Supreme Court E-Library

SECOND DIVISION

[A.C. No. 5174. February 28, 2002]

ERNESTO M. RAMOS, *complainant, vs.* **ATTY. MARIANO A. DAJOYAG, JR.,** *respondent.*

SYNOPSIS

Ernesto M. Ramos filed a complaint against Atty. Mariano A. Dajoyag, Jr. for negligence and malpractice for failure to perfect their appeal before the Supreme Court. Respondent, on the other hand, pled good faith and excusable neglect of duty. He stressed the fact that he filed the petition for *certiorari* within the 20-day period of extension that he sought in his second motion for extension and claimed that he learned that the period of extension granted in his first motion for extension was inextendible only after the expiration of the two periods of extension that he prayed for.

The Court ruled that motions for extension are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extension or postponement will be granted or that they will be granted the length of time they prayed for. Further, regardless of the agreement respondent had with complainant with respect to the payment of his fees, respondent owed it to complainant to do his utmost to ensure that every remedy allowed by law is availed of. Rule 14.04 of the Code of Professional Responsibility enjoins every lawyer to devote his full attention, diligence, skills, and competence to every case that he accepts. Pressure and large volume of legal work do not excuse respondent for filing the petition for *certiorari* out of time. Nevertheless, the Court found that respondent exerted efforts to protect the rights and interests of complainant, including trying to secure a reconsideration of the denial of the petition. Thus, Atty. Mariano A. Dajoyag, Jr. was reprimanded.

SYLLABUS

1. LEGAL AND JUDICIAL ETHICS; ATTORNEYS; SHOULD NEVER PRESUME THAT THEIR MOTIONS FOR EXTENSION OR

Supreme Court E-Library

POSTPONEMENT WILL BE GRANTED. – [M]otions for extension are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extension or postponement will be granted or that they will be granted the length of time they pray for. Due diligence requires that they should conduct a timely inquiry with the division clerks of court of the action on their motions and the lack of notice thereof will not make them any less accountable for their omission.

2. **ID.; ID.; LAWYER-CLIENT RELATIONSHIP; *FERNANDEZ v. TAN TIONG TICK*, (1 SCRA 1138) NOT APPLICABLE IN CASE AT BAR.** – Respondent cites the ruling in *Fernandez v. Tan Tiong Tick,* in support of his claim that his negligence is excusable. Such reliance is misplaced. In *Fernandez v. Tan Tiong Tick,* the appellant cited in support of his petition for the reopening of his case the failure of his former counsel to inform him of the status of his case. He argued that his own failure to inquire from his former counsel the status of his case was excusable. This Court rejected the contention: "Negligence is excusable where it is caused by failure to receive notice of the action or the trial, by a genuine and excusable mistake or miscalculation, by reliance upon assurances given by those upon whom the party had a right to depend, as the adverse party or counsel retained in the case, or a competent adviser, that it would not be necessary for him to take an active part in the case, or that the suit would not be prosecuted, by relying on another person to attend to the case for him, when such other person promised to do so, or was chargeable with that duty or by a well-founded belief that the case would not be reached for trial as it was in fact reached, or by other circumstances not involving fault of the moving party. . . ." The Court pointed out that appellant's counsel was duly notified of the proceedings in the case, and appellant was bound by his counsel's conduct and handling of his case.

3. **ID.; ID.; ID.; EVERY PARTY MUST BE BOUND BY HIS COUNSEL'S DECISION REGARDING THE CONDUCT OF THE CASE.** – Complainant prays that we admit and consider the merits of the petition for *certiorari* filed by respondent, or that he be allowed to file anew a separate petition for *certiorari.* We understand the plight of the complainant, but we cannot

Supreme Court E-Library

grant his plea. This is an administrative case, separate from G.R. No. 125244 in which the dismissal of the petition for *certiorari* was made. The resolution of the Court in that case operated as a judgment on the merits and is now final. Indeed, public policy and sound practice demand that, at the risk of occasional errors, the judgments of courts should become final at some definite date fixed by law, and that every party be bound by his counsel's decision regarding the conduct of the case, including his mistakes, save only when the negligence of counsel is so gross, reckless, and inexcusable as to amount to a deprivation of the client's day in court. This is not the situation in this case.

