



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

ALFREDO SAN GABRIEL,
Complainant,

A.C. No. 12423

- versus -

ATTY. JONATHAN T.
SEMPPIO,
Respondent.

Present:

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

Promulgated:

March 26, 2019,

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DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is a complaint¹ dated February 29, 2016 filed before the Integrated Bar of the Philippines (IBP) – Commission on Bar Discipline by complainant Alfredo San Gabriel (complainant) against

* On official leave.
** On official business.
*** On leave.

¹ *Rollo*, pp. 2-5.

respondent Atty. Jonathan T. Sempio (respondent) praying that the latter be disbarred for his alleged unprofessional conduct.

The Facts

Complainant alleged that sometime in January 2014, he engaged the services of respondent to handle the annulment of his marriage (Nullity Case). In connection therewith and by virtue of the Contract of Legal Services² they entered into, complainant paid respondent the amount of ₱120,000.00³ representing the latter's legal fees inclusive of all necessary and legal expenses up to the release of the decision in said case. Shortly thereafter, respondent filed a petition⁴ praying for the nullification of complainant's marriage before the Regional Trial Court of Malabon City, Branch 73 (RTC).⁵

More than a year later, complainant was surprised when he received a copy of the RTC's Order⁶ dated July 2, 2015 dismissing the Nullity Case without prejudice for respondent's failure to comply with a previous court order.⁷ Upon confronting respondent, complainant was promised that the situation will be rectified by filing the necessary motion, *i.e.*, a motion for reconsideration.⁸ After the reinstatement⁹ of the Nullity Case, complainant made several follow-ups with respondent to no avail. Soon thereafter, complainant found out that respondent had left the country without informing him, resulting in the archiving of the Nullity Case.¹⁰ As complainant felt that respondent had abandoned the Nullity Case, he filed the instant complaint. He further claimed that respondent already has a track record of unduly neglecting his clients' affairs, as seen in the case entitled *Baens v. Sempio*¹¹ (*Baens*) where the Court suspended him for such negligence.¹²

In his defense,¹³ respondent denied neglecting complainant's Nullity Case, maintaining that he was unable to handle the same due to his suspension from the practice of law in the case of *Baens*. Respondent then claimed that after learning of his suspension, he met with complainant to inform him of his predicament. Respondent then asked complainant to look for a replacement counsel as he intended to go abroad to ease his "depression" on account of his suspension. Finally, respondent averred that

² Id. at 22.

³ See Acknowledgement Receipt signed by respondent; id. at 23.

⁴ Dated January 28, 2014; id. at 6-12.

⁵ See id. at 2-3. See also id. at 92-93.

⁶ Id. at 20. Penned by Presiding Judge Carlos M. Flores.

⁷ Dated April 29, 2015. Not attached to the *rollo*. See also id. at 20.

⁸ See Motion for Reconsideration with Motion to Publish Summons dated August 17, 2015; id. at 15-18.

⁹ See Order dated August 24, 2015; id. at 19.

¹⁰ See Order dated January 22, 2016 signed by Acting Presiding Judge Edwin G. Larida, Jr.; id. at 21.

¹¹ 735 Phil. 492 (2014).

¹² See *rollo*, pp. 3-4. See also id. at 92-93.

¹³ See respondent's Answer dated December 4, 2016; id. at 37-47.

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he proceeded with his overseas trip, thinking that he and complainant had already agreed that the latter would just get another lawyer to handle his Nullity Case.¹⁴

The IBP's Report and Recommendation

In a report and recommendation¹⁵ dated June 20, 2017, the Investigating Commissioner (IC) found respondent administratively liable for violating Canons 15, 17, 18, and Rule 18.03 of the Code of Professional Responsibility (CPR), and accordingly, recommended that he be suspended from the practice of law for a period of two (2) years.¹⁶

The IC found that respondent was negligent in handling complainant's legal affairs which led to the incidents that transpired in the latter's Nullity Case. The IC did not find tenable respondent's excuse that he failed to act on the Nullity Case due to his suspension by the Court, considering that: (a) there was a seven (7)-month span between the time respondent filed the petition in the Nullity Case and the time he learned of his suspension; and (b) he did not make any positive action to further his client's interests during that time. Further, the IC opined that assuming respondent indeed got "depressed" upon learning of his suspension and asked complainant to look for a replacement counsel, he still failed to take the necessary steps to effectuate such replacement. Finally, the IC opined that respondent has not learned his lesson from his previous administrative case, *i.e.*, in *Baens*, observing that the negligent acts he committed therein were repeated in this case.¹⁷

In a Resolution¹⁸ dated May 3, 2018, the IBP Board of Governors adopted the IC's report and recommendation that respondent be meted the penalty of suspension from the practice of law for a period of two (2) years.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

Once a lawyer agrees to handle a case, he is required by the CPR to undertake the task with zeal, care, and utmost devotion. Acceptance of

¹⁴ See *id.* at 41-44. See also *id.* at 93.

