

EUGENIO MAGO, COMPLAINANT, VS. ATTY. ELISEO BOTE, RESPONDENT.

A.C. No. 1450. December 02, 1987

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PER CURIAM:

The respondent was charged with gross negligence for not having paid proper attention to the prosecution of the complainant's action for damages, resulting in its dismissal and the latter's loss of a legitimate claim for P34,000.00 against the defendant.[1]

It was alleged that the respondent was retained by the complainant to prosecute this claim and entered his appearance on behalf of the plaintiff on January 4, 1960. After the complainant had rested his case, the defense presented its main witness, the defendant herself, but the respondent was not then able to cross-examine her for lack of time. That was on September 19, 1960, and that was also the last time the respondent appeared in this case.[2]

On November 6, 1962, the late Judge Francisco O. Geronimo issued an order, reading as follows:

"It appearing that this case has been pending since 1959, and that since the last order dated September 19, 1960, neither party has taken any step to prosecute further this case, and it appearing furthermore that the counsel for the plaintiff has moved to an unknown address without informing this court, it is ordered that this case be as it is hereby dismissed, without prejudice to the right of either party to assert in a new action their respective claims, should they desire to litigate further. Without pronouncement as to costs.

"SO ORDERED."[3]

The complainant learned of this order only on April 12, 1974, or twelve years later, when he inquired about the status of his case from court personnel. Earlier, according to him, he had periodically asked about the same matter from the respondent, who had assured him he would be informed about it. The respondent later changed his address without notifying the complainant or the court.[4]

This complaint was referred for investigation, report and recommendation to the Solicitor General,[5] who, after hearing the parties, filed his own administrative complaint against the respondent based on the earlier complaint and on his own findings.[6]

In refutation of the charges, the respondent simply denies that he received any notice from the court but does not state or prove that he informed it of his change of address. He also claims that he and the complainant had a quarrel sometime in 1961, before the case was dismissed, and that as a result he had terminated their lawyer-client relationship.[7] There is nothing in the record that he had formally withdrawn as counsel for the complainant. On the contrary, he was still the attorney of record for the plaintiff when Civil Case No. 39004 was dismissed on November 6, 1962.

It appears that since 1960 the respondent had not lifted a finger to further press the private complainant's claim or even to verify its status. There is also evidence that after the private complainant brought this matter to this Court,

the respondent and his wife twice offered him a piece of land in consideration of the withdrawal of his complaint.[8]

The argument raised by the respondent that the complainant's case was weak anyway does not deserve serious consideration. In the first place, he himself recommended against the defendant's offer of amicable settlement, insisting that the complainant's case was strong.[9] In the second place, he would not have accepted the case if he thought it had no prospects, especially since he would be paid only on a contingent basis.[10] In any event, this defense is no justification for abandoning the case.

The complainant is not barred by prescription nor is the complainant guilty of laches. The record shows that the complainant filed his complaint on December 24, 1974,[11] after learning of the dismissal of his case only on April 12, 1974. It is not true that the complainant slept on his right for twelve years for he was informed of the order of dismissal only eight months before he filed his complaint.

The Court is convinced that the respondent grossly neglected the complainant's case, to the latter's prejudice. In so comporting himself, the respondent violated his ethical duty toward his client and acted in a manner unbecoming a member of the Bar.

WHEREFORE, the respondent is suspended from the practice of law for a period of one year, effective immediately. It is so ordered.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

[1] Rollo, p. 33.

[2] Ibid., pp. 29-30.

[3] Id., p. 10.

[4] Id., pp. 30-31.

[5] Id., p. 26.

[6] Id., pp. 28-32.

[7] Id., pp. 61-63.

[8] Id., p. 35.

[9] Id., p. 39.

[10] Id.

[11] Id., p. 2.

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