4. ID.; ADMINISTRATIVE CHARGES AGAINST LAWYERS; SIMPLE NEGLECT OF DUTY; COMMITTED BY A LAWYER WHO FAILED TO FILE PETITION FOR *CERTIORARI* ON TIME; CASE AT BAR. – [R]espondent was ill-informed about the disposition of his first motion for extension not by reason of genuine and excusable mistake or miscalculation but by his sheer negligence. It is noteworthy that the motions for extension, and even the petition for *certiorari*, were all filed at the last moment. Respondent had 120 days within which he could have filed the petition for *certiorari*. However, because of his cavalier attitude toward deadlines for the filing of pleadings, including the one set by himself in his first motion for extension, respondent lost the opportunity for filing the petition for review. Nevertheless, having said this, it ought to be remembered, on the other hand, that respondent exerted efforts to protect the rights and interests of complainant, including trying to secure a reconsideration of the denial of his petition for *certiorari* in this Court. For this reason, we are inclined to adopt the investigating commissioner's recommendation that respondent be merely reprimanded for his simple neglect of duty.

5. ID.; ID.; ID.; ID.; ID.; PRESSURE AND LARGE VOLUME OF LEGAL WORK ARE NOT EXCUSES. – Rule 12.03 of the Code of Professional Responsibility provides: "A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda of briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so." Regardless of the agreement he had with complainant with respect to the payment of his fees, respondent owed it to complainant to do

Supreme Court E-Library

his utmost to ensure that every remedy allowed by law is availed of. Rule 14.04 of the Code of Professional Responsibility enjoins every lawyer to devote his full attention, diligence, skills, and competence to every case that he accepts. Pressure and large volume of legal work do not excuse respondent for filing the petition for *certiorari* out of time.

6. ID.; ID.; ID.; IMPOSABLE PENALTY. – Atty. Mariano A. Dajoyag, Jr. is REPRIMANDED. He is admonished henceforth to exercise greater care and diligence in the performance of his duties towards his clients and the courts and warned that repetition of the same or similar offense will be more severely dealt with.

D E C I S I O N

MENDOZA, *J.*:

This is a complaint filed by Ernesto M. Ramos against Atty. Mariano A. Dajoyag, Jr. for negligence in failing to appeal a ruling of the National Labor Relations Commission,[1] which affirmed the dismissal by the Labor Arbiter of a complaint for illegal dismissal filed by complainant against DCCD Engineering Corporation. In a letter addressed to the Chief Justice, dated November 15, 1999, complainant stated:

As a result of the dismissal by the NLRC of my complaint, I have been physically and emotionally affected. Considering my status in the community of the respondents and where I live as a Civil Engineer, now 73 1/2 years of age, the illegal termination of my employment continuously caused me sleepless nights, mental anguish and torture, social humiliation and besmirch[ed] reputation. These have been compounded by the failure of my lawyer, Atty. MARIANO A. DAJOYAG, Jr. to file on time the petition for certiorari, which [the] Honorable Supreme Court dismissed with finality x x x To lessen the impact of my sufferings and mental torture, which I could no longer bear for nearly six years since I received the notice of termination

---

[1] Through Commissioners Victoriano R. Calaycay (*ponente*), Commissioners Raul T. Aquino, and Rogelio I. Rayala.

Supreme Court E-Library

of my services in December 1993, I finally decided to report my lawyer's failure to perfect an appeal within the prescribed period which constitutes negligence and malpractice . . .

This fact arose out of case G.R. 125244 (Ernesto Ramos vs. National Labor Relations Commission, DCCD Engineering Corp., *et al.*) Our motion for last extension of time within which to file [a] petition for review on *certiorari* [was] DENIED, "petitioner having been previously warned in the resolution of July 24, 1996 that no further extension will be given" per resolution of the First Division of [the] Honorable Court dated August 26, 1996. Our petition for *certiorari* filed on August 14, 1996 was dismissed per resolution of the First Division of [the] Honorable Court dated December 2, 1996 for having [been] filed out of time. Our motion for reconsideration [of] the resolution [dated] December 2, 1996, which dismissed the petition for *certiorari*, was likewise denied with finality per resolution dated February 19, 1997 of the First Division of [the] Honorable Court. Machine [copies] of the above-mentioned resolutions [are] attached hereto.

Because it was not my fault or shortcoming but that of my lawyer, Atty. Mariano A. Dajoyag, Jr., for his failure [in] his devotion to his client, warmth and zeal in the defense of his client's rights, it is requested that said erring lawyer be duly sanctioned and my petition for *certiorari* be reconsidered and accepted. Or through another counsel, I be allowed to file another petition for *certiorari* with [an] important addendum, which my said former lawyer failed to mention due to time constraint in filing [the] petition for *certiorari*.[2]

Respondent denied the allegations against him. Commenting on the complaint, he said:

1. The records will show that complainant filed a complaint against DCCD Engineering Corp. on May 1994 before the National Labor Relations Commission docketed under NLRC-NCR Case No. 00-05-03667-94 for illegal lay-off, illegal deduction, overtime pay, service incentive leave pay, and related claims;

2. Complainant approached me being a "kababayan" from our hometown of Calaca, Batangas. He said that he was a friend

---

[2] *Rollo*, pp. 1-2.

Supreme Court E-Library

of my late father, Atty. Mariano Dajoyag, Sr., and knew also my mother, Atty. Aurora Ampil Dajoyag, who is still living but in her middle eighties. After appealing to our common regional origin, complainant urged me to accept his case;

3. Being a *kabayan*, I was hesitant to secure a contract for legal services and that as it usually goes with such situation, it was "*bahala na lang pag natapos ang kaso*,";

. . . . . .

5. That before the Labor Arbiter, I filed the following:

   a) Amended Complaint to implead proper parties and to include changes in the causes of action for a more plausible plea;

   b) Position Paper consisting of 15 pages with annexes consisting of 11 pages;

   c) Reply to Respondent's Position Paper consisting of 16 pages and annexes consisting of 24 pages;

   d) Memorandum for Complainant consisting of 22 pages and annexes consisting of 4 pages;

6. That after the case was submitted for resolution, the Honorable Labor Arbiter dismissed the complaint in a decision dated April 3, 1995. Said decision in a nutshell concluded that: Complainant was a managerial employee with a field assignment for which he was not entitled to overtime pay and service incentive leave pursuant to the Labor Code, and that complainant's term of employment was [for] a fixed duration which already expired . . . .

   To this decision, I prepared a Memorandum of Appeal in behalf of Complainant consisting of 18 pages which I also filed within the reglementary period at my own expense except the appeal fee and legal research fee which complainant had to pay being the party-litigant;

7. After the filing of this Memorandum of Appeal, and the respondent Company had filed its opposition, the NLRC ruled to affirm the Labor Arbiter's decision. The NLRC found that complainant was engaged as a consultant for a fixed period of time for which the termination of employment depended

Supreme Court E-Library

upon the termination of the agreement; and that complainant had also waived his right to file the complaint because he had executed a waiver and release wherein he expressly declared that his separation was legally valid. And there was no evidence that complainant was forced to sign this release which was held to be valid.

8. That in the face of this adverse ruling, I still filed a Motion for Reconsideration which was duly verified by complainant. This Motion for Reconsideration was thereafter denied in a Resolution, to wit:

"After due consideration of the Motion for Reconsideration filed by the complainant on February 9, 1996, from the Decision of January 22, 1996 of the Commission (Second Division) [the Court] RESOLVED to deny the same for lack of merit."

9. That despite another adverse ruling and even as I have to attend to daily hearings of my other cases or attend to other paper work, I still prepare[d] a Petition for *Certiorari* with the Supreme Court.

10. Thus on June 25th, 1996, I filed a Motion for Extension of time to file a Petition for Certiorari asking for 30 days which was up to July 25, 1996. Note: This Motion for Extension was granted through a Resolution of this Honorable Court dated July 24th 1996 - but which I only received on August 28, 1996. However, as July 25th 1996 was fast approaching, and I was still saddled with heavy workload aside from the fact that I needed numerous xerox copies of documents as well as [c]ertified [t]rue [c]opies also of certain crucial documents which had to be secured from the NLRC, I was really constrained to ask for a second extension of time *FOR ONLY 20 DAYS OR UP TO AUGUST 14th, 1996* to file the aforesaid Petition;

. . . . . .

12. That to my utter surprise and sadness, the Resolution of the Honorable Court granting my first Motion for Extension from June 25th to July 25th contained a warning that it should be the last but which I ONLY received on August 28th after I have already filed the second Motion for Extension for only 20 days and also the basic Petition for *Certiorari*.

Supreme Court E-Library

To summarize:

A) Motion for First Extension 30 days from June 25th, 1996 to July 25th – filed on June 25th;

B) Motion for Second Extension for 20 days or from July 25, 1996 to August 14th – filed July 25th;

C) Resolution dated July 24th granting First Motion for Extension from June 25th to July 25th with warning that no further extension shall be given-received ONLY on August 28th;

D) Petition for *Certiorari* filed on August 14th – exactly within the period of the request [for] second extension had this second extension for only 20 days been granted.

