

EMMA V. DE JUAN, COMPLAINANT, VS. ATTY. OSCAR R. BARIA III, RESPONDENT.

A.C. No. 5817. May 26, 2004

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-5817/>

QUISUMBING, J.:

In her Salaysay filed with the Office of the Bar Confidant on August 29, 2002, complainant, former client of respondent, charged respondent with negligence in handling her labor case and threats against her person.

The complainant alleged that respondent Atty. Oscar R. Baria III, as her counsel in NLRC NCR CA No. 022654-00/NLRC RAB IV-7-11287-99-R, Emma De Juan v. Triple AAA Antique/Mr. Yappe and Mr. Godofredo Nadia, negligently failed to file motion for reconsideration of the decision dated September 24, 2001 of the NLRC in her behalf.[1]

The complainant avers that she was hired by Triple AAA on or about December 15, 1998 as packer on probation status for six months in its Packing Department.[2] Based on a performance evaluation citing her irregular attendance and inefficiency, the company terminated her services on June 11, 1999, [3] after waiting for two weeks for her to report. She claims that she was terminated without notice nor explanation[4] so she filed a complaint before the National Labor Relations Commission (NLRC) against the company for illegal dismissal, non-payment of premium pay for holiday, rest day, and 13th month pay. She also claimed moral and exemplary damages and attorney's fees.[5]

In search of a lawyer, she asked the assistance of Banahaw Broadcasting Corporation (BBC) which assigned respondent to handle her labor case. Respondent represented complainant on a contingency fee agreement.

On December 29, 1999, the Labor Arbiter rendered a decision in favor of complainant.[6] Triple AAA appealed to the NLRC. In a decision promulgated on September 24, 2001, the NLRC reversed the Labor Arbiter and declared there was no illegal dismissal.[7]

Complainant blamed respondent for the reversal. She said that she came to know of the reversal of the Labor Arbiter's decision when she called respondent in October 2001. When she asked the respondent what they should do, respondent answered, "Paano iyan iha...eh...hindi ako marunong gumawa ng Motion for Reconsideration." Sometime in November 2001, her husband called respondent to ask if he did anything in connection with the NLRC's Decision and he was advised by respondent's secretary that, "Sabi ni Atty...huwag na kayong magpakita sa kanya dahil galit na galit sa inyo si Attorney at baka kung ano pa ang magawa niya sa inyo." [8]

The Court required respondent to comment and referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[9]

In his Comment, respondent explained that soon after passing the bar in 1999, he was employed as a broadcaster in DWAN's radio program offering free legal services to the poor. He gave free legal services to indigent clients one of whom was complainant. As a practice, he said he forewarned his clients that he was just a new lawyer and

that they should not expect too much from him because of his limited legal experience. According to respondent he tried to explain to complainant the legal remedies available to her as well as the time her case may take. It appeared to him that complainant did not fully grasp the usual delays that may be involved in her case. He recalled that when he told complainant that the Labor Arbiter's decision was in her favor, she was so jubilant at the money judgment. Later however, the complainant became furious when he told her that Triple AAA Antique had appealed. Respondent filed a Motion for Writ of Execution of the Labor Arbiter's Decision but this Motion was ruled premature. Respondent then filed an opposition to the appeal filed by Triple AAA but the NLRC still gave due course to the appeal. While Triple AAA's appeal was pending resolution he told complainant to call him every week so that she could be advised of any developments in her case. He generously suggested that complainant call "collect" to lessen her expenses. He even allowed complainant and her husband to stay in his home when they came to Manila from the province. He said he even fed them when they were in Manila.

In October 2001, the NLRC rendered its decision reversing the Labor Arbiter. By this time, according to respondent, he confronted complainant for lying to him about her employment with Triple AAA and told her that because of her lies there was a possibility she could lose the appeal. He advised complainant to get a more experienced lawyer for her appeal because as a new lawyer he was not confident he could handle her appeal. Thereafter, complainant no longer contacted him and at some time, he even had to ask her whereabouts from her relatives.

On December 2001, respondent received calls from the staff of Raffy Tulfo, a radio commentator. In one of these calls, his wife talked to one of Tulfo's employees and she was told that complainant told Tulfo that the respondent received money from Triple AAA Antique. As a result Tulfo lambasted him on his radio program. Respondent thereafter called Tulfo, explained his side, and demanded that the latter apologize on air otherwise he would file a libel case against Tulfo.

Sometime in January 2002, respondent's secretary received a call from the complainant's husband. When respondent's secretary confronted the husband regarding the Tulfo incident, complainant's husband retorted, "Sabihin mo sa kanya mag ingat siya at baka may mangyari sa kanya." Shortly thereafter, respondent began receiving death threats over the phone and also noticed armed men casing his office. He reported these calls and presence of suspicious armed men to the police.

Respondent surmises that complainant believed Triple AAA paid him off and he pocketed money supposedly for her. Respondent vehemently denied he did. He asks that Triple AAA be summoned to bear witness to his story. Respondent asserts that he has not committed any breach of his oath and that he has vigorously pursued his client's cause to the end. He avers that it was his client's own negligence and folly that caused her to lose her case. He asks that the complaint be dismissed.

In a Resolution dated March 15, 2003, this Court referred the case to the IBP for investigation, report and recommendation. In turn, the IBP Commission on Bar Discipline required complainant to reply. In her reply written in Filipino, complainant denied that she accepted money from respondent during the pendency of her labor case, except on one occasion when she borrowed P100 from respondent's secretary for travel fare back to the province. She reiterated that she filed her Salaysay because of respondent's failure to file a motion for reconsideration. She further insists that she does not believe that respondent did not know how to file a motion for reconsideration as he claims since she was aware that even a law student would know how to.

In its Resolution dated August 30, 2003, the IBP approved the recommendation of the Commission on Bar Discipline. The IBP Board of Governors found respondent guilty of negligence in handling the aforecited labor case and recommended that respondent be suspended from practicing law for three months. The charge of grave

threats was dismissed for complainant's failure to substantiate the same.[10]

The core issue is whether the respondent committed culpable negligence, as would warrant disciplinary action, in failing to file for the complainant a motion for reconsideration from the decision of the NLRC.

No lawyer is obliged to advocate for every person who may wish to become his client, but once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must be mindful of the trust and confidence reposed in him.[11] Further, among the fundamental rules of ethics is the principle that an attorney who undertakes an action impliedly stipulates to carry it to its termination, that is, until the case becomes final and executory. A lawyer is not at liberty to abandon his client and withdraw his services without reasonable cause and only upon notice appropriate in the circumstances.[12] Any dereliction of duty by a counsel, affects the client.[13] This means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law and he may expect his lawyer to assert every such remedy or defense.[14]

The records reveal that indeed the respondent did not file a motion for reconsideration of the NLRC such that the said decision eventually had become final and executory. Respondent does not refute this. His excuse that he did not know how to file a motion for reconsideration is lame and unacceptable. After complainant had expressed an interest to file a motion for reconsideration, it was incumbent upon counsel to diligently return to his books and re-familiarize himself with the procedural rules for a motion for reconsideration. Filing a motion for reconsideration is not a complicated legal task.

We are however, not unaware that respondent had been forthright and candid with his client when he warned her of his lack of experience as a new lawyer. We are also not unaware that he had advised complainant to get a new lawyer. However, his candor cannot absolve him. As already stressed by this Court:

A lawyer is expected to be familiar with these rudiments of law and procedure and anyone who acquires his service is entitled to not just competent service but also whole-hearted devotion to his client's cause. It is the duty of a lawyer to serve his client with competence and diligence and he should exert his best efforts to protect within the bounds of law the interest of his client. A lawyer should never neglect a legal matter entrusted to him, otherwise his negligence in fulfilling his duty will render him liable for disciplinary action.[15]

Again, the Court held in the case of Santos v. Lazaro,[16] that "Rule 18.03 of the Code of Professional Responsibility[17] explicitly provides that negligence of lawyers in connection with legal matters entrusted to them for handling shall render them liable.

Without a proper revocation of his authority and withdrawal as counsel, respondent remains counsel of record and whether or not he has a valid cause to withdraw from the case, he cannot just do so and leave his client out in the cold. An attorney may only retire from the case either by a written consent of his client or by permission of the court after due notice and hearing, in which event the attorney should see to it that the name of the new attorney is recorded in the case.[18] Respondent did not comply with these obligations.

WHEREFORE, respondent lawyer Oscar R. Baria III is hereby FINED in the amount of P5,000.00, with a stern warning that a repetition of this or similar offense will be dealt with more severely.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.
Puno, (Chairman), J., on official leave.

- [1] Rollo, pp. 15-33.
- [2] Id. at 19.
- [3] Id. at 28.
- [4] Id. at 20 & 28.
- [5] Id. at 4.
- [6] Id. at 12-13.
- [7] Id. at 33.
- [8] Id. at 1-2.
- [9] Id. at 91.
- [10] Rollo, Vol. II, p. 98.
- [11] Tan v. Lapak, G.R. No. 93707, 23 January 2001, 350 SCRA 74, 84.
- [12] Montano v. Integrated Bar of the Philippines, A.C. No. 4215, 21 May 2001, 358 SCRA 1, 9.
- [13] Philhouse Development Corporation v. Consolidated Orix Leasing and Finance Corporation, G.R. No. 135287, 4 April 2001, 356 SCRA, 281, 285.
- [14] Santiago v. Fojas, A.C. No. 4103, 7 September 1995, 248 SCRA 68, 73-74.
- [15] Galen v. Paguirigan, A.C. No. 5558, 7 March 2002, 378 SCRA 527, 533.
- [16] A.C. No. 5085, 6 February 2003, 397 SCRA 51, 54.
- [17] Canon 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

Rule 18.01. – A lawyer shall not undertake a legal service which he knows or should know that he is not qualified to render. However, he may render such service if, with the consent of his client, he can obtain as collaborating counsel a lawyer who is competent on the matter.

Rule 18.02. – A lawyer shall not handle any legal matter without adequate preparation.
- [18] Revised Rules of Court of Rule 138, Section 26.

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.