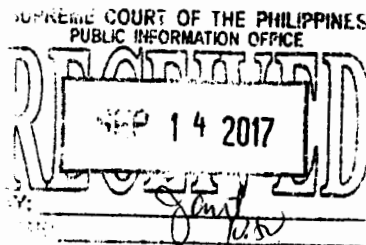




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

ELIBENA A. CABLES,
Complainant,

A.C. No. 10245

Present:

- versus -

SERENO, *C.J., Chairperson,*
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 JARDELEZA, *and*
 TIJAM, *JJ.*

ATTY. LEANDRO S. CEDO,
Respondent.

Promulgated:
AUG 16 2017

X-----X

DECISION

DEL CASTILLO, J.:

Complainant Elibena Cables (Elibena) filed this administrative complaint¹ before the Integrated Bar of the Philippines (IBP) seeking the disbarment of Atty. Leandro Cedo (respondent lawyer) for neglecting the two cases she referred to him to handle.

The Facts

According to Elibena, she engaged the services of respondent lawyer to handle an illegal dismissal case, *i.e.*, NLRC NCR Case No. 00-11-16153-08 entitled “Danilo Ligbos v. Platinum Autowork and/or Even Cables and Rico Guido,” where therein respondents were Elibena’s business partners. Respondent lawyer was paid Php5,500.00² for drafting therein respondents’ position paper³ and Php2,000.00⁴ for his every appearance in the NLRC hearings.

During the hearing set on March 26, 2009, only Danilo Ligbos (Danilo), the complainant therein, showed up and submitted his Reply.⁵ On the other hand,

¹ *Rollo*, pp. 2-9.

² *Id.* at 10.

³ *Id.* at 11-15.

⁴ *Id.* at 17. One instance in which Atty. Cedo was paid the amount was on March 6, 2009, when he received from Platinum Autowork Php2,000.00 labeled as “Attorney’s Fees.”

⁵ *Id.* at 23.

respondent lawyer did not file a Reply for his clients,⁶ despite being paid his appearance fee earlier.⁷

In a Decision⁸ dated March 31, 2009, the Labor Arbiter ruled for Danilo, and ordered the clients of respondent lawyer to pay Danilo backwages, separation pay, and 13th month pay.

Worse still, on October 27, 2009, the NLRC likewise dismissed the appeal of the clients of respondent lawyer for failure to post the required cash or surety bond, an essential requisite in perfecting an appeal.⁹

According to Elibena, respondent lawyer misled them by claiming that it was Danilo who was absent during the said hearing on March 26, 2009; and that moreover, because of the failure to submit a Reply, they were prevented from presenting the cash vouchers¹⁰ that would refute Danilo's claim that he was a regular employee.

With regard to the non-perfection of the appeal before the NLRC, Elibena claimed that respondent lawyer instructed them (his clients) to pick up the said Memorandum only on the last day to file the appeal, *i.e.*, on May 28, 2009; that the memorandum was ready for pick up only at around 2:30 p.m. that day; that left to themselves, with no help or assistance from respondent lawyer, they rushed to file their appeal with the NLRC in Quezon City an hour later; that the NLRC Receiving Section informed them that their appeal was incomplete, as it lacked the mandatory cash/surety bond, a matter that respondent lawyer himself did not care to attend to; and, consequently, their appeal was dismissed for non-perfection.

Elibena moreover claimed that respondent lawyer failed to indicate his Mandatory Continuing Legal Education (MCLE) compliance¹¹ in the position paper and in the memorandum of appeal that he prepared. Elibena pointed to a certification¹² issued on June 29, 2010 by the MCLE Office that respondent lawyer had not at all complied with the first, second, and third compliance periods¹³ of the (MCLE) requirement. *Mol*

⁶ Id. at 28, as pointed out in the Labor Arbiter's Decision.

⁷ Id. at 19.

⁸ Id. at 28-29.

⁹ Id. at 37-41.

¹⁰ Id. at 24-27.

