

JOSE E. ORIA, COMPLAINANT, VS. ATTY. ANTONIO K. TUPAZ, RESPONDENT.

A.C. No. 5131. September 22, 2004

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In a Letter-Complaint^[1] dated September 1, 1999, respondent Atty. Antonio K. Tupaz was charged with negligence in the performance of his duties as counsel to complainant Jose E. Oria.

Complainant Oria avers that his wife, Viola Luna Oria authorized him to institute legal action to recover her unirrigated ricelands located at Barangay Banuyo, Gasan, Marinduque, with an area of 1.2121 hectares, which were transferred, by virtue of the Operation Land Transfer of the Agrarian Reform Program, to the alleged tenants in connivance with Lourdes Argosino and Linda Rey, field personnel of the Marinduque Agrarian Office (MARO).

Sometime in 1988, complainant went to the MARO and informed the Chief of the Complaints Section of the illegal transfer. Subsequently, the spouses Oria discovered that Emancipation Patents were issued to the so-called tenants.

Mr. Oria sought the assistance of then Agrarian Reform Secretary Miriam Defensor Santiago, who ordered Legal Officer Pablo F. Reyes to investigate the matter. The latter recommended that the Emancipation Patents be cancelled and the property returned to Mrs. Oria.

On May 6, 1991, the Provincial Agrarian Reform Officer (PARO), Herminiano C. Echiverri, Jr., sent Mrs. Oria a notice that her children were eligible for Retention. However, she did not file an application for Retention because she was awaiting the Investigation Report of Legal Officer Reyes.

On April 21, 1993, the Chief of the Legal Division, Ibra D. Omar Al Haj sent a letter to complainant's wife stating that the case had been forwarded to respondent Atty. Antonio K. Tupaz, Chief of the Litigation Division of the Bureau of Agrarian Legal Assistance (BALA) in Quezon City.

Thereafter, complainant consulted the respondent regarding the case and he gave the amount of P5,000.00 to the latter, promising a bigger amount after the termination of the case. He also assured the respondent that a fixed amount of P1,000.00 as traveling expenses would be given every time the latter will go to Marinduque. Complainant kept on reminding respondent to follow up the case but the latter was always unavailable. Finally, complainant's wife visited respondent's office and she was told that additional money was needed for expenses. Hence, Mrs. Oria made a bank-to-bank deposit of P5,000.00 to the account of respondent. She later learned that he had already retired and was engaged in private practice.

Complainant further alleged that when he went to the Litigation Division of the DAR on August 31, 1999, he was told by Atty. Ibra D. Omar Al Haj, that the files of the agrarian case of his wife were missing from the office. Thus, he filed the instant complaint.

In his Comment,[2] respondent avers that he met complainant during his tenure as Chief of the Litigation Division of the DAR, in relation to a dispute over the ownership of an agricultural riceland in Marinduque that was covered by the Operation Land Transfer of the Agrarian Reform Program. He also alleged that due to the volume of work and pending cases handled by the legal officers in the office, he did the evaluation and secured the necessary documents to support the first endorsement. It was only sometime in October 1993 when his office received the partial records of the case and a copy of the Investigation Report dated November 14, 1993, recommending the cancellation of the Emancipation Patents issued in favor of the tenant-farmers. Finally, in 1994, he was able to secure the documents relevant to the case, including copies of the Emancipation Patents, by going to Boac, Marinduque on two occasions.

Respondent further alleged that he caused the preparation of a possible petition for the cancellation of the Emancipation Patents and recommended its filing to the Office of the BALA, DAR Central Office. Thereafter, he was informed that the matter was referred to the Office of the Assistant Secretary of Legal Affairs because one of the party-defendants would be the Secretary of Agrarian Reform.

