

MARIO S. MARIVELES, COMPLAINANT, VS. ATTY. ODILON C. MALLARI, RESPONDENTS.

Adm. Case No. 3294. February 17, 1993

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PER CURIAM:

On January 11, 1989, Mario S. Mariveles of Davao City filed an administrative complaint against his former counsel, Attorney Odilon C. Mallari, whose legal services he had engaged in 1984 to handle his defense in Criminal Case No. 6608 of the Regional Trial Court of Davao City where he was charged with violation of B.P. Blg. 22, otherwise known as the Bouncing Checks Law.

After an adverse decision was rendered on December 26, 1986, Mariveles instructed Attorney Mallari to appeal the trial court's decision to the Court of Appeals, which the respondent did.

However, in the Court of Appeals, despite numerous extensions of time, totalling 245 days, which he obtained from the Court, Attorney Mallari failed to file the appellant's brief, resulting in the dismissal of the appeal.

Complainant discovered his lawyer's desertion only when he was subpoenaed by the trial court to appear before it for the execution of the decision which had become final.

Through new counsel, complainant filed a Petition for Reinstatement of Appeal, Cancellation of Entry of Judgment and Admission of Appellant's Brief in CA-G.R. CR No. 04482, but it was denied by the appellate court.

He sought relief in this Court (G.R. No. 85964, "Mario S. Mariveles vs. Court of Appeals, et al.") which, on March 13, 1989, granted his petition, ordered the Court of Appeals to cancel the entry of judgment in CA-G.R. CR No. 04482, reinstate the appeal, and admit the appellant's brief filed by his new counsel. The Court said:

"It is true that the failure of counsel to file brief for the appellant which led to the dismissal of the appeal does not necessarily warrant the reinstatement thereof. However, where the negligence of counsel is so great that the rights of the accused are prejudiced and he is prevented from presenting his defense, especially where the appellant raises issues which place in serious doubt the correctness of the trial court's judgment of conviction, the aforesaid rule must not be rigidly applied to avoid a miscarriage of justice. These teachings of jurisprudence are present in the case at bar.

"On the first aspect, the failure of petitioner's former counsel to file the brief, for reasons unknown and without any cause imputable to petitioner, amounted to deliberate abandonment of his client's interest and justifies reinstatement with consequent due consideration of petitioner's appeal through a new counsel." (pp. 106-107, Rollo.)

On February 15, 1989, the administrative complaint was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The IBP's Committee on Bar Discipline investigated the complaint and held hearings. On March 3, 1992, it submitted to this Court a report/resolution finding:

"In sum, what was committed by the respondent is a blatant violation of our Code of Professional

Responsibility.

"xxx xxx xxx

"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.

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

"Suffice it to state that a lawyer has no business practicing his profession if in the course of that practice, he will eventually wreck and destroy the future and reputation of his client and thus disgrace the law profession. The last thing that his peers in the law profession and the Integrated Bar of the Philippines would do is to disrobe a member of the profession, for he has worked for the attainment of his career burning the midnight oil throughout school and passing the bar. The undersigned, however, could not find any mitigating circumstances to recommend a lighter penalty. Disbarment is the only recourse to remove a rotten apple if only to instill and maintain the respect and confidence of all and sundry to the noble profession." (pp. 249-250, Rollo.)

The Court concurs with the above observations. The respondent demonstrated not only appalling indifference and lack of responsibility to the courts and his client but also a shameless disregard for his duties as a lawyer. He is unfit for membership in this noble profession.

WHEREFORE, the Court finds respondent Attorney Odilon C. Mallari guilty of abandonment and dereliction of duty toward his client and hereby orders him DIS-BARRED from the legal profession and to immediately cease and desist from the practice of law. Let the Office of the Court Administrator and the Executive Judges of the Ninth, Tenth, Eleventh and Twelfth Judicial Regions, be furnished with copies of this resolution for dissemination to all the courts in those regions.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Regalado, Davide Jr., Romero, Nocon, Bellosillo, Melo, and Campos, Jr., JJ., concur.

Gutierrez, Jr., J., on terminal leave.

Quiason, J., no part.

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