13. That as mentioned above, the July 24th, 1996 Resolution reads as follows:

"G.R. No. 124244 (*Ernesto Ramos vs. National Labor Relations Commission, DCCD Engineering Corp., et al.*). The motion of petitioner for extension of thirty (30) days from June 25, 1996 within which to file petition for certiorari is GRANTED WITH WARNING THAT THE SAME SHALL BE THE LAST AND THAT NO FURTHER EXTENSION will be given."

14. That on August 26th 1996, a resolution was promulgated by the Honorable Court which was received by respondent counsel on October 5, 1996, to wit:

"G.R. No. 124244 (*Ernesto Ramos vs. National Labor Relations Commission, DCCD Engineering Corp., et al.*,). The motion of petitioner for a second extension of twenty (20) days from July 25, 1996 within which to file petition for review on *certiorari* is DENIED, petitioner having been previously warned in the resolution of July 25, 1996 that no further extension will be given."

15. That to this denial I filed a Motion for Reconsideration on October 18, 1996 of this August 26th 1996 denial order.

16. That prior to the filing of the Motion for Reconsideration of the denial of the second Motion for Extension of Time to file petition, the Honorable Court issued a Resolution dated

Supreme Court E-Library

October 9, 1996 directing respondents to file Comment – which was received on Nov. 5, 1996;

17. That pursuant to this Resolution, private respondent filed its Comment and the Solicitor General requested for extension of time to file his Comment. But after the Comment of private respondent, the Honorable Court issued a Resolution dated December 2, 1996, to wit:

"G.R. No. 124244 (*Ernesto Ramos v. National Labor Relations Commission, DCCD Engineering Corp., et al.*). – Considering the private respondent's Comment/Opposition to the petition for *certiorari*, the Court Resolved to DISMISS the petition for having been filed out of time.

The motion of the Solicitor General for an extension of thirty (30) days from November 8, 1996 within which to file Comment on the petition for *Certiorari* is further NOTED in view of the dismissal of the petition."

18. That from the said Resolution dated December 2, 1996, the undersigned respondent counsel in behalf of complainant still filed a Motion for Reconsideration pleading for the reinstatement of the Petition[.] But inspite of my earnest and sincere efforts, the Honorable Court denied the Motion for Reconsideration with finality;

19. That complainant was properly informed of this adverse ruling. He insisted that I file another Motion for Reconsideration. I did not accede to his desire and I told him that the dismissal was with finality and we might be cited for contempt for filing such pleading. He was unhappy about it and that was the last time we saw each other.

. . . . . .

It appears that the Resolution granting my request for 1st extension contained a warning that no further extension would be given. BUT I WAS NOT AWARE OF THIS BECAUSE WHEN I FILED MY MOTION FOR LAST EXTENSION FOR ONLY 20 DAYS, I HAVE NOT YET RECEIVED THE COPY OF SAID RESOLUTION. And in fact, even at the time I filed the basic Petition for *Certiorari*, I HAVE NOT YET STILL received said July 24, 1996 Resolution.

I RELIED IN GOOD FAITH AND IN THE HONEST BELIEF THAT THE FIRST MOTION FOR EXTENSION FOR 30 DAYS WOULD BE

Supreme Court E-Library

GRANTED – WITHOUT THE WARNING – SINCE IT WAS MERELY A FIRST EXTENSION. Then even as I was terribly saddled with heavy load and at times had some difficulty in getting in touch with complainant, I dropped everything to be able to beat the supposed deadline of August 14th, 1996.

I am sorry if I had to rely in good faith that my Motion for 1st Extension of 30 days would be granted without the warning–as this was a first extension only; and also that I request for a second and last extension of 20 days for which I complied with the filing of the Petition for Certiorari on the last day of the supposed extended period.

. . . . . .

And even assuming there could be a charge of negligence, still this is excusable under existing jurisprudence. The Honorable Court declared in a case:

> "Negligence is excusable where it is caused by *failure to receive notice of the action* or the trial, x x x" *Fernandez vs. Tan Tiong Tick,* 1 SCRA 1138; (italicssupplied).

In this case, there was failure on my part to receive notice of the action of the Honorable Court on my first motion for extension before I filed the second and last motion for extension of time to file petition as well as the basic petition for certiorari itself.[3]

The case was referred to the Integrated Bar of the Philippines for investigation, report, and recommendation. On October 27, 2001, the IBP approved the report and recommendation of Investigating Commissioner Tyrone R. Cimafranca that respondent be reprimanded and warned that any other complaint for breach of his professional duties would be dealt with more severely.

Acknowledging respondent's efforts in prosecuting complainant's case before the Labor Arbiter and the National Labor Relations Commission, the investigating commissioner found that respondent was not guilty of willful breach of professional duty but only of simple neglect of duty and accordingly recommended that he be given a mere reprimand. Thus, the investigating commissioner reasoned:

---

[3] Comment, pp. 2-5, 8-9; *Rollo*, pp. 11-14, 17-18.

Supreme Court E-Library

Respondent has failed to show that he exercised that degree of competence and diligence required of him in prosecuting complainant's petition for *certiorari* before the Honorable Supreme Court. His reliance on good faith cannot be credited fully in his favor. Lawyers should not presume that the courts would grant their motion for extension of time to file the required pleading or brief nor expect that the extension that may be granted shall be counted from notice. They should file their brief or pleadings within the extended period requested. Failing in this, they have only themselves to blame if their appeal or case is dismissed (*Roxas vs. Court of Appeals,* 156 SCRA 252). Neither would the fact that he has not been paid his fees exonerate him from liability. 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. (*Santiago, et al. vs. Atty. Amado R. Fojas,* A.C. No. 4103, September 7, 1995).[4]

We find the investigating commissioner's report and recommendation well-taken.

First. Respondent pleads good faith and excusable neglect of duty. He stresses the fact that he filed the petition for certiorari within the 20-day period of extension that he sought in his second motion for extension and claims that he learned that the period of extension granted in his first motion for extension was inextendible only after the expiration of the two periods of extension that he prayed for.

Respondent's contentions have no merit. The decision of the National Labor Relations Commission affirming the Labor Arbiter's dismissal of complainant's claims against his former employers was promulgated on January 22, 1996. Respondent was notified of the decision on February 8, 1996 and he filed a motion for reconsideration within the reglementary period. His motion was denied on March 12, 1996 and respondent was notified thereof on March 25, 1996. On June 25, 1996, the last day of the 90-day period allowed at that time for filing a special civil action for *certiorari*,[5] he filed with this Court a motion seeking an extension of thirty (30) days for filing the petition

---

[4] Report and Recommendation, pp. 9-10.

Supreme Court E-Library

for *certiorari* under Rule 65 on the ground that because of pressure of work he was prevented him from filing the same earlier. On July 25, 1996, the last day of the period he asked for in his first motion for extension, respondent filed a motion praying for another extension of twenty (20) days for filing the petition for *certiorari*. On the last day of the second period of extension that he asked for, August 14, 1996, respondent finally filed the petition for *certiorari*.

Meanwhile, on July 24, 1996, this Court issued a resolution granting respondent's first motion for extension, with a warning that no further extension would be granted. Respondent received a copy of the resolution on August 28, 1996. On August 26, 1996, the Court denied the petition for *certiorari* for being filed out of time. Respondent received a copy of the resolution, dated August 26, 1996, denying his petition on October 5, 1996. On October 18, 1996, respondent filed a motion for reconsideration, but the same was denied by the Court in its resolution of December 2, 1996.

To begin with, motions for extension are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extension or postponement will be granted or that they will be granted the length of time they pray for. Due diligence requires that they should conduct a timely inquiry with the division clerks of court of the action on their motions and the lack of notice thereof will not make them any less accountable for their omission.[6] Rule 12.03 of the Code of Professional Responsibility provides:

> A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda of briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

Regardless of the agreement he had with complainant with respect to the payment of his fees, respondent owed it to complainant

---

[5] *Philec Workers' Union v. Romeo Young*, G.R. No. 101734, Jan. 22, 1992, Minute Resolution, First Division.

[6] *Diman v. Alumbres*, 299 SCRA 459 (1998); *Videogram Regulatory Board v. Court of Appeals*, 265 SCRA 50 (1996).

Supreme Court E-Library

to do his utmost to ensure that every remedy allowed by law is availed of.[7] Rule 14.04 of the Code of Professional Responsibility enjoins every lawyer to devote his full attention, diligence, skills, and competence to every case that he accepts. Pressure and large volume of legal work do not excuse respondent for filing the petition for *certiorari* out of time.[8]

Respondent cites the ruling in *Fernandez v. Tan Tiong Tick*,[9] in support of his claim that his negligence is excusable. Such reliance is misplaced. In *Fernandez v. Tan Tiong Tick*, the appellant cited in support of his petition for the reopening of his case the failure of his former counsel to inform him of the status of his case. He argued that his own failure to inquire from his former counsel the status of his case was excusable. This Court rejected the contention:

> Negligence is excusable where it is caused by failure to receive notice of the action or the trial, by a genuine and excusable mistake or miscalculation, by reliance upon assurances given by those upon whom the party had a right to depend, as the adverse party or counsel retained in the case, or a competent adviser, that it would not be necessary for him to take an active part in the case, or that the suit would not be prosecuted, by relying on another person to attend to the case for him, when such other person promised to do so, or was chargeable with that duty or by a well-founded belief that the case would not be reached for trial as it was in fact reached, or by other circumstances not involving fault of the moving party .

The Court pointed out that appellant's counsel was duly notified of the proceedings in the case, and appellant was bound by his counsel's conduct and handling of his case.

In the case at bar, respondent was ill-informed about the disposition of his first motion for extension not by reason of genuine and excusable mistake or miscalculation but by his sheer negligence. It is noteworthy that the motions for extension,

---

[7] *Rosita Tan v. Atty. Jose L. Lapak*, G.R. No. 93707, Jan. 23, 2001; *In Re: Atty. David Briones*, A.C. No. 5486, Aug. 15, 2001.

[8] *Santiago v. Fojas*, 208 SCRA 68 (1995).

[9] 1 SCRA 1138 (1961).

Supreme Court E-Library

and even the petition for *certiorari*, were all filed at the last moment. Respondent had 120 days within which he could have filed the petition for *certiorari*. However, because of his cavalier attitude toward deadlines for the filing of pleadings, including the one set by himself in his first motion for extension, respondent lost the opportunity for filing the petition for review.

Nevertheless, having said this, it ought to be remembered, on the other hand, that respondent exerted efforts to protect the rights and interests of complainant, including trying to secure a reconsideration of the denial of his petition for *certiorari* in this Court. For this reason, we are inclined to adopt the investigating commissioner's recommendation that respondent be merely reprimanded for his simple neglect of duty.

Second. Complainant prays that we admit and consider the merits of the petition for *certiorari* filed by respondent, or that he be allowed to file anew a separate petition for *certiorari*. We understand the plight of the complainant, but we cannot grant his plea. This is an administrative case, separate from G.R. No. 125244 in which the dismissal of the petition for *certiorari* was made. The resolution of the Court in that case operated as a judgment on the merits and is now final.[10] Indeed, public policy and sound practice demand that, at the risk of occasional errors, the judgments of courts should become final at some definite date fixed by law,[11] and that every party be bound by his counsel's decision regarding the conduct of the case, including his mistakes, save only when the negligence of counsel is so gross, reckless, and inexcusable as to amount to a deprivation of the client's day in court.[12] This is not the situation in this case.

---

[10] *Bernarte v. Court of Appeals*, 263 SCRA 323 (1996) *citing Venerando L. Agustin v. The Office of the President, Republic of the Philippines and The Secretary of Justice; In Re: Atty. Ira Carlota F. Chiong*, G.R. No. 103712, May 6, 1993, Minute Resolution.

[11] *Legarda v. Court of Appeals*, 250 SCRA 642 (1997).

[12] *Alarcon v. Court of Appeals*, 323 SCRA 716 (2000); *Amil v. CA*, 316 SCRA 317 (1999).

Supreme Court E-Library

WHEREFORE, Atty. Mariano A. Dajoyag, Jr. is REPRIMANDED. He is admonished henceforth to exercise greater care and diligence in the performance of his duties towards his clients and the courts and warned that repetition of the same or similar offense will be more severely dealt with.

Complainant's prayer that the petition for *certiorari* filed by respondent be considered and given due course despite its denial for having been filed out of time is DENIED for lack of merit.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.,* concur.

SECOND DIVISION

[A.M. No. P-01-1460. February 28, 2002]

ESPERANZA L. DE GUZMAN, *complainant, vs.* **NORMA M. BURCE, Clerk of Court III, Metropolitan Trial Court, Branch 61, Makati City,** *respondent.*

SYNOPSIS

Mrs. Esperanza L. de Guzman charged respondent Mrs. Norma M. Burce, Clerk of Court of the Metropolitan Trial Court, Branch 61 of Makati City, with dishonesty for failure to pay just debt, conduct unbecoming a government employee and prejudicial to the best interests of the judiciary ,and falsification of provisional receipt of the partial payment of her indebtedness. On the other hand, respondent admitted that she borrowed money from complainant, but claimed that she partially paid it and had a remaining balance of ₱13,000.00 only, contrary to complainant's claim in the total amount of ₱39,395.00.