¹⁵ *Id.* at 92-95. Penned by Commissioner Ricardo M. Espina.

¹⁶ *Id.* at 95.

¹⁷ *Id.* at 93-95.

¹⁸ See Notice of Resolution in CBD Case No. 16-4927 signed by National Secretary Doroteo B. Aguila; *id.* at 90-91.

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money from a client establishes an attorney-client relationship and gives rise to the duty of fidelity to the client's cause. Every case which a lawyer accepts deserves full attention, diligence, skill, and competence, regardless of its importance.¹⁹ To this end, Canons 15, 17, 18, and Rule 18.03 of the CPR respectively state:

CANON 15 – A lawyer shall observe candor, fairness[,] and loyalty in all his dealings and transactions with his clients.

CANON 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust 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.

“Clients are led to expect that lawyers would always be mindful of their cause and, accordingly, exercise the required degree of diligence in handling their affairs. On the other hand, the lawyer is expected to maintain, at all times, a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether or not he accepts it for a fee. To this end, he is enjoined to employ only fair and honest means to attain lawful objectives.”²⁰

In this case, records show that sometime in January 2014, complainant secured respondent's services in order to assist him in filing his Nullity Case, and in connection therewith, paid the latter the amount of ₱120,000.00. Initially, respondent followed through with his undertaking by filing the necessary petition before the RTC. However, after such filing, respondent unduly neglected the Nullity Case, as evinced not only by the RTC Order²¹ dated July 2, 2015 which dismissed the case for respondent's failure to comply with the trial court's directives, but also by the RTC Order²² dated January 22, 2016 which ordered the archival of the case due to his non-filing of any pleadings in furtherance of the case after its reinstatement.²³

In an attempt to exculpate himself from any liability, respondent offered the excuse that his inaction was because he got “depressed” when the Court suspended him from engaging in legal practice in the case of *Baens*, and that in any case, he had met with complainant and already advised him to look for a replacement counsel. However, and as aptly

¹⁹ See *Padilla v. Samson*, A.C. No. 10253, August 22, 2017, 837 SCRA 352, 357, citing *Rollon v. Naraval*, 493 Phil. 24, 29 (2005).

²⁰ Id. at 358-359, citing *Pitcher v. Gagete*, 719 Phil. 82, 91 (2013).

²¹ *Rollo*, p. 20.

²² Id. at 21.

²³ See Order dated August 24, 2015; id. at 19.

pointed out by the IC, respondent's reasons are untenable, considering that: (a) there was a considerable period, *i.e.*, seven (7) months, between the filing of the petition and the time he learned of his suspension, and that it was never shown that he took steps to move forward with the Nullity Case during that time; and (b) assuming that he indeed gave such advice to complainant, he did not take positive steps to ensure his timely replacement.

Accordingly, respondent's neglect of the legal matter entrusted to him by complainant constitutes flagrant violations of the afore-cited tenets of the CPR. It is settled that "once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable x x x,"²⁴ as in this case.

Anent the proper penalty to be imposed on respondent, case law provides that in instances where the lawyer commits similar acts against their respective clients, the Court imposed on them the penalty of suspension from the practice of law. In *Segovia-Ribaya v. Lawsin*,²⁵ the delinquent lawyer was suspended for a period of one (1) year for failing to perform his undertaking under his retainership agreement with his client.²⁶ In *Jinon v. Jiz*,²⁷ the derelict lawyer was suspended for two (2) years for his failure to perform what was needed from him by his client.²⁸ In *Go v. Buri*,²⁹ the Court suspended the erring lawyer for a period of two (2) years for, *inter alia*, neglecting her client's affairs. In view of the foregoing – as well as the fact that respondent was earlier suspended in the case of *Baens* for committing similar negligent acts to the prejudice of his client – the Court deems it proper to impose on him the penalty of suspension from the practice of law for a period of two (2) years, as recommended by the IBP Board of Governors.

Finally, the Court notes that complainant paid respondent the total amount of ₱120,000.00 representing the latter's legal fees "inclusive of all the necessary and incidental expenses for the [Nullity Case] x x x up to the release of the decision [in connection thereto]."³⁰ However, since it appears from the records that the only things that respondent did for petitioner in the Nullity Case were: (a) the filing of the initiatory pleading, *i.e.*, the petition;³¹

²⁴ See *Go v. Buri*, A.C. No. 12296, December 4, 2018, citing *Dongga-As v. Cruz-Angeles*, 792 Phil. 611, 619 (2016).

