FLORENCIA M. SOMOSOT, COMPLAINANT, VS. ATTY. ELIAS A. PONTEVEDRA, RESPONDENT.

A.C. NO. 4285. May 02, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On July 28, 1994, complainant Florencia M. Somosot (now deceased) filed a verified complaint[1] against respondent Atty. Elias A. Pontevedra for neglect of duty and for professional misconduct for unlawfully keeping money belonging to her.

It appears that complainant was one of the plaintiffs in Civil Case No. X-98, for reconveyance and recovery of possession, pending before the Regional Trial Court of Negros Occidental, Branch 59, San Carlos City. Respondent was complainant's counsel of record.

On January 15, 1991, the trial court ordered the parties to submit their respective memoranda since the case that had been pending for already twenty-three years.[2] Although the trial court apprised the parties of the importance of their memoranda to the resolution of the complex case, both of the parties' counsels did not comply with the order. Thus, on November 12, 1991, the trial court reiterated the order, giving the parties a fresh period of 15 days within which to comply.[3]

Complainant repeatedly reminded respondent about the deadline, but respondent still failed to file a memorandum. Instead, respondent allegedly entered into an oral agreement with the opposing counsel that they would both forego with the filing of the memorandum.[4]

After almost two years, complainant's daughter, Wilma S. Pones, sent respondent a money order for P1,000 as payment for the preparation of the memorandum.[5] Since the period for filing had already lapsed, respondent took no action on complainant's request. Neither did he present the money order to the post office for payment.[6] Complainant later learned that the case had been submitted for decision without any memoranda. She asked for a certification to this effect from the trial court, then sent a letter to respondent through Wilma Pones asking respondent to return the money and explain the certification.[7] Respondent ignored her request. Thus, complainant filed the instant case.

On August 22, 1994, we required respondent to file his comment. Respondent manifested that he had earlier filed his comment and submitted additional copies of said comment.[8]

On November 28, 1994, we noted respondent's comment and required complainant to submit a reply. Upon the filing of complainant's reply, respondent filed a rejoinder.[9]

Respondent, in the main, argued that his failure to prepare the memorandum was justified. He explained that complainant's family lawyer, Atty. Raymundo Ponteras, handled the prosecution of the case and the presentation of witnesses. Unfortunately, Atty. Ponteras died after the presentation of the last defense witness and his notes were lost. Complainant could not produce copies of the transcripts of stenographic notes while respondent's case

folder were also lost by Atty. Ponteras who borrowed but failed to return it. Consequently, with nothing to aid him in the preparation of the memorandum, respondent was allegedly left with no recourse but simply to enter into an agreement with the opposing counsel to submit the case without memorandum.

On March 1, 1995, the Court referred the case to the Commission on Bar Discipline of the Integrated Bar of the Philippines for investigation, report and recommendation. Before the case could be heard, however, complainant died. Thus, the case was submitted for decision based on the records.

The core issue for our resolution is whether respondent violated the Canons of Professional Responsibility in failing to file the required memorandum in Civil Case No. X-98 and for keeping the money order despite complainant's request for its return.

In its Report and Recommendation dated January 5, 2004, the Commission found respondent liable for breach of his professional duties and recommended that respondent be reprimanded and warned. The Commission held that there was no sufficient justification for respondent's failure to file the memorandum. Regarding the money order, however, the Commission held that complainant's remedy was not to proceed administratively against respondent, who did not present the money order for payment, but to ask for a refund from the post office concerned.

On February 27, 2004, the Board of Governors of the Integrated Bar of the Philippines adopted the Report and Recommendation as follows:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of 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 rules, and considering respondent's negligence in the performance of his professional duties towards his client, Atty. Elias Pontevedra is hereby REPRIMANDED and Warned that any similar or other complaint in the future for breach of his professional duties will be dealt with more severely.[10]

We agree with the IBP that respondent should be appropriately sanctioned.

Canon 17 of the Code of Professional Responsibility provides that lawyers owe fidelity to the cause of their clients and must therefore be always mindful of the trust and confidence reposed in them. Under Canon 18, they are mandated to serve their clients with competence and diligence.[11] Specifically, they are not to "neglect a legal matter entrusted to [them], and [their] negligence in connection therewith shall render [them] liable."[12] Additionally, they are required to keep their client informed of the status of the latter's cases and to respond within a reasonable time to requests for information.[13] Before admission to the bar, lawyers subscribe to an oath to conduct themselves "with all good fidelity as well to the courts as to their clients." Failure to comply with these abiding precepts of ethical conduct renders counsel liable for violating the canons of his profession.

In this case, respondent failed to exercise that degree of diligence required of him in the performance of his duties. While it was impossible for him to prepare a memorandum without the transcripts of stenographic notes and his case folder, and while respondent may have been constrained simply to enter into an agreement with the opposing counsel to submit the case for decision without memorandum, respondent failed to inform the trial court of said agreement. He should have filed a manifestation before the trial court informing it of the agreement instead of leaving the trial court waiting and wondering whether said memoranda will be filed at all. His omission not only gave complainant much anxiety, it also needlessly compounded the long delay in the resolution of the 23-year-old case. Worse, respondent did not inform complainant that the case had been submitted for decision without memorandum despite complainant's repeated requests for information regarding the status of her case.

We remind respondent that by taking a client's cause, he covenants that he will exert all effort for its prosecution

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until its final resolution.[14] As we held in Pariñas v. Paguinto,[15] a lawyer should give adequate attention, care and time to his client's case. Once he agrees to handle a case, he should undertake the task with dedication and care. 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.[16] Utmost fidelity is demanded once counsel agrees to take the cudgels for his client's cause.[17]

Moreover, respondent should have accounted for the money order. Having received the money order as payment for professional services that he was unable to render, respondent should have returned it when complainant's daughter demanded it from him so that complainant could ask for a refund from the issuing post office. As expressly stated in Canon 16, a lawyer shall hold in trust all moneys and properties of his client that may come into his possession. He is required by Rule 16.03 of said canon to deliver such funds and property of his client when demanded.

However, considering the absence of any showing that respondent had acted with malice, bad faith, or other evil motive in failing to inform the trial court of the agreement to submit the case for decision and in failing to account for the money order, we deem the recommended penalty of reprimand sufficient penalty.[18]

Complainant's prayer for damages is denied. A proceeding for suspension or disbarment is not in any sense a civil action where the complainant is a plaintiff and the respondent lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken solely for the public welfare. As held in Rayos-Ombac v. Rayos,[19] the attorney is called upon to answer to the court for his conduct as an officer of the court. The complainant or the person who called the attention of the court to the attorney's alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice.

WHEREFORE, respondent Atty. Elias Pontevedra is hereby REPRIMANDED and WARNED that the commission of the same or similar offense in the future will be dealt with more severely. He is ordered to return immediately the postal money order in the amount of P1,000.00 to complainant's heirs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Rollo, pp. 3-9.

[2] Id. at 10.

[3]Id. at 11.

[4] Id. at 5, 34.

[5] Id. at 12.

[6]Id. at 38.

[7]Id. at 16-17.

[8]Id. at 27, 31-37.

[9]Id. at 40, 44-53, 63-69.

[10] Id. at 102.

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[11] Credito v. Atty. Sabio, A.C. No. 4920, October 19, 2005, p. 7.

[12] Rule 18.03.

[13] Rule 18.04.

[14] Abiero v. Juanino, A.C. No. 5302, February 18, 2005, 452 SCRA 1, 10.

[15] A.C. No. 6297, July 13, 2004, 434 SCRA 179, 183.

[16]Anderson, Jr. v. Cardeño, A.C. No. 3523, January 17, 2005, 448 SCRA 261, 269.

[17] Abiero v. Juanino, supra note 14.

[18] See Santiago v. Fojas, A.C. No. 4103, September 7, 1995, 248 SCRA 68, 76; Vda. de Oribiana v. Gerio, A.C. No. 1582, February 28, 1979, 88 SCRA 586, 592.

[19] 349 Phil. 7, 15 (1998).

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