Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NESTOR B. FIGUERAS and BIENVENIDO VICTORIA, JR.,
Complainants,

-versus -

ATTY. DIOSDADO B. JIMENEZ,
Respondent.

A.C. No. 9116

Present:

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

Promulgated:
MAR 1 2 2014

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RESOLUTION

VILLARAMA, JR., *J.*:

Before us is a petition for review filed by Atty. Diosdado B. Jimenez assailing the February 19, 2009 Resolution[1] of the Board of Governors of the Integrated Bar of the Philippines (IBP) suspending him from the practice of law for a period of six months for breach of Rule 12.03,[2] Canon 12,[3] Canon 17,[4] Rule 18.03,[5] and Canon 18[6] of the Code of Professional Responsibility. He likewise assails the June 26, 2011 Resolution[7] of the IBP Board of Governors denying his motion for reconsideration.

The facts are as follows:

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1 *Rollo*, p. 216.
2 Rule 12.03.—A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.
3 Canon 12—A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.
4 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.
5 Rule 18.03.—A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.
6 Canon 18—A lawyer shall serve his client with competence and diligence.
7 *Rollo*, p. 229.

Congressional Village Homeowner's Association, Inc. is the entity in charge of the affairs of the homeowners of Congressional Village in Quezon City. On January 7, 1993, the Spouses Federico and Victoria Santander filed a civil suit for damages against the Association and Ely Mabanag[8] before the Regional Trial Court (RTC) of Quezon City, Branch 104 for building a concrete wall which abutted their property and denied them of their right of way. The spouses Santander likewise alleged that said concrete wall was built in violation of Quezon City Ordinance No. 8633, S-71 which prohibits the closing, obstructing, preventing or otherwise refusing to the public or vehicular traffic the use of or free access to any subdivision or community street.[9] The Law Firm of Gonzalez Sinense Jimenez and Associates was the legal counsel for the Association, with respondent as the counsel of record and handling lawyer. After trial and hearing, the RTC rendered a decision[10] on October 4, 1996 in favor of the Spouses Santander. The Association, represented by said law firm, appealed to the Court of Appeals (CA). On February 5, 1999, the CA issued a Resolution[11] in CA-G.R. CV No. 55577 dismissing the appeal on the ground that the original period to file the appellant's brief had expired 95 days even before the first motion for extension of time to file said brief was filed. The CA also stated that the grounds adduced for the said motion as well as the six subsequent motions for extension of time to file brief were not meritorious. The CA resolution became final.

Eight years later or on April 11, 2007, complainants Nestor Figueras and Bienvenido Victoria, Jr., as members of the Association, filed a Complaint[12] for Disbarment against respondent before the IBP Committee on Bar Discipline (CBD) for violation of the Code of Professional Responsibility, particularly Rule 12.03, Canon 12; Canon 17; and Rule 18.03, Canon 18 thereof for his negligence in handling the appeal and willful violation of his duties as an officer of the court.

In his Verified Answer with Counter Complaint,[13] respondent denied administrative liability. He claimed that although his law firm represented the homeowner's association in CA-G.R. CV No. 55577, the case was actually handled by an associate lawyer in his law office. As the partner in charge of the case, he exercised general supervision over the handling counsel and signed the pleadings prepared by said handling lawyer. Upon discovery of the omissions of the handling lawyer, appropriate sanctions were imposed on the handling lawyer and he thereafter personally took responsibility and spent personal funds to negotiate a settlement with Federico Santander at no cost to the Association. No damage whatsoever was caused to the Association.

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8 In his capacity as President of the Association and in his personal capacity. Id. at 7.
9 Id. at 8.
10 Id. at 18-22.
11 Id. at 24.
12 Id. at 1-6. Docketed as CBD Case No. 07-1969.
13 Id. at 31-37.

Respondent likewise alleged that after he defeated complainant Figueras in the election for President of the homeowner's association in 1996, Figueras and his *compadre*, complainant Victoria, stopped paying their association dues and other assessments. Complainants and other delinquent members of the association were sanctioned by the Board of Directors and were sued by the association before the Housing and Land Use Regulatory Board (HLURB). In retaliation, complainants filed the present disbarment case against him and several other cases against him and other officers of the association before the HLURB to question, among others, the legitimacy of the Association, the election of its officers, and the sanctions imposed by the Association. Thus, he concluded that the disbarment case was filed to harass him. Respondent added that complainants have no personality to file the disbarment complaint as they were not his clients; hence, there was likewise no jurisdiction over the complaint on the part of the IBP-CBD.

As counterclaim, respondent prayed for the outright dismissal of the disbarment case for lack of merit, the imposition of sanctions on complainants, and the payment of damages for the filing of the baseless complaint for disbarment.

On October 3, 2008, the Investigating Commissioner of the IBP-CBD found respondent liable for violation of the Code of Professional Responsibility, particularly Rule 12.03 of Canon 12, Canon 17, Rule 18.03, and Canon 18 thereof, and recommended that respondent be suspended from the practice of law for a period of three to six months, with warning that a repetition of the same or similar offense shall be dealt with more severely.[14]

On February 19, 2009, the Board of Governors of the IBP issued Resolution No. XVIII-2009-14[15] adopting the recommendation with modifications as follows:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution [as] Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's breach of Rule 12.03, Canon 12, Canon 17, Rule 18.03 and Canon 18 of the Code of Professional Responsibility, Atty. Diosdado B. Jimenez is hereby **SUSPENDED** from the practice of law for six (6) months. The Warning imposed against respondent is hereby deleted.

