



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
AUG 09 2017
BY:
TIME:

SPOUSES GERARDO MONTECILLO and DOMINGA SALONoy,

Complainants,

- versus -

ATTY. EDUARDO Z. GATCHALIAN,

Respondent.

A.C. No. 8371

Present:

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE,
CAGUIOA, JJ.

Promulgated:

JUN 28 2017

X-----X

RESOLUTION

PERLAS-BERNABE, J.:

This administrative case stemmed from a complaint¹ filed by Spouses Gerardo Montecillo and Dominga Salonoy (complainants) against Atty. Eduardo Z. Gatchalian (respondent) before the Office of the Bar Confidant charging him of grave misconduct and gross ignorance of the law for being negligent in handling complainants' case. In a Resolution² dated August 9, 2010, the case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

¹ Rollo, pp. 1-6.

² Id. at 48.

↓

The Facts

Complainants engaged the legal services of respondent for an ejectment case in which they were the defendants.³ After filing their Answer to the complaint, complainants received a notice from the court setting the preliminary conference on March 25, 2009 at 8:30 in the morning. When complainants went to respondent's office to confer with him about it, the latter told them that he did not receive the notice and that he could not attend the preliminary conference due to a conflict in his schedule. Complainants expressed that they can attend the conference even without him. He allegedly advised them not to attend anymore as he would arrange with the court for a new schedule when he is available.⁴

Complainants relied on respondent's advice and did not attend the preliminary conference anymore. Thereafter, they found out that respondent not only failed to attend the scheduled preliminary conference, but also failed to take any steps to have it cancelled or reset to another date. They also learned that, contrary to respondent's representation, he did receive the notice setting the date of the preliminary conference. Subsequently, complainant received an Order⁵ dated March 25, 2009 that deemed the ejectment case submitted for decision due to complainants' failure to appear during the preliminary conference. When they approached respondent about it, he belittled the matter and told them not to worry as he would take care of it.⁶

Subsequently, the trial court issued a Decision⁷ dated April 21, 2009 adverse to the complainants. Respondent received it on May 4, 2009 but failed to inform complainants about the status of the case as to enable them to prepare the next course of action. Complainants learned about the adverse ruling upon inquiring with the trial court only on May 13, 2009, or nine (9) days after respondent's receipt thereof, when their period to appeal was almost about to lapse.⁸

Complainants went to respondent's office wherein the latter prepared a Notice of Appeal. Afterwards, complainants terminated respondent's legal services and engaged another lawyer to prepare their Memorandum of Appeal. On appeal, the ejectment case was remanded to the court of origin.⁹

³ The case was docketed as Civil Case No. M-PSY-09-08767 and filed before the Metropolitan Trial Court of Pasay City, Branch 45 (MeTC). *Id.* at 83-84.

⁴ *Id.* at 2-3 and 84.

⁵ *Id.* at 14. Signed by Judge Bibiano G. Colasito.

⁶ *Id.* at 4 and 84.

⁷ *Id.* at 15-18. Penned by Judge Bibiano G. Colasito.

⁸ *Id.* at 4-5.

⁹ *Id.* at 66.

In sum, complainants assail respondent's negligent and complacent handling of their case.¹⁰

In his Comment,¹¹ respondent contended that when complainants informed him about the scheduled preliminary conference, he told them that he would be unable to attend due to a conflict in schedule, as he was committed to attend a criminal case hearing in Quezon City. Nevertheless, he instructed complainants to attend the preliminary conference even without his appearance and inform the court about the conflict in schedule. He denied having advised complainants not to attend the preliminary hearing and belittled the Order dated March 25, 2009. Finally, he alleged that the Order dated March 25, 2009 was complainants' fault, due to their failure to attend the preliminary conference, and upon telling this to complainants, they terminated his legal services.¹²

On June 22, 2011, while the case was pending before the IBP, complainants filed a Manifestation and Motion to Withdraw Complaint.¹³

The IBP's Report and Recommendation

In the IBP's Report and Recommendation¹⁴ dated August 29, 2013, the Investigating Commissioner recommended the suspension of respondent from the practice of law for six (6) months for breach of Rule 18.03 of the Code of Professional Responsibility (CPR). He explained that the submission of the ejectment case for resolution and the eventual adverse decision against complainants were attributable to respondent's negligence. Knowing that he had a conflict in schedule, respondent should have prepared and filed an appropriate motion to cause the cancellation and resetting of the scheduled preliminary conference. Whether he advised complainants to attend the preliminary conference on March 25, 2009 or not is immaterial. What was relevant was his course of action when confronted with a conflict of schedule in his court appearances.¹⁵

Moreover, the Investigating Commissioner found complainants' version of facts more in line with common experience as opposed to respondent's version. Notably, there was no cogent explanation why complainants would dismiss his alleged instruction to attend the conference without him.¹⁶

¹⁰ Id. at 4-5 and 84-85.

¹¹ Dated April 19, 2010; id. at 52-53.

¹² Id. at 52-53 and 85.

¹³ See *rollo*, pp. 78-78-A. See also id. at 83.

¹⁴ Id. at 82-88. Penned by Commissioner Romualdo A. Din, Jr.

¹⁵ Id. at 86.

¹⁶ Id.

✓

In a Resolution¹⁷ dated August 9, 2014, the IBP Board of Governors (Board) adopted and approved the Report and Recommendation of the Investigating Commissioner.

Respondent moved for reconsideration but was denied in a Resolution¹⁸ dated September 23, 2016.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for violating the CPR.

The Court's Ruling

The Court resolves to adopt the IBP's findings and recommendation.

Every lawyer is duty-bound to serve his clients with utmost diligence and competence, and never neglect a legal matter entrusted to him.¹⁹ A lawyer owes fidelity to the clients' cause²⁰ and, accordingly is expected to exercise the required degree of diligence in handling their affairs.²¹ Consequently, he is expected to maintain at all times a high standard of legal proficiency, and to devote one's full attention, skill, and competence to the case, whether it is accepted for a fee or for free.²² The relevant provisions of the CPR read thus:

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.

Jurisprudence provides that the lawyer's duties of competence and diligence include not merely reviewing cases or giving sound legal advice, but also consist of properly representing a client before any court or tribunal, attending scheduled hearings and conferences, preparing and filing the required pleadings, prosecuting handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to

¹⁷ See Notice of Resolution in Resolution No. XXI-2014-456 signed by IBP National Secretary Nasser A. Marohomsalic; *id.* at 81.

¹⁸ See Notice of Resolution in Resolution No. XXII-2016-516 signed by the Secretary for the Meeting Juan Orendain P. Buted; *id.* at 97.

¹⁹ *The Heirs of Ballesteros, Sr. v. Apiag*, 508 Phil. 113, 125 (2005).

²⁰ See *Spouses Lopez v. Limos*, A.C. No. 7618, February 2, 2016; *Abiero v. Juanino*, 492 Phil. 149, 157 (2005).

²¹ *Caranza Vda. de Saldivar v. Cabanes, Jr.*, 713 Phil. 530, 537 (2013).

²² *Id.* at 537-538. Citation omitted.

✓

prod him to do so.²³ A lawyer's negligence in fulfilling these duties subjects him to disciplinary action.²⁴

Guided by these edicts, the Court rules that respondent failed to exercise the diligence required of lawyers in handling complainants' case. Based on the records, he failed to file the necessary motion to postpone the hearing due to a conflict in his schedule, and as a result, complainants lost their opportunity to present their evidence in the ejectment case. As complainants' counsel in the ejectment case, respondent was expected to exercise due diligence. He should have been more circumspect in preparing and filing the motion, considering the serious consequence of failure to attend the scheduled preliminary conference – *i.e.* the defendant's failure to appear thereat entitles the plaintiff to a judgment,²⁵ as what happened in this case.

The Court likewise finds respondent liable for failing to immediately inform complainants about the trial court's adverse decision. To emphasize, a lawyer has an obligation to promptly apprise clients regarding the status of a case as expressed in Rule 18.04, Canon 18 of the CPR:

Rule 18.04 — 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.

To be clear, a lawyer need not wait for their clients to ask for information but must advise them without delay about matters essential for them to avail of legal remedies. In the present case, respondent failed to immediately notify complainants about the adverse decision of the trial court. Had the complainants not inquired with the trial court, they would have lost their opportunity to appeal. For this reason, respondent is also administratively liable for negligence under Rule 18.04 of the CPR.

As regards the proper penalty, recent cases show that in similar instances where lawyers neglected their clients' affairs by failing to attend hearings and/or failing to update clients about court decisions, the Court

²³ Id. at 538.

²⁴ Id.

²⁵ Section 8, Rule 70 of the Rules of Court states:

SEC. 8. Preliminary conference; appearance of parties. — Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The provisions of Rule 18 on pre-trial shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

x x x x

If a sole defendant shall fail to appear, the plaintiff shall likewise be entitled to judgment in accordance with the next preceding section. This procedure shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference. (Emphasis supplied)

x x x x

See also *Caranza Vda. de Saldivar v. Cabanes*, supra note 21 and *Five Star Marketing Co., Inc v. Booc*, 561 Phil. 167 (2007).

suspended them from the practice of law for six (6) months. In *Caranza Vda. de Saldivar v. Cabanes*,²⁶ a lawyer was suspended for failure to file a pre-trial brief and to attend the scheduled preliminary conference. In *Heirs of Ballesteros v. Apiag*,²⁷ a lawyer was likewise suspended for not attending pre-trial, failing to inform clients about the dismissal of their case, and failing to file position papers. In *Spouses Aranda v. Elayda*,²⁸ a lawyer suffered the same fate when he failed to appear in a scheduled hearing despite due notice, which resulted in the submission of the case for decision. Consistent with these cases, the Court agrees with the IBP's recommendation to suspend respondent from the practice of law for six (6) months.

WHEREFORE, respondent Atty. Eduardo Z. Gatchalian is found **GUILTY** of violating Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility. Accordingly, he is **SUSPENDED** from the practice of law for six (6) months effective from the finality of this Resolution, and is **STERNLY WARNED** that a repetition of the same or similar act shall be dealt with more severely.

Let a copy of this this Resolution be furnished to the Office of the Bar Confidant, to be attached to respondent's personal record as a member of the Bar. Furthermore, let copies of the same be served on the Integrated Bar of the Philippines and Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

²⁶ Supra note 21.

²⁷ Supra note 19.

²⁸ 653 Phil. 1 (2010).

Terésita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Mariano C. del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice