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In view of all the foregoing, the assailed Resolution of the respondent ombudsman dated October 22, 1996 dismissing petitioner from the service, as well as the Order of preventive suspension dated May 31, 1996, are REVERSED and SET ASIDE and petitioner is EXONERATED from the administrative charges against him in CASE NO. OMB-MIN-ADM-96-060.

SO ORDERED.

Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and *Purisima, JJ.*, concur.

FIRST DIVISION

[Adm. Case No. 3455. April 14, 1998]

ARSENIO A. VILLAFUERTE, *complainant, vs.* **ATTY. DANTE H. CORTEZ,** *respondent.*

SYNOPSIS

Sometime in January 1987, complainant went to the office of respondent lawyer to discuss his case for "reconveyance." During their initial meeting, complainant tried to reconstruct before respondent the incidents of the case merely from memory prompting the latter to ask complainant to instead return at another time with the records of the case. Complainant returned but still without the records. He requested respondent to accept the case, paying to the latter ₱1,750.00 representing the acceptance fee of ₱1,500.00 and ₱250.00 retainer fee from January 1987.

Complainant never showed up thereafter until November 1989 when he went to the office of respondent but only to leave a copy of a writ of execution in a case for ejectment, which, according to respondent, was never mentioned to him by complainant.

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In its report, the Commission on Discipline of the IBP concluded that the facts established would indicate sufficiently a case of neglect of duty on the part of respondent. It recommended to the IBP Board of Governors the suspension of respondent from the practice of law for three months.

The Court ruled that respondent has been remiss in his responsibilities. A lawyer-client relationship has arisen between respondent and complainant. His acceptance of the payment effectively bars him from altogether disclaiming the existence of an attorney-client relationship between them. It would seem that respondent hardly has exerted any effort to find out what might have happened to his client's cases.

Respondent is hereby suspended from the practice of law for a period of one month from notice hereof, with a warning that a repetition of similar acts will be dealt with more severely.

SYLLABUS

1. LEGAL ETHICS; LAWYER-CLIENT RELATIONSHIP; GIVEN THE CIRCUMSTANCES, A LAWYER-CLIENT RELATIONSHIP HAS ARISEN BETWEEN RESPONDENT AND COMPLAINANT; REASON. — The Court is convinced that a lawyer-client relationship, given the circumstances, has arisen between respondent and complainant. Respondent lawyer has admitted having received the amount of ₱1,750.00, including its nature and purpose, from complainant. His acceptance of the payment effectively bars him from altogether disclaiming the existence of an attorney-client relationship between them. It would not matter really whether the money has been intended to pertain only to Civil Case No. 83-18877 or to include Civil Case No. 062160-CV, there being no showing, in any event, that respondent lawyer has attended to either of said cases. It would seem that he hardly has exerted any effort to find out what might have happened to his client's cases. A lawyer's fidelity to the cause of his client requires him to be ever mindful of the responsibilities that should be expected of him. He is mandated to exert his best efforts to protect, within the bounds of the law, the interests of his client. The Code of Professional Responsibility cannot be any clearer in its dictum than when it has stated that a "lawyer

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shall serve his client with competence and diligence," decreeing further that he "shall not neglect a legal matter entrusted to him."

2. ID.; SUSPENSION; AS PENALTY FOR NEGLECTING A LEGAL MATTER ENTRUSTED TO HIM. — All considered, the Court deems it proper to reduce the recommended period of suspension of the IBP from three months to one month. Atty. Dante H. Cortez is hereby suspended from the practice of law for a period of one month from notice hereof, with a warning that a repetition of similar acts and other administrative lapses will be dealt with more severely than presently.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioner.
Atty. Elias I. de los Reyes for respondent.

R E S O L U T I O N

VITUG, *J.*:

Feeling aggrieved by what he perceives to be a neglect in the handling of his cases by respondent lawyer, despite the latter's receipt of ₱1,750.00 acceptance and retainer fees, complainant Arsenio A. Villafuerte seeks, in the instant proceedings, the disbarment of Atty. Dante H. Cortez.

From the records of the case and the Report submitted by the Commission on Bar Discipline ("CBD") of the Integrated Bar of the Philippines ("IBP"), it would appear that sometime in January 1987, complainant, upon the referral of Atty. Rene A. V. Saguisag, went to the office of respondent lawyer to discuss his case for "reconveyance" (Civil Case No. 83-18877). During their initial meeting, complainant tried to reconstruct before respondent lawyer the incidents of the case merely from memory prompting the latter to ask complainant to instead return at another time with the records of the case. On 30 January 1987, complainant again saw respondent but still *sans* the records. Complainant requested respondent to accept the case, paying

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to the latter the sum of ₱1,750.00 representing the acceptance fee of ₱1,500.00 and ₱250.00 retainer fee for January 1987. Respondent averred that he accepted the money with much reluctance and only upon the condition that complainant would get the records of the case from, as well as secure the withdrawal of appearance of, Atty. Jose Dizon, the former counsel of complainant. Allegedly, complainant never showed up thereafter until November 1989 when he went to the office of respondent lawyer but only to leave a copy of a writ of execution in Civil Case No. 062160-CV, a case for ejectment, which, according to respondent, was never priorly mentioned to him by complainant. Indeed, said respondent, he had never entered his appearance in the aforenumbered case.

In its report, IBP-CBD concluded that the facts established would just the same indicate sufficiently a case of neglect of duty on the part of respondent. The CBD rejected the excuse proffered by respondent that the non-receipt of the records of the case justified his failure to represent complainant. The IBP-CBD, through Commissioner Julio C. Elamparo, recommended to the IBP Board of Governors the suspension of respondent from the practice of law for three months with a warning that a repetition of similar acts could be dealt with more severely than a mere 3-month suspension.

On 30 August 1996, the IBP Board of Governors passed Resolution No. XII-96-191 which —

"RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, hereinmade part of this Resolution/Decision as Annex 'A'; and, finding the recommendation therein to be fully supported by the evidence on record and the applicable laws and rules. Respondent Atty. Dante Cortez is hereby SUSPENDED from the practice of law for three (3) months with a warning that a repetition of the acts/omission complained of will be dealt with more severely."[1]

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[1] *Rollo*, p. 25.

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Both respondent lawyer and complainant filed with the IBP-CBD their respective motions for the reconsideration of the foregoing resolution.

On 23 August 1997, the Board of Governors passed Resolution No. XII-97-66 that —

"RESOLVED to CONFIRM Resolution NO. XII-96-191 of the Board of Governors Meeting dated August 30, 1996 SUSPENDING Atty. Dante Cortez from the practice of law for three (3) months with a warning that repetition of the acts/omission complained of will be dealt with more severely."[2]

The Court agrees with the IBP-CBD in its findings and conclusion that respondent lawyer has somehow been remiss in his responsibilities.

The Court is convinced that a lawyer-client relationship, given the circumstances, has arisen between respondent and complainant. Respondent lawyer has admitted having received the amount of ₱1,750.00, including its nature and purpose, from complainant. His acceptance of the payment effectively bars him from altogether disclaiming the existence of an attorney-client relationship between them. It would not matter really whether the money has been intended to pertain only to Civil Case No. 83-18877 or to include Civil Case No. 062160-CV, there being no showing, in any event, that respondent lawyer has attended to either of said cases. It would seem that he hardly has exerted any effort to find out what might have happened to his client's cases. A lawyer's fidelity to the cause of his client requires him to be ever mindful of the responsibilities that should be expected of him.[3] He is mandated to exert his best efforts to protect, within the bounds of the law, the interests of his client. The Code of Professional Responsibility cannot be any clearer in its dictum than when it has stated that a "lawyer shall serve his client with competence and diligence,"[4]

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[2] *Ibid.*, p. 27.

[3] Canon 17, Code of Professional Responsibility.

[4] Canon 18.

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decreeing further that he "shall not neglect a legal matter entrusted to him."[5]

Complainant, nevertheless, is not entirely without fault himself. He cannot expect his case to be properly and intelligently handled without listening to his own counsel and extending full cooperation to him. It is not right for complainant to wait for almost two years and to deal with his lawyer only after receiving an adverse decision.

All considered, the Court deems it proper to reduce the recommended period of suspension of the IBP from three months to one month.

WHEREFORE, Atty. Dante H. Cortez is hereby SUSPENDED from the practice of law for a period of one month from notice hereof, with a warning that a repetition of similar acts and other administrative lapses will be dealt with more severely than presently.

Let a copy of this Resolution be made a part of the personal records of respondent lawyer in the Office of the Bar Confidant, Supreme Court of the Philippines, and let copies thereof be furnished to the Integrated Bar of the Philippines and be circulated to all courts.

SO ORDERED.

Davide, Jr., Bellosillo, Panganiban, and *Quisumbing, JJ.,* concur.

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[5] Canon 18-04.