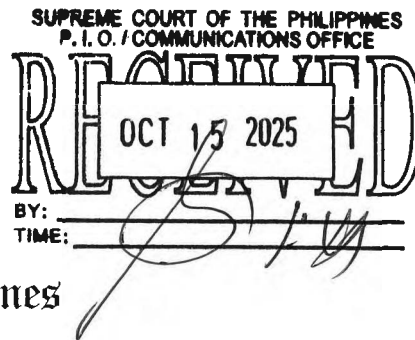




Republic of the Philippines
Supreme Court
Manila



EN BANC

APOLINARIO C. MARIANO,
Complainant,

A.C. No. 14232

Present:

-versus-

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
GAERLAN,
ROSARIO,*
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR.,
SINGH,** and
VILLANUEVA, JJ.

ATTY. RUSSEL A. BARROGA,***
Respondent.

Promulgated:

July 8, 2025

X-----X

DECISION

PER CURIAM:

For the Court's consideration is the October 28, 2023 Resolution¹ of the Integrated Bar of the Philippines' Board of Governors (IBP Board) in CBD

* On wellness leave.

** On leave.

*** Also referred to as "Atty. Russel M. Barroga" in some parts of the *rollo*; the IBP inadvertently indicated Atty. Barroga's middle initial as "M."

¹ *Rollo*, pp. 56–57.

Case No. 21-6594, which resolved to modify the Investigating Commissioner's Report and Recommendation² dated August 17, 2023 and recommended instead the imposition of the aggregate penalty of suspension from the practice of law for one year and six months.

This administrative case arose from a Verified Complaint for Disbarment³ filed by Apolinario C. Mariano (Mariano) against Atty. Russel A. Barroga (Atty. Barroga) for gross negligence and inefficiency in the performance of his duties as Mariano's lawyer.

Atty. Barroga represented Mariano in a criminal case where he was charged for frustrated homicide in 2015. On October 23, 2019, a Decision⁴ was rendered by Branch 51, of the Regional Trial Court of Tayug, Pangasinan finding Mariano guilty beyond reasonable doubt of two counts of frustrated homicide. Consequently, he was sentenced to a prison term ranging from two years, four months and one day of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum, for each case, to be served successively.⁵

Thereafter, a Resolution⁶ dated July 28, 2021 was issued by the Court of Appeals (CA) stating that Atty. Barroga received the notice directing him to file an appellant's brief on or before December 17, 2020. However, despite receipt of said notice, Atty. Barroga failed to comply. Thus, the appeal was considered abandoned and dismissed.⁷

Immediately upon receiving the July 28, 2021 Resolution, Mariano sought Atty. Barroga's advice for their next action. In response, Atty. Barroga said that he would proceed to file a motion for reconsideration if Mariano paid an additional amount of PHP 30,000.00.⁸

Mariano then consulted a relative who advised him to file a disbarment case against Barroga and change his lawyer. Accordingly, this administrative complaint case was filed on September 29, 2021.⁹

² *Id.* at 58–66.

³ *Id.* at 2–9.

⁴ *Id.* at 10–22. The October 23, 2019 Decision in Criminal Case Nos. T-6084 and T-6085 was penned by Presiding Judge Rusty Milgar Naya of Branch 51, Regional Trial Court, Tayug, Pangasinan.

⁵ *Id.* at 22.

⁶ *Id.* at 26–27. The July 28, 2021 Resolution in CA-G.R. CR No. 45036 was penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Maria Filomena D. Singh (now a Member of this court) and Bonifacio S. Pascua of the Fourth Division, Court of Appeals, Manila.

⁷ *Id.*

⁸ *Id.* 6.

⁹ *Id.*



In his disbarment complaint, Mariano alleged that Atty. Barroga displayed negligence throughout the trial when he: (1) failed to file a comment on the formal offer of exhibits presented by the prosecution; (2) repeatedly missed court hearings which resulted in the waiver of his client's right to cross-examine the prosecution witnesses; (3) failed to appear during the scheduled hearings for the presentation of evidence; and (4) failed to file the appellant's brief before the CA, which resulted in the dismissal of the appeal. Mariano further averred that he was never remiss in his payment. In fact, he paid a total of PHP 70,000.00 to Atty. Barroga.¹⁰

In an Order¹¹ dated October 26, 2021, the IBP Commission on Bar Discipline (IBP-CBD) directed Atty. Barroga to file his verified answer. Instead of filing such, Atty. Barroga filed a Motion for Additional Time to File Answer¹² dated December 7, 2021. Despite the said Motion, however, Atty. Barroga still did not file his answer.¹³

An Order¹⁴ dated October 6, 2022 was thereafter issued notifying Mariano and Atty. Barroga that the mandatory conferences of the case shall be conducted through video conferencing considering that the Philippines was still under a State of Public Health Emergency due to the COVID-19 pandemic. They were also directed to submit their respective email addresses to which subsequent notices would be sent.

On March 8, 2023, the IBP-CBD issued another Order¹⁵ stating that both Mariano and Atty. Barroga failed to comply with its October 6, 2022 Order. The same order declared the mandatory conference terminated and directed them to submit their verified position papers. However, despite receipt of the said order, both Mariano and Atty. Barroga failed to comply.¹⁶

The IBP-CBD Report and Recommendation

In its Report and Recommendation¹⁷ dated August 17, 2023, the IBP Investigating Commissioner recommended the suspension of Atty. Barroga. The dispositive portion reads:

FOR THESE REASONS, it is RECOMMENDED that ATTY. RUSSEL M. BARROGA, be found culpable or guilty of:

¹⁰ *Id.* at 58–59.

¹¹ *Id.* at 42.

¹² *Id.* at 43–44.

¹³ *Id.* at 59.

¹⁴ *Id.* at 46–47.

¹⁵ *Id.* at 50–51.

¹⁶ *Id.* at 60.

¹⁷ *Id.* at 58–66.



1. Violating Canons 17 and 18 of the Code of Professional Responsibility. As a consequence, it is recommended that respondent **SUSPENDED from the practice of law for one (1) year** to commence immediately upon receipt of this Resolution; and,
2. Violating Canon 11 of the Code of Professional Responsibility for which respondent is recommended to be **ORDERED to immediately pay a FINE in the amount of Ten Thousand Pesos [(PHP 10,000.00)] to the INTEGRATED BAR OF THE PHILIPPINES** upon receipt hereof.

In both cases, it is recommended that respondent be **WARNED** that a repetition of the same or similar offense or offenses will warrant a more severe penalty.¹⁸ (Emphasis in the original)

Essentially, the IBP-CBD found that Atty. Barroga failed to fulfill his duties to his client and to the court. Firstly, Atty. Barroga had been inexcusably negligent in representing Mariano both in the trial court and appellate proceedings which, ultimately, led to the dismissal of the latter's appeal.¹⁹ Secondly, Atty. Barroga further exhibited a cavalier attitude by ignoring the lawful orders in the IBP-CBD proceeding which taints his competence.

The IBP-Board of Governors Resolution

In its Notice of Resolution²⁰ dated October 28, 2023, the IBP Board resolved to modify the Report and Recommendation of the IBP Investigating Committee. The dispositive portion reads:

RESOLUTION NO. XXVI-CRM-2023-10-11

RESOLVED, to MODIFY, as it is hereby MODIFIED, the Report and Recommendation of the Investigating Commissioner, to recommend instead to mete out upon respondent Atty. Russel M. Barroga the aggregate penalty of SUSPENSION from the practice of law for One (1) Year and Six (6) Months with STERN WARNING that a repetition of the same or similar act shall be dealt with more severely, after finding respondent guilty of a less serious offense under the applicable provisions of the Code of Professional Responsibility and Accountability; and

¹⁸ *Id.* at 65–66.

¹⁹ *Id.* at 60–63. The August 17, 2023 Notice of Resolution No. XXVI-CRM-2023-10-11 in CBD Case No. 21-6594 was penned by Commissioner Marissa V. Manalo of the Integrated Bar of the Philippines Board of Governors, Pasig City.

²⁰ *Id.* at 56–57.



RESOLVED FURTHER, to recommend that respondent be directed to return to the complainant the [PHP] 20,000.00 that was earlier given to by the latter to the former to pay the required appeal fee, with legal interest thereon until the same is fully returned.²¹ (Emphasis in the original)

Issue

The lone issue for resolution is whether Atty. Barroga should be held administratively liable.

The Court's Ruling

After a careful review of the records, the Court resolves to adopt the factual findings of the IBP-CBD, as affirmed by the IBP Board, and to modify the recommended administrative sanctions to be imposed upon Atty. Barroga.

At the outset, it must be noted that the Code of Professional Responsibility and Accountability (CPRA), which took effect on May 29, 2023, categorically provides for its retroactive application to all pending and future cases, except to the extent that in the opinion of this Court, its application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern.²² Thus, while the violations imputed to Atty. Barroga were committed before May 29, 2023, the CPRA squarely applies to the case at bar.

The Court has repeatedly emphasized that lawyers bear the responsibility of meeting the profession's exacting standards. A lawyer is expected to live by the lawyer's oath, the rules of the profession, and the CPRA.²³ In this regard, under Canon III, Section 2 of the CPRA, a lawyer, as an officer of the court, shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice. At the same time, he shall represent the client with fidelity and zeal within the bounds of the law and the CPRA.

