

JENO A. PILAPIL, COMPLAINANT, VS. ATTY. GERARDO CARILLO, RESPONDENT.

A.C. No. 5843 (CBD 99-614A). January 14, 2003

Ponente: PUNO, J.

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PUNO, J.:

On January 19, 1999, complainant Jen0 A. Pilapil filed with the Integrated Bar of the Philippines (IBP), Cebu Chapter a complaint against respondent Atty. Gerardo Carillo for negligence in the performance of his duties as counsel.

The Complaint alleged that Pilapil filed a labor case against Visayan Electric Company. He was represented by Atty. Carillo. In December 1996, after they received an adverse ruling from the National Labor Relations Commission (NLRC), Pilapil and Atty. Carillo decided to elevate the case to the Supreme Court on certiorari. In January 1997, Pilapil made a follow up with Atty. Carillo regarding his case, and the latter told him that he was already preparing the petition. Pilapil, nonetheless, reminded Atty. Carillo of the 60-day period within which to file the petition. Atty. Carillo assured him that there was nothing to worry about. Pilapil continued to make follow-ups with Atty. Carillo for one year, but the latter would always give him the same answer. Atty. Carillo informed Pilapil to wait as he was still working on the petition. Atty. Carillo eventually admitted to Pilapil that when he went to the Supreme Court, he was told that the Court would not entertain the petition unless they give a valid reason why it was not filed on time. Atty. Carillo thus instructed Pilapil to secure a medical certificate from his family doctor to be used as justification for the late filing of the petition. When the doctor refused to issue a medical certificate, Atty. Carillo advised Pilapil to go to a doctor whom he personally knows. But he was still unable to secure a medical certificate. Hence, Pilapil filed this complaint against Atty. Carillo.[1]

On March 18, 1999, the Commission on Bar Discipline, Integrated Bar of the Philippines ordered the respondent to submit an answer to the complaint within six (6) days from notice. A copy of the order was received by respondent's agent on April 5, 1999.[2]

On May 7, 1999, the Commission on Bar Discipline received a copy of the motion for extension of time to submit an answer dated April 14, 1999 filed by respondent.[3]

On May 13, 1999, respondent having failed to file his answer within the period given, Pilapil filed a motion to declare respondent in default and to submit the case for resolution based on the documents and pleadings submitted.[4]

The case was set for hearing at the IBP on July 21, 2000.[5]

On June 19, 2000, complainant filed a motion for the transfer of the venue of the hearing since both parties reside in Cebu City. In the alternative, complainant prayed that the case be resolved based on the pleadings and documents filed.[6] The IBP required respondent to comment on the motion within ten (10) days from notice.[7]

On January 12, 2001, the Commission on Bar Discipline, granting complainant's motion for the transfer of the

venue of the hearing, forwarded the records of the case to the Board of Governors for appropriate action.[8]

The records show that respondent did not file an answer to the complaint as previously required by the IBP. Hence, on July 24, 2002, the IBP, through Commissioner Milagros V. San Juan, submitted its Report and Recommendation. It recommended that respondent be suspended from the practice of law for six (6) months. It made the following observation:

“The records of this case show that respondent has not filed his Answer despite his earlier motion requesting for time within which to file such Answer. On the other hand, the letter-complaint of complainant is straightforward in its allegation that respondent, who was complainant’s lawyer in a labor case he filed against Visayas Electric, failed to file a petition for certiorari of the adverse decision rendered in said case.

If the above allegation of complainant was not true or was inaccurate, it is unbelievable that respondent would not take steps to dispute the same such as by filing his Answer or presenting evidence to disprove the same. That respondent has not chosen to take any action and has opted to remain silent on the accusation of complainant, leads credence to the accusation of complainant. Respondent’s inaction to defend his name and his continued practice of his profession leads to no other conclusion but that he was indeed negligent in handling complainant’s case. Thus it is recommended that for respondent’s violation of Rule 18.03 of the Code of Professional Responsibility, respondent be suspended from engaging in the practice of law for a period of six (6) months.”[9]

We agree with the observation and recommendation of the IBP. Respondent’s failure to file an answer to the complaint despite notice from the IBP amounts to an admission of the allegations therein. Furthermore, respondent’s stubborn refusal to submit the required answer despite the lapse of considerable length of time, as his failure to file the petition for certiorari relative to complainant’s labor case, is clear evidence of negligence on his part. Respondent did not even offer an explanation for his omission. The Code of Professional Responsibility mandates that “every lawyer shall serve his client with competence and diligence.”[10] It further states that “a lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable.”[11] Thus, we uphold the recommendation of the IBP finding respondent liable for his negligence in handling complainant’s suit against Visayan Electric Company which had been entrusted to him as counsel.

IN VIEW WHEREOF, respondent is SUSPENDED from the practice of law for six (6) months. Let a copy of this resolution be furnished on the Office of the Bar Confidant.

SO ORDERED.

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

[1] Rollo, pp. 2-3.

[2] Id., pp. 5-6.

[3] Id., p. 13.

[4] Id., p. 7.

[5] Id., p. 23.

[6] Id., p. 24.

[7] Id., p. 25.

[8] Id., p. 29.

[9] Report and Recommendation submitted by Commissioner Milagros V. San Juan, pp. 4-5.

[10] Canon 18, Code of Professional Responsibility.

[11] Rule 18.03, Code of Professional Responsibility.

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