

CARLITO P. CARANDANG, COMPLAINANT, VS. ATTY. GILBERT S. OBMINA, RESPONDENT.

A.C. No. 7813. April 15, 2009

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-7813/>

CARPIO, J.:

The Case

This is a complaint filed by Carlito P. Carandang (Carandang) against Atty. Gilbert S. Obmina (Atty. Obmina). Atty. Obmina was counsel for Carandang in Civil Case No. B-5109 entitled "Sps. Emilia A. Carandang and Carlito Carandang v. Ernesto Alzona." Carandang brought suit for Atty. Obmina's failure to inform Carandang of the adverse decision in Civil Case No. B-5109 and for failure to appeal the decision.

The Facts

The facts of CBD Case No. 06-1869 in the Report and Recommendation of the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) read as follows:

Complainant's Sworn Statement is hereto reproduced as follows:

SWORN STATEMENT

Ako si CARLITO P. CARANDANG, nasa wastong gulang, may asawa't mga anak, at nakatira sa 5450 Alberto Apt., St. Francis Homes, Halang Biñan, Laguna.

Na ako ay may kasong isinampa kay ERNESTO T. ALSONA tungkol sa aming bahay at lupa, at isinampa sa BIÑAN RTC BRANCH 25, CIVIL CASE NO. B-5109.

Na ang naturang kaso ay natapos at nadisisyunan noong Enero 28, 2000 at ako ay natalo sa naturang kaso.

Na ang aking naging abogado ay si ATTY. GILBERT S. OBMINA, tubong Quezon at bilang kababayan ako ay nagtiwala sa kanyang kakayahan upang maipagtanggol sa naturang kaso, ngunit taliwas sa aking pananalig sa kanya ang nasabing kaso ay napabayaang hanggang sa magkaroon ng desisyon ang korte na kunin ang aking lupa't bahay, sa madali't sabi kami ay natalo ng hindi ko man lang nalalaman at huli na ang lahat ng malaman ko dahil hindi na kami pwedeng umapila.

Na nalaman ko lang na may desisyon na pala ang korte pagkatapos ng anim na buwan. Ang aking anak na si ROSEMARIE ay nagpunta sa BIÑAN, sa RTC ay binati at tinatanong kung saan kayo nakatira at ang sagot [ng] aking anak BAKIT? At ang sagot naman [ng] taga RTC, HINDI MO BA ALAM NA ANG INYONG KASO AY TAPOS NA. Nang marinig yon ay umuwi na siya at sinabi agad sa akin. Tapos na daw yung kaso [ng] ating bahay at ako ay pumunta sa opisina ni ATTY. OBMINA at aking tinanong "BAKIT DI MO SINABI SA AKIN NA TAPOS NA ANG KASO?" At ang sagot niya sa akin "AY WALA KANG IBABAYAD SA ABOGADO DAHIL WALA KANG PERA PANG-APILA" dahil sa sagot sa akin ay para akong nawalan [ng] pag-asa sa kaso.

Lumapit ako sa Malacañang at binigay yung sulat pero doon ay aking nakausap yung isang abogado at ako'y kanyang pinakinggan at aking inabot ang papeles at aking pinakita at ang sabi ay hindi na pwede dahil anim na buwan na [nang] lumipas ang kaso. Kaya aking sinabi sa ATTY. ng Malacañang na hindi sinabi sa akin agad ni ATTY. OBMINA na may order na pala ang kaso.

Kaya ang ginawang paraan ay binigyan ako ng sulat para ibigay sa IBP, at nang mabasa ang sulat ay sinabi sa akin na doon sa SAN PABLO ang hearing, at tinanong ako kung nasaan ang ATTORNEY'S WITHDRAWAL NYO? Ang sagot ko ay "WALA HO," kaya inutusan ako na kunin ang ATTORNEY'S WITHDRAWAL at agad akong nagpunta sa opisina ni ATTY. OBMINA at tinanong ko sa sekretarya niya kung nasaan si ATTY. OBMINA ang sagot sa akin ay nasa AMERICA NA! Kaya't aking tinanong kung sinong pwede magbigay sa akin ng attorney's withdrawal at ang sabi ay yung anak nya na si CARMELITSA OBMINA. Bumalik ako noong araw ng Biyernes at aking nakuha, pero hindi na ako nakabalik sa IBP dahil noong araw na iyon ay hindi ko na kayang maglakad, kaya hindi na natuloy ang hearing sa SAN PABLO.

CARLITO P. CARANDANG

Affiant

CTC No. 21185732

Issued on March 7, 2006

At Biñan, Laguna

On November 16, 2006, the Commission on Bar Discipline, through Rogelio A. Vinluan, the then Director for Bar Discipline (now the incumbent Executive Vice President of the Integrated Bar of the Philippines), issued an Order directing respondent Atty. Gilbert S. Obmina to submit his Answer, duly verified, in six (6) copies, and furnish the complainant with a copy thereof, within fifteen (15) days from receipt of the Order.

On December 12, 2006, this Commission was in receipt of a Manifestation dated December 11, 2006 filed by a certain Atty. Ma. Carmencita C. Obmina-Muaña. Allegedly, she is the daughter of respondent Atty. Gilbert S. Obmina. She further alleged that [her] father is already a permanent resident of the United States of America since March 2001 and had already retired from the practice of law.

That on February 20, 2007, undersigned Commissioner [Jose I. De La Rama, Jr.] scheduled the Mandatory Conference/Hearing of the case on March 20, 2007 at 9:30 a.m.

On March 19, 2007, Atty. Ma. Carmencita C. Obmina-Muaña filed a Manifestation and Motion reiterating her earlier Manifestation that the respondent, Atty. Gilbert S. Obmina is already a permanent resident of the United States for the last six (6) years and likewise, she reiterated her request that summons be served on her father thru extraterritorial service. Atty. Muaña likewise requested the cancellation of the mandatory conference and resetting of the same on April 10, 2007.

On the scheduled Mandatory Conference on March 20, 2007, complainant Carlito P. Carandang appeared. The undersigned Commissioner directed Atty. Carmelita Muaña to appear before this Commission on May 18, 2007 at 2:00 p.m. and to bring with her the alleged withdrawal of appearance filed by her father and to bring proof that her father is now really a permanent resident of the United States of America.

That on May 18, 2007, Atty. Muaña again filed a Manifestation and Motion informing this Honorable Commission that she cannot possibly appear for the reason that she is the legal counsel of a candidate in Muntinlupa City and that the canvassing of the election results is not yet finished. She likewise submitted copies of her father's Passport and US Permanent Residence Card. That with respect [to] the Withdrawal of Appearance, Atty. Muaña alleged that copies of the same were all given to complainant Carlito P. Carandang.

That an Order dated May 18, 2007 was issued by the undersigned Commissioner granting the aforesaid Manifestation and Motion. Atty. Muaña was likewise directed to appear before this Office on June 22, 2007 at 2:00 p.m.

On June 22, 2007, in the supposed Mandatory Conference, Atty. Carmencita Obmina Muaña appeared. Likewise presented was Mr. Carlito Carandang who is the complainant against Atty. Gilbert Obmina. In the interest of justice, Atty. Muaña was given a period of ten (10) days within which to file a verified answer. The Mandatory Conference was set on August 3, 2007 at 3:00 o'clock in the afternoon.

On June 29, 2007, Atty. Muaña filed a Motion for Extension of Time to file Answer.

On July 3, 2007, this Commission is in receipt of the verified Answer filed by respondent Atty. Gilbert S. Obmina.

On August 3, 2007, during the Mandatory Conference, complainant Carlito Carandang appeared. Atty. Muaña appeared in behalf of [her] father. After making some admissions, stipulations and some clarificatory matters, the parties were directed to submit their verified position papers within ten (10) days. Thereafter, the case will be submitted on report and recommendation.

On August 10, 2007, complainant, by himself, filed an Urgent Motion for Extension of Time to File Position Paper. Likewise, respondent, through Atty. Muaña, filed a Motion for Extension of Time to File Position Paper on August 13, 2007.

On September 3, 2007, the Commission on Bar Discipline received copy of the Respondent's Memorandum.

On September 12, 2007, this Commission received copy of complainant's Position Paper.[1]

The IBP's Report and Recommendation

In a Report[2] dated 2 October 2007, IBP Commissioner for Bar Discipline Jose I. De La Rama, Jr. (Commissioner De La Rama) found that Atty. Obmina was still counsel of record for complainant at the time the decision was rendered and up to the time of the issuance of the writ of execution. Atty. Obmina received the Decision dated 28 January 2000 on 1 March 2000. Atty. Carmencita Obmina-Muaña manifested in Court that her father has been living in the United States of America since 2001. There is nothing on record that will show that Atty. Obmina notified complainant in any manner about the decision.

Although Commissioner De La Rama observed that complainant is partly to blame for his loss for failure to maintain contact with Atty. Obmina and to inform himself of the progress of his case, Commissioner De La Rama nonetheless underscored the duty of Atty. Obmina to notify his client as to what happened to his case. Thus:

One cannot escape the fact that the complainant himself failed to communicate with his counsel for quite sometime. There is nothing in the complainant's Sworn Statement that would show that he regularly visited the office of the respondent, Atty. Gilbert S. Obmina. Complainant is partly to blame for his loss and it should not be attributed solely to the respondent.

The Supreme Court held that "clients should maintain contact with their counsel from time to time and inform themselves of the progress of their case, thereby exercising that standard of care which an ordinary prudent man bestows upon his business (Leonardo vs. S.T. Best, Inc., 422 SCRA 347)

However, the respondent who has in his possession the complete files and address of the complainant, should have exerted efforts to even notify Mr. Carandang as to what happened to his case. Whether the decision is adverse [to] or in favor of his client, respondent is duty bound to notify the clients pursuant to Canon 18 of the Code of Professional Ethics which provides that "a lawyer shall serve his client with competence and diligence." Further under Rule 18.03 of Canon 18, "a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable." Lastly, under Rule 18.04, "a lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to client's request for information."

That as a result of the respondent's failure to notify the complainant, the latter lost the case leading to his eviction.

In the case of *Mijares vs. Romana* 425 SCRA 577, the Supreme Court held that "as an officer of the court, it is the duty of an attorney to inform his client of whatever information he may have acquired which it is important that the client should have knowledge of." In another case, the Supreme Court held that "respondent's failure to perfect an appeal within the prescribed period constitutes negligence and malpractice proscribed by the Code of Professional Responsibility" (*Cheng vs. Agravante*, 426 SCRA 42).

WHEREFORE, in view of the foregoing, with head bowed in sadness, it is respectfully recommended that Atty. Gilbert S. Obmina be suspended from the practice of law for a period of one (1) year.

Although the said respondent is reportedly in the United States of America and accordingly retired from the practice of law, this Commission will not close its eyes on the negligence that he has committed while in the active practice.

SO ORDERED.[3] (Emphasis in the original)

In a Resolution[4] dated 19 October 2007, the IBP Board of Governors adopted and approved the Report and Recommendation of Commissioner De La Rama. The Office of the Bar Confidant received the notice of the Resolution and the records of the case on 14 March 2008.

The Ruling of the Court

We sustain the findings of the IBP and adopt its recommendations. Atty. Obmina violated Canon 18, and Rules 18.03 and 18.04 of the Code of Professional Responsibility.

Atty. Obmina Failed to Serve Complainant with Competence and Diligence

Canon 18 states that "[a] lawyer shall serve his client with competence and diligence." Rules 18.03 and 18.04 provide that "[a] lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable" and "[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."

In his Memorandum, Atty. Obmina admitted that he was counsel for Carandang in Civil Case No. B-5109. Atty. Obmina blamed Carandang for the adverse decision in Civil Case No. B-5109 because Carandang did not tell him that there was a Compromise Agreement executed prior to Atty. Obmina's filing of the complaint in Civil Case No. B-5109. Carandang, on the other hand, stated that Atty. Obmina made him believe that they would win the case. In fact, Carandang engaged the services of Atty. Obmina on a contingent basis. Carandang shall pay Atty. Obmina 40% of the sale proceeds of the property subject matter of the case. Atty. Obmina promised to notify Carandang as soon as the decision of the court was given.

Contrary to Atty. Obmina's promise, there is no evidence on record that Atty. Obmina took the initiative to notify Carandang of the trial court's adverse decision. Atty. Obmina again put Carandang at fault for failure to advance the appeal fee. Atty. Obmina's version of Carandang's confrontation with him was limited to this narrative:

Sometime in the year 2000, complainant went to respondent's law office. He was fuming mad and was blaming respondent for having lost his case. He asked for the records of the case because according to him, he will refer the case to a certain Atty. Edgardo Salandanan. Respondent gave complainant the case file. Complainant did not return to pursue the appeal or at least had given an appeal fee to be paid to Court in order to perfect the appeal.[5]

Atty. Obmina's futile efforts of shifting the blame on Carandang only serve to emphasize his failure to notify Carandang that the trial court already promulgated a decision in Civil Case No. B-5109 that was adverse to Carandang's interests. Atty. Obmina cannot overlook the fact that Carandang learned about the promulgation of the decision not through Atty. Obmina himself, but through a chance visit to the trial court. Instead of letting Carandang know of the adverse decision himself, Atty. Obmina should have immediately contacted Carandang, explained the decision to him, and advised them on further steps that could be taken. It is obvious that Carandang lost his right to file an appeal because of Atty. Obmina's inaction. Notwithstanding Atty. Obmina's subsequent withdrawal as Carandang's lawyer, Atty. Obmina was still counsel of record at the time the trial court promulgated the decision in Civil Case No. B-5109.

In *Tolentino v. Mangapit*, we stated that:

As an officer of the court, it is the duty of an attorney to inform her client of whatever information she may have acquired which it is important that the client should have knowledge of. She should notify her client of any adverse decision to enable her client to decide whether to seek an appellate review thereof. Keeping the client informed of the developments of the case will minimize misunderstanding and [loss] of trust and confidence in the attorney.[6]

The relationship of lawyer-client being one of confidence, there is ever present the need for the lawyer to inform timely and adequately the client of important developments affecting the client's case. The lawyer should not leave the client in the dark on how the lawyer is defending the client's interests.[7]

The Court finds well-taken the recommendation of the IBP to suspend Atty. Gilbert S. Obmina from the practice of law for one year. In the cases of *Credito v. Sabio*[8] and *Pineda v. Macapagal*,[9] we imposed the same penalty upon attorneys who failed to update their clients on the status of their cases. Considering Atty. Obmina's advanced age, such penalty serves the purpose of protecting the interest of the public and legal profession.

WHEREFORE, the Court AFFIRMS the resolution of the IBP Board of Governors approving and adopting the report and recommendation of the Investigating Commissioner. Accordingly, Atty. Gilbert S. Obmina is found GUILTY of violation of Canon 18 and of Rules 18.03 and 18.04 of the Code of Professional Responsibility. The Court SUSPENDS Atty. Gilbert S. Obmina from the practice of law for one year, and WARNS him that a repetition of the same or similar offense will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Rollo, pp. 125-129.

[2] Id. at 125-135.

[3] Id. at 133-135.

[4] Id. at 124.

[5] Id. at 49.

[6] 209 Phil. 607, 611 (1983).

[7] *Mejares v. Atty. Romana*, 469 Phil. 619 (2004).

[8] A.C. No. 4920, 19 October 2005, 473 SCRA 301.

[9] A.C. No. 6026, 29 November 2005, 476 SCRA 292.

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.