

BASILIO C. GUTIERREZ, COMPLAINANT, VS. ATTY. LEONARDO N. ZULUETA, RESPONDENT.

Adm. Case No. 2200. July 19, 1990

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PER CURIAM:

This case pertains to disciplinary proceedings initiated by the herein complainant Basilio C. Gutierrez against the herein respondent Atty. Leonardo N. Zulueta.

On October 13, 1980, the complainant filed with this Court a sworn letter-complaint dated October 11, 1980 seeking the disbarment of the respondent lawyer on the grounds of dishonesty and conduct unbecoming of a member of the legal profession.

The complainant alleges that the respondent lawyer was his counsel in two cases, namely, a workmen's compensation case and a civil case filed with the then Court of First Instance of Zamboanga Del Sur. The complaint concerns the latter case.

The complainant filed the said civil case against his former employer, the Singer Sewing Machine Company. The trial court ruled in his favor. On appeal to the Court of Appeals, the said appellate court reversed the decision of the trial court and ruled in favor of the company. It is categorically stated in the said decision that the complainant did not file a brief. Thus, he maintains that the case was resolved against him primarily because his lawyer, the herein respondent, did not file the required brief with the appellate court and such omission is attributable to the dishonesty of the respondent lawyer.

In support of his contention, the complainant alleges that sometime in August 1976, the respondent lawyer, who was then in Manila, wired him to send the amount of P400.00 to cover the expenses in relation to the preparation and printing of the appellee's brief, and upon receipt of the message, he sent the said amount to the respondent lawyer through the Philippine National Bank. He also alleges that he sent a telegram to the respondent lawyer for the purpose of informing the latter that the P400.00 can be obtained at the Sampaloc, Manila branch office of the same bank.

It appears that sometime thereafter, the respondent lawyer assured the complainant that the brief had already been filed in court and that a copy thereof will be made available to the latter in due time.

It also appears that immediately after the complainant received a copy of the decision of the Court of Appeals, he reported the matter to the provincial governor inasmuch as the respondent lawyer is the provincial legal counsel. An investigation ensued but the same failed to settle the problem.

As stated earlier, the complainant eventually brought the matter to the attention of this Court. On April 20, 1981, the Court resolved to refer the matter to the Office of the Solicitor General for investigation, report and recommendation.

In the investigation that ensued, the respondent lawyer testified that he received the amount of P400.00 from the complainant for the purpose of preparing the said brief and that he gave the said amount to his secretary to cover

the expenses to be incurred in such preparation. He also testified that he had to leave for Pagadian City at that time and that he instructed his secretary to attend to the filing of the brief. He likewise stated that sometime thereafter, his secretary assured him that the brief had been filed already. He also said that he could not furnish the complainant with a copy of the brief inasmuch as his secretary, for undisclosed reasons, left the office, taking with her his records and his typewriter. The respondent lawyer admits that he received the additional amount of P100.00 from the complainant for the purpose of securing a copy of the brief for the latter.[1]

In due time, the Office of the Solicitor General filed its report recommending therein that the respondent lawyer be found guilty of not having exercised the due diligence required of a member of the legal profession in connection with his duties to his clients and accordingly impose upon him the penalty of suspension from the practice of law for a period of one year.[2]

The record of the case undoubtedly discloses that the respondent lawyer failed to exercise due diligence in protecting and attending to the interest of his client, the herein complainant. The failure of the respondent lawyer to undertake the necessary measures to submit the required brief certainly caused material prejudice to the complainant inasmuch as the appellate court reversed the decision of the trial court which was in favor of the latter.

The explanation given by the respondent lawyer to the effect that the failure is attributable to the negligence of his secretary is devoid of merit. A responsible lawyer is expected to supervise the work in his office with respect to all the pleadings to be filed in court and he should not delegate this responsibility, lock, stock and barrel, to his office secretary. If it were otherwise, irresponsible members of the legal profession can avoid appropriate disciplinary action by simply disavowing liability and attributing the problem to the fault or negligence of the office secretary. Such situation will not be countenanced by this Court.

In sum, therefore, this Court is of the well-considered opinion that the respondent lawyer failed to live up to the duties and responsibilities of a member of the legal profession. His suspension from the practice of law is in order.

WHEREFORE, Atty. Leonardo N. Zulueta is hereby suspended from the practice of law for a period of one (1) year effective from the date of his receipt of this resolution. He is advised to henceforth exercise greater care and diligence in the performance of his duties towards his clients. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration will be entertained. Let copies of this resolution be attached to his personal record and circulated among the different courts.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Pages 4 and 5, Report.

[2] Page 7, Report.

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