



Republic of the Philippines
Supreme Court
Manila

EN BANC

REYNALDO G. RAMIREZ,
Complainant,

A.C. No. 10537

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.

-versus-

ATTY. MERCEDES BUHAYANG-
MARGALLO,

Respondent.

Promulgated:

February 3, 2015

X-----X

RESOLUTION

LEONEN, J.:

When an action or proceeding is initiated in our courts, lawyers become the eyes and ears of their clients. Lawyers are expected to

On leave.

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prosecute or defend the interests of their clients without need for reminders. The privilege of the office of attorney grants them the ability to warrant to their client that they will manage the case as if it were their own. The relationship between an attorney and client is a sacred agency. It cannot be disregarded on the flimsy excuse that the lawyer accepted the case only because he or she was asked by an acquaintance. The professional relationship remains the same regardless of the reasons for the acceptance by counsel and regardless of whether the case is highly paying or pro bono.

Atty. Mercedes Buhayang-Margallo's (Atty. Margallo) inaction resulted in a lost appeal, terminating the case of her client not on the merits but due to her negligence. She made it appear that the case was dismissed on the merits when, in truth, she failed to file the Appellant's Brief on time. She did not discharge her duties of candor to her client.

This court resolves the Petition for Review¹ filed by Atty. Margallo under Rule 139-B, Section 12 of the Rules of Court, assailing the Resolution of the Board of Governors of the Integrated Bar of the Philippines.

In the Resolution² dated March 21, 2014, the Board of Governors of the Integrated Bar of the Philippines affirmed with modification its earlier Resolution³ dated March 20, 2013. In its delegated capacity to conduct fact finding for this court, it found that respondent Atty. Margallo had violated Canon 17 and Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility.⁴ Consequently, the Board of Governors recommended that Atty. Margallo be suspended from the practice of law for two (2) years.⁵

In the Complaint⁶ filed on January 20, 2010 before the Commission on Bar Discipline of the Integrated Bar of the Philippines, complainant Reynaldo Ramirez (Ramirez) alleged that he engaged Atty. Margallo's services as legal counsel in a civil case for Quieting of Title entitled "*Spouses Roque v. Ramirez*."⁷ The case was initiated before the Regional Trial Court of Binangonan, Rizal, Branch 68.⁸

According to Ramirez, Atty. Margallo contacted him on or about March 2004, as per a referral from a friend of Ramirez's sister.⁹ He alleged

* Proofreading refers to modifications of the circulated opinion to correct grammatical errors, citations, and format of footnotes. It can include minor revisions affecting style and language to improve readability. I reserve the option to include arguments orally made during the deliberations.

¹ Rollo, pp. 319–357.

² Id. at 310.

³ Id. at 311.

⁴ Id. at 312.

⁵ Id. at 310.

⁶ Id. at 2–5.

⁷ Id. at 312.

⁸ Id.

⁹ Id. at 3.

that Atty. Margallo had offered her legal services on the condition that she be given 30% of the land subject of the controversy instead of attorney's fees.¹⁰ It was also agreed upon that Ramirez would pay Atty. Margallo ₱1,000.00 per court appearance.¹¹

On October 19, 2006, the Regional Trial Court promulgated a Decision adverse to Ramirez.¹² Atty. Margallo advised him to appeal the judgment. She committed to file the Appeal before the Court of Appeals.¹³

The Appeal was perfected and the records were sent to the Court of Appeals sometime in 2008.¹⁴ On December 5, 2008, the Court of Appeals directed Ramirez to file his Appellant's Brief. Ramirez notified Atty. Margallo, who replied that she would have one prepared.¹⁵

On January 8, 2009, Ramirez contacted Atty. Margallo to follow up on the Appellant's Brief. Atty. Margallo informed him that he needed to meet her to sign the documents necessary for the brief.¹⁶

On several occasions, Ramirez followed up on the status of the brief, but he was told that there was still no word from the Court of Appeals.¹⁷

On August 26, 2009, Atty. Margallo informed Ramirez that his Appeal had been denied.¹⁸ She told him that the Court of Appeals' denial was due to Ramirez's failure to establish his filiation with his alleged father, which was the basis of his claim.¹⁹ She also informed him that they could no longer appeal to this court since the Decision of the Court of Appeals had been promulgated and the reglementary period for filing an Appeal had already lapsed.²⁰

Ramirez went to the Court of Appeals. There, he discovered that the Appellant's Brief was filed on April 13, 2009 with a Motion for Reconsideration and Apologies for filing beyond the reglementary period.²¹

Ramirez alleged that Atty. Margallo had violated Canon 17 and Canon

¹⁰ Id. at 313.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 314.

²⁰ Id. at 313.

²¹ Id.

18, Rules 18.03 and 18.04 of the Code of Professional Responsibility.²² By way of defense, Atty. Margallo argued that she had agreed to take on the case for free, save for travel expense of ₱1,000.00 per hearing. She also claimed that she had candidly informed Ramirez and his mother that they only had a 50% chance of winning the case.²³ She denied ever having entered into an agreement regarding the contingent fee worth 30% of the value of the land subject of the controversy.

