

ESTRELLA PERALTA-DIASEN, COMPLAINANT, VS. ATTY. OSCAR P. PAGUINTO, RESPONDENT.*A.C. No. 8367 [Formerly CBD Case No. 17-5243]. August 01, 2023*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-8367/>**PER CURIAM:**

Brought before the Court is a Complaint-Affidavit[1] filed by Estrella Peralta-Diasen (complainant), seeking to disbar Atty. Oscar P. Paguinto (Atty. Paguinto) for violation of the Lawyer's Oath and the Code of Professional Responsibility.

The material operative facts follow.

In 2002, complainant engaged the services of Atty. Paguinto in filing and prosecuting cases[2] against a realty and development corporation for selling subdivision lots to her despite having previously sold the budget real estate to other persons. These cases were docketed as Civil Case Nos. TG-2471 and TG-2472 before Branch 18, Regional Trial Court (RTC) of Tagaytay City. As it happened, complainant initially paid Atty. Paguinto P25,000.00 in acceptance fees,[3] and over P81,000.00 in legal fees in a span of next six years, from November 2002 to December 2008.[4]

In April 2008, or about six years after the filing of the cases, complainant inquired with respondent about the progress of the cases. However, respondent gave nothing more than vague assurances, leaving her in the dark as to the exact status of the said cases.[5]

It all came to a head in June 2009, when complainant – fed up with receiving ambiguous updates from Atty. Paguinto – sent a representative directly to the RTC to inquire about the status of the cases. To her consternation, she discovered that Civil Case Nos. TG-2471 and TG-2472 were already dismissed in 2005 and 2007, respectively, for failure to prosecute.[6]

Inevitably, complainant then lodged the instant administrative complaint against Atty. Paguinto, lamenting that he "abandoned and grossly violated the trust and confidence reposed on him." [7] Thereupon, the Court required Atty. Paguinto to file his comment thereon.[8]

Notwithstanding the Court's Resolution[9] dated December 7, 2011 granting respondent's motions for extension to file his comment,[10] he never did so. Thus, the Court, in a Resolution dated June 16, 2014, imposed upon respondent a fine of P1,000.00.[11] While respondent paid the fine,[12] he still did not file his comment or any other responsive pleading. The Court eventually referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[13]

In due course, Investigating Commissioner Gilbert L. Macatangay (Commissioner Macatangay) of the IBP Commission on Bar Discipline (IBP--CBD) rendered a Report and Recommendation[14] finding administrative culpability on the part of respondent, viz.:

In view of the foregoing premises and considering the case of Radial Golden Marine Services Corporation v. Atty. Michael M. Cabugoy, A.C. No. 8869 [Formerly CBD Case No. 17-5382], June 25, 2019, respondent

Atty. Oscar P. Paguinto violated his Lawyer's Oath and the pertinent provisions of the Code of Professional Responsibility and the undersigned Commissioner respectfully recommends that a penalty of SUSPENSION from the practice of law for a period of TWO (2) YEARS, with a STERN WARNING that a repetition of the same or similar conduct in the future will warrant a more severe penalty be imposed.

RESPECTFULLY SUBMITTED.[15]

On July 11, 2020, the IBP Board of Governors issued a Resolution approving and adopting Commissioner Macatangay's Report and Recommendation, with modification as to the penalty in this wise:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, for being fully supported by the evidence on record and the applicable laws and rules, with modification on the recommended penalty, to SUSPENSION from the practice of law for four (4) years of Atty. Oscar P. Paguinto and a FINE of Fifteen Thousand ([PHP] 15,000.00) Pesos for failure to file his Answer, for failure to attend the mandatory conference and for failure to submit position paper.

RESOLVED FURTHER, that the Commission prepare an EXTENDED RESOLUTION explaining the recommendation of the Board of Governors in this case.[16]

After a percipient review of the facts and the applicable law, the Court adopts the findings and recommendation of the IBP Board of Governors, with further modification as to the imposable penalties.

There is no gainsaying that Atty. Paguinto neglected the litigation of the two cases entrusted to him by complainant, which resulted in their dismissal on the ground of failure to prosecute. This is antithetical to the obligation of a lawyer to observe diligence in all professional undertakings and not cause or occasion delay in any legal matter before any court, tribunal, or other agency.[17]

Significantly, Atty. Paguinto failed to apprise complainant of developments in the civil cases when she asked for updates, in utter breach of his bounden duty to regularly inform the client of the status and the result of the matter undertaken, and any action in connection thereto, and to respond within a reasonable time to the client's request for information.[18]

Likewise, he also knowingly received legal fees for the handling of these cases long after they were dismissed, in clear disregard of the trust and confidence reposed in him by his client.[19] Grossly negligent at best and deceitful at worst, respondent's acts were undoubtedly egregious and warrant disciplinary action.

From the foregoing, it is beyond cavil that Atty. Paguinto committed gross and inexcusable negligence in the performance of his duty which eventuated in his client being deprived of her day in court, within the realm of a serious offense under Section 33(d), Canon VI of the Code of Professional Responsibility and Accountability (CPRA) punishable by disbarment pursuant to Sec. 37(a) thereof.[20]

At this juncture, the Court notes with disdain that the instant case is the latest in a long line of infractions which Atty. Paguinto had committed, all of which involve not just negligence, but also some form of deception. In 2004, the Court suspended Atty. Paguinto from the practice of law for a period of six months for receiving an acceptance fee from a client for the filing of a case and subsequently misleading the client into believing that he filed the case for her when he did not.[21] In 2010, Atty. Paguinto was once more suspended – this time for a period of two years – for conspiring to violate the provisions of the Cooperative Code of the Philippines; filing baseless criminal complaints; failing to file a comment on the complaint against him despite having obtained an extension of time to file the same; and ignoring the show cause order issued by the Court.[22]

Notably, in Atty. Vaflor-Fabroa v. Atty. Paguinto,[23] the Court lamented that Atty. Paguinto had not reformed

his ways despite having been already suspended once. It is direly unfortunate, however, that reformation still seems to elude respondent.

Given the foregoing disquisitions, Atty. Paguinto's prior infractions must be treated as an aggravating circumstance pursuant to Section 38(b) of the CPRA. To stress, Atty. Paguinto repeatedly misled his clients and disobeyed legal orders, all without an iota of remorse. He had already been charged, tried, and punished twice for his inept actions, yet he is facing another administrative charge for the same machination. To the Court's mind, Atty. Paguinto is no longer deserving of the privilege of being a member of the Bar. Owing to the gravity of Atty. Paguinto's previous administrative liabilities, the penalty of disbarment is perforce warranted.[24]

Anent Atty. Paguinto's utter failure to follow the Court's directive to file his comment or responsive pleading on the complaint against him, such act invariably constitutes a willful and deliberate disobedience of the Court's order – a less serious offense under Sec. 34, Canon VI of the CPRA. For this separate act, the Court may impose a separate penalty upon Atty. Paguinto.[25] Appropriately, a fine of P100,000.00 is in order.[26]

As a final cadence, the Court reiterates its ruling in *Mapalad v. Atty. Echanez*,[27] viz.:

It cannot be stressed enough that lawyers are instruments in the administration of justice. As vanguards of our legal system, they are expected to maintain legal proficiency and a high standard of honesty, integrity, and fair dealing. Also, of all classes and professions, the lawyer is most sacredly bound to uphold the laws. He or she is their sworn servant; and for them, of all persons in the world, to repudiate and override the laws, to trample them underfoot and ignore the very bonds of society, is unfaithful to his or her position and office and sets a detrimental example to the society.

WHEREFORE, the Court finds Atty. Oscar P. Paguinto GUILTY of gross negligence in the performance of duty and willful and deliberate disobedience of the order of the Court under Sections 33(d) and 34(c), respectively, of the Code of Professional Responsibility and Accountability.

Accordingly, Atty. Oscar P. Paguinto is DISBARRED from the practice of law, and his name is ORDERED STRICKEN FROM THE ROLL OF ATTORNEYS, effective immediately. Likewise, Atty. Oscar P. Paguinto is DIRECTED to PAY a fine of One Hundred Thousand Pesos (P100,000.00).

Let a copy of this Decision be entered in the record of Atty. Oscar P. Paguinto as a member of the Bar; and let notice of the same be served on the Integrated Bar of the Philippines, and on the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Gesmundo, C.J., Leonen, S.J., Caguioa, Hernando, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.
Lazaro-Javier,[*] J., on official business.

[*] On official business.

[1] Rollo, pp. 1-5. Complaint-Affidavit filed by complainant against Atty. Paguinto before the Office of the Bar Confidant.

[2] Id. at 15-18. Complaint filed by complainant against Nueva Villa Realty & Development Corporation before the Regional Trial Court of Tagaytay City.

[3] Id. at 13. Acknowledgment Receipt signed by Atty. Paguinto.

[4] Id. at 2-3.

[5] Id. at 3.

[6] Id. at 3-4, and 36-37. Excerpts of Court Logbook for Case Nos. TG-2471 and TG-2472.

[7] Id. at 4.

[8] Id. at 40.

[9] Id. at 75.

[10] Id. at 55-57, and 71-72.

[11] Id. at 78. Notice of Resolution of the Second Division dated June 16, 2014.

[12] Id. at 81. Official Receipt issued to Atty. Paguinto.

[13] Id. at 92. Notice of Resolution of the Second Division dated November 23, 2016.

[14] Id. at 159-165, see Report and Recommendation by the IBP-CBD.

[15] Id. at 165.

[16] Id. at 157-158. Notice of Resolution of the IBP Board of Governors dated July 11, 2020.

[17] Code of Professional Responsibility and Accountability (CPRA), Canon IV, Sec. 4; A.M. No. 22-09-01-SC affirmed on April 11, 2023.

[18] CPRA, Canon IV, Sec. 6.

[19] CPRA, Canon III. Sec. 6, provides:

SECTION 6. Fiduciary duty of a lawyer. – A lawyer shall be mindful of the trust and confidence reposed by the client.

To this end, a lawyer shall not abuse or exploit the relationship with a client."

[20] CPRA, General Provisions, Sec. 3, states:

SECTION 3. Effectivity clause. – The CPRA shall take effect fifteen (15) calendar days after its publication in the Official Gazette or any newspaper of general circulation.

The CPRA was published in the Manila Bulletin and the Philippine Star on May 14, 2023. Likewise, CPRA, General Provisions, Sec. 1, states:

SECTION 1. Transitory provision. – The CPRA shall be applied to all pending and future cases, except to the extent that in the opinion of the Supreme Court, its retroactive application would not be feasible or would work injustice, in which case, the procedure under which the cases were filed shall govern.

[21] See *Pariñas v. Atty. Paguinto*, 478 Phil. 239, 247 (2004) [Per J. Carpio, Second Division].

[22] See *Atty. Vaflor-Fabroa v. Atty. Paguinto*, 629 Phil. 230, 236 (2010).

[23] Id. at 237.

[24] CPRA Canon VI, Sec. 39, finds:

SECTION 39. Manner of imposition. – If one (1) or more aggravating circumstances and no mitigating

circumstances are present, the Supreme Court may impose the penalties or suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances. (Emphasis supplied).

[25] See CPRA, Canon VI, Section 40.

[26] See CPRA, Canon VI, Section 37(b)(2).

[27] See *Mapalad, Sr. v. Atty. Echanez*, 810 Phil. 355, 363-364 (2017).

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