

OCA CIRCULARS NO. 56-2002, September 27, 2002

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TO:

THE COURT OF TAX APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI' A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI' A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC DEFENDER'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT:

SUSPENSION OF ATTY. ELLIS JACOB A FOR ONE (1) YEAR

For the information and guidance of all concerned, quoted hereunder is the decision of the Second Division of the Supreme Court in Administrative Case No. 5505 entitled "Severino Ramos vs. Arty. Ellis Jacoba and Arty. Olivia Velasco-Jacob a" dated 27 September 2001, to wit:

"This is a complaint for disbarment filed by complainant Severino Ramos against Arty. Ellis Jacoba for the latter's failure, as counsel for complainant and his wife, to file the appellants' brief in the Court of Appeals, as a result of which the appeal filed by complainant and his wife was dismissed and the decision of the Regional Trial Court against them became final.

xxx

The records clearly show that respondent Arty. Ellis Jacoba was remiss in the performance of his duties to complainant. He was given by the Court of Appeals extensions of time totaling 135 days within which to file the appellants' brief, but he failed to file the same. No reason has been given in extenuation of respondent's failure.

xxx

Indeed, a lawyer owes fidelity to the cause of his client. He should ever be mindful of the trust and confidence reposed in him, remembering always that his actions or omissions are binding on his clients.[8] In this case the failure of respondent to file the appellants' brief resulted in the dismissal of the appeal. As a consequence, the adverse decision in the trial court against complainant and his wife became final and executory and they were made to pay P107,000.00 to the plaintiffs in Civil Case No. 2014-AF [9] His wife was so aggrieved that she died upon learning of the final dismissal of their appeal.[10]

xxx

As already noted, this is not the first violation committed by the . respondent. In Adm. Case No. 2594, this Court, in a resolution dated June 3, 1985, suspended Atty. Ellis Jacoba from the practice of law for a period of six (6) months for his failure to file an action for the recovery of possession of property despite the lapse of two and half (2 1/2) years from receipt by him of P550.00 which his client gave him as filing and sheriffs fees.

In addition, he was ordered to return the same amount to the complainant, Liberate Soriano, and warned that a repetition of the same or similar offense will be dealt with more severely.

xxx

WHEREFORE, in view of the foregoing, respondent Atty. Ellis Jacoba is SUSPENDED from the practice of law for one (1) year effective upon finality hereof and ORDERED to return to complainant the amount of P10,000.00 with WARNING that a repetition of the same negligent act charged in this complaint will be dealt with even more severely. The complaint against respondent Atty. Olivia Velasco-Jacoba is dismissed for insufficiency of evidence.."

The resolution dated 6 February 2002 denying the motion for reconsideration of the said decision with finality was received by respondent on 1 April 2002.

27 September 2002

PRESBITERO J. VELASCO, JR.

Court Administrator

[8] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 17; In Re Vicente Y.Bayani, 337 SCRA451 (2000)

[9] Sinumpaang Salaysay of Sevenno Ramos, March 7,1999

[10] Report of the Investigating Commissioner, p.3

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