Atty. Margallo asserted that she would not have taken on the Appeal except that the mother of Ramirez had begged her to do so.²⁴ She claimed that when she instructed Ramirez to see her for document signing on January 8, 2009, he ignored her. When he finally showed up on March 2009, he merely told her that he had been busy.²⁵ Her failure to immediately inform Ramirez of the unfavorable Decision of the Court of Appeals was due to losing her client's number because her 8-year-old daughter played with her phone and accidentally erased all her contacts.²⁶

Mandatory conference and findings of the Integrated Bar of the Philippines

The dispute was set for mandatory conference on June 3, 2010.²⁷ Only Ramirez appeared despite Atty. Margallo having received notice.²⁸ The mandatory conference was reset to July 22, 2010. Both parties then appeared and were directed to submit their position papers.²⁹

Commissioner Cecilio A.C. Villanueva recommended that Atty. Margallo be reprimanded for her actions and be given a stern warning that her next infraction of a similar nature shall be dealt with more severely.³⁰ This was based on his two key findings. First, Atty. Margallo allowed the reglementary period for filing an Appellant's Brief to lapse by assuming that Ramirez no longer wanted to pursue the case instead of exhausting all means possible to protect the interest of her client.³¹ Second, Atty. Margallo had been remiss in her duties as counsel, resulting in the loss of Ramirez's statutory right to seek recourse with the Court of Appeals.³²

²² Id. at 312.

²³ Id. at 314.

²⁴ Id.

²⁵ Id. at 315.

²⁶ Id.

²⁷ Id. at 316.

²⁸ Id.

²⁹ Id.

³⁰ Id. at 318.

³¹ Id.

³² Id.

In the Resolution³³ dated March 20, 2013, the Board of Governors of the Integrated Bar of the Philippines adopted and approved the recommendation of the Commission on Bar Discipline. The Board of Governors resolved to recommend a penalty of reprimand to Atty. Margallo with a stern warning that repetition of the same or similar act shall be dealt with more severely.

Ramirez seasonably filed a Motion for Reconsideration on July 16, 2013.³⁴ In the Resolution dated March 21, 2014, the Board of Governors granted Ramirez's Motion for Reconsideration and increased the recommended penalty to suspension from practice of law for two (2) years.³⁵

On August 20, 2014, Atty. Margallo filed a Petition for Review under Rule 139-B, Section 12 of the Rules of Court.³⁶ She alleged that the recommended penalty of suspension was too severe considering that she had been very careful and vigilant in defending the cause of her client. She also averred that this was the first time a Complaint was filed against her.³⁷

Ramirez thereafter filed an undated Motion to adopt his Motion for Reconsideration previously filed with the Commission on Bar Discipline as a Comment on Atty. Margallo's Petition for Review.³⁸ In the Resolution³⁹ dated October 14, 2014, this court granted Ramirez's Motion. Atty. Margallo filed her Reply⁴⁰ on October 6, 2014.

This court's ruling

The Petition is denied for lack of merit.

The relationship between a lawyer and a client is "imbued with utmost trust and confidence."⁴¹ Lawyers are expected to exercise the necessary diligence and competence in managing cases entrusted to them. They commit not only to review cases or give legal advice, but also to represent their clients to the best of their ability without need to be reminded by either the client or the court. The expectation to maintain a high degree of legal proficiency and attention remains the same whether the represented party is a high-paying client or an indigent litigant.⁴²

³³ Id. at 311.

³⁴ Id. at 296–298.

³⁵ Id. at 310.

³⁶ Id. at 319.

³⁷ Id. at 326–327.

³⁸ Id. at 545.

³⁹ Id. at 549.

⁴⁰ Id. at 551.

⁴¹ *Caranza Vda. de Saldivar v. Cabanes Jr.*, A.C. No. 7749, July 8, 2013, 700 SCRA 734, 741 [Per J. Perlas-Bernabe, Second Division].

⁴² Id.

Canon 17 and Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility clearly provide:

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.

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

Rule 18.04 - A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to client's request for information.

In *Caranza Vda. De Saldivar v. Cabanes, Jr.*,⁴³ a lawyer was suspended after failing to justify his absence in a scheduled preliminary conference, which resulted in the case being submitted for resolution. This was aggravated by the lawyer's failure to inform his client about the adverse ruling of the Court of Appeals, thereby precluding the litigant from further pursuing an Appeal. This court found that these actions amounted to gross negligence tantamount to breaching Canons 17 and 18 of the Code of Professional Responsibility:

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.*

. . . .

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.*

Conversely, a lawyer's negligence in fulfilling his duties subjects him to disciplinary action. While such negligence or carelessness is

⁴³ A.C. No. 7749, July 8, 2013, 700 SCRA 734 [Per J. Perlas-Bernabe, Second Division].

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*.⁴⁴ (Emphasis supplied, citations omitted)

Respondent Atty. Margallo was unjustifiably remiss in her duties as legal counsel to Ramirez.

The lack of communication and coordination between respondent Atty. Margallo and her client was palpable but was not due to the lack of diligence of her client. This cost complainant Ramirez his entire case and left him with no appellate remedies. His legal cause was orphaned not because a court of law ruled on the merits of his case, but because a person privileged to act as counsel failed to discharge her duties with the requisite diligence. Her assumption that complainant Ramirez was no longer interested to pursue the Appeal is a poor excuse. There was no proof that she exerted efforts to communicate with her client. This is an admission that she abandoned her obligation as counsel on the basis of an assumption. Respondent Atty. Margallo failed to exhaust all possible means to protect complainant Ramirez's interest, which is contrary to what she had sworn to do as a member of the legal profession. For these reasons, she clearly violated Canon 17 and Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility.

A problem arises whenever agents, entrusted to manage the interests of another, use their authority or power for their benefit or fail to discharge their duties. In many agencies, there is information assymetry between the principal and the entrusted agent. That is, there are facts and events that the agent must attend to that may not be known by the principal.

This information assymetry is even more pronounced in an attorney-client relationship. Lawyers are expected not only to be familiar with the minute facts of their cases but also to see their relevance in relation to their causes of action or their defenses. The salience of these facts is not usually patent to the client. It can only be seen through familiarity with the relevant legal provisions that are invoked with their jurisprudential interpretations. More so with the intricacies of the legal procedure. It is the lawyer that receives the notices and must decide the mode of appeal to protect the interest of his or her client.

Thus, the relationship between a lawyer and her client is regarded as highly fiduciary. Between the lawyer and the client, it is the lawyer that has the better knowledge of facts, events, and remedies. While it is true that the client chooses which lawyer to engage, he or she usually does so on the basis of reputation. It is only upon actual engagement that the client discovers the

⁴⁴ Id. at 741–742.

level of diligence, competence, and accountability of the counsel that he or she chooses. In some cases, such as this one, the discovery comes too late. Between the lawyer and the client, therefore, it is the lawyer that should bear the full costs of indifference or negligence.

Respondent Atty. Margallo's position that a two-year suspension is too severe considering that it is her first infraction cannot be sustained. In *Caranza Vda. De Saldivar*, we observed:

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*, 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*, 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*, 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.***⁴⁵ (Emphasis supplied, citations omitted)

Caranza Vda. De Saldivar did not leave the clients without procedural remedies. On the other hand, respondent Atty. Margallo's neglect resulted in her client having no further recourse in court to protect his legal interests. This lack of diligence, to the utmost prejudice of complainant Ramirez who relied on her alleged competence as counsel, must not be tolerated. It is time that we communicate that lawyers must actively manage cases entrusted to them. There should be no more room for an inertia of mediocrity.

Parenthetically, it is this court that has the constitutionally mandated duty to discipline lawyers.⁴⁶ Under the current rules, the duty to assist fact finding can be delegated to the Integrated Bar of the Philippines. The findings of the Integrated Bar, however, can only be recommendatory, consistent with the constitutional powers of this court. Its recommended penalties are also, by its nature, recommendatory. Despite the precedents, it is the Integrated Bar of the Philippines that recognizes that the severity of the infraction is worth a penalty of two-year suspension. We read this as a showing of its desire to increase the level of professionalism of our lawyers.

This court is not without jurisdiction to increase the penalties imposed in order to address a current need in the legal profession. The desire of the

⁴⁵ Id. at 744.

⁴⁶ See CONST. (1987), art. VIII, sec. 11.

Integrated Bar of the Philippines to ensure a higher ethical standard for its members' conduct is laudable. The negligence of respondent Atty. Margallo coupled with her lack of candor is reprehensible.


WHEREFORE, the Petition for Review is **DENIED**. The Recommendations and Resolution of the Board of Governors of the Integrated Bar of the Philippines dated March 21, 2014 is **ACCEPTED, ADOPTED AND AFFIRMED**. Atty. Mercedes Buhayang-Margallo is hereby **SUSPENDED** from the practice of law for two (2) years, with a stern warning that a repetition of the same or similar act shall be dealt with more severely. This decision is immediately executory.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

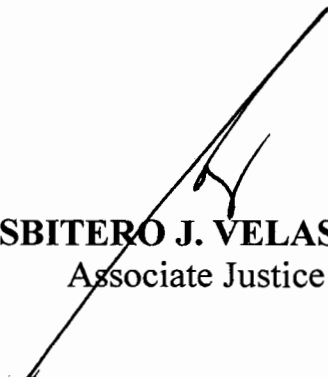
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice

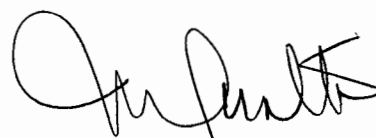


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On Leave)
ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice




LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. HERLAS-BERNABE
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice