

ROGER C. CAS, COMPLAINANT, V. ATTY. RICHARD R. LIBRADA, RESPONDENT.

A.C. No. 11956. August 06, 2019

Ponente: BERSAMIN, C.J.

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BERSAMIN, C.J.:

Before us is the administrative complaint for alleged violation of the Code of Professional Responsibility filed by complainant Roger C. Cas against respondent Atty. Richard R. Librada.

Antecedents

The complainant, in his capacity as the President of Werr Corporation International (WCI), engaged the services of respondent Atty. Librada to prosecute the complaint for collection filed by WCI against AMA Computer College (AMA) in the Regional Trial Court (RTC) in Quezon City.[1] WCI sought therein to collect P3,286,030.31 representing the retention billings that had remained unpaid by AMA under the construction agreement that they had entered.

The RTC scheduled the pre-trial conference, and issued notices to the parties. However, because Atty. Librada did not appear at the pre-trial, the RTC dismissed the complaint.[2]

Atty. Librada filed a motion for reconsideration, but the same did not prosper because of his failure to attach an affidavit of service, and because of his scheduling the hearing of the motion on a Saturday instead of on a Friday.[3]

Undeterred, Atty. Librada filed an omnibus motion, but the RTC denied the motion for being a prohibited pleading and for having been filed out of time.[4]

Consequently, Atty. Librada assailed the denial of his motions in the Court of Appeals (CA) on certiorari, but the CA dismissed the petition on November 15, 2010 by affirming the procedural lapses committed in the RTC,[5] specifically: (1) failure of Atty. Librada to appear on the scheduled pre-trial conference; (2) failure to incorporate the affidavit of service in the motion for reconsideration; (3) setting the hearing of the omnibus motion on a Saturday; and (4) belated filing of the omnibus motion. The dismissal of the petition became final, and the entry of judgment was received by WCI on February 9, 2011.

Aggrieved by the outcome of its case, WCI brought its complaint for disbarment against Atty. Librada in the Commission on Bar Discipline of the Integrated Bar of the Philippines (CBD-IBP).

Findings and Recommendation of the IBP

On June 5 2013, Commissioner Oliver A. Cachapero rendered his report, whereby he recommended Atty. Librada's suspension for two years from the practice of law for having violated Rule 18.03 and Rule 18.04 of the Code of Professional Responsibility[6] Commissioner Cachapero found Atty. Librada to have intentionally concealed from WCI the true status of its petition for certiorari in the CA, and such concealment had prevented

WCI from exhausting its remedies.

On August 9, 2014, the IBP Board of Governors issued Resolution No. XXI-2014-459[7] adopting Commissioner Cachapero's recommendation, viz.:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws, and for violation of Rule 18.03 and 18.04 of the Code of Professional Responsibility, Atty. Richard R. Librada is hereby SUSPENDED from the practice of law for two (2) years.

Atty. Librada moved for reconsideration, but his motion was denied.

Issue

Did Atty. Librada violate the Code of Professional Responsibility in handling the case of WCI?

Ruling of the Court

We agree with the IBP Board of Governors that Atty. Librada negligently performed his duties as counsel for WCI.

Once the lawyer-client relationship commences, the lawyer becomes bound to serve his client with full competence, and committed to attend to its cause with utmost diligence, care and devotion. To accord with the highly fiduciary nature of the lawyer-client relationship, the lawyer must always be mindful of the client's cause and must be diligent in handling the client's legal affairs.[8] Thus, Canon 17, Canon 18 and Rule 18.03 and Rule 18.04 of the Code of Professional Responsibility command:

CANON 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 – A lawyer shall serve his client with competence and diligence.

x x x x

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.

The foregoing lay down the standards for the lawyer's conduct and actuations in respect of the client's cause. Yet, the pleadings and motions filed by Atty. Librada betrayed his gross neglect as an attorney and demonstrated the lackluster discharge of his ethical obligations towards the client.

Under his Lawyer's Oath, Atty. Librada expressly vowed to conscientiously safeguard the cause of WCI once he accepted his engagement. From that moment on, WCI fully expected him to diligently advance and protect its interest in each phase of the proceedings before the trial court and he had to meet the expectation. But the records reveal how Atty. Librada had been inexcusably remiss in discharging his duty of diligence towards WCI.

Firstly, the dismissal of WCI's complaint was attributable solely to Atty. Librada's inexplicable absence from the pre-trial conference despite due notice to him. Surely, the RTC could but be justified in dismissing the complaint based on his non-appearance. Section 5,[9] Rule 18 of the Rules of Court precisely authorizes dismissal of the action with prejudice based on the non-appearance of the plaintiff during pre-trial.

Atty. Librada's attempt to exonerate himself by passing the buck to WCI for its failure to timely provide his transportation only deserves stern rebuke from the Court. Had Atty. Librada been truly mindful of his obligation

to exercise the utmost diligence expected of him as a lawyer, the problem of transportation was not so insurmountable as to have prevented him from still going to the pre-trial by his own means of conveyance. Every lawyer knows that the duty to appear at the pre-trial is binding on both the client and the lawyer, and the latter's duty towards the Court in this regard is personal and direct,[10] and may not be shifted unto the shoulders of the client. But Atty. Librada utterly ignored his duty despite the strict requirements upon an attorney in his shoes to faithfully adhere to the rules and the canons of professional ethics. This failing on his part was a badge of his lack of professionalism, and clearly exposed his lack of resolve to live up to his duties and responsibilities as a worthy member of the legal profession.[11]

Secondly, the filing of the defective motion for reconsideration and the belated filing of the omnibus motion underscored Atty. Librada's negligence. That the trial court would not act upon any written motion unless the movant set it for hearing[12] and duly notified the opposing party thereof[13] were basic procedural rules familiar to all lawyers. At the very least, Atty. Librada was expected to know the rudiments of law and legal procedure.[14] His knowledge and proper observance of the procedural rules were part and parcel of the legal duty to handle the client's legal matters with care and mindfulness. He thus had no excuse to offer to save him from his plight.

Thirdly, the IBP found that Atty. Librada had willfully withheld the CA's adverse decision from WCI. Such concealment prevented WCI to take the necessary actions or to lessen its injury. The respondent's actuations compounded his unprofessionalism. He thereby violated the need for the relationship between a counsel and his client to be founded on confidence and candor, under which the former must adequately and constantly inform the latter of the developments of the case and should not leave it in the dark as to the mode and manner in which its interests are being prosecuted or defended.[15]

Certainly, Atty. Librada's acts and omissions betrayed his failure to perform his obligations due towards WCI as his client,[16] and thereby breached the highest degree of confidence and candor expected of him as counsel. The acts and omissions were in direct violation of Canon 17 and Canon 18 and, more specifically, of Rule 18.03 and Rule 18.04 of the Code of Professional Responsibility.

Pending this administrative complaint, Atty. Librada filed a manifestation requesting the Court to allow the submission of additional evidence supposedly not available while the proceedings were still pending before the IBP.[17]

It is clear to us, however, that Atty. Librada already had been afforded the amplest opportunity to gather evidence and defend himself during the proceedings before the IBP.

First of all, the IBP set the mandatory conference on December 14, 2012 and duly notified the parties thereof.[18] Yet, Atty. Librada did not attend the mandatory conference and requested its postponement instead. The IBP accommodated his request,[19] and reset the conference on January 25, 2013. Secondly, the IBP directed the parties to submit their position papers within 10 days from receipt of the order.[20] However, Atty. Librada twice requested an extension to file his position paper, but filed it only on May 23, 2013,[21] or almost four months after the scheduled mandatory conference. And, thirdly Atty. Librada filed a motion for reconsideration of the IBP Board of Governors' Resolution No. XXI-2014-459,[22] but the motion was denied.

It is worthy to remind that disciplinary proceedings against lawyers are *sui generis*. The proceedings are investigations by the Court into the conduct of one of its officers, and are unlike the trial of an action or a suit in a court of law. Based on the character of disciplinary proceedings, the Court is not bound to receive additional evidence when it appears that the respondent was already accorded sufficient time to adduce evidence in his favor. More importantly, the IBP Board of Governors' exercise of disciplinary powers vis-a-vis the respondent was

anchored on the existence of sufficient evidence of the respondent's wrongdoing.[23] Such sufficient evidence clearly existed.

That being said, the IBP's findings to the effect that Atty. Librada had failed to competently and diligently discharge his duties as WCI's counsel were substantial enough. We have been given no reason to deviate from the findings.

WHEREFORE, the Court FINDS and DECLARES respondent ATTY. RICHARD R. LIBRADA guilty of violating Canon 17, and Rules 18.03 and 18.04 of the Code of Professional Responsibility; and SUSPENDS him from the practice of law for a period of TWO (2) YEARS EFFECTIVE UPON NOTICE, with the STERN WARNING that any similar infraction in the future will be dealt with more severely.

Let copies of this decision be furnished to the Office of the Bar Confidant, to be appended to the respondent's personal record as an attorney; to the Integrated Bar of the Philippines; and to all courts in the Philippines for their information and guidance.

SO ORDERED.

Carpio, Peralta, Perlas-Bernabe, Leonen, Jardeleza, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, and Inting, JJ., concur.

A. Reyes, Jr., J., no part due to prior participation in the Court of Appeals.

J. Reyes, Jr., J., on leave.

[1] Rollo, pp. 49-53.

[2] Id. at 222.

[3] Id. at 223.

[4] Id. at 223.

[5] Id. at 63-68; penned by Associate Justice Japar B. Dimaampao, with the concurrence of Presiding Justice Andres B. Reyes, Jr. (now a Member of this Court) and Associate Justice Jane Aurora C. Lantion.

[6] Id. at 225-226.

[7] Id. at 221.

[8] *Ramiscal v. Orro*, A.C. No. 10945, February 23, 2016.

[9] Section 5. Effect of failure to appear. — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless other-wise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex parte and the court to render judgment on the basis thereof.

[10] Section 4, Rule 18 of the Rules of Court, provides that: "It shall be the duty of the parties and their counsel to appear at the pre-trial..."

[11] In *Talento v. Paneda* (A.C. No. 7433, December 23, 2009, 609 SCRA 1, 10), the Court held that absence in the pre-trial conference exhibits the lawyer's failure to live up to his duties and responsibilities.

[12] Section 4, Rule 15, Rules of Court.

[13] Section 6, Rule 15, Rules of Court.

[14] *Heirs of Tan, Sr. v. Beltran*, A.C. No. 5819, February 1, 2017, 815 SCRA 365, 372.

[15] *Garcia v. Atty. Manuel*, A. C. No. 5811, January 20, 2003, 395 SCRA 386, 390.

[16] *Nebreja v. Atty. Reonal*, A.C. No. 9896, March 19, 2014, 719 SCRA 385, 392.

[17] *Rollo*, pp. 264-265.

[18] *Id.* at 117.

[19] *Id.* at 136.

[20] *Id.* at 138.

[21] *Id.* at 158-166.

[22] *Id.* at 227-230.

[23] *Ylaya v. Gacott*, January 30, 2013, A.C. No. 6475, 689 SCRA 452, 467-468.

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