Respondent avers that he had no discretion over the matter since the filing of the case has to be approved not only by the Director of BALA but also by the Assistant Secretary for Legal Affairs of the DAR. His duty was only to evaluate the legal remedy to be availed of which the BALA then endorses for official action to the department. He further alleged that he informed complainant of these incidents and the action taken regarding the case pending before the DAR.

Finally, respondent denies that he received P5,000.00 from complainant during his tenure as Chief of the Litigation Division. He avers that he engaged in private practice upon his retirement and that sometime in December 1997, he was requested by complainant to handle the agrarian case, and they agreed on the amount of P25,000.00 as attorney's fees and P5,000.00 as appearance fee including roundtrip tickets from Manila to Marinduque per hearing. He admits receiving the said amount only in January 1998, which was sent to his account as partial payment of the agreed attorney's fees.

Respondent states that he should not be penalized for merely doing his job as a foot soldier of the government and that he should not be blamed for something that was already a fait accompli as a result of government's desire to implement social legislation. He promised to help complainant regardless of monetary consideration with the filing of the case for the cancellation of the Emancipation Patents issued to the latter's tenants.[3]

Based on the Report and Recommendation of Commissioner Rebecca Villanueva-Maala, the Board of Governors of the Integrated Bar of the Philippines issued Resolution No. XV-2003-349 dated June 21, 2003 which reads:

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/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that the Commission finds respondent negligent in his duties to his client-complainant, Atty. Antonio K. Tupaz is hereby SUSPENDED from the practice of law for six (6) months.

On August 12, 2003, respondent filed a motion for reconsideration reiterating the arguments in his comment.

We agree with the recommendation of the IBP.

There is no dispute that a lawyer-client relationship existed between the parties. After respondent retired from the government service, he agreed to represent complainant as private counsel. He charged the amount of P25,000.00 as acceptance fee and received P5,000.00 as partial payment.

Respondent cannot justify his failure to help complainant by stating that “after receipt of part of the acceptance fee he did not hear anymore from complainant or his wife”. The persistence displayed by the latter in prosecuting this complaint belies the lack of enthusiasm alleged by respondent. Records show that complainant exhausted all available remedies to recover his property. It was, in fact, the loss of the latter’s file in the Office of the Litigation Division and the Legal Division of the DAR that prompted him to file this instant petition.

As ruled in the case of *Rabanal v. Tugade*:^[4]

Once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter’s cause with wholehearted fidelity, care, and devotion. Elsewise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client’s rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense. If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.

The records show that respondent handled complainant’s case since 1993 and there has been no progress in the case since then. Respondent not only deceived his client, but also failed to perform the undertaking to help complainant in filing the case for cancellation of the Emancipation Patents. He pledged to assist complainant in filing a petition for cancellation of the Emancipation Patents even without monetary consideration; yet to this day, complainant has not recovered his property nor was any petition filed by respondent.

Respondent is required by his oath to conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. The lawyer’s oath is a source of obligations and violation thereof is a ground for suspension, disbarment, or other disciplinary action.^[5] Any departure from the path which a lawyer must follow as demanded by the virtues of his profession shall not be tolerated by this Court as the disciplining authority.^[6]

WHEREFORE, Resolution No. XV-2003-349 of the Board of Governors of the Integrated Bar of the Philippines finding respondent negligent in his duties to his client is **AFFIRMED**. Atty. Antonio K. Tupaz is **SUSPENDED** from the practice of law for six (6) months. He is further warned that a repetition of this or similar acts will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Rollo, pp. 24-33.

[3] Rollo, pp. 29-30.

[4] Adm. Case No. 1372, 27 June 2002, 383 SCRA 484, 490; citing *Ramos v. Jacoba*, Adm. Case No. 5505, 27 September 2001, 366 SCRA 91.

[5] De Guzman v. De Dios, Adm. Case No. 4943, 26 January 2001, 350 SCRA 320, 325.

[6] Ong v. Grijaldo, Adm. Case No. 4724, 30 April 2003, 402 SCRA 1, 11.

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