

**LUZ P. JOSE, COMPLAINANT, VS. GONZALO U. GARCIA,
RESPONDENT.***Adm. Case No. 1240. October 26, 1976*

Ponente: ANTONIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0c914d55fde5/>**ANTONIO, J.:**

Respondent is charged in a verified complaint filed by Luz P. Jose on September 20, 1973 of having neglected to discharge his duties as counsel when he failed to inform complainant on time of the Decision of the Appellate Court affirming the trial court's judgment convicting her of Attempted Homicide; and that by his act, coupled with the bad motive to cause damage to the complainant by preventing appeal, and by his appearance in court as counsel while employed in the Government, respondent has violated his oath of office as a lawyer and disregarded the canons of legal ethics.

On September 27, 1973, respondent was required to comment on the complaint. On October 29, 1973, respondent submitted his comment, denying the charges, stating inter alia that before he left for Zamboanga City to visit his family he executed a special power of attorney in favor of Melchor T. Gamutan to receive from the Bureau of Posts, Manila all registered letters addressed to him (respondent); that Mr. Gamutan was instructed to open all the mails of respondent and to determine if they were worth sending to Zamboanga City at his address or to await his return to Manila; that the decision in CA-G. R. No. 08666-CR was taken by Mr. Gamutan from the Manila Post Office on July 17, 1973 and sent to respondent in Zamboanga City via the JRS Business Corporation messenger service on July 18, 1973; that said decision was not received by respondent in Zamboanga City but was handed to him in Manila on August 7, 1973 when he made inquiries with the JRS Business Office at the Regina Bldg., Manila; and that the failure of the JRS messengerial office to deliver to him the aforementioned letter was due to the negligence or inefficiency of said messengerial service and, therefore, it could not be due to respondent's fault.

After hearing, the Solicitor General submitted on June 8, 1976 his report and recommendation, as follows:

"The relevant facts of this case as gathered from the records may be summarized as follows:

"Complainant Luz Jose was convicted of the crime of attempted homicide in the Court of First Instance of Cavite. She appealed to the Court of Appeals and her case was docketed as CA-G. R. No. 08666-CR. In the lower court, she was assisted by Atty. Obedio de la Rosa (now deceased) (p. 5, tsn, April 26, 1974). In her appeal, she was assisted by respondent who prepared the appellant's brief (p. 6, tsn, April 26, 1974). After the case was submitted to the Court of Appeals for decision respondent went to Zamboanga City to visit his family (p. 18, tsn, *ibid*). Before leaving for Zamboanga City, he executed a special power of attorney (Exh. 1, p. 24, rec.) in favor of Melchor Gamutan empowering the latter to receive from the Bureau of Posts, Manila all registered letters addressed to him. Respondent is the licensee of P. O. Box No. 1870 of the Manila Post Office where all of his mail matters are delivered.

"On July 9, 1973, the Court of Appeals promulgated the decision in CA-G. R. No. 08666-CR (Exh. A, Folder of Exhibits) affirming en toto the decision of the lower court. On July 17, 1973, the attorney-in-fact of

respondent got the mail containing said decision of the Court of Appeals from the Manila Post Office (p. 20, *tsn, id.*) and on the following day, July 18, 1973, sent the same to respondent at Zamboanga City via JRS Business Corporation messenger service (Exhs. 3, to 3-C, p. 30, *rec.*). On August 4, 1973, respondent arrived in Manila from Zamboanga City. His attorney-in-fact, Mr. Gamutan inquired from him whether he received the several letters he sent to respondent via JRS Business Corporation (p. 24, *tsn, ibid.*). Respondent answered that he did not receive any and immediately went to the office of JRS Business Corporation at Regina Bldg., Escolta where the letters were posted (*ibid.*). The employees of said corporation could not ascertain immediately what happened to the letters addressed to respondent but they promised to make inquiries from their office at Zamboanga City (*ibid.*). On August 7, 1973, five undelivered letters addressed to respondent at Zamboanga City one of which contained the decision of the Court of Appeals were handed to respondent by the JRS Business Office in Manila (p. 25, *tsn, April 26, 1973; Exh. 5, p. 26, rec.*). The following day, August 8, 1973, respondent wrote JRS Business Corporation requesting an explanation for the delayed delivery of his letters (Exh. 5). In answer to respondent's inquiry, the JRS Business Corporation claimed that the 'addressee (was) unknown at given address'. Also, on August 8, 1973, respondent informed complainant about his receipt of the decision which has become final (Exh. A-2). It is admitted by complainant and respondent that the decision of the Court of Appeals had become final on August 2, 1973 (should be August 1, 1973), pp. 15-16, *tsn, April 23, 1974*).

'The important issues to be resolved are whether under the above facts respondent has violated his oath of office as a lawyer in not informing his client, herein complainant, about the decision of the Court of Appeals affirming the lower court's judgment before the expiry date to appeal, and whether or not respondent is guilty of appearing in court as counsel while still employed in the government service.

"The foregoing narration of facts are amply supported by evidence appearing in record. However, complainant contends that 'a lawyer should at all times see to it that he receives his mail and change of address should be formally filed with the Court with copies furnished opposing counsel so that his mail would be received on time at the new address' (Complainant's memorandum dated July 5, 1974). She dismisses as flimsy respondent's defense that JRS Business Corporation to whom the letter containing the decision of the Court of Appeals was entrusted for delivery to him failed to deliver said letter before the period to appeal expired.

"From the evidence on record it appears that there is no malice, bad motive, deceit or deliberate intent on the part of respondent to give timely notice of the adverse decision of the Court of Appeals to his client. * * *

On the basis thereof, the Acting Solicitor General filed the complaint against respondent praying that after due hearing, respondent be reprimanded with the warning that subsequent transgressions will be dealt with more severity.

Respondent in his Answer to the Complaint, which he filed on August 9, 1976, prayed that he be absolved from the charge, insisting that he was not negligent in the discharge of his duties as counsel. He adverted to the findings of fact of the Court of First Instance of Manila in Civil Case No. 94018,[1] which was an action instituted by respondent to recover damages from the JRS Business Corporation for its failure to deliver to the respondent five (5) letters addressed to the latter in Zamboanga City - one of which contained the decision of the Court of Appeals which the respondent allegedly allowed to lapse into finality to the prejudice of the complainant. In the afore-mentioned decision, the court found as fully established by the evidence that on July 11, 14, 18, 20, and 25, 1973, Melchor T. Gamutan, an employee of respondent, delivered to the JRS Business Corporation at its Manila office five (5) envelopes containing mail matter for delivery to the respondent with address at Santa Maria, Zamboanga City. The aforesaid five (5) envelopes were received in Zamboanga City on July 13, 16, 20, 23 and 27, 1973, but none of them was delivered to respondent. On August 6, 1973, respondent and Melchor T. Gamutan went to the office of the JRS Business Corporation to inquire about the afore-mentioned mail matter which have not been delivered to respondent. Respondent was informed that the five (5) envelopes have not yet

been returned to Manila but assured him that they would require the immediate return of the mail matter from Zamboanga City. Late in the afternoon of the following day, August 7, 1973, all of the five (5) envelopes containing the mail matter aforementioned were delivered to the office of respondent in Manila. It was also established therein that the reason why the said mail matter was not delivered to respondent in Zamboanga City was not because his address could not be located but because he had already left for Manila. Thus, in the Answer of the JRS Business Corporation to the complaint in that case, the said company admitted that the reported address of respondent in Zamboanga City was "indeed the correct address but that he appeared to have left the given address for Manila at the time of the delivery of the mailed matter.

The issue, therefore, is whether, under the above facts, respondent has neglected to discharge his duties faithfully as a lawyer in failing to seasonably inform his client, the herein complainant, of the decision of the Court of Appeals.

There is no question that the decision of Court of Appeals in CA-G.R. No. 08666-CR, which was promulgated on July 9, 1973, affirming en toto the decision of the lower court, became final on August 2, 1973, or five (5) days prior to August 7, 1973 when the letter containing the decision of the Appellate Court was handed to respondent by the JRS, Business Corporation in Manila. It cannot also be denied that the non-delivery of the said mail matter to respondent on time was due more to the negligence or inefficiency of the messengerial service, rather than to the negligence of respondent.

WHEREFORE, in view of the foregoing, the charge against respondent is hereby dismissed.

Fernando, (Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

[1] Entitled "Gonzalo U. Garcia, Plaintiff, versus JRS Business Corporation, Defendant.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.