

RASMUS G. ANDERSON, JR., PETITIONER, VS. ATTY. REYNALDO A. CARDEÑO, RESPONDENT.

A.C. NO. 3523. January 17, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

For resolution is an administrative case against Atty. Reynaldo A. Cardeno for malpractice and neglect of duty, stemming from his alleged neglect or deliberate mishandling of a case involving herein petitioner, resulting to the latter's prejudice.

After receipt of the complaint and the corresponding comment thereto, this Court, on October 17, 1990, referred the matter to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

On April 6, 1998, this Court received a Manifestation from the IBP Investigating Commissioner Victoria Gonzales de los Reyes stating that when the case was referred to the IBP, the same was initially handled by Commissioner George Briones. In view of the fact that the case had only been recently re-assigned to her, she needed time within which to investigate as well as prepare the required report and recommendation.

Thereafter, on March 13, 2001, Commissioner de los Reyes submitted her Report and Recommendation to the IBP Board of Governors. In turn, the IBP Board of Governors passed Resolution No. XIV-2001-187, dated April 29, 2001, remanding the Report and Recommendation to the Investigating Commissioner, requiring the latter "to make the recommendation clearer and review the report."

Upon review of the records, the Investigating Commissioner affirmed her findings and maintained her recommendation. In turn, the IBP Board of Governors adopted the said report, with a modification of the recommended penalty of three months suspension, to a penalty of six months suspension, from the practice of law.

The records show the following antecedent facts:

Complainant Rasmus G. Anderson, Jr., an American citizen from Kodiak, Alaska, USA, filed an action before the then Court of First Instance of Rizal (Pasig), to recover title and possession of a parcel of land against the spouses Juanito Maybituin and Rosario Cerrado, and Fernando Ramos. The case was dismissed by the trial court, which declared the defendants the true and lawful owners of their respective portions of the land in question.

On appeal, the Court of Appeals (CA), 3rd Civil Cases Division, in AC-G.R. CV No. 68459, modified[1] the decision of the trial court, stating:

WHEREFORE, the decision is hereby modified by ruling that the respective Torrens Titles in the names of the defendants spouses Maybituin and Fernando Ramos are maintained at this stage but without prejudice on the part of the plaintiff to institute an action for reconveyance thereof after determining his rightful share from the estate of his late father.

Costs against the appellant.

SO ORDERED.[2]

The CA judgment was not appealed and, thereafter, it was duly entered.

On February 16, 1985, Anderson, Jr., through his counsel Atty. Cesar S. de Guzman, filed an Amended Complaint before the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 67, docketed as Civil Case No. 0110-B, entitled “Rasmus Anderson, Jr., Plaintiff v. Spouses Juanito Maybituin and Rosario Cerrado, et al., Defendants.”[3]

It was at this stage of the proceedings when Atty. Cesar S. de Guzman died. Anderson, Jr. was now without a counsel to represent him. Upon referral by a friend, Anderson, Jr. engaged the services of herein respondent Atty. Reynaldo A. Cardeño.

On July 19, 1990, Rasmus G. Anderson, Jr., filed an administrative complaint[4] before this Court wherein he alleged that respondent Atty. Reynaldo A. Cardeño caused “the loss” or the adverse ruling against him in the aforementioned case before the RTC, Civil Case No. 0110-B. Specifically, complainant alleged the following:

- 1.) That when the respondents in the civil case filed a Demurrer to Evidence, Atty. Cardeño did not file an opposition thereto and did not appear at the formal hearing set for the purpose of considering the merits of the demurrer. Thus, in addition to finding merit in the demurrer, the trial court, noting the non-appearance of Atty. Cardeño, assumed that even he, the plaintiff’s counsel, appeared convinced that there was merit, validity and reasonableness in the demurrer filed;
- 2.) That after the trial court issued an Order finding the respondents’ demurrer to evidence meritorious, Atty. Cardeño did not even file a Motion for Reconsideration thereof, which in turn caused the same order to become final and executory;
- 3.) That even prior to the above events and in view of what the complainant perceived to be respondent lawyer’s loss of interest in the case, complainant verbally told Atty. Cardeño to withdraw as his counsel. However, Atty. Cardeño allegedly insisted on continuing to represent the complainant as the case was already in its closing stage.

Complainant concludes that Atty. Cardeño abused his client’s trust and confidence and violated his oath as a lawyer in failing to defend his client’s cause to the very end. Complainant prays that Atty. Cardeño be disbarred.

When asked to comment, Atty. Cardeño replied:

- 1.) That complainant was being ungrateful to him. In the first place, he was only asked by a good friend of the complainant Anderson, Jr., to step into the shoes of the latter’s deceased counsel. He accommodated the request and took the case, even without personally meeting the complainant, as the latter was residing in the United States;
- 2.) That as a client, complainant Anderson, Jr., did not give him full cooperation. Although voluminous records were turned over to him, they were “in disarray”. Atty. Cardeño alleges that when he began representing the complainant in court, he had to “proceed and appear with only half the information[] and background[] of the case, and not knowing the person he was representing.” He allegedly did his best to familiarize himself with the case, although there were several questions left unanswered by the complainant’s good friend;
- 3.) That their first meeting happened at the time he was about to present their last witness. At that time, Anderson, Jr.’s deposition had already been taken by his former counsel, now deceased. Atty. Cardeño then asked Anderson, Jr., about the regularity of the taking of said deposition, and the latter assured him that his former counsel had

exhaustively examined him and that said deposition had been regularly taken;

4.) That the same was the first and only occasion when he personally met complainant. At no time during said meeting did complainant ask him to withdraw from the case;

5.) That from the records he had on hand, and based on the reputation of complainant's deceased counsel, Atty. Cardeño saw no need to present complainant again to testify in court. This was also in view of the fact that complainant was then in a hurry to leave the country, and also because of complainant's assurances that the deposition previously made would suffice;

6.) That it was a "big surprise" for him later to discover that the taking of the deposition was irregular as it was done without the presence of counsels and parties, and without the proper notices. This led the other party to file a demurrer to evidence;

7.) That the "biggest blow and surprise" to him was when he was approached by "good friends" of the complainant and these friends told him that "they have good access and have made arrangements with the Presiding Judge." He was asked by these friends to prepare the motion for reconsideration, which he "obligingly did" and thereafter he gave said motion to these friends, for them to file. However, these friends did not furnish or return a copy of said motion for his files and reference;

8.) That true to his oath as a lawyer, Atty. Cardeño considers the representations of the complainant's good friends to be in bad taste; that he "could not join complainant's good friends in their plans to corrupt" the judge; that he considers this course of action of these friends of the complainant to imply that "he is no longer needed as a lawyer and that they have made their own ways";

9.) That because of these actions of the friends of the complainant which respondent considers contrary to his duty as an officer of the court, and also against the respect due to the courts, respondent asked to be relieved of his duties as counsel but said request was refused.

Thus, respondent Atty. Cardeño concluded that complainant cannot accuse him of deliberately causing their defeat in the case when he, Atty. Cardeño, did his best with such little information, support and cooperation given by the complainant and the latter's friends. It was in fact complainant and his friends who chose to take "another path" to deal with the case. Complainant, he claims, erroneously thinks that a lawyer must do everything, even crooked or illegal acts, in order to win a case. Atty. Cardeño then asserted that he has to uphold his oath as a lawyer and so he refused when complainant's friends proposed to employ acts to corrupt the judge or proceed with the case in dubious ways.

In the aforesaid Report and Recommendation of IBP Commissioner Victoria G. de los Reyes, it was found:

After having considered the position taken by each party in the instant case, this Commission has arrived at a conclusion that there is apparent lack of interest on the part of the Complainant to further pursue his case. The complainant could have appeared personally and present his evidence or could have his deposition taken to support the allegations contained in his complaint. What he did was just to send a representative by the name of Bienvenido Maregmen. Clearly, this is not sufficient to show the needed enthusiasm and interest to support his accusations against the respondent.

We sustain the respondent in his position that he should be given the opportunity to confront the complainant and cross-examine him. Here, the complainant failed to appear despite the several settings of hearings in this case. Based on this alone, this Commission could have recommended the dismissal of the instant complaint for failure of the complainant to substantiate his charges against the respondent.

However, the respondent has indubitably failed to perform an obligation which he owed to his client, the

herein complainant. The respondent himself categorically stated in his Comment filed with the Honorable Supreme Court on October 2, 1990 that he prepared a Motion for Reconsideration in the case entitled “Rasmus Anderson v. Juanito Maybituin, et al.”, Civil Case No. 0110-B, then pending in the Regional Trial Court of Rizal, Branch 67-Binangonan. But that certain “good friends” of the complainant made representations to him that they already made arrangements with the presiding judge who they claimed had already been “bought”. Respondent allowed these persons to take over in the filing of the Motion for Reconsideration and did not even bother to check with the Court if the same has been filed or not.

Clearly, the respondent was guilty of neglect of duty and this is a violation of Canon 18 of the Code of Professional Ethics, which provides that a lawyer shall serve his client with competence and diligence; particularly, Rule 18.03 thereof which states that “a lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable”. He likewise breached his duty to the Honorable Supreme Court to report “corrupt” judges for appropriate disciplinary action with the aim of improving the quality of justice and in helping restore the people’s faith in our judicial system.[5]

As aforesated, the IBP Board of Governors thereafter issued Resolution XVI-2004-68 dated February 27, 2004, which “x x x ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner x x x, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, with modification, and considering respondent’s violation of Rule 18.03, Canon 18 of the Code of Professional Responsibility x x x” recommended that Atty. Reynaldo Cardeno be suspended from the practice of law for six (6) months and that he be warned that a graver penalty would be imposed should he commit the same offense in future.

This Court sustains the findings and recommendations of the IBP Board of Governors.

It is undisputed that Atty. Cardeno was engaged by the complainant as counsel. By accepting the case, respondent should have known the attendant responsibilities that came with the lawyer-client relationship.

These imperatives were pointedly explained in *Pariñas v. Atty. Oscar P. Paguinto*:^[6]

Paguinto should know that as a lawyer, he owes fidelity to the cause of his client. When a lawyer accepts a case, his acceptance is an implied representation that he possesses the requisite academic learning, skill and ability to handle the case. The lawyer has the duty to exert his best judgment in the prosecution or defense of the case entrusted to him and to exercise reasonable and ordinary care and diligence in the pursuit or defense of the case.

A lawyer should give adequate attention, care and time to his case. Once he agrees to handle a case, he should undertake the task with dedication and care. If he fails in this duty, he is not true to his oath as a lawyer. Hence, a lawyer must accept only as much cases as he can efficiently handle, otherwise his clients’ interests will suffer. It is not enough that a lawyer possesses the qualification to handle the legal matter. He must also give adequate attention to his legal work.

The lawyer owes it to his client to exercise his utmost learning and ability in handling his cases. A license to practice law is a guarantee by the courts to the public that the licensee possesses sufficient skill, knowledge and diligence to manage [his] cases. The legal profession demands from a lawyer the vigilance and attention expected of a good father of a family.^[7]

Thus, respondent’s defenses that the complainant was “uncooperative” as a client, that the voluminous records turned over to him were in disarray, and that the complainant did not disclose to him certain particulars of the case, are all unavailing.

First, it was incumbent upon Atty. Cardeno to insist on his client’s participation in the proceedings in the case. While the complainant shares the responsibility for the lack of communication between lawyer and client, Atty.

Cardeno should not have depended entirely on the information his client gave or the time his client wished to give them. As a lawyer representing the cause of his client, he should have taken more control over the handling of the case. Knowing that his client was based in the United States should, with more reason, have moved him to secure all the legal means available to him either to continue representing his client effectively or to make the necessary manifestation in court, with the client's conformity, that he was withdrawing as counsel of record. That his client did not agree to terminate his services is a mere allegation that has not been substantiated.

Thus, in view of the fact that he remained counsel of record for the complainant, it was highly irregular for him to entrust the filing of the Motion for Reconsideration to other people who did not lawfully appear interested in the subject litigation.

In the same case of Paguinto, citing *Gamalinda v. Alcantara*,^[8] this Court stated:

A lawyer owes fidelity to the cause of his client and must be mindful of the trust and confidence reposed in him. He shall serve his client with competence and diligence, and his duty of entire devotion to his client's cause not only requires, but entitles him to employ every honorable means to secure for the client what is justly due him or to present every defense provided by law to enable the latter's cause to succeed. An attorney's duty to safeguard the client's interests commences from his retainer until his effective release from the case or the final disposition of the whole subject matter of the litigation. During that period, he is expected to take such reasonable steps and such ordinary care as his client's interests may require.^[9]

The Court therein declared that a lawyer's failure to do so violates Canon 18 of the Code. It added that the said rule is clear in its mandate that a lawyer should not undertake a legal service that he is not qualified to render, nor should a lawyer handle any legal matter without adequate preparation. A lawyer has the duty to prepare for trial with diligence and deliberate speed and he should not neglect a legal matter entrusted to him, for his negligence shall render him liable.^[10]

From the records it is evident that Atty. Cardeno has fallen short of the professional standards this Court has set for members of the Bar. A lawyer should never neglect a legal matter entrusted to him, otherwise his negligence in fulfilling his duty subjects him to disciplinary action. Respondent is reminded that the practice of law is a special privilege bestowed only upon those who are competent intellectually, academically and morally. This Court has been exacting in its expectations for the members of the Bar always to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence of the public.^[11]

WHEREFORE, respondent Atty. Reynaldo A. Cardeno is hereby found guilty of violating Canon 18 of the Code of Professional Responsibility and his lawyer's oath. He is **SUSPENDED** from the practice of law for six (6) months effective from notice and is **WARNED** that any similar infraction in the future will be dealt with more severely.

Let a copy of this Resolution be entered in the record of respondent as a member of the Bar.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] In essence, the Court of Appeals recognized the prior sale made in favor of Anderson, Jr. which was registered with the Register of Deeds. However, on the basis of Anderson, Jr.'s own allegation that the money used to buy the property was part of the estate of his father, the CA ruled that part of the property also belongs to his mother and/or any other child who survived his father. Hence, there was still a need to determine who the heirs were and

their exact shares. After that determination, according to the CA, only then can Anderson, Jr. claim his actual share in the disputed property.

[2] Rollo, p. 77; Annex “A”.

[3] The complaint mentioned the judgment of the Court of Appeals and alleged, in connection with the pronouncements therein, that Anderson, Jr. was the only heir entitled to the property in question, he being the only issue from the marriage of Amanda de los Santos and Rasmus Anderson, Sr. and that the property was bought on his behalf by his mother from his share in the estate of his deceased father. He prayed, yet again, to be declared the true and lawful owner of the property in question.

[4] Rollo, p.1.

[5] IBP Report and Recommendation, pp. 4-5.

[6] A.C. No. 6297, July 13, 2004.

[7] Id. at 6-7.

[8] 206 SCRA 468 (1992).

[9] Supra, note 6 at 7-8.

[10] Id. at 8.

[11] De Guzman v. Atty. Emmanuel M. Basa, A.C. No. 5554. June 29, 2004, pp. 11-12.

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