EDGAR O. PEREA, COMPLAINANT, VS. ATTY. RUBEN ALMADRO, RESPONDENT.

Adm. Case No. 5246. March 20, 2003

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a complaint for disbarment filed by Edgar O. Perea against Atty. Ruben Almadro for gross neglect of his duties as lawyer of herein complainant.

Complainant narrates: Respondent was his counsel before the Regional Trial Court of Quezon City (Branch 99) where he (complainant Perea) is being charged with the crime of Frustrated Homicide. On February 26, 1996, the said RTC issued an order granting Atty. Almadro's motion for leave to file demurrer to evidence within ten (10) days from said date. All the while, complainant thought that respondent filed said demurrer and the case against him dismissed. It was only sometime in 1999 that complainant learned that Atty. Almadro failed to file any demurrer. The trial court ordered the herein complainant to present evidence in his defense. Later, a warrant was issued for his arrest prompting him to surrender to the court and post bail. Complainant suffered financially and emotionally due to respondent's neglect of his duties. Respondent has not attended any of his hearings which led complainant to plead with respondent to withdraw formally as his counsel so he could hire another lawyer. Because of Atty. Almadro's neglect, complainant is now facing the loss of his freedom and livelihood.[1]

Respondent filed three motions for extension of time to file comment.[2] On November 13, 2000, the Court resolved to grant the said motions with a warning that no further extensions shall be granted.[3] On November 17, 2000, respondent, through the law firm Sua and Alambra, filed a Manifestation and Motion that respondent has not yet received a copy of the complaint hence it asked the Court to order the complainant to furnish them a copy.[4]

On December 20, 2000, respondent through said law firm submitted an Answer[5] to the complaint, contending that: two days after the RTC granted the manifestation of defense to file motion for leave to file demurrer to evidence, he had finished the draft of the motion and the accompanying pleading which he stored in a magnetic computer diskette intended for editing prior to its submission in court; a few days before the deadline, herein respondent tried to retrieve the draft from the diskette but said drafts were nowhere to be found despite efforts to retrieve them; this led him to believe that the drafts must have been finalized and the edited versions accordingly filed since it is his practice to expunge from the diskette drafts that were already finalized and acted upon; meanwhile, the presiding judge of the RTC retired, as a consequence, actions on pending cases were held in abeyance; moreover, communications with the herein complainant had become rarer; thereafter, towards the end of 1997 up to the next five months of 1998, respondent was preoccupied with the congressional elections in Biliran where he ran and subsequently lost; then he was offered a position at the Philippine Stock Exchange as head of the Compliance and Surveillance Division which he accepted; his time and attention was spent in the performance of his demanding job at the PSE as well as in the preparation of his testimony before the Senate Blue Ribbon Committee in connection with the "BW" scam; anent the case of herein complainant, he offered on

several occasions to withdraw as one of the defense counsel of the complainant even to the extent of offering to return his acceptance fee which the latter however refused;[6] it is not true that complainant pleaded with respondent to withdraw as his counsel, the truth being that it was complainant who refused to let go of respondent as his counsel; also, while he is a counsel of complainant in the criminal case before the RTC, he was merely a collaborating counsel, the lead counsel being Atty. Solomon Villanueva;[7] finally, he was actually mulling over the possible procedural steps to take with regard to complainant's case when he received instead, a copy of the present complaint.[8]

On February 28, 2001, the Court issued a Resolution[9] referring the case to the Integrated Bar of the Philippines for investigation, report and recommendation.

On June 13, 2001, the IBP through Commissioner Renato G. Cunanan submitted its report, pertinent portions of which are quoted verbatim:

> "We are not convinced about the truth of respondent's affirmative allegations. It is clear that he as well as his counsels are lying. First off, the manifestation with motion filed by respondent's counsels, Sua and Alambra is incredibly unbelievable. In fact, to be blunt about it, respondent's counsels were clearly lying when they manifested that the respondent "has yet to receive a copy of the complaint..." This is an outrageous lie. The respondent's three (3) motions never once mentioned that he had not received copy of the complaint. In fact, in his second motion for further extension of time to file comment, Atty. Almadro CLEARLY stated in the second paragraph thereof that:
> 'He is in the process of reviewing an initial draft of said comment and will need said period of ten (10) days to complete and finalize the draft.'