²⁵ 721 Phil. 44 (2013).

²⁶ See *id.* at 52.

²⁷ 705 Phil. 321 (2013).

²⁸ See *id.* at 330.

²⁹ *Supra* note 27.

³⁰ See Contract of Legal Services; *rollo*, p. 22.

³¹ *Id.* at 6-12.

and (b) the filing of a motion for reconsideration³² which led to the reinstatement of the said petition,³³ the Court finds it appropriate to order respondent to return³⁴ to complainant **within ten (10) days from receipt of this Decision**, the legal fees of ₱120,000.00 he received less the amount commensurate to the works that he had done in the Nullity Case, which the Court pegs at about ₱20,000.00³⁵ – or a total of ₱100,000.00. Furthermore, interest at the rate of six percent (6%) per annum is imposed on the said amount, which shall accrue **from the time of respondent's receipt of this Decision until full payment**. To be sure, since the obligation to return arose – and thus, became due and demandable – only from the time of the Court's resolution of respondent's administrative liability, interest on the said monetary amount should begin to accrue once respondent has been duly notified of his administrative liability – that is, upon receipt of the Court's Decision herein.

WHEREFORE, respondent Atty. Jonathan T. Sempio (respondent) is found guilty of violating Canons 15, 17, 18, and Rule 18.03 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of two (2) years, effective immediately upon his receipt of this Decision. He is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

Further, respondent is **ORDERED** to return to complainant Alfredo San Gabriel within ten (10) days from receipt of this Decision, part of the legal fees he received from the latter in the amount of ₱100,000.00, which shall earn legal interest at the rate of six percent (6%) per annum from his receipt of this Decision until full payment. Respondent shall submit to the Court proof of restitution within ten (10) days from payment. Failure to comply with this directive shall warrant the imposition of a more severe penalty.

Finally, respondent is **DIRECTED** to report to this Court the date of his receipt of this Decision to enable it to determine when his suspension from the practice of law shall take effect.

³² Id. at 15-18.

³³ See Order dated August 24, 2015; id. at 19.

³⁴ "It is well to note that while the Court has previously held that disciplinary proceedings should only revolve around the determination of the respondent-lawyer's administrative and not his civil liability, it must be clarified that this rule remains applicable only to claimed liabilities which are purely civil in nature – for instance, when the claim involves moneys received by the lawyer from his client in a transaction separate and distinct and not intrinsically linked to his professional engagement. Hence, since respondent received the aforesaid amount as part of her legal fees, the Court finds the return thereof to be in order." (See *Go v. Buri*, supra note 24.)


³⁵ "The recovery of attorney's fees on the basis of *quantum meruit* is a device that prevents an unscrupulous client from running away with the fruits of the legal services of counsel without paying for it and also avoids unjust enrichment on the part of the attorney himself. An attorney must show that he is entitled to reasonable compensation for the effort in pursuing the client's cause, taking into account certain factors in fixing the amount of legal fees." (See *Villarama v. De Jesus*, G.R. No. 217004, April 17, 2017, 823 SCRA 1, 14, citing *National Power Corporation v. Heirs of Sangkay*, 671 Phil. 569, 605 [2011].)

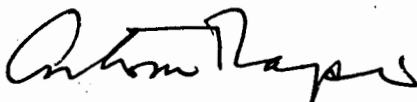
Let copies of this Decision be furnished to: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

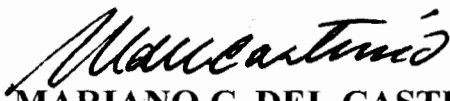

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


ANTONIO T. CARPIO
Senior Associate Justice

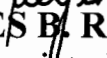

DIOSDADO M. PERALTA
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

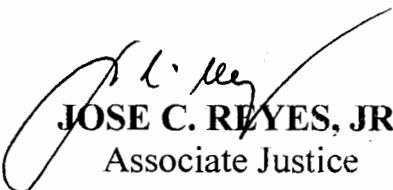
On official leave
MARVIC M.V.F. LEONEN
Associate Justice


On official business
FRANCIS H. JARDELEZA
Associate Justice

On leave
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GASMUNDO
Associate Justice

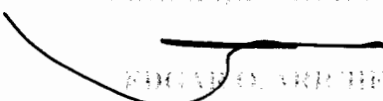

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARID. CARANBANAG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

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EDUARDO A. ARRIETA
Clerk of Court for Bar
Supreme Court