

## Title: Fil-Garcia, Inc. vs. Atty. Fernando Cresente C. Hernandez: A Case of Legal Malpractice and Gross Misconduct

### Facts:

In 1990, Fil-Garcia, Inc., engaged in a construction agreement with Magdalena T. Villasi for a condominium in Quezon City. Disputes over billings and payments emerged, prompting Fil-Garcia to sue for recovery of sum money with damages in 1991 at the RTC of Quezon City, Branch 77, represented by Atty. Ligsay. The RTC ruled in favor of Fil-Garcia in 1996, but Villasi appealed to the CA, which reversed the decision in 2000. Fil-Garcia, now represented by Atty. Hernandez, filed a motion for reconsideration, which was denied in 2001. Atty. Hernandez then filed three successive motions for extension to file an appeal, all denied due to procedural missteps, leading to the CA decision becoming final and executory.

Despite receiving the Supreme Court's resolution in November 2001, Atty. Hernandez informed Fil-Garcia only in June 2002. Fil-Garcia filed a disbarment complaint against Atty. Hernandez in 2004 for malpractice, gross misconduct, and oath violation, alleging procedural negligence and incompetence.

### Issues:

1. Whether Atty. Hernandez's repeated motions for extension and eventual failure to file an appeal on time constitute malpractice and gross misconduct.
2. Whether Hernandez's delay in communicating the Supreme Court's decision to Fil-Garcia constitutes inexcusable negligence.
3. The appropriateness of the penalty imposed on Atty. Hernandez.

### Court's Decision:

The Supreme Court affirmed the IBP Board of Governors' resolution to suspend Atty. Hernandez for six months, holding him accountable for negligence and failure to meet his professional responsibilities. The filing of three motions for extension based on unjustifiable reasons, combined with the consequential failure to timely file an appeal, was deemed inexcusable negligence. Furthermore, Hernandez's delay in informing his client of the case's status was found to be a breach of his duty to keep the client informed.

### Doctrine:

This case reaffirms the doctrine that a lawyer's obligation under Canon 18 of the Code of Professional Responsibility is to serve the client with competence, diligence, and full dedication to the client's cause. It stresses the lawyer's duty not to neglect a legal matter

entrusted to them and the importance of prompt communication with the client regarding the status of the case.

**### Class Notes:**

- **\*\*Key Elements:\*\*** Lawyer's competence and diligence, prompt communication with the client, adherence to procedural rules.
- **\*\*Relevant Statutes & Provisions:\*\***
  - Canon 18 of the Code of Professional Responsibility: Obligation to serve the client with competence and diligence.
  - Rule 18.03 of the Code of Professional Responsibility: Prohibition against neglecting a legal matter.
  - Rule 18.04 of the Code of Professional Responsibility: Duty to keep the client informed.
  - A lawyer must not assume that motions for extension will be granted and must inform themselves timely about the court's decisions on such motions. Failure to do so can result in prejudicial consequences for the client, for which the lawyer may be held accountable.
  - Timely and transparent communication with clients is paramount, and any delay in conveying critical information can constitute a breach of professional duty.

**### Historical Background:**

This case illustrates the essential expectations from legal professionals in representing clients, emphasizing accountability for procedural missteps and communication failures. It serves as a reminder and caution to all practicing lawyers of the consequences of deviating from the established norms and duties enshrined in the Code of Professional Responsibility.