NATIVIDAD UY, COMPLAINANT, VS. ATTY. BRAULIO RG TANSINSIN, RESPONDENT.

A.C. No. 8252. July 21, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

For resolution is a Complaint[1] for Disbarment filed by complainant Natividad Uy against respondent Atty. Braulio RG Tansinsin.

Complainant was the defendant in an ejectment case filed with the Metropolitan Trial Court (MeTC), Branch 49, Caloocan City, entitled "Josefina Orlanda herein represented by her Attorney-in-fact Ma. Divina Gracia Orlanda vs. Natividad Uy and all other persons claiming rights under her.[2]" To defend her rights, complainant engaged the services of respondent who timely filed an Answer[3] to the complaint for ejectment. Required to file a Position Paper, respondent, however, failed to file one for and on behalf of the complainant. Eventually, a decision was rendered by the MeTC against the complainant. Complainant, through respondent, elevated the case to the Regional Trial Court (RTC)[4] by filing a Notice of Appeal.[5] In an Order[6] dated May 25, 2004, the RTC dismissed the appeal solely because of the failure of respondent to file a memorandum on appeal. The motion for reconsideration was likewise denied for having been filed out of time.[7]

Realizing that she lost her case because of the negligence of her counsel, complainant initiated the disbarment case against respondent, before the Integrated Bar of the Philippines (IBP) Committee on Bar Discipline (CBD). Complainant averred that she gave her full trust and confidence to respondent, but the latter failed miserably in his duty as a lawyer and advocate.[8] She also claimed that respondent's failure to file the required position paper and memorandum on appeal constituted gross incompetence and gross negligence, which caused grave injury to complainant.[9] Lastly, complainant alleged that not only did respondent fail to file the required pleadings, he also was remiss in informing her of the status of the case.

For his part, respondent admitted that complainant obtained his legal services, but no legal fee was ever paid to him. Respondent explained that he could not submit an intelligible position paper, because the contract between complainant and her lessor had long expired. He added that he failed to file the position paper and memorandum on appeal, because complainant told him that she would work out the transfer of ownership to her of the land subject matter of the ejectment case. In effect, respondent said that he did not submit the required pleadings, because he knew that the law favored the plaintiff as against the defendant (complainant herein) in the ejectment case.[10]

In his Report and Recommendation, IBP Commissioner Salvador B. Hababag made the following findings:

> Public interest requires that an attorney exert his best effort and ability in the prosecution or defense of his client's cause. A lawyer who performs that 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. This is so 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, or to the public.
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> x x x x
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> WHEREFORE, foregoing considered, it is respectfully recommended that the respondent be suspended from the active practice of law for six (6) months with stern warning that repetition of similar acts/omissions will be dealt [with] severely.[11]

In its Resolution No. XVII-2006-586 dated December 15, 2006, the IBP Board of Governors adopted and approved with modification the report and recommendation of Atty. Hababag, thus:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, 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 considering Respondent's gross negligence and incompetence in handling cases, Atty. Braulio RG Tansinsin is hereby SUSPENDED from the practice of law for three (3) months.[12]

Aggrieved, respondent filed a Motion for Reconsideration,[13] but the same was denied in Resolution No. XVIII-2008-706[14] dated December 11, 2008. The Board further modified its earlier resolution by increasing respondent's penalty of suspension from three (3) months to six (6) months.

We sustain the December 11, 2008 Resolution of the IBP Board of Governors except on the imposition of the six-month suspension.

Verily, respondent's failure to file the required pleadings and to inform his client about the developments in her case fall below the standard exacted upon lawyers on dedication and commitment to their client's cause.[15]

Every case a lawyer accepts deserves his full attention, diligence, skill and competence, regardless of its importance, and whether he accepts it for a fee or for free.[16] A lawyer should serve his client in a conscientious, diligent and efficient manner; and he should provide a quality of service at least equal to that which he, himself, would expect of a competent lawyer in a like situation. By agreeing to be his client's counsel, he represents that he will exercise ordinary diligence or that reasonable degree of care and skill demanded by the character of the business he undertakes to do, to protect the client's interests and take all steps or do all acts necessary therefor; and his client may reasonably expect him to discharge his obligations diligently.[17]

It must be recalled that the MeTC (in the ejectment case) required the parties to submit their respective position papers. However, respondent did not bother to do so, in total disregard of the court order. In addition, respondent failed to file the memorandum on appeal this time with the RTC where complainant's appeal was then pending. Civil Case No. C-20717 was, therefore, dismissed on that ground alone.

The importance of filing a memorandum on appeal cannot be gainsaid. Section 7 (b) of Rule 40 of the Rules of Court states:

> SEC. 7. Procedure in the Regional Trial Court. -
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> x x x x.
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> (b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's Memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.
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> x x x x. [Emphasis supplied.]

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By express mandate of the said Rule, the appellant is duty-bound to submit his memorandum on appeal. Such submission is not a matter of discretion on his part. His failure to comply with this mandate or to perform this duty will compel the RTC to dismiss his appeal.[18]

Respondent's failure to file the required pleadings is per se a violation of Rule 18.03 of the Code of Professional Resposibility[19] which states:

> Rule 18.03-A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Aside from failing to file the required pleadings, respondent also lacked candor in dealing with his client, as he omitted to apprise complainant of the status of her ejectment case.

It bears stressing that the lawyer-client relationship is one of trust and confidence. Thus, there is a need for the client to be adequately and fully informed about the developments in his case. A client should never be left groping in the dark, for to do so would be to destroy the trust, faith, and confidence reposed in the lawyer so retained in particular and in the legal profession in general.[20] Respondent's act demonstrates utter disregard of Rule 18.04, Canon 18, Code of Professional Resposibility, which states:

> 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.

All told, we rule and so hold that on account of respondent's failure to protect the interest of complainant, respondent indeed violated Rules 18.03 and 18.04, Canon 18 of the Code of Professional Responsibility. Respondent is reminded that the practice of law is a special privilege bestowed only upon those who are competent intellectually, academically and morally.

The appropriate sanction is within the sound discretion of this Court. In cases of similar nature, the penalty imposed by the Court consisted of either a reprimand or a fine of five hundred pesos with warning, suspension of three months or six months, and even disbarment in aggravated cases.[21]

Considering the circumstances surrounding the instant case, a three-month suspension from the practice of law is the proper penalty.

WHEREFORE, the resolution of the IBP Board of Governors is hereby AFFIRMED with MODIFICATION. Accordingly, respondent ATTY. BRAULIO RG TANSINSIN is hereby SUSPENDED from the practice of law for a period of THREE (3) MONTHS, with a stern warning that a repetition of the same or similar wrongdoing will be dealt with more severely.

Let a copy of this decision be attached to respondent's personal record with the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines and to all courts of the land.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

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[1] Rollo, pp. 1-5.

[2] Id. 1.

[3] Id. 6-8.

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[4] Branch 131, Caloocan City.

[5] Rollo, p. 9.

[6] Id. at 16-18.

[7] Rollo, Volune II, p. 3.

[8] Rollo, p. 2.

[9] Id. at 3-4.

[10] Rollo, Vol. II p. 4.

[11] Id. at 5-6.

[12] Id. at 1.

[13] Id. at 7-11.

[14] Rollo, Vol. III.

[15] Villaflores v. Limos, A.C. No. 7504, November 23, 2007, 538 SCRA 140, 146.

[16] Id at 148; Endaya v. Atty. Oca, 457 Phil. 314, 326 (2003).

[17] Villaflores v. Limos, supra at 148-149.

[18] Gonzales v. Gonzales, G.R. No. 151376, February 22, 2006, 483 SCRA 57, 67.

[19] See: Canoy v. Ortiz, Adm. Case No. 5485, March 16, 2005, 453 SCRA 410.

[20] Edquibal v. Ferrer, Jr., A.C. No. 5687, February 3, 2005, 450 SCRA 406, 411.

[21] Villaflores v. Limos, supra at 151; Soriano v. Reyes, A.C. No. 4676, May 4, 2006, 489 SCRA 328, 343; Endaya v. Atty. Oca, supra at 329-330 (2003).

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