¹¹ In violation of Bar Matter No. 1922 dated June 3, 2008. The pertinent portion which states:
x x x x

The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to **REQUIRE** practicing members of the bar to **INDICATE** in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. x x x

¹² *Rollo*, p. 82.

¹³ 1st Compliance Period was from April 15, 2001 to April 14, 2004; 2nd Compliance Period was from April 15, 2004 to April 14, 2007; and the Third Compliance Period was from April 15, 2007 to April 14, 2010.

Elibena also averred that in May 2009, she hired respondent lawyer to file a criminal case for unjust vexation against Emelita Claudit; that as evidenced by a May 5, 2009 handwritten receipt,¹⁴ she paid respondent lawyer his acceptance fees, the expenses for the filing of the case, and the appearance fees totalling Php45,000.00; and that in order to come up with the necessary amount, she sold to respondent lawyer her 1994 Model Mitsubishi Lancer worth Php85,000.00, this sale being covered by an unnotarized Deed of Sale¹⁵ dated August 1, 2009.

Elibena claimed that, despite payment of his professional fees, respondent lawyer did not exert any effort to seasonably file her Complaint for unjust vexation before the City Prosecutor's Office; that the Office of the City Prosecutor of Muntinlupa City dismissed her Complaint for unjust vexation on September 10, 2009 on the ground of prescription; and that although she moved for reconsideration of the Order dismissing the case, her motion for reconsideration was denied by the City Prosecutor's Office in a resolution dated October 19, 2009.¹⁶

In his Answer,¹⁷ respondent lawyer argued that the March 26, 2009 hearing was set to provide the parties the opportunity either to explore the possibility of an amicable settlement, or give time for him (respondent lawyer) to decide whether to file a responsive pleading, after which the case would be routinely submitted for resolution, with or without the parties' further appearances. As regards the cash vouchers, respondent lawyer opined that their submission would only contradict their defense of lack of employer-employee relationship. Respondent lawyer likewise claimed that Elibena was only feigning ignorance of the cost of the appeal bond, and that in any event, Elibena herself could have paid the appeal bond. With regard to Elibena's allegation that she was virtually forced to sell her car to respondent lawyer to complete payment of the latter's professional fee, respondent lawyer claimed that he had fully paid for the car.¹⁸

Respondent lawyer did not refute Elibena's claim that he failed to indicate his MCLE compliance in the position paper and in the memorandum of appeal.

The IBP's Report and Recommendation

In a May 18, 2011 Report and Recommendation,¹⁹ the Investigating Commissioner found respondent lawyer guilty of having violated Canons 5, 17, and 18 of the Code of Professional Responsibility and recommended his suspension from the practice of law for two years. Aside from respondent

¹⁴ *Rollo*, p. 44.

¹⁵ *Id.* at 54.

¹⁶ *Id.* at 45.

¹⁷ *Id.* at 56-59.

¹⁸ *Id.* at 49-52.

¹⁹ *Id.* at 89-98.

lawyer's failure to comply with the MCLE requirements, the Investigating Commissioner also found him grossly negligent in representing his clients, particularly (1) in failing to appear on the March 26, 2009 hearing in the NLRC, and file the necessary responsive pleading; (2) in failing to advise and assist his clients who had no knowledge of, or were not familiar with, the NLRC rules of procedure, in filing their appeal and; 3) in failing to file seasonably the unjust vexation complaint before the city prosecutor's office, in consequence of which it was overtaken by prescription.

In its March 20, 2013 Resolution, the IBP Board of Governors adopted and approved the Investigating Commissioner's Report and Recommendation, but modified the recommended administrative sanction by reducing the suspension to one year.

The Court's Ruling

We adopt the IBP's finding that respondent lawyer violated the Code of Professional Responsibility. We also agree with the recommended penalty.

