

GODOFREDO C. PINEDA, COMPLAINANT, VS. ATTY. TEDDY C. MACAPAGAL, RESPONDENT.

A.C. NO. 6026. November 29, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In a verified complaint[1] filed before the Office of the Bar Confidant, complainant Godofredo C. Pineda prayed for the disbarment of respondent, Atty. Teddy C. Macapagal, for alleged gross negligence in handling Civil Case No. 23744[2] for abatement of nuisance with damages, and Criminal Case No. 2905-76[3] for libel, and for deliberately withholding information regarding the status of the said two cases.

Complainant alleged that respondent was absent 11 times out of the total 15 scheduled hearings in Civil Case No. 23744, despite due notice in open court. Complainant alleged that every time he would inquire from respondent regarding any development in the case, the latter would either pretend to be busy, or that he has a prior commitment, or would just fail to show up during the scheduled meeting; that complainant was surprised when upon inquiry from the court about the status of the civil case, he was informed that the same was dismissed for failure of respondent to attend the scheduled hearings.

As regards the criminal case for libel, complainant alleged that when the decision convicting him was promulgated, he instructed respondent to file an appeal. While respondent filed a notice of appeal with the Court of Appeals, he failed to submit an appeal brief, hence, the lower court's decision became final and executory.

In his Comment,[4] respondent claimed that in the civil case for abatement of nuisance with damages, he tried to settle the case amicably and to help the parties settle their differences out of court; that the order of dismissal was without prejudice and it can be reinstated within reasonable time; that complainant was not harmed when the case was dismissed without prejudice.

On September 22, 2003, we referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[5]

In the Report dated October 22, 2004, the investigating commissioner recommended that respondent be suspended from the practice of law for one year. The commissioner noted that indeed, respondent was remiss in his responsibilities as a lawyer. It appears that respondent attended only three out of the total 15 scheduled hearings. His negligence was further compounded by his failure to inform complainant of the dismissal of the case.

On March 12, 2005, the IBP Board of Governors adopted and approved the report of the investigating commissioner but modified the penalty of suspension from the practice of law from one year to one month.

We agree with the findings of the IBP except for the penalty.

A member of the legal profession owes his client entire devotion to his genuine interest, warm zeal in the maintenance and defense of his rights and exertion of his utmost learning and ability. Public interest demands that

an attorney exert his best efforts and ability to preserve his client's cause, for the unwavering loyalty displayed to his client likewise serves the ends of justice.[6]

A lawyer has the duty to give adequate attention and time to every case he accepts. A lawyer impliedly warrants that he possesses the necessary diligence, learning and skill to handle each case. He should exert his best judgment and exercise reasonable and ordinary care and diligence in the pursuit or defense of his client's cause.[7]

In the present case, records show that respondent was negligent in handling the civil case which led to its dismissal. In the libel suit, respondent failed to file an appeal brief, hence, the lower court's decision convicting complainant of libel became final and executory. The failure of a lawyer to file an appeal brief certainly constitutes inexcusable negligence on his part.[8]

Further, respondent lacked candor in dealing with his client. He not only omitted to apprise him of the status of the cases; worse, he avoided any meeting with the complainant. He failed to keep the latter informed of the status of the cases and to respond to request for information.[9]

Failure of a lawyer to communicate to his client important matters of the case and to respond within a reasonable time to his requests for information is tantamount to unjustifiable denial of his right to be fully informed of the developments in and the status of the case.[10] In failing to inform his client of the status of the cases, respondent failed to exercise such skill, care, and diligence as men of the legal profession commonly possess and exercise in such matters of professional employment. The relationship of a lawyer-client being one of confidence, there is a need for the client to be adequately and fully informed as to the mode and manner in which his interests are being defended. It is only thus that their faith in counsel may remain unimpaired.[11]

Indeed, it is the duty of a lawyer to encourage his clients to avoid, end or settle a controversy if it will admit of a fair settlement.[12] However, the same must be done in a manner that will not cause prejudice to the other party. In this case, respondent's failure to attend several hearings on the pretext that he was exploring the possibility of amicable settlement between the contending parties, resulted in the dismissal of complainant's suit.

We find the penalty of suspension of one year recommended by the investigating commissioner commensurate under the circumstances.

WHEREFORE, respondent Atty. Teddy C. Macapagal is found GUILTY of violating his Lawyer's Oath, and Rules 18.03 and 18.04 of the Code of Professional Responsibility. He is SUSPENDED from the practice of law for a period of one year, with a WARNING that commission of similar act or acts will be dealt with more severely.

Let copies of this Decision be furnished all courts and the Office of the Bar Confidant, which is instructed to include a copy in respondent's personal file.

SO ORDERED.

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

[1] Rollo, pp. 1-13.

[2] Godofredo C. Pineda v. Spouses Crisanto Manuba and Jean Manuba, Metropolitan Trial Court of Quezon City, Branch 37.

[3] People of the Philippines v. Godofredo C. Pineda, Regional Trial Court of Olongapo City, Branch 73.

[4] Rollo, pp. 24-31.

[5] Id. at 58.

[6] Emiliano Court Townhouses v. Atty. Dioneda, 447 Phil. 408, 414 [2003].

[7] Pariñas v. Paguinto, A.C. No. 6297, July 13, 2004, 434 SCRA 179, 180.

[8] Perea v. Atty. Almadro, 447 Phil. 434, 441 [2003].

[9] Rule 18.04, Code of Professional Responsibility.

[10] Atty. Navarro v. Atty. Meneses III, 349 Phil. 520, 528 [1998].

[11] Alcala v. De Vera, 155 Phil. 33, 41-42 [1974].

[12] Rule 1.04, Code of Professional Responsibility.

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