

**LEOPOLDO V. CREDITO, AARON J. VELARDE, PEPITO JARANILLA,  
MIGUEL EXITO JR., CEZAR CRUCERO, NEMESIO CABALLERO,  
RODOLFO JALANDONI, NILO GAVARAN, ROLANDO BELBAR, SIXTO  
CRUCERO, TALA...**

*A.C. NO. 4920. October 19, 2005*

Ponente: PANGANIBAN, J.

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**PANGANIBAN, J.:**

Inattention of lawyers to basic procedural requirements constitutes a neglect of professional duty and a violation of their Oath. It betrays their lack of zeal and dedication to the protection of their clients' cause. Because of neglectful acts resulting in prejudice to the latter, imprudent counsels should be administratively sanctioned.

**The Case**

This administrative case stemmed from a verified Letter-Complaint[1] filed on July 7, 1998, by Leopoldo Credito and 29 others, seeking the disbarment of Atty. Salvador T. Sabio for negligence of his duties as complainants' counsel. After a careful consideration of the Complaint and respondent's Comment[2] dated December 31, 1998, the Court referred the matter on February 10, 1999, to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

More than four long years[3] after, in a Resolution[4] dated July 30, 2004, the IBP Board of Governors adopted and approved Commissioner Milagros V. San Juan's May 4, 2004 Report[5] finding respondent guilty of professional negligence, as well as illegal and unjust actuations. The two-year suspension recommended by San Juan, however, was modified to a mere "warning." On September 1, 2004, the Notice of Resolution[6] of the IBP -- together with its Commissioner's Report and Recommendation and its Grievance and Disbarment Committee's Fact-Finding Investigation Report --was forwarded by its director for bar discipline,[7] Atty. Rogelio A. Vinluan, to the Office of the Bar Confidant of this Court.

**The Facts**

Complainants were employees/laborers of Binalbagan Isabela Sugar Company (Biscom), a sugar mill operating in Binalbagan, Negros Occidental. In a Complaint before the Regional Labor Arbitration Branch in Bacolod City, they charged Biscom of illegal dismissal. Respondent Atty. Sabio represented them in that case, entitled "WAUP/Godofredo Ledesma, et al. vs. Biscom, et al."

On December 21, 1988, the labor arbiter promulgated a Decision, ordering the reinstatement of complainants to their former jobs and the payment of back wages amounting to P9,679,133.38. Biscom appealed the case to the NLRC in Cebu City, which reversed the labor arbiter's Decision and dismissed the Complaint.

Complainants, led by Leopoldo Credito, asked respondent to elevate the case to the Supreme Court (SC) by way of a Petition for Certiorari. To defray the expenses incurred in filing the Petition and other incidental expenses,

they allegedly gave respondent money collected from their members (each of whom had contributed from P30 to P100). Unfortunately, the Petition was dismissed on March 2, 1992, for failure to pay the proper docket and filing fees and for lack of the required certification against forum shopping. Atty. Sabio allegedly kept this dismissal from their knowledge for more than three years.

Refuting the allegation that he had received contributions ranging from P30 to P100 from the 200 complainants in the labor case, Atty. Sabio pointed out in his Comment that the Petition for Certiorari filed before the SC had been signed by only 40 complainants. As to the nonpayment of docket fees and the failure to attach a certification of non-forum shopping, he claimed that (1) the Petition was filed by registered mail on January 31, 1992, when Circular No. 28-91 had not yet been widely publicized and disseminated; and (2) the docket fee, which was three hundred sixteen pesos and fifty centavos (P316.50), was paid by Money Order in the amount of five hundred (P500) pesos. To remedy these lapses, he supposedly filed a Motion for Reconsideration dated April 7, 1992. According to him, the Court denied the Motion,[8] not because it was filed out of time, but on the ground that there was no compelling reason to reconsider the dismissal of the Petition. That final Resolution of the Supreme Court was supposedly relayed to some of the complainants verbally.

Finally, with respect to complainants' ancillary information that he had been previously suspended from the practice of law, he explained that he was not the party complained of in AM No. RTJ-93-1033, but his client Maribeth Cordova. Yet, in this Court's Circular No. 58-95 dated November 10, 1995, he was indeed penalized with a six-month suspension from the practice of law.

#### Report and Recommendation of the IBP

Commissioner San Juan found respondent guilty of simple negligence, as well as illegal and unjust actuations as a practicing lawyer. The Investigation Report of the IBP fact-finding committee[9] found that he had been remiss in the performance of his professional duties as counsel to complainants.

As earlier stated, the IBP board of directors concurred in Commissioner San Juan's finding of negligence, but modified the recommended penalty of two-year suspension from the practice of law by reducing it to a "warning" that a similar offense in the future would be dealt with more severely.

#### The Court's Ruling

We agree with the IBP that Atty. Sabio should be disciplined, but not with a mere warning. Under the circumstances, a one-year suspension from the practice of law is warranted.

#### Respondent's Administrative Liability

Canon 17 of the Code of Professional Responsibility provides that lawyers owe fidelity to the cause of their client and must therefore be always mindful of the trust and confidence reposed in them. Under Canon 18, they are mandated to serve their client with competence and diligence. Specifically, they are not to "neglect a legal matter entrusted to [them], and [their] negligence in connection therewith shall render [them] liable." [10] 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.[11] Even before joining the bar, lawyers subscribe to an Oath to conduct themselves "with all good fidelity as well to the courts as to their clients."

Clearly, Atty. Sabio has not lived up to these Canons and Rules or to his Oath.

First, the dismissal of complainants' Petition before the Supreme Court was due to the failure of respondent to pay the total revised docket and other legal fees and to attach the required certification on forum shopping.[12] He

attempted to rectify those procedural lapses by filing a Motion for Reconsideration. Nonetheless, there is no denying the fact that he overlooked basic procedural requirements that a normally prudent practitioner could and should not have left unattended, especially when the rights sought to be protected were those of the underprivileged, like the present complainants.

Lawyers engaged to represent a client in a case bear the responsibility of protecting the latter's interest with warmth, zeal and utmost diligence.[13] They must constantly keep in mind that their actions or omissions would be binding on the client.[14] Verily, in representing the latter, they are expected to exercise utmost prudence and capability.[15] A law practitioner of long standing,[16] respondent ought to be aware that the payment of full docket and other legal fees is required in filing appeals and petitions for certiorari before the Supreme Court, considering that these remedies are not matters of right, but mere statutory privileges; hence, accepting them is highly discretionary on the part of the Court.[17] Even before the 1997 Rules of Civil Procedure made the payment of full docket and other legal fees mandatory for appeals[18] and petitions, strict compliance with the required payment had always been enjoined.

We also note that before this very Court, respondent has acted with less candor and good faith than are expected of him as a member of the bar.[19] Before the highest tribunal, he has had the temerity to give inconsistent excuses. In his Comment filed on January 12, 1999, he claimed to have paid, through a Money Order, more than the total docket and other fees required. Later in his Sworn Statement dated November 16, 2002, he stated that upon the dismissal of the Petition due to the nonpayment of the proper fees, he paid the "additional amount of the docket fee." [20]

Assuming the first statement to be true, the dismissal due to the nonpayment of the docket and filing fees could have easily been corrected had he presented to the Court a copy of the Money Order Receipt, which allegedly covered the full amount of the fees paid. In many cases, this expediency has been sufficient to convince the Court that the proper and full docket and other legal fees have indeed been paid.

As to the failure to attach a certification of non-forum shopping when respondent sought reconsideration of the dismissal of the Petition, he neglected to show that he had at all pleaded -- or with the same tenacity as now -- the non-publication of SC Circular No. 28-91.[21] Disconcerting is the absence from the record of a purported Motion for Reconsideration in support of his contention. The Court is thus inclined to believe that the excuse given was merely an afterthought to justify his negligence in complying with the Circular.

Second, his claim that he could not have received contributions from his 200 or so clients in the labor case, because only 40 had signed the Petition, skirts the issue that he had received money to defray docket and other legal fees. Whether the contributions came from 40 or 200 people does not refute the allegation that enough money was entrusted to him for the filing of the Petition. Yet, he failed to pay the Court the required amount on time.

Third, complainants' averments that respondent kept them in the dark on the dismissal of the Petition are supported by the evidence on record. The series of letters[22] sent to him by individual complainants, inquiring on the status of the Petition, belie his claim that he verbally informed them of the dismissal. Had they indeed been informed of it, they would not have gone to the trouble of individually following up the case.

In *Garcia v. Atty. Manuel*, [23] bad faith was ascribed to a lawyer for failing to inform the client of the status of a case. In view of their highly fiduciary relationship with their counsel, clients have every reason to expect from the former periodic and full updates on case developments.[24]

Finally, as mentioned earlier, it is clear from SC Circular No. 58-95 that Atty. Sabio was indeed suspended from

the practice of law for six months in connection with AM No. RTJ-93-1033, entitled "Maribeth Cordova and Christopher Cordova v. Hon. Emma C. Labayen et al." [25] In that administrative case, he was disciplined for instigating his clients to file an Administrative Complaint "to frustrate the enforcement of lawful court orders and consequently obstruct the desirable norms and course of justice." [26] Accordingly, he was "warned that a more severe sanction shall be imposed should he commit another administrative offense."

WHEREFORE, Atty. Salvador T. Sabio is hereby found guilty of violating Canons 17 and 18 of the Canons of Professional Responsibility and is **SUSPENDED** from the practice of law for a period of one year from his receipt of this Decision, with a **STERN WARNING** that similar acts will be dealt with even more severely.

Let copies of this Decision be furnished all courts and the Office of the Bar Confidant, which is instructed to include a copy in respondent's personal file.

**SO ORDERED.**

Sandoval-Gutierrez, Corona, Carpio Morales, and Garcia, JJ., concur.

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[1] Rollo, Vol. I, pp. 1-6. The original Complaint, which was filed before the Office of the Bar Confidant, was dated January 30, 1998. Complainants were advised, though, to furnish the Court with the requisite number of copies of the verified Complaint before it could take cognizance of it. They complied on July 7, 1998.

[2] *Id.*, pp. 172-179.

[3] This was an unreasonable delay considering that the Court had given the IBP only 90 days to investigate and to report and recommend action on this case.

[4] Resolution No. XVI-2004-371. *Id.*, Vol. II, p. 25.

[5] Rollo, Vol. II, pp. 26-28.

[6] Signed by Atty. Othelo C. Carag, IBP national secretary; *id.*, p. 25.

[7] See Letter; *id.*, p. 24. The Notice of Resolution was noted at the December 6, 2004 session of the Third Division of this Court.

[8] The Resolution denying the Motion for Reconsideration was dated May 27, 1992.

[9] The Report of the Grievance and Disbarment Committee of the IBP Negros Occidental Chapter, which acted as the fact-finding body in this case, was signed by Atty. Ricardo B. Teruel, chairman; and Attys. Jose G. Ealdama and Marygold L. Chuatico, members.

[10] Rule 18.03 of Canon 18 of the Code of Professional Responsibility (CPR). See *In Re: Vicente Y. Bayani*, 392 Phil. 229, 231, August 9, 2000; *Aromin v. Atty. Bocavil*, 373 Phil. 612, 617-618, September 22, 1999; *Reontoy v. Atty. Ibadlit*, 349 Phil. 1, 5, January 28, 1998.

[11] Rule 18.04 of Canon 18 of the CPR.

[12] See Entry of Judgment; rollo, Vol. I, p. 73.

[13] *Macarilay v. Serina*, AC No. 6591, May 4, 2005, p. 11; *Reyes v. Atty. Vitan*, AC No. 5835, April 15, 2005, p. 4; *Amaya v. Atty. Tecson*, 450 SCRA 510, 516, February 7, 2005.

[14] *Tamayo v. Tamayo*, GR No. 148482, August 12, 2005, p. 7; *Torres v. Atty. Orden*, 386 Phil 216, 200, April

6, 2000; *Manila Electric Company v. CA*, 487 SCRA 200, 208. July 4, 1990.

[15] *In Re: Vicente Y. Bayani*, *supra*.

[16] Atty. Sabio, in his Comment dated December 31, 1998, claims to have been in the private practice of law for 20 years.

[17] See *Spouses Manalili v. De Leon*, 422 Phil. 214, 200, November 27, 2001; *Republic v. CA*, 379 Phil. 92, 98, January 18, 2000; *Lacson v. The Executive Secretary*, 361 Phil. 251, 276, January 20, 1999.

[18] The 1997 Rules of Civil Procedure, as amended, made the payment of docket and other lawful fees mandatory for the perfection of an appeal, effective July 1, 1997.

[19] Canon 10 of the Code of Professional Responsibility provides that a lawyer owes candor, fairness and good faith to the courts.

[20] Respondent's Comment, p. 2, 3rd paragraph; rollo, Vol. I, p. 173.

[21] Additional Requisites for Petitions filed with the Supreme Court and the Court of Appeals to Prevent Forum Shopping or Multiple Filing of Petitions and Complaints, issued on September 4, 1991, and made effective on January 1, 1992.

[22] Annexes "A" to "E" of complainants' Reply to Comment.

[23] 443 Phil. 479, 486, January 20, 2003 (cited in *Heirs of Ballesteros Sr. v. Atty. Apiag*, AC No. 5760, September 30, 2005, p. 15).

[24] *Ibid*.

[25] 319 Phil. 273, October 10, 1995.

[26] *Id.*, p. 287.

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