



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**JOSEFINA CARANZA VDA. DE
SALDIVAR,**

Complainant,

A.C. No. 7749

-versus-

**ATTY. RAMON SG CABANES,
JR.,**

Respondent.

Present:

CARPIO, J., Chairperson,
DEL CASTILLO,
PEREZ,
MENDOZA,* and
PERLAS-BERNABE, JJ.

Promulgated:

JUL 08 2013

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RESOLUTION

PERLAS-BERNABE, J.:

For the Court's resolution is an administrative complaint¹ filed by Josefina Caranza vda. de Saldivar (complainant) against Atty. Ramon SG Cabanes, Jr. (respondent), charging him for gross negligence in violation of Canon 17, and Rules 18.03 and 18.04 of Canon 18 of the Code of Professional Responsibility (Code).

The Facts

Complainant was the defendant in an unlawful detainer case, docketed as Civil Case No. 1972,² filed by the heirs of one Benjamin Don (heirs) before the Municipal Trial Court of Pili, Camarines Sur (MTC), wherein she was represented by respondent. While respondent duly filed an answer to the

* Designated Acting Member per Special Order No. 1484 dated July 9, 2013.

¹ Rollo, pp. 32-34.

² Id. at 2.

unlawful detainer complaint, he, however, failed to submit a pre-trial brief as well as to attend the scheduled preliminary conference. Consequently, the opposing counsel moved that the case be submitted for decision which motion was granted in an Order³ dated November 27, 2003. When complainant confronted respondent about the foregoing, the latter just apologized and told her not to worry, assuring her that she will not lose the case since she had the title to the subject property.

On December 30, 2003, the MTC issued a Decision⁴ (MTC Decision) against complainant, ordering her to vacate and turn-over the possession of the subject property to the heirs as well as to pay them damages. On appeal, the Regional Trial Court of Pili, Camarines Sur, Branch 32 (RTC), reversed the MTC Decision and dismissed the unlawful detainer complaint.⁵ Later however, the Court of Appeals (CA) reversed the RTC's ruling and reinstated the MTC Decision.⁶ Respondent received a copy of the CA's ruling on January 27, 2006. Yet, he failed to inform complainant about the said ruling, notwithstanding the fact that the latter frequented his work place. Neither did respondent pursue any further action.⁷ As such, complainant decided to engage the services of another counsel for the purpose of seeking other available remedies. Due to respondent's failure to timely turn-over to her the papers and documents in the case, such other remedies were, however, barred. Thus, based on these incidents, complainant filed the instant administrative complaint, alleging that respondent's acts amounted to gross negligence which resulted in her loss.⁸

In a Resolution⁹ dated March 10, 2008, the Court directed respondent to comment on the administrative complaint within ten (10) days from notice.

Accordingly, respondent filed a Manifestation with Compliance¹⁰ dated May 19, 2008, admitting to have agreed to represent complainant who claimed to be the tenant and rightful occupant of the subject property owned by the late Pelagia Lascano (Pelagia). He alleged that upon careful examination of the heirs' unlawful detainer complaint, he noticed a discrepancy between the descriptions of the subject property as indicated in the said pleading as opposed to that which complainant supplied to him. On the belief that the parties may be contesting two (2) sets of properties which are distinct and separate from one another, respondent, at the preliminary conference conducted on October 28, 2003, moved for the suspension of

³ Id. at 11. Penned by Presiding Judge Maximino A. Badilla.

⁴ Id. at 12-19.

⁵ Id. at 20.

⁶ Id. at 21-29. See CA Decision dated January 12, 2006. Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Godardo A. Jacinto and Juan Q. Enriquez, Jr., concurring.

⁷ Id. at 203.

⁸ Id.

⁹ Id. at 52.

¹⁰ Id. at 58-68.

further proceedings and proposed that a commissioner be appointed to conduct a re-survey in order to determine the true identity of the property in dispute. The MTC allowed the counsels for both parties to decide on the manner of the proposed re-survey, leading to the assignment of a Department of Agrarian Reform Survey Engineer (DAR Engineer) for this purpose. In relation, the heirs' counsel agreed to turn-over to respondent in his office¹¹ certain documents which indicated the subject property's description. Thus, pending the conduct and results of the re-survey, the preliminary conference was tentatively reset to November 27, 2003.¹²

As it turned out, the heirs' counsel was unable to furnish respondent copies of the above-stated documents, notwithstanding their agreement. This led the latter to believe that the preliminary conference scheduled on November 27, 2003 would not push through. Respondent averred that the aforesaid setting also happened to coincide with an important provincial conference which he was required to attend. As such, he inadvertently missed the hearing.¹³ Nonetheless, he proffered that he duly appealed the adverse MTC Decision to the RTC,¹⁴ resulting to the dismissal of the unlawful detainer complaint, albeit later reversed by the CA.