"From the afore-quoted portion of Mr. Almadro's manifestation and motion, it is obvious he already had a copy of the complaint. The manifestation and motion filed on his behalf by Attys. Sua and Alambra with the Honorable Supreme Court is a brazen and deliberate misrepresentation which deserves an uncompromising and vigorous condemnation.

"The respondent claims he is in solo practice. How then can he honestly claim that when he could not find the draft of his demurrer in the magnetic computer diskette where he allegedly stored it, he was led "to believe that the drafts must have been finalized and the edited versions thereof accordingly filed." This allegation is pure unadulterated garbage. All Mr. Almadro had to do was check his case folder to see if a demurrer had indeed been filed. As a solo practitioner like this representation, we can only surmise that logically, nothing happens or "goes down" in Mr. Almadro's office without his knowledge and indispensable participation. If so, how could he have been led to believe anything? To be sure, he would have read and signed the demurrer before it was "accordingly filed." Being a solo practitioner no one else could have signed that demurrer. And does Mr. Almadro expect anyone to believe that after finishing the draft (in his computer) he would not even bother to print a hard copy for him to read, edit and correct without having to do so from his computer monitor?

"Incidentally, this representation verified the records of the complainant's criminal case before RTC-Branch 99, Quezon City. We came upon an Order of the incumbent presiding judge declaring the respondent herein in contempt of court for repeatedly failing to submit an explanation as ordered by the court.

"The undersigned is convinced that Atty. Ruben L. Almadro's actuations reveal not only serious neglect or indifference to his duties as a lawyer but more gravely his open disrespect for the court and the authority it represents.

"We wish to put on record our extreme DISPLEASURE at the behavior of respondent Atty. Ruben L. Almadro. We strongly recommend that respondent be suspended from the practice of law for two (2) years and that he be

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fined Ten Thousand (PhP10,000.00) Pesos. We likewise recommend strongly that Attys. Sua and Alambra be ordered to explain why they should not be held in contempt for deliberately foisting a deliberate falsehood and misrepresentation on the Honorable Supreme Court by declaring that their client had not received a copy of the complaint when such was not true. By their misrepresentation the afore-named counsels have exhibited contemptible disrespect not only for the Court but also the authority it represents."[10]

The report was adopted and approved by the Board of Governors of the IBP Commission on Bar Discipline with some modifications thus:

> "RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, with modification, and considering that Atty. Ruben L. Almadro's actuations reveal not only serious neglect or indifference to his duties as a lawyer but more gravely his open disrespect for the court and the authority it represent. Respondent is hereby SUSPENDED from the practice of law for one (1) year and FINED for Ten Thousand (P 10,000.00) Pesos. Likewise, Atty. Sua and Atty. Alambra are ordered to explain why they should not be held in contempt for deliberately foisting a deliberate falsehood and misrepresentation."[11]

Respondent filed a motion for reconsideration on September 11, 2002, this time in his own behalf, of the above quoted IBP Board Resolution.[12] This was denied on October 19, 2002.[13]

We are in full accord with the findings and recommendation of the IBP.

As clearly stated in the Code of Professional Responsibility -

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

It is plain from the records that respondent lawyer failed to submit a demurrer to evidence for which he had earlier asked permission from the trial court and which his client, herein complainant was relying on. More than that, he failed to contact his client and to apprise the latter about the developments of the case leaving complainant completely surprised and without any protection when years later, he received summons from the trial court asking him to present evidence in his defense and, not long after, the trial court issued a warrant for his arrest.

