

ANTONIO CONLU, COMPLAINANT, VS. ATTY. IRENEO AREDONIA, JR., RESPONDENT.*A.C. No. 4955. September 12, 2011*

Ponente: VELASCO JR., J.

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Before the Court is a complaint[1] for disbarment with a prayer for damages instituted by Antonio Conlu (Antonio) against Atty. Ireneo Aredonia, Jr. (Atty. Ireneo) on grounds of gross negligence and dereliction of sworn duty.

Antonio was the defendant in Civil Case No. 1048, a suit for Quieting of Title and Recovery of a Parcel of Land commenced before the Regional Trial Court (RTC) in Silay City, Negros Occidental.[2] He engaged the services of Atty. Ireneo to represent him in the case. On March 16, 1995, the RTC rendered judgment[3] adverse to Antonio. Therefrom, Atty. Ireneo, for Antonio, appealed to the Court of Appeals (CA) whereat the recourse was docketed as CA-G.R. CV No. 50075.

The CA, per its Resolution of February 10, 1997, eventually dismissed the appeal for non-filing of the appellant's brief within the reglementary period. Antonio got wind of the dismissal from his wife who verified the status of the case when she happened to be in Manila. When confronted about the dismissal action, Atty. Ireneo promised to seek reconsideration, which he did, but which the appellate court later denied for belated filing of the motion.

In that motion[4] he prepared and filed, Atty. Ireneo averred receiving the adverted February 10, 1997 CA Resolution[5] only on April 25, 1997, adding in this regard that the person in the law office who initially received a copy of said resolution was not so authorized. However, the CA denied the motion for having been filed out of time. As the CA would declare in a subsequent resolution dated December 3, 1997, there was a valid receipt by Atty. Ireneo, as shown by the registry return card with his signature, of a copy of the CA's February 10, 1997 Resolution. Accordingly, as the CA wrote, the motion for reconsideration of the February resolution which bore the mailing date May 8, 1997 cannot but be considered as filed way out of time.

In light of these successive setbacks, a disgusted Antonio got the case records back from Atty. Ireneo and personally filed on October 13, 1997 another motion for reconsideration. By Resolution of December 3, 1997, the CA again denied[6] this motion for the reason that the prejudicial impact of the belated filing by his former counsel of the first motion for reconsideration binds Antonio.

Forthwith, Antonio elevated his case to the Court on a petition for certiorari but the Court would later dismiss the petition and his subsequent motion to reconsider the denial.

Such was the state of things when Antonio lodged this instant administrative case for disbarment with a prayer for damages. To support his claim for damages, Antonio asserts having suffered sleepless nights, mental torture and anguish as a result of Atty. Ireneo's erring ways, besides which Antonio also lost a valuable real property subject of Civil Case No. 1048.

Following Atty. Ireneo's repeated failure to submit, as ordered, his comment, a number of extensions of time given notwithstanding,[7] the Court referred the instant case, docketed as Administrative Case No. 4955, to its Office of the Bar Confidant (OBC) for evaluation, report and recommendation.

Acting on OBC's Report and Recommendation[8] dated November 23, 2000, the Court, by Resolution of January 31, 2001, directed Atty. Ireneo to show cause within ten (10) days from notice--later successively extended via Resolutions dated July 16 and 29, 2002--why he should not be disciplinarily dealt with or held in contempt for failing to file his comment and to comply with the filing of it.

In separate resolutions, the Court (a) imposed on Atty. Ireneo a fine of PhP 2,000;[9] (b) ordered his arrest but which the National Bureau of Investigation (NBI) cannot effect for the reason: "whereabouts unknown";[10] (c) considered him as having waived his right to file comment; and (d) referred the administrative case to the Integrated Bar of the Philippines (IBP) for report, investigation and recommendation.[11]

At the IBP, Atty. Ireneo desisted from addressing his administrative case, his desistance expressed by not attending the mandatory conference or filing the required position paper. On the basis of the pleadings, the IBP-Commission on Bar Discipline (CBD) found Ireneo liable for violating Canon 1, Rules 1.01 and 1.03 and Canon 18, Rule 18.03 of the Code of Professional Responsibility and recommended his suspension from the practice of law for a period of six (6) months, with warning. The salient portions of the investigating commissioner's Report and Recommendation[12] read as follows:

Uncontroverted and uncontested are respondent's inability to file appellant's Brief, his futile attempts to mislead the Court of Appeals that he did not personally received [sic] the resolution of dismissal. His filing of the Motion for Reconsideration five (5) months late. [sic]

Aggravated by his failure to file his comment in the instant administrative complaint despite his numerous motions for extension to file the same. [sic]

He is even adamant to comply with the show cause order of the bar confidant. The series of snobbish actuations in several resolution of the Supreme Court enjoining him to make the necessary pleading. [sic]

By Resolution No. XVIII-2008-523, the IBP Board of Governors adopted and approved said report and recommendation of the CBD.[13]

We agree with the inculpatory findings of the IBP but not as to the level of the penalty it recommended.

Res ipsa loquitur. Atty. Ireneo had doubtless been languid in the performance of his duty as Antonio's counsel. He neglected, without reason, to file the appellant's brief before the CA. He failed, in short, to exert his utmost ability and to give his full commitment to maintain and defend Antonio's right. Antonio, by choosing Atty. Ireneo to represent him, relied upon and reposed his trust and confidence on the latter, as his counsel, to do whatsoever was legally necessary to protect Antonio's interest, if not to secure a favorable judgment. Once they agree to take up the cause of a client, lawyers, regardless of the importance of the subject matter litigated or financial arrangements agreed upon, owe fidelity to such cause and should always be mindful of the trust and confidence reposed on them.[14] And to add insult to injury, Atty. Ireneo appeared not to have taken any effort to personally apprise Antonio of the dismissal of the appeal, however personally embarrassing the cause for the dismissal might have been. As mentioned earlier, Antonio came to know about the outcome of his appeal only after his wife took the trouble of verifying the case status when she came to Manila. By then, all remedies had been lost.

It must be remembered that a retained counsel is expected to serve the client with competence and diligence. This duty includes not merely reviewing the cases entrusted to the counsel's care and giving the client sound legal advice, but also properly representing the client in court, attending scheduled hearings, preparing and filing

required pleadings, prosecuting the handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him or her to do so. The lawyer should not be sitting idly by and leave the rights of the client in a state of uncertainty.[15]

The failure to file a brief resulting in the dismissal of an appeal constitutes inexcusable negligence.[16] This default translates to a violation of the injunction of Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility, respectively providing:

CANON 18 -- A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

x x x x

Rule 18.03 -- A lawyer shall not neglect a matter entrusted to him, and his negligence in connection therewith shall render him liable.

Rule 18.04 -- A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

As if his lack of candor in his professional relationship with Antonio was not abhorrent enough, Atty. Ireneo tried to mislead the appellate court about the receipt of a copy of its February 10, 1997 Resolution dismissing the appeal in CA-G.R. CV No. 50075. He denied personally receiving such copy, but the CA found and declared that he himself received said copy. The CA arrived at this conclusion thru the process of comparing Atty. Ireneo's signature appearing in the pleadings with that in the registry return card. Both signatures belong to one and the same person. Needless to stress, Atty. Ireneo had under the premises indulged in deliberate falsehood, contrary to the self-explanatory prescriptions of Canon 1, Rule 1.01 and Canon 10, Rule 10.01, which provide:

CANON 1 -- A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCEDURES.

Rule 1.01 -- A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

CANON 10 -- A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 -- A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice. (Emphasis supplied.)

We cannot write *finis* to this case without delving into and addressing Atty. Ireneo's defiant stance against the Court as demonstrated by his repetitive disregard of its resolution to file his comment on the basic complaint. After requesting and securing no less than three (3) extensions of time to file his comment, he simply closed, so to speak, communication lines. And when ordered to give an explanation through a show-cause directive for not complying, he asked for and was granted a 30-day extension. But the required comment never came. When the Court eventually directed the NBI to arrest him, he just left his last known address and could not be located.

The Court's patience has been tested to the limit by what in hindsight amounts to a lawyer's impudence and disrespectful bent. At the minimum, members of the legal fraternity owe courts of justice respect, courtesy and such other becoming conduct so essential in the promotion of orderly, impartial and speedy justice. What Atty. Ireneo has done was the exact opposite. What is clear to the Court by now is that Ireneo was determined all along not to submit a comment and, in the process, delay the resolution of the instant case. By asking several extensions of time to submit one, but without the intention to so submit, Ireneo has effectively trifled with the Court's processes, if not its liberality. This cannot be tolerated. It cannot be allowed to go unpunished, if the integrity and orderly functioning of the administration of justice is to be maintained. And to be sure, Atty. Ireneo can neither

defeat this Court's jurisdiction over him as a member of the bar nor evade administrative liability by the mere ruse of concealing his whereabouts.[17] Manifestly, he has fallen short of the diligence required of every member of the Bar. The pertinent Canon of the Code of Professional Responsibility provides:

CANON 12 -- A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.

x x x x

Rule 12.03 -- A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

Rule 12.04 -- A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes. (Emphasis supplied.)

A lawyer may be disbarred or suspended for gross misconduct or for transgressions defined by the rules as grounds to strip a lawyer of professional license.[18] Considering, however, the serious consequences of either penalty, the Court will exercise its power to disbar or suspend only upon a clear, convincing, and satisfactory proof of misconduct that seriously affects the standing of a lawyer as an officer of the court and as member of the bar.

In *Heirs of Tiburcio F. Ballesteros, Sr. v. Apiag*,[19] the Court penalized a lawyer who failed to file a pre-trial brief and other pleadings, such as position papers, leading to the dismissal of the case with six months suspension. In *Soriano v. Reyes*,[20] We meted a one-year suspension on a lawyer for inexcusable negligence, the latter having failed to file a pre-trial brief leading to the dismissal of the case and failure to prosecute in another case, and omitting to apprise complainant of the status of the two cases with assurance of his diligent attention to them.

In this case, Atty. Ireneo should be called to task for the interplay of the following: his inexcusable negligence that resulted in the dismissal of Antonio's appeal, coupled by his lack of candor in not apprising Antonio of the status of his appealed case; his attempt to mislead the CA in a vain bid to evade the consequence of the belated filing of a motion for reconsideration; and, last but not least, his cavalier disregard of the Court's directives primarily issued to resolve the charges brought against him by Antonio. We deem it fitting that Atty. Ireneo be suspended from the practice of law for a period of one year, up from the penalty recommended by the IBP Board of Governors. This should serve as a constant reminder of his duty to respect courts of justice and to observe that degree of diligence required by the practice of the legal profession. His being a first offender dictates to large degree this leniency.

The prayer for damages cannot be granted. Let alone the fact that Antonio chose not to file his position paper before the IBP-CBD and, therefore, was unable to satisfactorily prove his claim for damages, a proceeding for disbarment or suspension is not in any sense a civil action; it is undertaken and prosecuted for public welfare. It does not involve private interest and affords no redress for private grievance.[21]

WHEREFORE, respondent Atty. Ireneo Aredonia, Jr. is declared GUILTY of inexcusable negligence, attempting to mislead the appellate court, misuse of Court processes, and willful disobedience to lawful orders of the Court. He is hereby SUSPENDED from the practice of law for a period of one (1) year effective upon his receipt of this Resolution, with WARNING that a repetition of the same or similar acts will be dealt with more severely. Let a copy of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts throughout the country.

SO ORDERED.

Peralta, Abad, Villarama, Jr.,[*] and Mendoza, JJ., concur.

[*] Additional member per Special Order No. 1076 dated September 6, 2011.

[1] Rollo, pp. 1-6, dated September 14, 1998.

[2] Id. at 43-48, Complaint dated December 14, 1983.

[3] Id. at 18-22.

[4] Id. at 23-25, dated May 5, 1997.

[5] Id. at 167.

[6] Id. at 27-29.

[7] Id. at 118 (Motion for Extension of Time to File Comment, dated December 14, 1998), at 121 (Motion for Second and Last Extension of Time to File Comment, dated December 23, 1998), at 124-125 (Motion to be Furnished Documents/Clarification and Extension of Time, dated January 13, 1999), and at 128-129 (Motion for Reconsideration).

[8] Id. at 175-179.

[9] Id. at 187.

[10] Id. at 195.

[11] Id. at 210.

[12] Dated September 1, 2008.

[13] Dated October 9, 2008.

[14] Canon 17, Code of Professional Responsibility, as cited *Angalan v. Delante*, A.C. No. 7181, February 6, 2009, 578 SCRA 113, 127.

[15] *Overgaard v. Valdez*, A.C. No. 7902, March 31, 2009, 582 SCRA 567, 578.

[16] *Perla Cia. De Seguros, Inc. v. Saquilabon*, 337 Phil. 555 (1997).

[17] *Stemmerik v. Mas*, A.C. No. 8010, June 16, 2009, 589 SCRA 114, 119.

[18] *Fernandez v. De Ramos-Villalon*, A.C. No. 7084, February 27, 2009, 580 SCRA 310, 319; citing *Concepcion v. Fandiño, Jr.*, A.C. No. 3677, June 21, 2000, 334 SCRA 137.

[19] A.C. No. 5760, September 30, 2005, 471 SCRA 111.

[20] A.C. No. 4676, May 4, 2006, 489 SCRA 328.

[21] *Bellosillo v. Board of Governors of the Integrated Bar of the Philippines*, G.R. No. 126980, March 31, 2006, 486 SCRA 152, 162; citing *Uy v. Gonzales*, Adm. Case No. 5280, March 30, 2004, 426 SCRA 422, 430.

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