Respondent sought reconsideration of the resolution but his motion was denied in IBP Resolution No. XIX-2011-480 dated June 26, 2011.[16] The IBP Board of Governors noted that respondent's motion was a mere

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14 Id. at 138.

15 Supra note 1. Signed by Tomas N. Prado, National Secretary, Board of Governors of the Integrated Bar of the Philippines.

16 Supra note 7.

reiteration of matters already discussed and there were no substantial grounds to disturb the February 19, 2009 Resolution.

Respondent now comes to this Court essentially raising the issue whether the IBP correctly found him administratively liable for violation of Rule 12.03, Canon 12, Canon 17, Rule 18.03, and Canon 18 of the Code of Professional Responsibility.

After careful consideration of the records of the case, the Court finds that the suspension of respondent from the practice of law is proper.

The Court finds no merit in respondent's contention that complainants have no personality to file a disbarment case against him as they were not his clients and that the present suit was merely instituted to harass him.

The procedural requirement observed in ordinary civil proceedings that only the real party-in-interest must initiate the suit does not apply in disbarment cases. In fact, the person who called the attention of the court to a lawyer's misconduct "is in no sense a party, and generally has no interest in the outcome."[17]

In *Heck v. Judge Santos*,[18] the Court held that "[a]ny interested person or the court *motu proprio* may initiate disciplinary proceedings." The right to institute disbarment proceedings is not confined to clients nor is it necessary that the person complaining suffered injury from the alleged wrongdoing. Disbarment proceedings are matters of public interest and the only basis for the judgment is the proof or failure of proof of the charges.

The Court agrees with the IBP that respondent had been remiss in the performance of his duties as counsel for Congressional Village Homeowner's Association, Inc. Records show that respondent filed the first motion for extension of time to file appellant's brief **95** days after the expiration of the reglementary period to file said brief, thus causing the dismissal of the appeal of the homeowner's association. To justify his inexcusable negligence, respondent alleges that he was merely the supervising lawyer and that the fault lies with the handling lawyer. His contention, however, is belied by the records for we note that respondent had filed with the CA an Urgent Motion for Extension, which he himself signed on behalf of the law firm, stating that a previous motion had been filed but "due to the health condition of the undersigned counsel…he was not able to finish said Appellants' Brief within the fifteen (15) day period earlier requested by him."[19] Thus, it is clear that respondent was personally in charge of the case.

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17 *Sebastian v. Bajar*, 559 Phil. 211, 225 (2007), citing *Rayos-Ombac v. Rayos*, 349 Phil. 7, 15 (1998).
18 467 Phil. 798, 822 (2004).
19 *Rollo*, p. 26.

A lawyer engaged to represent a client in a case bears the responsibility of protecting the latter's interest with utmost diligence. In failing to file the appellant's brief on behalf of his client, respondent had fallen far short of his duties as counsel as set forth in Rule 12.04,[20] Canon 12 of the Code of Professional Responsibility which exhorts every member of the Bar not to unduly delay a case and to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. Rule 18.03, Canon 18 of the same Code also states that:

> 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.

In *In Re*: *Atty. Santiago F. Marcos*[21] the Court considered a lawyer's failure to file brief for his client as amounting to inexcusable negligence. The Court held:

> An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. (*Del Rosario vs. Court of Appeals*, 114 SCRA 159) A failure to file brief for his client certainly constitutes inexcusable negligence on his part. (*People vs. Villar*, 46 SCRA 107) The respondent has indeed committed a serious lapse in the duty owed by him to his client as well as to the Court not to delay litigation and to aid in the speedy administration of justice. (Canons 21 and 22, Canons of Professional Ethics; *People vs. Daban*, 43 SCRA 185; *People vs. Estocada*, 43 SCRA 515).

It has been stressed that the determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion.[22] The penalties for a lawyer's failure to file a brief or other pleading range from reprimand,[23] warning with fine,[24] suspension[25] and, in grave cases, disbarment.[26] In the present case, we find too harsh the recommendation of the IBP Board of Governors that respondent be suspended from the practice of law for a period of six months. Under the circumstances, we deem the penalty of suspension for one month from the practice of law to be more commensurate with the extent of respondent's violation.

WHEREFORE, the petition is **DENIED**. Atty. Diosdado B. Jimenez is found administratively liable for violation of Rule 12.04, Canon 12 and Rule 18.03, Canon 18 of the Code of Professional Responsibility. He is suspended from the practice of law for one (1) month effective from finality

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20 Rule 12.04.—A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

21 240 Phil. 769, 771-772 (1987).

22 *Marcelo v. Javier, Sr.,* Adm. Case No. 3248, September 18, 1992, 214 SCRA 1, 14.

23 *Vda. de Oribiana v. Atty. Gerio*,177 Phil. 543, 549 (1979).

24 *Basas v. Atty. Icawat*, 393 Phil. 304 (2000).

25 *Spouses Rabanal v. Atty. Tugade*, 432 Phil. 1064 (2002).

26 *Mariveles v. Mallari*, Adm. Case No. 3294, February 17, 1993, 219 SCRA 44.

of this Resolution, with warning that a repetition of the same or similar violation shall be dealt with more severely.

Let a copy of this Resolution be furnished, upon its finality, to the Integrated Bar of the Philippines and all the courts in the Philippines, and spread on the personal record of respondent lawyer in the Office of the Bar Confidant, Supreme Court of the Philippines.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice