998 resolved to adopt and approve with amendment the recommendation of the Commission. The Resolution of the Board states:

"RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution/Decisions as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, *with an amendment* that Respondent Atty. Dorotheo Calis be *DISBARRED* for having been found guilty of Gross Misconduct for engaging in unlawful, dishonest, immoral or deceitful conduct."

We are now called upon to evaluate, for final action, the IBP recommendation contained in its Resolution dated December 4, 1998, with its supporting report.

After examination and careful consideration of the records in this case, we find the resolution passed by the Board of Governors of the IBP in order. We agree with the finding of the Commission that the charge of illegal recruitment was not established because complainant failed to substantiate her allegation on the matter. In fact she did not mention any particular job or employment promised to her by the respondent. The only service of the respondent mentioned by the complainant was that of securing a visa for the United States.

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[4] *Id.* at 49.

[5] *Id.* at 45.

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We likewise concur with the IBP Board of Governors in its Resolution, that herein respondent is guilty of gross misconduct by engaging in unlawful, dishonest, immoral or deceitful conduct contrary to Canon 1, Rule 101 of the Code of Professional Responsibility. Respondent deceived the complainant by assuring her that he could give her visa and travel documents; that despite spurious documents nothing untoward would happen; that he guarantees her arrival in the USA and even promised to refund her the fees and expenses already paid, in case something went wrong. All for material gain.

Deception and other fraudulent acts by a lawyer are disgraceful and dishonorable. They reveal moral flaws in a lawyer. They are unacceptable practices. A lawyer's relationship with others should be characterized by the highest degree of good faith, fairness and candor. This is the essence of the lawyer's oath. The lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and keep inviolable.[6] The nature of the office of an attorney requires that he should be a person of good moral character.[7] This requisite is not only a condition precedent to admission to the practice of law, its continued possession is also essential for remaining in the practice of law.[8] We have sternly warned that any gross misconduct of a lawyer, whether in his professional or private capacity, puts his moral character in serious doubt as a member of the Bar, and renders him unfit to continue in the practice of law.[9]

It is dismaying to note how respondent so cavalierly jeopardized the life and liberty of complainant when he made her travel with spurious documents. How often have victims of unscrupulous travel agents and illegal recruiters been imprisoned in foreign lands because they were provided fake travel documents? Respondent totally disregarded the personal

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[6] *Masinsin vs. Albano*, 232 SCRA 631 (1994).

[7] Rule 138, Sec. 2 of the Revised Rules of Court.

[8] *People vs. Tuanda*, Adm. Case No. 3360, Jan. 30, 1990, p. 29.

[9] *Melendez vs. Decena*, 176 SCRA 662, 663 (1989).

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safety of the complainant when he sent her abroad on false assurances. Not only are respondent's acts illegal, they are also detestable from the moral point of view. His utter lack of moral qualms and scruples is a real threat to the Bar and the administration of justice.

The practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege.[10] We must stress that membership in the bar is a privilege burdened with conditions. A lawyer has the privilege to practice law only during good behavior. He can be deprived of his license for misconduct ascertained and declared by judgment of the court after giving him the opportunity to be heard.[11]

Here, it is worth noting that the adamant refusal of respondent to comply with the orders of the IBP and his total disregard of the summons issued by the IBP are contemptuous acts reflective of unprofessional conduct. Thus, we find no hesitation in removing respondent Dorotheo Calis from the Roll of Attorneys for his unethical, unscrupulous and unconscionable conduct toward complainant.

Lastly, the grant in favor of the complainant for the recovery of the ₱114,000.00 she paid the respondent is in order.[12] Respondent not only unjustifiably refused to return the complainant's money upon demand, but he stubbornly persisted in holding on to it, unmindful of the hardship and humiliation suffered by the complainant.

WHEREFORE, respondent Dorotheo Calis is hereby *DISBARRED* and his name is ordered stricken from the Roll of Attorneys. Let a copy of this Decision be *FURNISHED* to the IBP and the Bar Confidant to be spread on the personal records

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[10] *Arrieta vs. Llosa*, 282 SCRA 248, 249 (1997).

[11] *Marcelo vs. Javier*, 214 SCRA 13 (1992).

[12] See *Igual vs. Javier*, 254 SCRA 416, 424 (1996).

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of respondent. Respondent is likewise ordered to pay to the complainant immediately the amount of One Hundred Fourteen Thousand (₱114,000.00) Pesos representing the amount he collected from her.

SO ORDERED.

Bellosillo, (Actg. C.J.) Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and *Ynares-Santiago, JJ.,* concur.

Davide, Jr., C.J., and *Panganiban, J.,* on official leave.

FIRST DIVISION

[A.M. No. P-98-1274. September 9, 1999]

(Formerly A.M. No. OCA IPI. No. 97-229-10)

ACELA P. LEONOR, *complainant, vs.* **VILMA B. DELFIN, Clerk of Court III,** *respondent.*

SYNOPSIS

In a letter-complaint addressed to the Supreme Court, Acela P. Leonor asked that proper disciplinary action be taken against respondent Vilma B. Delfin, Clerk of Court III, Municipal Circuit Trial Court of Bacolod City. The Court referred the case to the Office of the Court Administrator for evaluation, report and recommendation. The complaint roused from a promise made by Mrs. Delfin that the error on the birth certificate of the complainant's son could be corrected within a period of just one and a half month's time in which an amount of ₱6,000.00 was paid by the latter. However, the complainant found that the petition for correction of the entries in the birth record was not properly prepared and filed and the amount paid was not refunded. In its resolution the Court Administrator