Thereafter, pending the heirs' appeal to the CA, respondent came upon the information that the disputed property was subject of a petition for exemption from the coverage of Presidential Decree No. (PD) 27¹⁵ filed by Pelagia against complainant's mother, Placida Caranza (Placida). Based on several documents furnished to him by certain DAR personnel, respondent was satisfied that Placida indeed held the subject property for a long time and actually tilled the same in the name of Pelagia, thereby placing it under PD 27 coverage. Due to such information, respondent was convinced that Placida – and consequently, complainant (who took over the tilling) – was indeed entitled to the subject property. Hence, he advised complainant that it would be best to pursue remedies at the administrative level, instead of contesting the appeal filed by the heirs before the CA. It was respondent's calculated legal strategy that in the event the CA reverses the decision of the RTC, an opposition to the issuance of a writ of execution or a motion to quash such writ may be filed based on the afore-stated reasons, especially if an approved plan and later, an emancipation patent covering the subject property is issued.¹⁶

¹¹ Id. at 60. Respondent was a lawyer working for the DAR Legal Division of Camarines Sur.

¹² Id. at 60-61 and 203-204.

¹³ Id. at 61.

¹⁴ Id.

¹⁵ "DECREEING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR."

¹⁶ *Rollo*, pp. 62-63.

Meanwhile, the survey conducted by the DAR Engineer revealed that complainant's tillage extended to about 5,000 square meters of the subject property which was determined to belong to the heirs, the rest being covered by the title of Pelagia. Dissatisfied, complainant manifested her intention to secure the services of a private surveyor of her own choice, and promised to furnish respondent a copy of the survey results, which she, however, failed to do. Later, complainant accused respondent of manipulating the DAR Survey Results which caused their lawyer-client relationship to turn sour and eventually be severed. She has since retrieved the entire case folders and retained the services of another lawyer.¹⁷

In a Resolution¹⁸ dated July 7, 2008, the Court resolved to refer the instant administrative case to the Integrated Bar of the Philippines (IBP) for its evaluation, report and recommendation.

The IBP Commission on Bar Discipline set the case for mandatory conference on April 15, 2009¹⁹ and required the parties to submit their respective position papers.²⁰

The IBP's Report and Recommendation

On June 18, 2009, the Investigating IBP Commissioner, Rebecca Villanueva-Maala (Investigating Commissioner), issued a Report and Recommendation (Commissioner's Report),²¹ finding respondent to have been negligent in failing to attend the preliminary conference in Civil Case No. 1972 set on November 27, 2003 which resulted in the immediate submission of the said case for decision and eventual loss of complainant's cause.

The Investigating Commissioner observed that respondent could have exercised ordinary diligence by inquiring from the court as to whether the said preliminary conference would push through, considering that the November 27, 2003 setting was only tentative and the heirs' counsel was not able to confer with him. Further, the fact that respondent had to attend an important provincial conference which coincided with the said setting hardly serves as an excuse since he should have sent a substitute counsel on his behalf. Also, respondent never mentioned any legal remedy that he undertook when the heirs elevated the decision of the RTC to the CA. In fact, he did not file any comment or opposition to the heirs' appeal. Finally,

¹⁷ Id. at 64-65.

¹⁸ Id. at 88.

¹⁹ Id. at 114. See Order dated February 18, 2009.

²⁰ Id. at 121. See Order dated April 14, 2009.

²¹ Id. at 162-169.

respondent's enumerations of his legal options to allegedly protect the complainant's interests were found to be thought only after the fact.²²

Thus, based on the foregoing, the Investigating Commissioner ruled that respondent failed to exercise ordinary diligence in handling his client's cause, warranting his suspension from the practice of law for a period of six (6) months.²³

The IBP Board of Governors adopted and approved the Commissioner's Report in Resolution No. XIX-2011-266²⁴ dated May 14, 2011, finding the same to be fully supported by the evidence on record and in accord with applicable laws and rules.

Respondent filed a motion for reconsideration²⁵ which was, however, denied, in Resolution No. XX-2012-517²⁶ dated December 14, 2012.