Violation of Canon 5

Firstly, Bar Matter 850 mandates continuing legal education for IBP members as an additional requirement to enable them to practice law. This is "to ensure that throughout their career, they keep abreast with law and jurisprudence, maintain the ethics of the profession and enhance the standards of the practice of law."²⁰ Non-compliance with the MCLE requirement subjects the lawyer to be listed as a delinquent IBP member.²¹ In *Arnado v. Adaza*,²² we administratively sanctioned therein respondent lawyer for his non-compliance with four MCLE Compliance Periods. We stressed therein that in accordance with Section 12(d) of the MCLE Implementing Regulations,²³ even if therein respondent attended an MCLE Program covered by the Fourth Compliance Period, his attendance therein

²⁰ *Arnado v. Adaza*, A.C. No. 9834, August 26, 2015, 768 SCRA 172, 179-180.

²¹ Bar Matter 850, Rule 13, Section 2. *Listing as delinquent member.* -- A member who fails to comply with the requirements after the sixty (60) day period for compliance has expired, shall be listed as a delinquent member of the IBP upon the recommendation of the MCLE Committee. The investigation of a member for non-compliance shall be conducted by the IBP's Commission on Bar Discipline as a fact-finding arm of the MCLE Committee.

²² *Supra* at 180.

²³ d. A member failing to comply with the continuing legal education requirement will receive a Non-Compliance Notice stating his specific deficiency and will be given sixty (60) days from the receipt of the notification to explain the deficiency or otherwise show compliance with the requirements. x x x

x x x x

The Member may use the 60-day period to complete his compliance with the MCLE requirement. Credit units earned during this period may only be counted toward compliance with the prior compliance period requirement unless units in excess of the requirement are earned, in which case the excess may be counted toward meeting the current compliance period requirement. (Emphasis ours)

would only cover his deficiency for the First Compliance Period, and he was still considered delinquent and had to make up for the other compliance periods. Consequently, we declared respondent lawyer therein a delinquent member of the IBP and suspended him from law practice for six months or until he had fully complied with all the MCLE requirements for all his non-compliant periods.

In the present case, respondent lawyer failed to indicate in the pleadings filed in the said labor case the number and date of issue of his MCLE Certificate of Compliance for the Third Compliance Period, *i.e.*, from April 15, 2007 to April 14, 2010, considering that NLRC NCR Case No. 00-11-16153-08 had been pending in 2009. In fact, upon checking with the MCLE Office, Elibena discovered that respondent lawyer had failed to comply with the three MCLE compliance periods. For this reason, there is no doubt that respondent lawyer violated Canon 5, which reads:

CANON 5 - A LAWYER SHALL KEEP ABREAST OF LEGAL DEVELOPMENTS, PARTICIPATE IN CONTINUING LEGAL EDUCATION PROGRAMS, SUPPORT EFFORTS TO ACHIEVE HIGH STANDARDS IN LAW SCHOOLS AS WELL AS IN THE PRACTICAL TRAINING OF LAW STUDENTS AND ASSIST IN DISSEMINATING INFORMATION REGARDING THE LAW AND JURISPRUDENCE.

*Violation of Canons 17 and 18 and Rule
18.03*

The circumstances of this case indicated that respondent lawyer was guilty of gross negligence for failing to exert his utmost best in prosecuting and in defending the interest of his client. Hence, he is guilty of the following:

CANON 17 - A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.

CANON 18 - A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

Rule 18.03 - A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Furthermore, respondent lawyer's act of receiving an acceptance fee for legal services, only to subsequently fail to render such service at the appropriate time, was a clear violation of Canons 17 and 18 of the Code of Professional Responsibility.²⁴



²⁴ *Emiliano Court Townhouses Homeowners Association v. Atty. Dioneda*, 447 Phil. 408, 413 (2003).

Respondent lawyer did not diligently and fully attend to the cases that he accepted, although he had been fully compensated for them. First off, respondent lawyer never successfully refuted Elibena's claim that he was paid in advance his Php2,000.00 appearance fee on March 21, 2009 for the scheduled hearing of the labor case on March 26, 2009, during which he was absent. Furthermore, although respondent lawyer had already received the sum of Php45,000.00 to file an unjust vexation case, he failed to promptly file the appropriate complaint therefor with the City Prosecutor's Office, in consequence of which the crime prescribed, resulting in the dismissal of the case.

