IN RE: G.R. No. 253312 “RODRIGO CONCHE y OBILO v. PEOPLE OF THE PHILIPPINES,” COMPLAINANT, VS. ATTY. EVELYN L. GUTIERREZ, RESPONDENT.

A.C. No. 14636 (Formerly CBD Case No. 24-7177), July 09, 2026

Ponente: GAERLAN, J.

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GAERLAN, J.:

For the Court's consideration is the Report and Recommendation[1] from the Investigating Commissioner (IC) of the Integrated Bar of the Philippines (IBP), dated July 30, 2024, as approved and adopted by the Board of Governors through Resolution No. XXVI-CRM-2024-12-09,[2] finding respondent Atty. Evelyn L. Gutierrez (Gutierrez) guilty of gross negligence.

The Antecedents

This case stemmed from the Court's Decision in the case of Rodrigo Conche y Obilo v. People of the Philippines,[3] where the Court referred the case to the Commission on Bar Discipline (CBD) of the IBP for investigation, report, and recommendation.

Gutierrez from the Gutierrez & Trinidad Law Office (GT Law Office) was counsel for Rodrigo O. Conche (Conche), who was charged with violating Article II, Section 5 of Republic Act No. 9165.

The Regional Trial Court (RTC) issued a Decision dated May 3, 2012, convicting Conche of the crime charged. The RTC likewise issued an Order dated July 9, 2012, denying Conche's Motion for Reconsideration.

On appeal, the Court of Appeals (CA) affirmed Conche's conviction in a Decision dated September 21, 2015.

Based on the CA's records, GT Law Office received a copy of the CA Decision dated September 21, 2015 on October 7, 2015. Also, based on CA's Case Management Information System (CMIS) Verification dated April 19, 2016, Gutierrez or GT Law Office did not file any Notice of Appeal nor Motion for Reconsideration on the CA Decision; hence, the said decision became final and executory on October 23, 2015, and an entry of judgment was issued on the same date.

After learning of the finality of judgment, Conche, through BNG Humanitarian Outreach Volunteer Paralegal Services (BNG), sent two Letters dated June 13, 2016, and October 17, 2016, to the Office of the Chief Justice (OCJ) and a Letter dated October 17, 2016, to the IBP to plead for assistance on how to elevate his appeal to the Supreme Court.

The OCJ instructed the CA to take appropriate action on Conche's case and likewise endorsed Conche's case to IBP for possible legal assistance.

On October 17, 2016, BNG sent a letter to GT Law Office requesting the latter to formally withdraw as Conche's counsel of record to allow the Public Attorney's Office (PAO) to take over the case. Therefore, on November 29, 2016, Gutierrez filed a motion to withdraw appearance as counsel.

On April 13, 2018, PAO entered its appearance as Conche's counsel and filed a motion to recall entry of judgment and a notice of appeal, requesting that the CA rectify the serious injustice in the case and protect Conche’s right to due process. The PAO argued that Gutierrez was guilty of negligence and misrepresentation in handling Conche's case, which resulted in the loss of his right to appeal. Gutierrez's actions constituted an exception to the rule that negligence of counsel binds the client.

On January 18, 2019, the CA issued a Resolution denying Conche's motion to recall entry of judgment and notice of appeal, ruling that there were no compelling reasons to apply the exception to the rule that negligence of counsel binds the client. The CA likewise denied Conche's Motion for Reconsideration in its Resolution dated August 20, 2020.

Conche elevated the CA's ruling to the Court docketed as G.R. No. 253312, for which, on March 1, 2023, the Court granted the petition for review on certiorari. The dispositive portion of the Decision reads:

> WHEREFORE, the petition is GRANTED. The Resolution dated January 18, 2019 and the Resolution dated August 20, 2020 of the Court of Appeals in CA-G.R. CR HC No. 05710 are REVERSED and SET ASIDE. The Entry of Judgment in Criminal Case No. 09-1288 issued by the Court of Appeals is RECALLED. The Court of Appeals is DIRECTED to give due course to Rodrigo Conche y Obilo's appeal and is ORDERED to elevate the records of the case for this purpose.
>
> Let a copy of this Decision be furnished to the Commission on Bar Discipline of the Integrated Bar of the Philippines, which is hereby DIRECTED to investigate Atty. Evelyn Gutierrez for her administrative liability as a member of the Bar.
>
> SO ORDERED.[4] (Emphasis in the original)

The Court ruled that Gutierrez's gross negligence violated Conche's right to due process, thereby justifying the reversal of the challenged CA decision. The Court accepted Conche 's account in his affidavit that Gutierrez promised to file a notice of appeal but did not do so. Conche's claim was supported by Donna Conche (Donna), his wife, and the BNG chairperson, who both issued affidavits stating that Gutierrez herself told them she filed the appeal when questioned about the case.[5]

Actions by the IBP

Pursuant to the Court's directive, the IBP, on March 1, 2024, required Gutierrez to file her Answer within 30 days from receipt of the IBP letter.

On April 4, 2024, Gutierrez acknowledged receiving the IBP Letter on March 25, 2024. Instead of filing an Answer, she requested an additional 30 days from the receipt of the complete attachments. The IBP provided Gutierrez with a full set of letters and attachments on the same day.

On April 22, 2024, Gutierrez requested an extension of 30 days, or until May 23, 2024, to file her Answer, pending receipt of the documents she requested from CA.

Again, on May 24, 2024, Gutierrez requested an additional 30-day extension, or until June 22, 2024, to file her Answer, due to her pending document request with the CA.

On June 6, 2024, the IBP-CBD issued an order denying Gutierrez's third request for an extension and directed her to file her Preliminary Conference Brief within 10 days of receiving the order. The IBP cited Section 14 of Canon VI of the Code of Professional Responsibility and Accountability (CPRA), which states that Gutierrez, upon showing good cause, may be granted one extension of 15 calendar days to file her Answer. Gutierrez submitted the required pleadings, and the IBP investigation continued afterward.

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Report and Recommendation of the
Investigating Commissioner

Atty. Donna Ann T. Balboa, the IC of the Commission on Bar Discipline-IBP, issued a Resolution[6] finding Gutierrez liable for gross negligence in the performance of duty or conduct that is reckless and inexcusable, which results in the client being deprived of his or her day in court under Section 33(d) of Canon VI on Accountability of the CPRA, the dispositive portion of which reads:

> WHEREFORE, IN VIEW OF THE FOREGOING, it is respectfully recommended that respondent Atty. Evelyn L. Gutierrez be suspended from the practice of law for a period of six (6) months with a stern warning that a repetition of the same offense or any administrative offense will warrant a more serious disciplinary action.[7] (Emphasis in the original)

In determining the recommended penalty, the IC considered Gutierrez's good reputation, years of experience, and that this was her first offense.

Resolution of the Board of Governors of the IBP

On December 19, 2024, the Board of Governors of the IBP issued Resolution No. XXVI-CRM-2024-12-09,[8] approving and adopting the Report and Recommendation of the IC. The dispositive portion of the Resolution reads:

> RESOLVED, to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner to mete out upon respondent, Atty. Evelyn L. Gutierrez, the penalty of SUSPENSION from the practice of law for SIX (6) MONTHS, with STERN WARNING that a repetition of the same or similar act shall be dealt with more severely.[9] (Emphasis in the original)

The Issue

Whether Gutierrez is administratively liable for gross negligence and misrepresentation in handling Conche's case before the CA.

The Ruling of the Court

Gutierrez is liable for gross negligence

Every member of the Bar should always remember that each case a lawyer accepts warrants full attention, diligence, skill, and competence, regardless of its significance or whether he or she accepts it for a fee or pro bono. A lawyer's loyalty to the client's cause requires him or her to stay conscious of the responsibilities he or she is expected to uphold. The lawyer is obliged to put forth his or her best efforts to defend his or her client's interests within the boundaries of the law.[10]

In this case, it is undisputed that Gutierrez became Conche's counsel of record and remained in that role until she withdrew her representation to make way for the PAO. During that period, Gutierrez owed Conche her full attention, diligence, skill, and competence, which she unfortunately was unable to provide. To Conche's detriment, he was deprived of his right to appeal and was bound by Gutierrez's inaction, were it not for the Court's intervention.

Based on the letter of Atty. Annelle M. Cornejo, Executive Clerk of Court III of the CA, dated July 15, 2016, to the BNG chairperson, copy furnished the OCJ, GT Law Office, received a copy of the CA Decision dated September 21, 2015, on October 7, 2015. Further, based on the CMIS dated April 19, 2016, Gutierrez did not file any notice of appeal nor motion for reconsideration to the September 21, 2015 CA Decision.[11]

During the investigation with the IBP, Gutierrez only offered a weak excuse: to the best of her recollection, she could not remember receiving the Decision of the CA dated September 2015 nor being informed of it. Unfortunately, this brief lapse in memory does not preclude the Court from crediting the CA Clerk of Court's confirmation that GT Law Office received a copy of the CA Decision dated September 21, 2015, on October 7, 2015.

Likewise, in her Answer and Position Paper, Gutierrez stated that she followed up with the CA regarding the case and filed necessary pleadings with the RTC and the CA to show that she could not have been grossly negligent in handling Conche's case. However, a closer look at Gutierrez's narration reveals that she took action only in 2024, after the IBP had already asked her to explain. She then followed up with the CA, sent her representative to request relevant documents, and sent letters about the case status. She should have done all of this years ago, between approximately 2012 and 2015, as a responsible and accountable lawyer of Conche.

It should be noted that Conche was already deprived of his liberty when the case was pending appeal with the CA. Even while in jail, Conche has the right to be informed of the status of his case, and Gutierrez has the corresponding duty to regularly inform him of the status, the outcome, and any related actions to the case.[12]

In the case of Barbuco v. Atty. Beltran,[13] the Court ruled that the failure to file a pleading in a timely manner is, by itself, inexcusable negligence on the part of the respondent lawyer. This negligence is further compounded by his or her failure to maintain open communication with his or her client, violating his or her duty to keep the client informed about the status of the case. The Court also found that the lawyer's series of inadvertent actions prejudiced his or her client's case. The duty of a lawyer to uphold the integrity and dignity of the legal profession by faithfully performing his or her duties to society, to the bar, to the courts, and to his clients cannot be overstated.

As noted by the IC in her report, it was Gutierrez's failure to stay on top of the case filed with the CA and to update Conche about it that prejudiced her client, who was deprived of his day in court. Gutierrez's fidelity to her client requires her to be ever so mindful of the trust and confidence reposed in her by the client, as well as the responsibilities expected of her.[14] As an advocate, she is required to represent Conche with fidelity and zeal within the bounds of the law and CPRA.[15]

Gutierrez is liable for simple misconduct

Regarding the charge of misrepresentation, the IC recommended dismissing it because the complainant failed to prove that Gutierrez promised to file an appeal, leaving the IC to speculate about the specifics of the conversation between Conche and Gutierrez.[16] The Court does not agree with this conclusion.

Canon II, Section 11 of the CPRA mandates that a lawyer shall not make false representations or statements. A lawyer shall be liable for any material damage caused by such false representations or statements.

In this case, the false representations or statements were made towards Conche, who was misled into believing that an appeal to the Supreme Court had been filed.

Contrary to the IC's conclusion, the narratives of Conche, Donna, and the BNG chairperson in their respective affidavits, which were all submitted and considered by the Court in G.R. No. 253312, are sufficient to discharge the burden. Gutierrez's mere denial that, to the best of her recollection, she did not promise or state to Conche that an appeal had been filed to the Court surely makes a weak defense.

The Court considers the false representations or statements made by Gutierrez to be a less serious offense of simple misconduct, or misconduct without the manifest elements of corruption, clear intent to violate the law, or

flagrant disregard for established rules.[17]

Imposable sanctions

Canon VI, Section 40 of the CPRA provides that if the respondent is found liable for more than one offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five years of suspension from the practice of law or PHP 1,000,000.00 in fines, the respondent may, in the discretion of the Court, be meted with the penalty of disbarment.

In this case, Gutierrez is liable for two offenses: gross negligence for failing to file an appeal from the CA Decision affirming Conche's conviction and for failing to apprise him of the status of the case with the CA, a serious offense, as well as the less serious offense of simple misconduct for falsely assuring an appeal before the Court but not filing one. Applying the foregoing provision, she will be penalized accordingly for both offenses.

Canon VI, Section 37 of the CPRA provides the following sanctions for serious and less serious offenses:

> Section 37. Sanctions. –
>
> (a)
>
> If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:
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> (1)
>
> Disbarment;
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> (2)
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> Suspension from the practice of law for a period exceeding six (6) months;
>
> (3)
>
> Revocation of notarial commission and disqualification as notary public for not less than two (2) years;
>
> (4)
>
> A fine exceeding [PHP] 100,000.00.
>
> (b)
>
> If the respondent is found guilty of a less serious offense, any of the following sanctions, or a combination thereof, shall be imposed:
>
> (1)

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> Suspension from the practice of law for a period within the range of one (1) month to six (6) months or revocation of notarial commission and disqualification as notary public for less than two (2) years;
>
> (2)
>
> A fine within the range of [PHP] 35,000.00 to [PHP] 100,000.00.

Canon VI, Section 38 of the CPRA states that in determining the appropriate penalty, the Court may, at its discretion, consider modifying circumstances relevant to the case. In this instance, the Court recognizes that this is Gutierrez's "first offense,"[18] and her number of years in the practice of law,[19] as recommended by the IBP.

While Canon VI, Section 39 of the CPRA states that if one or more mitigating circumstances are present and no aggravating circumstances exist, the Court may impose penalties of suspension or a fine for a period or amount not less than half of the minimum prescribed under CPRA.

In view of the foregoing, the Court deems it proper to impose the following penalties on Gutierrez: for the serious offense of gross negligence, a suspension from the practice of law for six months and one day; and for the less serious offense of simple misconduct, a fine of PHP 20,000.00, with a stern warning that any repetition of the same or similar offense shall be dealt with more severely.

ACCORDINGLY, the Court finds respondent Atty. Evelyn L. Gutierrez GUILTY of gross negligence and simple misconduct under Sections 33(d) and 34(a) of Canon VI of the Code of Professional Responsibility and Accountability for which she is SUSPENDED from the practice of law for six months and one day, and FINED PHP 20,000.00, respectively. Atty. Evelyn L. Gutierrez is STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

Let copies of this Decision be furnished to the Office of the Bar Confidant for immediate implementation; the Office of the Court Administrator for dissemination to all courts of the country; and to the Integrated Bar of the Philippines for its information and guidance.

SO ORDERED.

Caguioa (Chairperson), Inting, and Dimaampao, JJ., concur.
Singh,[*] J., on official business.

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[*] On official business.

[1] Rollo, pp. 262-266.

[2] Id. at 260-261.

[3] 937 Phil. 384 (2023) [Per J. Gaerlan, Third Division].

[4] Rollo, pp. 5-11. The March 1, 2023 Decision in G.R. No. 253312 was penned by Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Alfredo Benjamin S. Caguioa, Henri Jean Paul B. Inting, Japar B. Dimaampao, and Maria Filomena D. Singh of the Third Division, Supreme Court, Manila.

[5] Id. at 9-10.

[6] Id. at 262-266.

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[7] Id. at 266.

[8] Id. at 260-261.

[9] Id. at 260.

[10] Barbuco v. Atty. Beltran, 479 Phil. 692, 697 (2004) [Per J. Ynares-Santiago, First Division]; In Re: Atty. David Briones, 415 Phil. 203, 209 (2001) [Per J. Puno, First Division].

[11] Rollo, pp. 5-6.

[12] CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon IV, sec. 6.

[13] 479 Phil. 692 (2004) [Per J. Ynares-Santiago, First Division].

[14] CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon III, sec. 6.

[15] Id., sec. 2.

[16] Rollo, p. 265.

[17] CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon VI, sec. 34(a).

[18] CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon VI, sec. 38(a)(1).

[19] Id., sec. 38(a)(9).

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