In line with this, Canon IV of the CPRA requires lawyers to observe competence, diligence, commitment, and skill in handling a client's cause. This is shown by: (1) being punctual in all appearances, submissions of pleadings and documents before any court, tribunal, or other government agency and all matters professionally referred by the client, including

²¹ *Id.* at 56.

²² CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, General Provisions, sec. 1

²³ *Pontiano v. Atty. Gappi*, A.C. No. 13118, June 28, 2022 [Per J. Rosario, *En Banc*] at 4. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

meetings and other commitments;²⁴ (2) appearing for trial adequately familiar with the law, the facts, and the evidence;²⁵ (3) explaining the viable options to the client to enable an informed decision regarding the matter;²⁶ and (4) regularly informing the client of the status and the result of the matter undertaken.²⁷

Here, Mariano was able to prove by substantial evidence that Atty. Barroga committed the acts imputed against him. Based on the established facts, Atty. Barroga failed to file the comment to the formal offer of exhibits. He also repeatedly failed to appear during the scheduled hearings for the presentation of evidence, resulting in the waiver of Mariano's right to cross-examine the prosecution witnesses. To make things worse, Atty. Barroga's negligence extended beyond the trial proceedings when he failed to file the appellant's brief despite receipt of the notice directing him to do so.

Canon VI, Section 33(d) of the CPRA, describes gross negligence as "conduct that is reckless and inexcusable, which results in the client being deprived of [their] day in court." This violation is classified as a serious offense under the same provision of the CPRA.

Clearly, Atty. Barroga's foregoing actions constitute gross negligence and gross inefficiency in the performance of his duties. He effectively abandoned his client's cause without any justifiable reason. His omissions resulted to Mariano being found guilty of two counts of frustrated homicide and being sentenced to a prison term.

The Penalty

Canon VI, Section 37(a), of the CPRA provides that a lawyer who is found guilty of a serious offense may be meted the following penalties:

SECTION 37. Sanctions. —

(a) If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

- (1) Disbarment;
- (2) Suspension from the practice of law for a period exceeding six (6) months;

²⁴ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon IV, sec. 3.

²⁵ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon IV, sec. 4.

²⁶ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon IV, sec. 5.

²⁷ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon IV, sec. 6.



- (3) Revocation of notarial commission and disqualification as notary public for not less than two (2) years; or
- (4) A fine exceeding [PHP]100,000.00. (Emphasis in the original)

It is settled that the Court imposes a more severe penalty for a lawyer's gross negligence that leads to the conviction of their client of a criminal offense, than a lawyer's gross negligence in civil cases.²⁸

In the closely analogous case of *Bratschi v. Atty. Peneyra*,²⁹ the Court disbarred Atty. Peneyra for being unjustifiably remiss in his duties as Bratschi's legal counsel. Atty. Peneyra's inaction resulted in the following: (a) waiver of objections during direct examinations of the witnesses of the adverse parties, (b) waiver of the conduct of cross-examinations on said witnesses, (c) non-filing of the necessary comments or oppositions to the adverse parties' formal offer of evidence, (d) issuance of warrant of arrest against Bratschi and forfeiture of her bail bond, and (e) failure to present and offer evidence on behalf of his client.³⁰

Similar to the present case, Atty. Peneyra's gross negligence and inexcusable conduct transgressed his duties and responsibilities as a lawyer, which resulted in the outright deprivation of his client's life and liberty.

Canon VI, Section 38 of the CPRA also provides that the Court may, in its discretion, appreciate modifying circumstances, which may include the aggravating circumstance of "[f]ailure to comply with the orders of the Court and the IBP in relation to an administrative case."³¹ Accordingly, a more serious penalty may be imposed by the Court, to wit:

SECTION 39. *Manner of imposition.* — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.³²

Considering that Atty. Barroga blatantly disregarded the lawful orders and processes of the IBP directing him to file his Answer, to attend the mandatory conference, and to file his position paper despite due notice, it is

²⁸ 945 Phil. 8, 19 (2023) [*Per Curiam, En Banc*].

²⁹ *Id.*

³⁰ *Id.* at 17.

³¹ See CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon VI, sec. 38(b)(7).

³² CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon VI, sec. 39.



with more reason that the ultimate penalty of disbarment be imposed upon him.

At this juncture, We again remind the members of the bar “that once a lawyer agrees to handle a case, he is required to undertake the task with zeal, care, and utmost devotion. Every case which a lawyer accepts deserves full attention, diligence, skill, and competence, regardless of its importance. Thus, 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, a 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.”³³

Indeed, the Court cannot, and will not, tolerate a lawyer’s audacity to disregard his bounden duty to protect the interests of his clients and to promote fairness and justice.