We have held that:

Case law further illumines that a lawyer's duty of competence and diligence includes not merely reviewing the cases entrusted to the counsel's care or giving sound legal advice, but also consists of properly representing the client before any court or tribunal, attending scheduled hearings or conferences, preparing and filing the required pleadings, prosecuting the handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him or her to do so.

Conversely, a lawyer's negligence in fulfilling his duties subjects him to disciplinary action. While such negligence or carelessness is incapable of exact formulation, the Court has consistently held that the lawyer's mere failure to perform the obligations due his client is *per se* a violation.²⁵

"[A] lawyer 'is expected to exert his best efforts and [utmost] ability to [protect and defend] his client's cause, for the unwavering loyalty displayed to his client likewise serves the ends of justice.'"²⁶ However, in the two cases for which he was duly compensated, respondent lawyer was grossly remiss in his duties as counsel. He exhibited lack of professionalism, even indifference, in the defense and protection of Elibena's rights which resulted in her losing the two cases.

With regard to the labor case for which he opted not to file a Reply and refused to present the cash vouchers which, according to Elibena, ought to have been submitted to the NLRC, we hold that even granting that he had the discretion being the handling lawyer to present what he believed were available legal defenses for his client, and conceding, too, that it was within his power to employ an allowable legal strategy, what was deplorable was his way of handling the appeal before the NLRC. Aside from handing over or delivering the requisite pleading to his clients almost at the end of the day, at the last day to file the appeal before the NLRC, he never even bothered to advise Elibena and the rest of his clients about the requirement of the appeal bond. He should not expect Elibena and her companions to be conversant with the indispensable procedural requirements to perfect the appeal before the NLRC. If the averments in his

²⁵ *Caranza Vda. de Saldivar v. Atty. Cabanes, Jr.*, 713 Phil. 530, 538 (2013).

²⁶ *Matus v. Atty. Villaseca*, 718 Phil. 478, 483 (2013).



Answer are any indication, respondent lawyer seemed to have relied heavily on the NLRC's much vaunted 'leniency' in gaining the successful prosecution of the appeal of his clients in the labor case; no less censurable is his propensity for passing the blame onto his clients for not doing what he himself ought to have done. And, in the criminal case, he should have known the basic rules relative to the prescription of crimes that operate to extinguish criminal liability. All these contretemps could have been avoided had respondent lawyer displayed the requisite zeal and diligence.

As mentioned earlier, the failure to comply with the MCLE requirements warranted a six-month suspension in the *Adaza* case. Respondent lawyer must likewise be called to account for violating Canons 17, 18, and Rule 18.03. In one case involving violation of Canons 17 and 18 where a lawyer failed to file a petition for review with the Court of Appeals, the lawyer was penalized with a six-month suspension.²⁷ In another case,²⁸ involving transgression of the same Canons, the guilty lawyer was meted out the penalty of suspension from the practice of law for a period of six months and admonished and sternly warned that a commission of the same or similar acts would be dealt with more severely.

"[T]he appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts."²⁹ Given herein respondent lawyer's failure to maintain a high standard of legal proficiency with his refusal to comply with the MCLE as well as his lack of showing of his fealty to Elibena's interest in view of his lackadaisical or indifferent approach in handling the cases entrusted to him, we find it apt and commensurate to the facts of the case to adopt the recommendation of the IBP to suspend him from the practice of law for one year.

WHEREFORE, respondent Atty. Leandro S. Cedo is hereby found **GUILTY** of violating Canons 5, 17, 18, and Rule 18.03 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of one (1) year effective upon receipt of this Decision, and warned that a repetition of the same or a similar act will be dealt with more severely.

Let a copy of this Decision be attached to Atty. Cedo's personal record as attorney-at-law. Further, let copies of this Decision be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate said copies to all courts in the country for their information and guidance.



²⁷ *Abiero v. Atty. Juanino*, 492 Phil. 149, 159 (2005).


²⁸ *Penilla v. Atty. Alcid, Jr.*, 717 Phil. 210, 223 (2013).

²⁹ *Fabie v. Real*, A.C. No. 10574, September 20, 2016.

SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice