

**PERLA COMPANIA DE SEGUROS, INC., ILOILO CITY BRANCH,
HEREIN REPRESENTED BY ITS BRANCH MANAGER, NAPOLEON T.
SANTIAGO, PETITIONER, VS. ATTY. OLEGARIO SANTISTEBAN,
RESPONDENT.**

A.C. No. 2405. March 11, 1992

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PER CURIAM:

The respondent, Atty. Olegario Santisteban, was charged by the complainant, Perla Compania de Seguros, Inc., with malpractice for having been grossly remiss in the performance of his duties and functions as an attorney. The complaint dated May 21, 1982 sought the respondent's disbarment or suspension from the Practice of law.

The instant administrative complaint arose from Civil Case No. 12945 filed by one Edgardo Tono for damages caused to his passenger jeepney and auto repair shop by defendant Cyril Perez while driving the passenger truck of his co-defendant Celestino Pioncio. A third-party complaint was filed against the complainant (being the insurance carrier of the truck owner).

The evidence discloses that complainant insurance company was originally represented by Atty. Gingoyon. Due, however, to Atty. Gingoyon's unavailability, complainant had to obtain the services of other counsels, the last of whom was herein respondent Atty. Olegario Santisteban. It is undisputed that respondent had been duly paid his attorney's fees; however, he failed to appear during the scheduled hearings to present evidence in defense of the insurance company and likewise did not inform the latter as to the latest developments of the case. When a decision adverse to the company was finally rendered on February 16, 1982, complainant insurance company was also not advised of the same. Complainant learned about the decision only on May 3, 1982 when the Deputy Provincial Sheriff levied upon and garnished its bank deposit with the Far East Bank and Trust Co., Inc. to satisfy the judgment and the sheriff's fees. As a result thereof, complainant was constrained to plead and compromise with the other party in order that the garnishment may be lifted.

Respondent admitted that he was paid for his legal services, and alleged that he appeared during a hearing of the case upon the request of Atty. Orcullo, the regular counsel of complainant, who had assured him that the case was up for amicable settlement. According to the respondent, he was five minutes late for the said hearing due to the distance he had to travel by public transportation. He, however, learned that the case had already been submitted for decision so he decided to talk with the judge who advised him to file a motion for reconsideration. He was not able to notify the insurance company of the decision because he learned about it only after the period to perfect the appeal had lapsed, since he was in Iloilo at the time.

Complainant insurance company, in its reply, argued that it is respondent's failure to file a motion for reconsideration despite instructions from the judge to do so which prompted the trial court to render its decision. Respondent explained that he asked the judge to reconsider his order but he was told that there is very little probability that he (the judge) would reconsider so respondent decided to simply let the regular counsel of complainant handle the matter. Respondent further emphasized that he only agreed to appear for the complainant

in the belief that there would be an amicable settlement such that he was caught unprepared by the sudden turn of events. (pp. 2-3, Report and Recommendation of the Office of the Bar Confidant).

The Office of the Bar Confidant filed its report in due time recommending therein the suspension of respondent from the practice of law for a period of one (1) month, for lack of professional competence, diligence and fidelity to his client's cause and for having been untruthful and unfair to the Court by deliberately trying to mislead it. (Page 5, Report)

We agree with the findings of the Office of the Bar Confidant.

Respondent admits that he appeared in behalf of the complainant and that he received payment for such appearance, although he denies being the regular counsel of the complainant. However, the record of the case discloses that respondent was the last counsel of record of the complainant. Respondent appeared not only on February 4, 1982 for the trial of the case but also on September 25, 1981 during the pre-trial, billing the complainant for such appearances. (Annexes A, B, C & D to the complaint; pp. 5-8, Records)

As counsel for the complainant, respondent was expected to exercise a reasonable degree of diligence and competence in handling his client's cause (*Adarne v. Aldaba*, 83 SCRA 734). Respondent cannot shrink from such duty by conveniently pointing to another lawyer whose statement (to confirm respondent's assertion that he was not the regular counsel of complainant) was not even presented in court. Respondent's sheer denial cannot overcome evidence clearly and positively showing that he was engaged as counsel by the complainant.

Respondent's failure to file a motion for reconsideration despite having been instructed to do so by the trial judge amounts to negligence. His explanation that the judge had already advised him of the improbability of the decision being reconsidered is devoid of merit. Respondent should have nevertheless taken the appropriate steps in order to prevent the judgment from becoming final and executory. Worse, respondent did not bother to inform the complainant of the status of the case, not even after he received a copy of the decision. He should not have gone to Iloilo without leaving someone in his office to act on urgent matters and to notify him of developments in the case he was handling. This is sheer lack of professional sincerity. And even assuming that respondent was not the regular counsel of the complainant, he should have nonetheless apprised the regular counsel of the latest developments of the case so that the latter could have acted accordingly to protect the complainant's interest. The fact that Atty. Orcullo, allegedly the regular counsel of the complainant, also did not act on the case would verily show the falsity of respondent's allegations, a manifest attempt on the part of respondent to deceive the Court. As correctly pointed out by the Bar Confidant's Office, respondent had not only demonstrated his lack of professional competence, diligence and fidelity to his client's cause causing material prejudice to the complainant but he had also been untruthful to the court by deliberately trying to mislead it. Respondent's suspension from the practice of law is, therefore, in order.

WHEREFORE, Atty. Olegario Santisteban is hereby suspended from the practice of law for a period of one (1) year from the date of his receipt of this resolution. This decision is immediately executory. Let copies of this resolution be attached to his personal record and circulated among the different courts.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, Regalado, and Nocon, JJ., concur.

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