The Court's Ruling

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

The relationship between an attorney and his client is one imbued with utmost trust and confidence. In this light, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. Verily, 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 he accepts it for a fee or for free.²⁷ Canon 17, and Rules 18.03 and 18.04 of Canon 18 of the Code embody these quintessential directives and thus, respectively state:

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.

X X X X

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

²² Id.at 168-169.

²³ Id.

²⁴ Id. at 161.

²⁵ Id. at 153-158.

²⁶ Id. at 199.

²⁷ *Villaflores v. Atty. Limos*, 563 Phil. 453, 461 (2007).

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.

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.²⁸

Conversely, a lawyer's negligence in fulfilling his duties subjects him to disciplinary action.²⁹ 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.³⁰

Applying these principles to the present case, the Court finds that respondent failed to exercise the required diligence in handling complainant's cause.

Records show that he failed to justify his absence during the scheduled preliminary conference hearing in Civil Case No. 1972 which led the same to be immediately submitted for decision. As correctly observed by the Investigating Commissioner, respondent could have exercised ordinary diligence by inquiring from the court as to whether the said hearing would push through, especially so since it was only tentatively set and considering further that he was yet to confer with the opposing counsel. The fact that respondent had an important commitment during that day hardly exculpates him from his omission since the prudent course of action would have been for him to send a substitute counsel to appear on his behalf. In fact, he should have been more circumspect to ensure that the aforesaid hearing would not have been left unattended in view of its adverse consequences, *i.e.*, that the defendant's failure to appear at the preliminary conference already entitles the plaintiff to a judgment.³¹ Indeed, second-guessing the

²⁸ *Conlu v. Atty. Aredonia, Jr.*, A.C. No. 4955, September 12, 2011, 657 SCRA 367, 374.

²⁹ *Anderson, Jr. v. Atty. Cardeno*, A.C. No. 3523, January 17, 2005, 448 SCRA 261, 271.

³⁰ *Ylaya v. Atty. Gacott*, A. C. No. 6475, January 30, 2013, citing *Solidon v. Atty. Macalalad*, A.C. No. 8158, February 24, 2010, 613 SCRA 472.

³¹ Section 8, Rule 70 of the Rules of Court provides in part:

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 defense shall appear at the preliminary conference. (Emphasis supplied)

conduct of the proceedings, much less without any contingent measure, exhibits respondent's inexcusable lack of care and diligence in managing his client's cause.

Equally compelling is the fact that respondent purposely failed to assail the heirs' appeal before the CA. Records disclose that he even failed to rebut complainant's allegation that he neglected to inform her about the CA ruling which he had duly received, thereby precluding her from availing of any further remedies. As regards respondent's suggested legal strategy to pursue the case at the administrative level, suffice it to state that the same does not excuse him from failing to file a comment or an opposition to an appeal, or even, inform his client of any adverse resolution, as in this case. Irrefragably, these are basic courses of action which every diligent lawyer is expected to make.

All told, it cannot be gainsaid that respondent was guilty of gross negligence, in violation of the above-cited provisions of the Code.

As regards the appropriate penalty, several cases show that lawyers who have been held liable for gross negligence for infractions similar to those of the respondent were suspended for a period of six (6) months. In *Aranda v. Elayda*,³² a lawyer who failed to appear at the scheduled hearing despite due notice which resulted in the submission of the case for decision was found guilty of gross negligence and hence, suspended for six (6) months. In *Heirs of Tiburcio F. Ballesteros, Sr. v. Apiag*,³³ a lawyer who did not file a pre-trial brief and was absent during the pre-trial conference was likewise suspended for six (6) months. In *Abiero v. Juanino*,³⁴ a lawyer who neglected a legal matter entrusted to him by his client in breach of Canons 17 and 18 of the Code was also suspended for six (6) months. Thus, consistent with existing jurisprudence, the Court finds it proper to impose the same penalty against respondent and accordingly suspends him for a period of six (6) months.

WHEREFORE, respondent Atty. Ramon SG Cabanes, Jr. is found guilty of gross negligence in violation of Canon 17, and Rules 18.03 and 18.04 of Canon 18 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of six (6) months, effective upon his receipt of this Resolution, and is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.


³² A.C. No. 7907, December 15, 2010, 638 SCRA 336.

³³ A.C. No. 5760, September 30, 2005, 471 SCRA 111.

³⁴ 492 Phil. 149 (2005).

Let a copy of this Resolution be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all the courts.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice