

AURORA M. GUIANG, PETITIONER, VS. ATTY. LEONARDO B. ANTONIO, RESPONDENT.

Adm. Case No. 2473. February 03, 1993

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PER CURIAM:

This is a petition for suspension and disbarment from the practice of law on the ground of negligence and malpractice of Atty. Leonardo B. Antonio who was admitted to the bar on March 12, 1971.

Sometime in May 1981, petitioner retained the services of Atty. Antonio as her counsel in connection with civil case docketed as CA-G.R. No. 62250, "Heirs of Rita Reyes vs. Brigido Valencia", then on appeal with the Court of Appeals. The Court of Appeals had rendered a decision on February 27, 1981 adverse to plaintiffs, one of whom was the petitioner. The Court of Appeals granted Atty. Antonio's motion for extension to file a Motion for Reconsideration on April 22, 1981 and giving petitioner up to May 27, 1981 to file the motion. On May 26, 1981, Atty. Antonio filed another motion for extension which was granted. On June 26, 1981, respondent filed the Motion for Reconsideration which the Court of Appeals denied on July 27, 1981. Respondent failed to file the appeal within the 15-day period from receipt of the denial by the Court of Appeals. The adverse decision of the Court of Appeals became final; hence, this petition for disbarment.

The case was referred to the Bar Confidant as Adm. Case No. 2473 for evaluation, report and recommendation. In his comments to the petition for disbarment, respondent claimed that the appeal was not perfected within the 15-day period because:

- (1) Petitioner failed to furnish and deliver to him all the necessary documents;
- (2) Petitioner was nowhere to be found when she was needed and she could not be contacted;
- (3) Respondent had to send petitioner to Davao City to get some documents, and by the time she returned, the period for appeal had expired.

A careful scrutiny of the records discloses the following:

- (1) Respondent claims that the records of the case were incomplete yet the complete records were turned over to respondent by the CLAO counsel when his services were retained by petitioner;
- (2) Respondent asked for extension of time to file a motion for reconsideration because the records were voluminous;
- (3) Respondent blames petitioner for not returning on time from Davao City yet in his Answer to the letter-complaint of petitioner, Guiang (petitioner) was in her house a week or so before the lapse of the period for appeal. He could have informed petitioner that the period for filing the appeal was soon to lapse or he could have adopted steps to prevent default.
- (4) In his entry of appearance before the Court of Appeals, he complained that important documents were still with the CLAO lawyer in Manila, which was not true because the CLAO lawyer turned over the complete records to him.

If it were true that the records furnished by the CLAO counsel were incomplete, respondent should have requested for the copies of the missing records from the Court of Appeals, where the originals were kept.

We take note of the fact that the intended appeal to the Supreme Court could only raise questions of law, and petitioner may not raise questions of fact nor present new or additional facts which are evidentiary in nature.

The Bar Confidant found the respondent guilty of negligence and malpractice for violating Rule 18.03, Canon 18 of the Code of Professional Responsibility which provides:

"A lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable."

Added to this offense are the highly improper statements in respondent's pleadings describing his client's case as "hopeless or beyond legal remedy" after neglecting to file the appeal on time.

No formal, trial-like, hearing was conducted by the Bar Confidant wherein Atty. Leonardo B. Antonio could have been given an opportunity orally to explain his side. However, written comments on the administrative complaint clearly present to the Court his reasons for his omission in attending to his client's cause. All the material facts are on record, thus this case can be decided without need for a trial-type hearing.

We find the recommendation of the Bar Confidant holding the respondent guilty of negligence and malpractice, in violation of the code of Professional Responsibility, to be well-taken.

Accordingly, the Court RESOLVED to suspend respondent from the practice of law for six (6) months effective upon receipt of this decision. Let this Resolution be spread on the personal record of respondent Atty. Leonardo B. Antonio in the Office of the Bar Confidant and copies thereof furnished to all courts of the land.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, Nocon, and Campos, Jr., JJ., concur.

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