



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JOSE FRANCISCO T. BAENS,
Complainant,

A.C. No. 10378

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

ATTY. JONATHAN T. SEMPIO,
Respondent.

Promulgated:

JUN 09 2014

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DECISION

REYES, J.:

Before this Court is an administrative case, seeking the disbarment of Atty. Jonathan T. Sempio (respondent), for violation of Canons 15,¹ 17,² 18³ and Rule 18.03⁴ of the Code of Professional Responsibility (Code), commenced thru a complaint-affidavit⁵ filed before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) by Jose Francisco T. Baens (complainant).

¹ CANON 15 – A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

² 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.

³ CANON 18 – A lawyer shall serve his client with competence and diligence.

⁴ Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

⁵ *Rollo*, pp. 2-12.

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This legal battle stemmed when the complainant engaged the services of the respondent to represent him and file a case for Declaration of Nullity of Marriage against his wife, Lourdes V. Mendiola-Baens. In his complaint-affidavit dated March 15, 2010, the complainant alleged, among others, that the respondent: (1) despite receiving the sum of ₱250,000.00 to cover for the expenses in the said case,⁶ failed to file the corresponding petition, and it was the complainant's wife who successfully instituted Civil Case No. 2463-08,⁷ for Declaration of Nullity of Marriage on December 8, 2008; (2) even with the complainant furnishing him a copy of the Summons dated December 15, 2008,⁸ belatedly filed an Answer⁹ and was able to file it only on March 13, 2009 which was after the 15-day period stated in the Summons; (3) failed to make an objection on the petition on the ground of improper venue as neither the complainant nor his wife were and are residents of Dasmariñas, Cavite; (4) never bothered to check the status of the case and thus failed to discover and attend all the hearings set for the case; and (5) as a result, Civil Case No. 2463-08 was decided¹⁰ on October 27, 2009 without the complainant being able to present his evidence.

In his Answer,¹¹ the respondent denied the allegations in the complaint, and explained that: (1) after a meeting with the complainant, he drafted the Petition for Declaration of Nullity of Marriage and asked the complainant to go over said draft after which he proceeded to file the same with the Regional Trial Court (RTC) of Malabon City; (2) the complainant was aware that said petition will be filed in Malabon City as the latter had signed the verification and certification of the petition; (3) the case became pending and was later on withdrawn because of the complainant's refusal to testify; (4) what contributed to the delay in filing the Answer was the fact that he still had to let the complainant go over the same and sign the verification thereof; (5) he was not able to attend the hearings for the case because he did not receive any notice from the trial court; and (6) it was only on December 2, 2009 when he found out that the trial court has already rendered its decision and that the complainant had changed counsels.

In the mandatory conference held before the IBP-CBD on October 29, 2010, only the complainant appeared; thus, the respondent was declared as having waived his right to further participate in the IBP proceedings. Nonetheless, in the interest of justice, both parties were required to submit their respective position papers.¹²

⁶ Id. at 13-16.

⁷ Id. at 17-25.

⁸ Id. at 37.

⁹ Id. at 38-51.

¹⁰ Id. at 56-60.

¹¹ Id. at 72-83.

¹² Id. at 111-112.

The Investigating Commissioner submitted his Report and Recommendation¹³ dated October 22, 2011, finding the respondent guilty of violation of the Code and recommended that the respondent be suspended for six (6) months from the practice of law. Specifically, the Investigating Commissioner found that the respondent failed to diligently attend to the case and was grossly negligent in discharging his responsibilities considering the fact that he has already been fully compensated. The Investigating Commissioner said that the respondent should have manifested or made known to the trial court that he was not receiving any notice at all since it behoves upon him to make a follow-up on the developments of the cases he is handling.

As to the respondent's argument that he indeed filed a Petition for the Declaration of Nullity of Marriage for the complainant, the Investigating Commissioner held that it cannot be taken at face value absent the presentation of the pleading itself which by a perusal of the records of the case was not submitted to the IBP-CBD. Moreso, the veracity of the Certification attached to the respondent's answer was highly questionable because it failed to state when the said petition was filed. Lastly, the Investigating Commissioner faulted the respondent for not sufficiently explaining to the complainant the consequences of the petition being filed in the RTC of Malabon City since it was the respondent's duty and responsibility to explain the complexities of the same to his client for he is the one tasked with the technical know-how in the field of law.

On June 22, 2013, the IBP Board of Governors resolved to adopt and approve the Investigating Commissioner's report but deemed it proper to increase the recommended period of suspension from six (6) months to one (1) year.¹⁴ On February 14, 2014, the IBP-CBD transmitted the notice of the resolution and the case records to the Court for final action pursuant to Rule 139-B of the Rules of Court.¹⁵

The Court finds it fitting to sustain the IBP's findings and the recommended sanction of suspension from the practice of law since the attendant facts of the case show substantial evidence to support the respondent's delinquency.

The relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, 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. For his part, 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

¹³ Id. at 191-202.

¹⁴ Id. at 190.

¹⁵ Id. at 189.

case, regardless of its importance and whether he accepts it for a fee or for free.¹⁶ Lawyering is not a business; it is a profession in which duty of public service, not money, is the primary consideration.¹⁷

It is beyond dispute that the complainant engaged the services of the respondent to handle his case. The records, however, definitively bear out that the respondent was completely remiss and negligent in handling the complainant's case, notwithstanding his receipt of the sum of ₱250,000.00 for the total expenses to be incurred in the said case.

The excuse proffered by the respondent that he did not receive any orders or notices from the trial court is highly intolerable. In the first place, securing a copy of such notices, orders and case records was within the respondent's control and is a task that a lawyer undertakes. Moreso, the preparation and the filing of the answer is a matter of procedure that fully fell within the exclusive control and responsibility of the respondent. It was incumbent upon him to execute all acts and procedures necessary and incidental to the advancement of his client's cause of action.

Records further disclose that the respondent omitted to update himself of the progress of his client's case with the trial court, and neither did he resort to available legal remedies that might have protected his client's interest. Although a lawyer has complete discretion on what legal strategy to employ in a case entrusted to him, he must present every remedy or defense within the authority of law to support his client's interest. When a lawyer agrees to take up a client's cause, he covenants that he will exercise due diligence in protecting the latter's rights.¹⁸

Evidently, the acts of the respondent plainly demonstrated his lack of candor, fairness, and loyalty to his client as embodied in Canon 15 of the Code. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.¹⁹

In this case, the respondent's reckless and inexcusable negligence deprived his client of due process and his actions were evidently prejudicial to his clients' interests. A lawyer's duty of competence and diligence includes not merely reviewing the cases entrusted to his 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

¹⁶ *Maria Cristina Zabaljauregui Pitcher v. Atty. Rustico B. Gagat*, A.C. No. 9532, October 8, 2013.

¹⁷ *Francisco v. Atty. Portugal*, 519 Phil. 547, 558 (2006), citing *Burbe v. Atty. Magulta*, 432 Phil. 840, 843 (2002).

¹⁸ *Aurora H. Cabauatan v. Atty. Freddie A. Venida*, A.C. No. 10043, November 20, 2013.

¹⁹ *Mary Ann T. Mattus v. Atty. Albert T. Villaseca*, A.C. No. 7922, October 1, 2013.

filing the required pleadings, prosecuting the handled cases with reasonable dispatch, and urging their termination even without prodding from the client or the court.²⁰

Clearly, it cannot be doubted that the respondent violated Canon 17, and Rule 18.03 of Canon 18 of the Code which states that “a lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.” It further mandates that “a lawyer shall serve his client with competence and diligence,” and that “a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.”²¹

It must be emphasized that after the respondent agreed to handle the complainant’s case, he became duty-bound to serve his client with competence and diligence, and to champion his cause with whole-hearted fidelity. By failing to afford his client every remedy and defense that is authorized by law, the respondent fell short of what is expected of him as an officer of the Court.²²

Thus, for the respondent’s negligence and inadequacies in handling his client’s case, the recommendation of the IBP to suspend the respondent from the practice of law is well-taken. While the IBP Board of Governors increased the period of suspension to one year, the Court finds the period of six months as recommended by the Investigating Commissioner commensurate to the facts of the case.

ACCORDINGLY, the Court **AFFIRMS with MODIFICATION** the Resolution dated June 22, 2013 of the Integrated Bar of the Philippines Board of Governors in CBD Case No. 10-2673. The Court hereby **SUSPENDS** Atty. Jonathan T. Sempio from the practice of law for **SIX (6) MONTHS** effective immediately upon receipt of this Decision.

Let a copy of this Decision be entered in the personal records of Atty. Jonathan T. Sempio 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.

²⁰ Supra note 16.


²¹ Supra note 19.

²² Id.

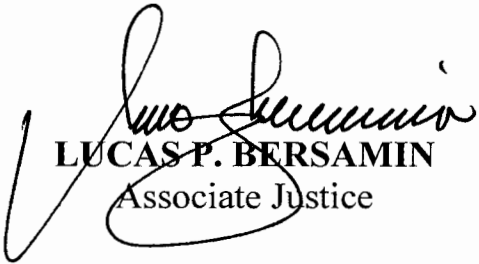
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice