

SPOUSES EDUARDO AND TERESITA GARCIA, COMPLAINANTS, VS. ATTY. ROLANDO S. BALA, RESPONDENT.

A.C. No. 5039. November 25, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The practice of law is a privilege bestowed on lawyers who meet the high standards of legal proficiency and morality. Any conduct that shows a violation of the norms and values of the legal profession exposes the lawyer to administrative liability.

The Case and the Facts

On April 8, 1999, Spouses Eduardo and Teresita Garcia filed before this Court a Letter-Complaint[1] against Atty. Rolando S. Bala. According to complainants, he failed to render a legal service contracted -- the preparation of a petition for review that he was to file with the Court of Appeals (CA) in connection with DARAB Case No. 5532. Moreover, he supposedly refused to return the P9,200 legal fees they had paid him for the purpose. Finally, he allegedly hurled invectives at them when they asked him for a copy of the petition that he claimed to have filed.

This Court required respondent to comment on the Complaint.[2] He failed to comply; thus, he was presumed to have waived his right to be heard.[3] In its Resolution, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.[4]

Report of the Investigating Commissioner

In her September 23, 2004 Report,[5] Investigating IBP Commissioner Teresita J. Herbosa found respondent guilty of violating the Code of Professional Responsibility.

Despite due notice, he neither submitted a position paper nor appeared at any of the hearings[6] called by the Commission. Thus, the case was decided on the basis of complainants' evidence.

According to the findings of Commissioner Herbosa, complainants engaged the services of respondent (sometime in May 1998)[7] to appeal to the CA the adverse Decision of the Department of Agrarian Relations Adjudication Board (DARAB).[8] Instead, he erroneously filed a Notice of Appeal[9] with the DARAB. Under Rule 43 of the Rules of Court, appeals from the decisions of the DARAB should be filed with the CA through a verified petition for review.[10] Because of respondent's error, the prescribed period for filing the petition lapsed, to the prejudice of his clients.

Commissioner Herbosa gave no credence, however, to the allegation of complainants that respondent had deceived them by resorting to a wrong remedy. While opining that he might not have been in bad faith in filing a notice of appeal instead of a petition for review, the commissioner in her Report nonetheless held that his failure to use the proper legal remedy constituted lack of professional competency that warranted an appropriate

sanction.[11]

The Report also concluded that respondent should be sanctioned for his unjustified refusal and failure to return the money paid by his clients.[12] Their payment totaled P9,200, broken down as follows: P5,000 to write the appeal; P700 to mail it; and an additional P3,500 for writing the pleading on short notice. He, however, failed to return the money despite his promise -- and his obligation under the circumstances -- to do so.[13]

Finally, Commissioner Herbosa held that respondent should be sanctioned further for uttering unsavory words against complainants during one instance when they had called on him to ask for a copy of the supposed appeal. Hence, she recommended that, aside from a fine of P5,000 and the return to complainants of the amount of P9,200, suspension from the practice of law for a period of six months should be imposed upon him.

Recommendation of the IBP Board of Governors

On March 12, 2005, the Board of Governors of the IBP passed Resolution No. XVI-2005-74,[14] which adopted with modification the Report and Recommendation of the investigating commissioner. It recommended that respondent should be reprimanded and suspended from the practice of law for six months; and that he should return, within thirty days from his receipt of the Decision, the amount of P9,200, with legal interest from the filing of the present Complaint with this Court.[15]

The Court's Ruling

We agree with the findings and recommendation of the IBP.

Administrative Liability of Respondent

The practice of law is considered a privilege bestowed by the State on those who show that they possessed and continue to possess the legal qualifications for it.[16] Indeed, lawyers are expected to maintain at all times a high standard of legal proficiency and morality, including honesty, integrity and fair dealing.[17] They must perform their fourfold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility.[18]

Negligence for

Wrong Remedy

The Code of Professional Responsibility[19] mandates lawyers to serve their clients with competence and diligence.[20] Rule 18.02 states that "a lawyer shall not handle any legal matter without adequate preparation." Specifically, Rule 18.03 provides that "a lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable."

Once lawyers agree to take up the cause of a client, they owe fidelity to the cause and must always be mindful of the trust and confidence reposed in them.[21] A client is entitled to the benefit of any and every remedy and defense authorized by law, and is expected to rely on the lawyer to assert every such remedy or defense.[22]

Evidently, respondent failed to champion the cause of his clients with wholehearted fidelity, care and devotion. Despite adequate time, he did not familiarize himself with the correct procedural remedy as regards their case. Worse, he repeatedly assured them that the supposed petition had already been filed.[23]

Since he effectively waived his right to be heard, the Court can only assume that there was no valid reason for his failure to file a petition for review, and that he was therefore negligent.

Conduct Unbecoming

Having become aware of the wrong remedy he had erroneously taken, respondent purposely evaded complainants, refused to update them on the appeal, and misled them as to his whereabouts.[24] Moreover, on June 17, 1998, he uttered invectives at them when they visited him for an update on the case.[25]

Rule 18.04 of the Code of Professional Responsibility states that 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." Accordingly, complainants had the right to be updated on the developments and status of the case for which they had engaged the services of respondent.[26] But he apparently denied them that right.

Furthermore, for using unsavory words against complainants, he should also be sanctioned. Lawyers may be disciplined -- whether in their professional or in their private capacity -- for any conduct that is wanting in morality, honesty, probity and good demeanor.[27] Canon 7 of the Code of Professional Responsibility mandates a lawyer to "uphold the integrity and dignity of the legal profession" at all times.

In addition, the Court notes the nonparticipation of respondent even in the present proceedings. He ignored the directive for him to file his comment,[28] just as he had disregarded the IBP hearing commissioner's orders[29] for the conduct of hearings, submission of documentary evidence and position paper. Never did he acknowledge or offer any excuse for his noncompliance.

Clearly, his conduct manifests his disrespect of judicial authorities. Despite the fact that his profession and honor are at stake, he did not even bother to speak a word in his defense. Apparently, he has no wish to preserve the dignity and honor expected of lawyers and the legal profession. His demeanor is clearly demeaning.

The Need to Reimburse the Money Paid

Under the present factual circumstances, respondent should return the money paid by complainants. First, his legal services were virtually nullified by his recourse to the wrong remedy. Complainants would not have lost their right to appeal had he acted competently.

Second, the legal fees were not commensurate to the services rendered. Complainants engaged his legal services to appeal the DARAB Decision, but all he did was to file a Notice of Appeal.[30]

Additionally, he had already promised them a refund of the money paid, yet he failed to do so.

The Court may ascertain how much attorney's fees are reasonable under the circumstances.[31] In the present case, the request of complainants for a full refund of the attorney's fees they had paid effectively challenged the contract; it was as though the parties had no express stipulation as to those fees. [32] Quantum meruit therefore applies.

Quantum meruit -- meaning "as much as he deserves" -- is used as basis for determining a lawyer's professional fees in the absence of a contract.[33] Lawyers must be able to show that they are entitled to reasonable compensation for their efforts in pursuing their clients' case, taking into account certain factors in fixing the amount of legal fees.[34] Based on the circumstances of the present case, the legal services actually rendered by respondent were too insignificant for remuneration because of the uselessness of the remedy he took.

This Court has imposed the penalty of suspension for six months for a lawyer's negligence in failing to perfect an appeal.[35] Considering the similarity of the circumstances with those prevailing in this case, we find the imposition of the same penalty reasonable.

WHEREFORE, Atty. Rolando S. Bala is found guilty of negligence and conduct unbecoming a lawyer; he is hereby **SUSPENDED** from the practice of law for six months, effective upon his receipt of this Decision.

Furthermore, he is ORDERED to pay Spouses Eduardo and Teresita Garcia the amount of P9,200 -- with legal interest from April 8, 1999 -- within 30 days from his receipt of this Decision. He is further WARNED that a repetition of the same or similar offenses will be dealt with more severely.

Let a copy of this Decision be entered in the record of respondent as attorney. Further, let other copies be served on the IBP and on the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

SO ORDERED.

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

[1] Rollo, pp. 2-10.

[2] Resolution dated June 21, 1999; rollo, p. 21.

[3] Resolution dated March 3, 2003; rollo, p. 22.

[4] Ibid.

[5] Rollo, pp. 62-68.

[6] The hearings were conducted on May 2 and 15, and November 14, 2003. (Minutes of the Meetings; rollo, pp. 25, 28 & 35)

[7] See complainants' letter addressed to Atty. J. V. Bautista, IBP President of Nueva Ecija Chapter; rollo, p. 16.

[8] Commissioner's Report, p. 4; rollo, p. 65.

[9] Appearance with Notice of Appeal; rollo, p. 7.

[10] Section 1, Rule 43 of the Rules of Court provides that the final judgments of the Department of Agrarian Reform (DAR) under Republic Act 6657 (the Comprehensive Agrarian Reform Law of 1988) are appealable to the CA. Section 5 of the same Rule provides that the appeal to the CA may be taken by filing a verified petition for review.

Section 50 of RA 6657 grants quasi-judicial powers to the DAR to resolve controversies involving agrarian reform.

[11] Commissioner's Report, p. 4; rollo, p. 65.

[12] Id., pp. 5 & 66.

[13] Id., pp. 4-6 & 65-67.

[14] Notice of Resolution; rollo, p. 61.

[15] Ibid.

[16] Eustaquio v. Rimorin, 399 SCRA 422, 427, March 24, 2003; Sebastian v. Calis, 314 SCRA 1, 8, September 9, 1999; Arrieta v. Llosa, 346 Phil. 932, 939, November 18, 1997.

[17] Tapucar v. Atty. Tapucar, 355 Phil. 66, 73, July 30, 1998; Maligsa v. Cabanting, 338 Phil. 912, 917, May 14, 1997.

[18] *Abay v. Montesino*, 417 SCRA 77, 82, December 4, 2003; *Abragan v. Rodriguez*, 380 SCRA 93, April 3, 2002; *Tapucar v. Atty. Tapucar*, supra, p. 74; *Maligsa v. Cabanting*, supra.

[19] Promulgated on June 21, 1988.

[20] Canon 18.

[21] *Anderson Jr. v. Cardeno*, 448 SCRA 261, 270, January 17, 2005; *Pariñas v. Paguinto*, 434 SCRA 179, 184, July 13, 2004; *Ong v. Grijaldo*, 402 SCRA 1, 8, April 30, 2003; *Ramos v. Atty. Jacoba*, 418 Phil. 346, 351, September 27, 2001; *Atty. Navarro v. Atty. Meneses III*, 349 Phil. 520, 528, January 30, 1998.

[22] *Sarenas-Ochagabia v. Ocampos*, 421 SCRA 286, 290, January 29, 2004.

[23] Complainant's October 29, 1998 letter to Atty. J. V. Bautista, IBP president of the Nueva Ecija Chapter; rollo, pp. 8-9.

[24] Ibid.

[25] Ibid.

[26] *Garcia v. Manuel*, 395 SCRA 386, 390, January 20, 2003; *Macarilay v. Serina*, AC No. 6591, May 4, 2005. See also *Atty. Navarro v. Atty. Meneses III*, 349 Phil. 520, 528, January 30, 1998.

[27] *Ducat Jr. v. Atty. Villalon Jr.*, 392 Phil. 394, 402, August 14, 2000; *Tapucar v. Atty. Tapucar*, supra, p. 74; *Arrieta v. Llosa*, supra.

[28] Resolution dated June 21, 1999; rollo, p. 21.

[29] Rollo, pp. 23-26.

[30] The notice of appeal is hereby reproduced as follows:

"Undersigned respectfully enters his appearance as counsel for the respondent-appellant, Eduardo C. Garcia, and by authority of the latter respectfully tenders notice of appeal to the Decision of the Honorable Adjudication Board dated May 13, 1998, but received only on May 20, 1998, to the Honorable Court of Appeals on errors of fact and law in the said Decision.

"The amount of P650.00 covered by the attached Postal Money Order form the Post Office of Cabanatuan City is submitted to cover the docketing fee in the Court of Appeals to be transmitted to the same." Rollo, p. 7.

[31] *Dalisay v. Mauricio*, AC No. 5655, April 22, 2005.

[32] See *Emiliano Court Townhouses v. Atty. Dioneda*, 447 Phil. 408, 417, March 20, 2003.

[33] *Compania Maritima, Inc. v. Court of Appeals*, 376 Phil. 278, 285, November 16, 1999; *Sesbreño v. Court of Appeals*, 245 SCRA 30, 37, June 8, 1995.

[34] Factors considered in determining reasonable attorney's fees include time spent and extent of services rendered; novelty and difficulty of the questions involved; importance of the subject matter; skill demanded; probability of losing other employment as a result of acceptance of the proffered case; customary charges for similar services; amount involved in the controversy and the benefits resulting to the client; certainty of compensation; character of employment; and professional standing of the lawyer. Rule 20.1, Canon 20, Code of Professional Responsibility. See also *Sesbreño v. Court of Appeals*, supra; *Delgado v. De la Rama*, 43 Phil. 419, 421, June 1, 1922.

[35] Sps. Villaluz v. Judge Armenta, 348 Phil. 776, 784, January 26, 1998; Guiang v. Antonio, 218 SCRA 381, February 3, 1993. See also Roncal v. Paray, 435 SCRA 406, 411, July 30, 2004.

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