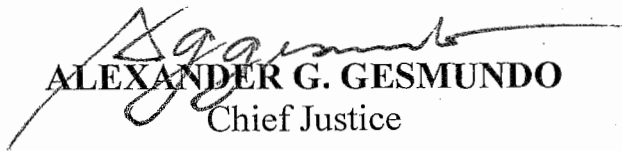
ACCORDINGLY, respondent Atty. Russel A. Barroga is found **GUILTY** of violating the Code of Professional Responsibility and Accountability. He is **DISBARRED from the practice of law and his name is ordered STRICKEN OFF the Roll of Attorneys, effective immediately.**

Moreover, Atty. Barroga is **ORDERED** to return to Apolinario C. Mariano part of the legal fees he received from the latter in the amount of PHP 20,000.00 with legal interest at the rate of 6% per annum from the finality of this Decision until fully paid. He shall submit to the Court proof of restitution within 10 days from payment. Failure to comply with this directive shall warrant the imposition of a more severe penalty.

Let a copy of this Decision be entered in the personal records of Atty. Barroga as a member of the Bar, and copies furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator, for circulation to all courts in the country.

This Decision is immediately executory.

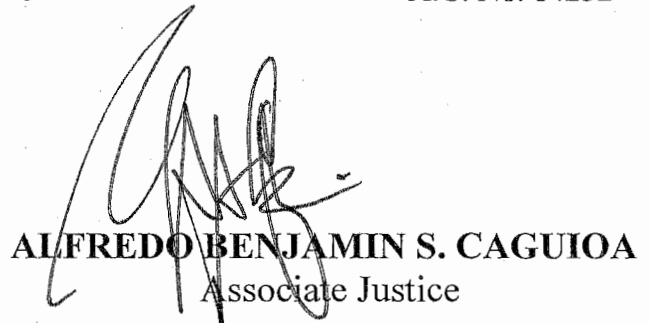
SO ORDERED.


ALEXANDER G. GESMUNDO
Chief Justice

³³ *Laurel v. Delute*, 880 Phil. 474, 494–495 (2020) [*Per Curiam, En Banc*].



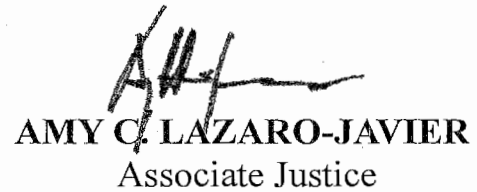
MARVIC M.V.F. LEONEN
Senior Associate Justice



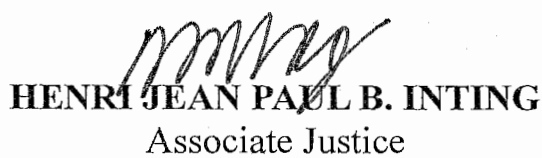
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



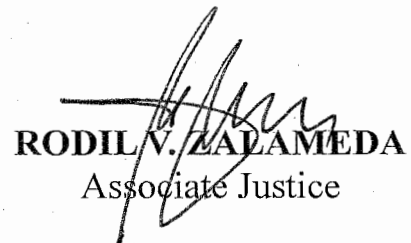
RAMON PAUL L. HERNANDO
Associate Justice



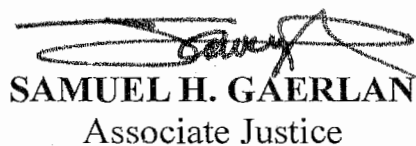
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

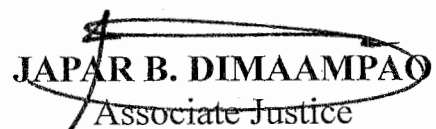


SAMUEL H. GAERLAN
Associate Justice

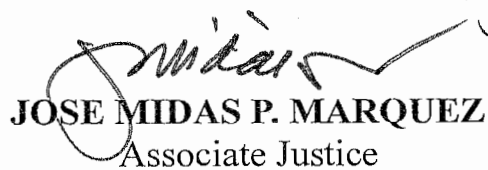
(On wellness leave)
RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

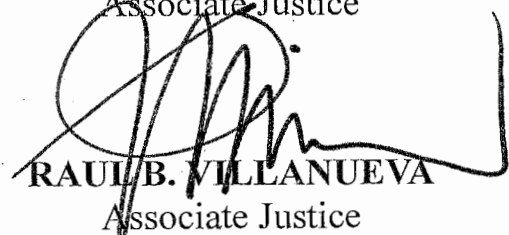


JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

(On leave)
MARIA FILOMENA D. SINGH
Associate Justice



RAUL B. VILLANUEVA
Associate Justice