

SPOUSES VIRGILIO AND ANGELINA ARANDA, PETITIONERS, VS. ATTY. EMMANUEL F. ELAYDA, RESPONDENT.

A.C. No. 7907. December 15, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

The instant case stemmed from an administrative complaint filed by the spouses Virgilio and Angelina Aranda (spouses Aranda) before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline, charging their former counsel, Atty. Emmanuel F. Elayda (Atty. Elayda), with gross negligence or gross misconduct in handling their case. The spouses Aranda were the defendants in Civil Case No. 232-0-01, entitled *Martin V. Guballa v. Spouses Angelina and Virgilio Aranda*, filed before the Regional Trial Court (RTC) of Olongapo City, Branch 72.

In the Complaint dated August 11, 2006,[1] the spouses Aranda alleged that Atty. Elayda's handling of their case was "sorely inadequate, as shown by his failure to follow elementary norms of civil procedure and evidence,"[2] to wit:

4. That on February 14, 2006 hearing of the said case, the case was ordered submitted for decision [the spouses Aranda] and [Atty. Elayda] did not appear; certified copy of the order is attached as Annex "C";
5. That the order setting this case for hearing on February 14, 2006 was sent only to [Atty. Elayda] and no notice was sent to [the spouses Aranda] that is they were unaware of said hearing and [Atty. Elayda] never informed them of the setting;
6. That despite receipt of the order dated February 14, 2006, [Atty. Elayda] never informed them of such order notwithstanding the follow-up they made of their case to him;
7. That [Atty. Elayda] did not lift any single finger to have the order dated February 14, 2006 reconsidered and/or set aside as is normally expected of a counsel devoted to the cause of his client;
8. That in view of the inaction of [Atty. Elayda] the court naturally rendered a judgment dated March 17, 2006 adverse to [the spouses Aranda] which copy thereof was sent only to [Atty. Elayda] and [the spouses Aranda] did not receive any copy thereof, certified xerox copy of the decision is attached as Annex "D";
9. That they were totally unaware of said judgment as [Atty. Elayda] had not again lifted any single finger to inform them of such adverse judgment and that there is a need to take a remedial recourse thereto;
10. That [Atty. Elayda] did not even bother to file a notice of appeal hence the judgment became final and executory hence a writ of execution was issued upon motion of the plaintiff [Martin Guballa] in the said case;
11. That on July 18, 2006 Sheriff IV Leandro R. Madarag implemented the writ of execution and it was only at this time that [the spouses Aranda] became aware of the judgment of the Court, certified xerox copy of the writ of execution is attached as Annex "E";
12. That on July 19, 2006, they wasted no time in verifying the status of their case before Regional Trial Court, Branch 72, Olongapo City and to their utter shock, dismay and disbelief, they found out that they have already

lost their case and worst the decision had already become final and executory;

13. That despite their plea for a reasonable period to take a remedial recourse of the situation (the Sheriff initially gave them fifteen (15) days), Sheriff Madarag forcibly took possession and custody of their Mitsubishi Pajero with Plate No. 529;

14. That they were deprived of their right to present their evidence in the said case and of their right to appeal because of the gross negligence of respondent."[3]

In its Order[4] dated August 15, 2006, the IBP Commission on Bar Discipline directed Atty. Elayda to submit his Answer to the complaint with a warning that failure to do so will result in his default and the case shall be heard ex parte.

Atty. Elayda filed his Answer[5] dated September 1, 2006, in which he narrated:

7. That this case also referred to [Atty. Elayda] sometime December 2004 after the [spouses Aranda] and its former counsel failed to appear in court on February 7, 2005;

8. That from December 2004, the [spouses Aranda] did not bother to contact [Atty. Elayda] to prepare for the case and in fact on May 30, 2005, [Atty. Elayda] had to ask for postponement of the case for reason that he still have to confer with the [spouses Aranda] who were not around;

9. That contrary to the allegations of the [spouses Aranda], there was not a single instance from December 2004 that the [spouses Aranda] called up [Atty. Elayda] to talk to him regarding their case;

10. That the [spouses Aranda] from December 2004 did not even bother to follow up their case in court just if to verify the status of their case and that it was only on July 19, 2006 that they verified the same and also the only time they tried to contact [Atty. Elayda];

11. That the [spouses Aranda] admitted in their Complaint that they only tried to contact [Atty. Elayda] when the writ of execution was being implemented on them;

12. That during the scheduled hearing of the case on February 14, 2006, [Atty. Elayda] was in fact went to RTC, Branch 72, Olongapo City and asked Mrs. Edith Miano to call him in Branch 73 where he had another case if the [spouses Aranda] show up in court so that [Atty. Elayda] can talk to them but obviously the [spouses Aranda] did not appear and Mrs. Miano did not bother to call [Atty. Elayda];

13. That [Atty. Elayda] was not at fault that he was not able to file the necessary pleadings in court because the [spouses Aranda] did not get in touch with him;

14. That [Atty. Elayda] cannot contact the [spouses Aranda] for the latter failed to give their contact number to [Atty. Elayda] nor did the [spouses Aranda] go to his office to leave their contact number;

14. That the [spouses Aranda] were negligent in their "I don't care attitude" towards their case and for this reason that they alone should be blamed for what happened to their case x x x."

At the mandatory conference hearing held on March 14, 2007, all the parties appeared with their respective counsels. The parties were then given a period of 10 days from receipt of the order within which to submit their position papers attaching therewith all documentary exhibits and affidavits of witnesses, if any.

After the submission of the parties' position papers, Investigating Commissioner Jordan M. Pizarra came out with his Decision[6] finding Atty. Elayda guilty of gross negligence, and recommending his suspension from the practice of law for a period of six months, thus:

WHEREFORE, premises considered, respondent Atty. Emmanuel F. Elayda is suspended from the practice of

law for a period of six months, which shall take effect from the date of notice of receipt of the finality of this DECISION. He is sternly WARNED that a repetition of the same or similar acts will merit a more severe penalty.[7]

Thereafter, the IBP Board of Governors passed Resolution No. XVIII-2008-128[8] dated March 6, 2008, adopting and approving Investigating Commissioner Pizarra's report, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and in view of respondent's negligence and unmindful of his sworn duties to his clients, Atty. Emmanuel F. Elayda is hereby SUSPENDED from the practice of law for six (6) months with Warning that a repetition of the same or similar acts will merit a more severe penalty.[9]

Aggrieved, Atty. Elayda filed with this Court a Petition for Review maintaining that he was not negligent in handling the spouses Aranda's case as to warrant suspension, which was too harsh a penalty under the circumstances.

After a careful review of the records of the instant case, this Court finds no cogent reason to deviate from the findings and the conclusion of the IBP Board of Governors that Atty. Elayda was negligent and unmindful of his sworn duties to his clients.

In *Abay v. Montesino*,[10] this Court held:

The legal profession is invested with public trust. Its goal is to render public service and secure justice for those who seek its aid. Thus, the practice of law is considered a privilege, not a right, bestowed by the State on those who show that they possess and continue to possess the legal qualifications required for the conferment of such privilege.

Verily, lawyers are expected to maintain at all times a high standard of legal proficiency and of morality - which includes honesty, integrity and fair dealing. They must perform their four-fold duty to society, the legal profession, the courts and their clients in accordance with the values and norms of the legal profession, as embodied in the Code of Professional Responsibility. Any conduct found wanting in these considerations, whether in their professional or private capacity, shall subject them to disciplinary action. In the present case, the failure of respondent to file the appellant's brief was a clear violation of his professional duty to his client.[11]

The Canons of the Code of Professional Responsibility provide:

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.

x x x x

Rule 18.02 - A lawyer shall not handle any legal matter without adequate preparation.

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.

CANON 19 - A LAWYER SHALL REPRESENT HIS CLIENT WITH ZEAL WITHIN THE BOUNDS OF THE

LAW.

From the foregoing, it is clear that Atty. Elayda is duty bound to uphold and safeguard the interests of his clients. He should be conscientious, competent and diligent in handling his clients' cases. Atty. Elayda should give adequate attention, care, and time to all the cases he is handling. As the spouses Aranda's counsel, Atty. Elayda is expected to monitor the progress of said spouses' case and is obligated to exert all efforts to present every remedy or defense authorized by law to protect the cause espoused by the spouses Aranda.

Regrettably, Atty. Elayda failed in all these. Atty. Elayda even admitted that the spouses Aranda never knew of the scheduled hearings because said spouses never came to him and that he did not know the spouses' whereabouts. While it is true that communication is a shared responsibility between a counsel and his clients, it is the counsel's primary duty to inform his clients of the status of their case and the orders which have been issued by the court. He cannot simply wait for his clients to make an inquiry about the developments in their case. Close coordination between counsel and client is necessary for them to adequately prepare for the case, as well as to effectively monitor the progress of the case. Besides, it is elementary procedure for a lawyer and his clients to exchange contact details at the initial stages in order to have constant communication with each other. Again, Atty. Elayda's excuse that he did not have the spouses Aranda's contact number and that he did not know their address is simply unacceptable.

Furthermore, this Court will not countenance Atty. Elayda's explanation that he cannot be faulted for missing the February 14, 2006 hearing of the spouses Aranda's case. The Court quotes with approval the disquisition of Investigating Commissioner Pizarra:

Moreover, his defense that he cannot be faulted for what had happened during the hearing on February 14, 2006 because he was just at the other branch of the RTC for another case and left a message with the court stenographer to just call him when [the spouses Aranda] come, is lame, to say the least. In the first place, the counsel should not be at another hearing when he knew very well that he has a scheduled hearing for the [spouses Aranda's] case at the same time. His attendance at the hearing should not be made to depend on the whether [the spouses Aranda] will come or not. The Order submitting the decision was given at the instance of the other party's counsel mainly because of his absence there. Again, as alleged by the [the spouses Aranda] and as admitted by [Atty. Elayda] himself, he did not take the necessary remedial measure in order to ask that said Order be set aside.[12]

It is undisputed that Atty. Elayda did not act upon the RTC order submitting the spouses Aranda's case for decision. Thus, a judgment was rendered against the spouses Aranda for a sum of money. Notice of said judgment was received by Atty. Elayda who again did not file any notice of appeal or motion for reconsideration and thus, the judgment became final and executory. Atty. Elayda did not also inform the spouses Aranda of the outcome of the case. The spouses Aranda came to know of the adverse RTC judgment, which by then had already become final and executory, only when a writ of execution was issued and subsequently implemented by the sheriff.

Evidently, Atty. Elayda was remiss in his duties and responsibilities as a member of the legal profession. His conduct shows that he not only failed to exercise due diligence in handling his clients' case but in fact abandoned his clients' cause. He proved himself unworthy of the trust reposed on him by his helpless clients. Moreover, Atty. Elayda owes fealty, not only to his clients, but also to the Court of which he is an officer.[13]

On a final note, it must be stressed that whenever a lawyer accepts a case, it deserves his full attention, diligence, skill and competence, regardless of its importance and whether or not it is for a fee or free.[14] Verily, in *Santiago v. Fojas*,^[15] the Court held:

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.[16]

WHEREFORE, the resolution of the IBP Board of Governors approving and adopting the Decision of the Investigating Commissioner is hereby **AFFIRMED**. Accordingly, respondent **ATTY. EMMANUEL F. ELAYDA** is hereby **SUSPENDED** from the practice of law for a period of **SIX (6) MONTHS**, with a stern warning that a repetition of the same or a similar act will be dealt with more severely.

Let a copy of this Decision be attached to Atty. Elayda's personal record with the Office of the Bar Confidant and be furnished to all chapters of the Integrated Bar of the Philippines and to all the courts in the country for their information and guidance.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 1-5.

[2] Id. at 3.

[3] Id. at 1-3.

[4] Id. at 39.

[5] Id. at 40-43.

[6] Id. at 116-124.

[7] Id. at 124.

[8] Id. at 114-115.

[9] Id. at 114.

[10] 462 Phil. 496 (2003).

[11] Id. at 503-504.

[12] Rollo, p. 122.

[13] *Abiero v. Juanino*, 492 Phil. 149, 158 (2005).

[14] *Jardin v. Villar, Jr.*, 457 Phil. 1, 9 (2003).

[15] Adm. Case No. 4103, September 7, 1995, 248 SCRA 68.

[16] Id. at 73-74.

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