

PABLITO SANTOS, COMPLAINANT, VS. ATTY. ALVARO BERNABE LAZARO, RESPONDENT.*Adm. Case No. 5085. February 06, 2003*

Ponente: BELLOSILLO, J.

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ATTY. ALVARO BERNABE LAZARO, a member of the Philippine Bar and respondent herein, is charged administratively with "inexcusable neglect of duties as a lawyer to a client-relative." [1] According to complainant Pablito Santos, the charge arose from respondent's failure to file a "memorandum/brief" resulting in his being deprived of his rights over a parcel of land located at F. Varona St., Tondo, Manila. Complainant also alleged other matters indicative of further misconduct, such as respondent's repeated demands for unconscionable amounts of money despite awareness of complainant's grinding poverty.

Specifically, complainant averred that he was a defendant in an ejectment case filed by a certain Alfredo dela Rosa in representation of his minor children Mila Nelia, Ofelia, Rochelle and Allan, all surnamed dela Rosa, before the Metropolitan Trial Court of Manila. [2] The complaint was for complainant's ejectment from a parcel of land at F. Varona St., Tondo, Manila, after he refused to pay rent.

Subsequently, respondent entered his appearance as counsel for herein complainant, as defendant in the MeTC, after he paid respondent an acceptance fee of P20,000.00. Complainant further alleged that while the case was pending thereat respondent demanded and was paid another P30,000.00. However, judgment was rendered ordering complainant to vacate the premises and to pay plaintiffs therein P87,000.00 as back rentals.

Feeling aggrieved, complainant appealed to the Regional Trial Court of Manila. [3] For the appeal, complainant gave respondent another P30,000.00 for his professional services. After the MeTC rendered judgment ordering complainant's immediate eviction from the premises, the National Housing Authority awarded him the property and a transfer certificate of title was issued in his favor. [4]

On the part of the plaintiffs in the MeTC, they moved for the immediate execution of the judgment being appealed from. On 17 March 1997 the Regional Trial Court issued an Order directing defendant-appellant Pablito Santos to file his "memorandum/brief" within thirty (30) days from receipt thereof.

Several months later, respondent was reproached by the RTC for not complying with its 17 March 1997 Order. Respondent had to plead that he be given another chance to file his appellant's memorandum as his "attention was focused on matters pertaining on (sic) the submission of pleadings thereafter needed to be filed in reply to Plaintiff's manifestation and motion." His arguments however were not sustained.

On 18 August 1997 the RTC granted the motion for a writ of execution upon finding that defendant therein, complainant herein, did not put up a supersedeas bond to stay the execution of the judgment. In its Order, the RTC also disregarded complainant's opposition to resolve the motion and considered counsel's excuse for not filing his memorandum as a "feeble attempt to extricate himself (herein respondent Lazaro) from his blunder

which is not excusable.”[5]

Respondent denied the charges against him. He argued that his failure to file the “memorandum/brief” was “not deliberate as he is morally and legally convinced that he may be able to present his client’s valid cause or claim over the disputed property in a hearing called for the purpose.” He alleged that he could have orally argued complainant’s case before the trial court had he been given the opportunity to do so. According to him, complainant rudely terminated his services even before he could explain his legal strategy for winning the appeal. Moreover, complainant’s allegation that he milked him dry was far from the truth since complainant actually gave him only P10,000.00 contrary to their agreement that he would be remunerated with P30,000.00 for his legal services. Lastly, respondent claimed that complainant tried to extort P200,000.00 from him in exchange for the withdrawal of his disbarment complaint against him.[6]

This Court referred the complaint to the Integrated Bar of the Philippines for investigation, report and recommendation.[7] On 5 August 2002 the IBP submitted its Report finding respondent guilty of negligence and recommending that he be suspended from the practice of law for a period of six (6) months.[8] In justifying its recommendation, the IBP completely relied on the findings of the trial court -

“From the facts obtaining and the evidence presented, we find the Order dated 18 August 1997 of the Honorable Presiding Judge of the Regional Trial Court of Manila, Branch 31, says it all with regard to the inexcusable negligence committed by respondent in handling the case of complainant, to wit: ‘The record reveals that defendant’s counsel failed to file any motion for extension to file his memorandum/brief. This being the case, defendant’s counsel was of the thinking that he could get out of his predicament by pleading that his attention was focused on matters pertaining ‘on the submission of pleadings thereafter needed to be filed in reply to plaintiffs’ manifestation and motion,’ thus his failure to file defendant’s memorandum/brief. However, this is farthest from the truth because he already knew on March 31, 1997 that he was required to file his memorandum/brief not later than thirty (30) days from that date. The foregoing narration does not speak well of the stance taken by defendant’s counsel.’”[9]

A thorough and exhaustive study of the complaint as well as the comment thereto argues strongly for the adoption and approval of the IBP Report. Indeed, complainant would not have undergone the travails of losing his property had respondent exercised the ordinary diligence of a member of the Bar.

Rule 18.03 of the Code of Professional Responsibility explicitly provides that negligence of lawyers in connection with legal matters entrusted to them for handling shall render them liable. It is a basic postulate in legal ethics that when a lawyer takes a client’s cause, he covenants that he will exercise due diligence in protecting his rights. The failure to exercise that degree of vigilance and attention expected of a good father of a family makes such lawyer unworthy of the trust reposed upon him by his client and makes him answerable to him, to the courts and to society.

The acts of respondent in this case violate the most elementary principles of professional ethics. By neglecting to file the “memorandum/brief,” respondent set off a chain of events which eventually ended in the demolition of a “34-meter structure which complainant and four other families call home.”[10] His explanation that his “attention was focused on matters pertaining on (sic) the submission of pleadings thereafter needed to be filed in reply to plaintiff’s manifestation and motion” is too ludicrous to be believed. His stance, to quote the trial court, was but “a feeble attempt to extricate himself from his blunder which is not excusable.”

Respondent’s failure to exercise due diligence in attending to the interest of complainant caused the latter material prejudice. As a lawyer, respondent was wanting in the exercise of reasonable care demanded of every member of the Bar; his measure of diligence is several notches below the standard required of his office.

WHEREFORE, respondent ATTY. ALVARO BERNABE LAZARO is found GUILTY of negligence in protecting the interest of his client, complainant Pablito Santos, in Civil Case No. 97-82452, of the RTC of Manila, and is accordingly SUSPENDED from the practice of law, not for six (6) months as recommended by the Commission on Bar Discipline of the Integrated Bar of the Philippines, but for one (1) year effective from date of his receipt of this Resolution.

Let a copy of this Resolution be attached to the personal record of Atty. Alvaro Bernabe Lazaro in the Bar Confidant's Office, another copy furnished the Integrated Bar of the Philippines, and copies thereof circulated in all the courts of the country.

Respondent Atty. Alvaro Bernabe Lazaro is DIRECTED to inform this Court and the Integrated Bar of the Philippines of the date of his receipt of this Resolution.

SO ORDERED.

Mendoza, Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp.1-11.

[2] Docketed as Civil Case No. 147286-CV, MeTC-Br. 3, Manila.

[3] Docketed as Civil Case No. 97-82452.

[4] Rollo, p. 2.

[5] Order penned by Judge Wilfredo D. Reyes, RTC-Br. 31, Manila; Id. at 6-7.

[6] Rollo, pp. 14-18.

[7] Id at 19.

[8] Id. at 83-87.

[9] Id. at 86.

[10] Id. at 70.

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