In the recent case of Sps. Galen et al. vs. Atty. Paguirigan[14] the Court is explicit in its pronouncement that:

> "An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. A failure to file brief for his client certainly constitutes inexcusable negligence on his part. 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.
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> xxx xxx xxx
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> "A lawyer is expected to be familiar with these rudiments of law and procedure and anyone who acquires his service is entitled to not just competent service but also whole-hearted devotion to his client's cause. It is the duty of a lawyer to serve his client with competence and diligence and he should exert his best efforts to protect within the bounds of law the interest of his client. A lawyer should never neglect a legal matter entrusted to him, otherwise his negligence in fulfilling his duty will render him liable for disciplinary

> action."[15]

In other cases, the Court also held that while a lawyer may decline a person to become his client for valid reasons, once he agrees to take up the cause of a client, he begins to owe fidelity to such cause and must always be mindful of the trust and confidence reposed in him. As a lawyer, he must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care and devotion. Indeed, he owes entire devotion to the interest of his client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law legally applied.[16] His client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense.[17]

Respondent's negligence is compounded by his attempt to have this tribunal believe the story of how his draft, stored in a magnetic diskette, mysteriously disappeared and how the absence of such file in his diskette led him to believe that the same was already filed in court. In his Answer, he even tried to depict himself as a conscientious lawyer by stating that he was actually mulling on the procedural steps he would undertake regarding complainant's case when instead he received a copy of this complaint for disbarment. Such story, as observed by the IBP, is not only outrageous but is contemptuous as it makes a mockery of the Court.

Again, the Code of Professional Responsibility is explicit on this matter:

> CANON 10--- A lawyer owes candor, fairness and good faith to the court.
>
> Rule 10.01 ---A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead or allow the court to be misled by any artifice.

In Benguet Electric Cooperative, Inc. vs Atty. Flores,[18] the Court, aside from citing Canon 10 above stated that "a lawyer must be a disciple of truth." Indeed, it cannot be stressed enough how important it is for a lawyer as an officer of the court to observe honesty at all times, especially before the courts.

Respondent would have this Court believe a very preposterous story of how his draft disappeared, all the time avoiding the simple fact that he failed to submit the necessary pleading before the trial court. Such behavior cannot be countenanced and deserves stern penalty therefor.

The act of the IBP in requiring Atty. Kenton Sua and Atty. Alan Alambra to show cause why they should not be held in contempt of court for deliberate falsehood and misrepresentation in the preparation of the Answer for herein respondent is appropriate. Records reveal that both Attys. Sua and Alambra have filed their joint Explanation.[19]

WHEREFORE, finding respondent Atty. Ruben Almadro guilty of serious neglect of his duties as a lawyer and of open disrespect for the court and the authority it represents, as embodied in Canon 18, Rules 18.03 and 18.04 and Canon 10, Rule 10.01 of the Code of Professional Responsibility, he is SUSPENDED from the practice of law for one (1) year and FINED in the amount of Ten Thousand (P10,000.00) Pesos, with a WARNING that any or similar acts of dishonesty would be dealt with more severely.

Let a copy of the Resolution be attached to the personal records of Atty. Alambra in the Office of the Bar Confidant and copies be furnished the Integrated Bar of the Philippines (IBP) and all the courts in the country for their information and guidance.

Let the records of herein case be remanded to the Office of the Integrated Bar of the Philippines for further action on the contempt proceedings against Atty. Kenton Sua and Atty. Alan Alambra.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing and Callejo, Sr., JJ., concur.

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[1] Rollo, pp. 1-2.

[2] Id., pp. 10-26.

[3] Id., p. 28.

[4] Id., p. 29.

[5] Id., pp. 39-45.

[6] Id., pp. 39-40.

[7] Id., p. 41.

[8] Id., p. 40.

[9] Id., p. 46.

[10] Id., pp. 77-79, Report, pp. 4-6.

[11] Id., p. 72.

[12] Id., pp. 82-85.

[13] Id., p. 89.

[14] A.C. No. 5558, March 7, 2002.

[15] Id.

[16] Tan vs. Atty. Lapak, G.R. No. 93707, 350 SCRA 74, 84 (2001); Atty. Navarro vs. Atty. Meneses, CBD A.C. No. 313, 285 SCRA 586, 593 (1998).

[17] Tan vs. Atty. Lapak, supra note 16.

[18] A.C. No. 4158, 287 SCRA 449, 463 (March 12, 1998).

[19] Rollo, p. 94.

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