ELSIE B. AROMIN, FE B. YABUT, TIBURCIO B. BALLESTEROS, JR., AND JULIAN B. BALLESTEROS, COMPLAINANTS, VS. ATTY. VALENTIN O. BONCAVIL, RESPONDENT.

A.C. No. 5135 (Formerly A.C. No. CBD 296). September 22, 1999

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/a-c-no-5135/

MENDOZA, J.:

This is a complaint[1] filed by Elsie B. Aromin, Fe B. Yabut, Tiburcio B. Ballesteros, Jr., and Julian B. Ballesteros against Atty. Valentin O. Boncavil for violation of the Code of Professional Responsibility.

Complainants allege that their late father, Tiburcio Ballesteros, engaged the services of respondent as counsel in two cadastral cases then pending in the Regional Trial Court, Branch 18, Pagadian City, to wit: Cadastral Case No. N-14, LRC CAD RMC No. N-475, Lot No. 6576, Pls-119, entitled "The Director of Lands, Petitioner, v. Faustina Calibo, Claimant, v. Tiburcio Ballesteros, Claimant," and Cadastral Case No. N-14, LRC CAD. REG. No. N-475, Lot No. 7098, Pls-119, entitled "The Director of Lands, Petitioner, v. Belinda Tagailo-Bariuan, Claimant, v. Tiburcio Ballesteros, Claimant"; that despite receipt of the adverse decision in the two cases on August 8, 1991, respondent did not inform herein complainants of the same nor file either a motion for reconsideration or a notice of appeal to prevent the decision from becoming final; that respondent did not file either a written offer of evidence despite the trial court's directive for him to do so; and that it took respondent four years from the time complainants' father died before he filed a motion to substitute herein complainants in the trial court. The foregoing acts and omissions of respondent are alleged to be in violation of the following provisions of the Code of Professional Responsibility:

> CANON 15 - A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENT.
>
> CANON 17 - A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.
>
> CANON 18 - A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.
>
> Rule 18.03 - A lawyer shall not neglect a legal 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.

Complainants pray that such "disciplinary sanctions as may be appropriate be imposed against Atty. Valentin Boncavil."

In his answer,[2] respondent alleges that the day before the cadastral court rendered its decision, he met by chance herein complainant Julian Ballesteros, who, after inquiring as to the status of the cadastral cases and learning that the same had already been submitted for resolution, told him "You are too busy to attend to our case, it would be

better if somebody else would take over," to which, according to respondent, he replied, "It is all right with me, it is your privilege"; that as a self-respecting legal practitioner, he did not want to continue rendering unwanted legal services to a client who has lost faith in his counsel; that he thus considered himself discharged as counsel in the two cadastral cases and relieved of the obligation either to move for a reconsideration of the decision or to file a notice of appeal and to notify herein complainants of the decision against them; that, contrary to complainants' assertion, he did make an offer of evidence, although he reserved the right to submit authenticated copies of the documentary evidence from the Bureau of Lands in Manila; that the delay in the substitution of Tiburcio Ballesteros with his heirs was because neither the heirs nor the administrator of the intestate estate of Tiburcio Ballesteros informed him of the latter's death despite the heirs' knowledge that he was the counsel in the two cadastral cases.

On June 8, 1994, complainants moved for a judgment on the pleadings, alleging that "the facts are not in dispute and the respondent's answer admits the material allegations of the complaint."[3]

On June 13, 1994, IBP Commissioner Plaridel C. Jose required respondent to comment on the foregoing motion within five (5) days from notice.[4] On October 12, 1995, he set the case for hearing on November 17, 1995.[5]

On November 17, 1995, however, only complainants Tiburcio Ballesteros, Jr. and Fe Yabut and their counsel appeared. This fact, together with respondent's failure to comment on complainants' motion submitting the case for resolution on the basis of the pleadings, prompted Commissioner Jose to grant complainants' motion.[6]

On June 21, 1996, Commissioner Jose submitted his report recommending that respondent be suspended from the practice of law for six months with warning that repetition of the same or similar acts shall be dealt with more severely.

On May 17, 1997, the IBP Board of Governors passed Resolution No. XII-97-16 approving Commissioner Jose's report and recommendation.

After due consideration of the records of this case, the Court finds the recommendation of the IBP to be well taken.

The facts clearly show that respondent violated Canon 18 of the Code of Professional Responsibility which provides that "a lawyer shall serve his client with competence and diligence." By abandoning complainants' cases, respondent violated Rule 18.03 of the same Code which requires that "a lawyer not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable." As stated in Santiago v. Fojas:[7]

> 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.

Nor can we sustain respondent's claim that he did not file either a motion for reconsideration or a notice of appeal

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

from the decision in the two cases because he was under the impression from the remark of Julian Ballesteros that complainants no longer wanted to retain his services. As a member of the bar, he ought to know that the only way to be relieved as counsel in a case is to have either the written conformity of his client or an order from the court relieving him as counsel. Thus, Rule 138, §26 of the Rules of Court provides:

> An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire. In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.

As a matter of fact, Julian Ballesteros, who allegedly made the remarks which became the basis for respondent's inaction, denied ever having made those statements, much less having discharged respondent as counsel.[8] Moreover, Julian Ballesteros is only one of the heirs of Tiburcio Ballesteros, and it has not been shown that he was speaking on behalf of the other heirs when he allegedly relieved respondent of his services. In any case, if respondent had really been discharged as counsel, although not in accordance with the Rules of Court, he should have informed the trial court and asked that he be allowed to withdraw from the cases.[9] Until his dismissal or withdrawal is made of record, any judicial notice sent to him was binding upon his clients even though as between them the professional relationship may have been terminated.[10] He cannot validly claim that, in any case, the decision has not yet become final for want of service on the Solicitor General, for the period within which complainants can file a motion for reconsideration or notice of appeal is counted from receipt of the decision by their counsel of record.

Nor is this the first time that respondent is remiss in his professional obligation toward complainants. In his answer, he practically admits that he was late in moving for the substitution of Tiburcio Ballesteros by herein complainant heirs. Respondent's excuse that he was not immediately informed by complainants of their father's death is without merit. Four years after the death of complainants' father is simply too long a period for him not to have known of his client's death, especially as it appears that he and complainants live in close proximity with each other. During those four years, surely occasions would have arisen where respondent had to confer with Tiburcio Ballesteros regarding the cases.

Respondent also, in effect, admits that he failed to file a written offer of evidence as required by the court in its order, dated June 21, 1983. What he actually filed was only "a provisional written offer of evidence" because the documents offered were not certified true copies. What the Court makes of respondent's garbled explanation[11] for this lapse is that he could not bother to go to the Bureau of Lands in Manila to get certified true copies because a check with the Bureau of Lands in Pagadian City "showed the same documentary evidence to be substantially the same true copies." If that were the case, respondent did not explain why he did not then go to the Pagadian City branch of the Bureau of Lands to get the certified true copies of his documentary evidence.

The recommended penalty of suspension from the practice of law for six months for respondent's gross negligence in the handling of the two cadastral cases is in accordance with our decisions.[12]

WHEREFORE, the Court RESOLVED to suspend respondent Atty. Valentin O. Boncavil from the practice of law for six (6) months from notice with a warning that a repetition of a similar offense will be dealt with more severely. Let a copy of this decision be attached to Atty. Boncavil's personal record in the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines (IBP) and to all the courts in the land.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

---

[1] Rollo, pp. 1-2.

[2] Id., pp. 10-14.

[3] Id., pp. 15-17.

[4] Id., p. 18.

[5] Id., p. 20.

[6] Id., pp. 23-24.

[7] 248 SCRA 68, 73-74 (1995).

[8] Rollo, p. 15.

[9] People v. Casimiro, 45 SCRA 554 (1972).

[10] Don Lino Gutierrez & Sons, Inc. v. Court of Appeals, 61 SCRA 87 (1974); Intestate Estate of the Deceased Luis S. Domingo, Sr. v. Aquino, 38 SCRA 472 (1971); Fojas v. Navarro, 32 SCRA 476 (1970).

[11] Respondent's Answer, p. 3, states: "Respondent vehemently denies the allegations in paragraph 3 that he failed to file a written offer of evidence. There was an offer of evidence, subject to the submission of authenticated ones, as the documentary evidence offered were true copies only, and not duly authenticated ones, by the Bureau of Lands, and a check with the Bureau of Lands at Pagadian City, showed the same documentary evidence to be substantially the same true copies only. Respondent should not be expected to go to the Bureau of Lands in Manila, to secure the authenticated copies of the exhibits offered by him provisionally, pending the availability of the authenticated ones by competent authority, the Bureau of Lands that is, in Manila."

[12] Perla Compania de Seguros, Inc. v. Saquilabon, 271 SCRA 109 (1997); Guiang v. Antonio, 218 SCRA 381 (1993); Legarda v. Court of Appeals, 209 SCRA 722 (1992); Lorenzana Food Corporation v. Daria, 197 SCRA 428 (1991).

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.