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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

FIRST DIVISION

[A.C. No. 8085. December 1, 2014]

FELIPE LAYOS, *complainant, vs.* **ATTY. MARLITO I. VILLANUEVA,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY; IT IS THE LAWYER'S DUTY TO SERVE HIS CLIENT'S INTEREST WITH UTMOST ZEAL, CANDOR AND DILIGENCE; ELUCIDATED.— Under Canon 17 and Canon 18, Rules 18.03 and 18.04 of the CPR, it is the lawyer's duty to serve his client's interest with utmost zeal, candor and diligence. As such, he must keep abreast of all the developments in his client's case and should inform the latter of the same, as it is crucial in maintaining the latter's confidence, x x x As an officer of the court, it is the duty of an attorney to inform his client of whatever important information he may have acquired affecting his client's case. He should notify his client of any adverse decision to enable his client to decide whether to seek an appellate review thereof. Keeping the client informed of the developments of the case will minimize misunderstanding and loss of trust and confidence in the attorney. The lawyer should not leave the client in the dark on how the lawyer is defending the client's interests. In this connection, the lawyer must constantly keep in mind that his actions, omissions, or nonfeasance would be binding upon his client. As such, the lawyer is expected to be acquainted with the rudiments of law and legal procedure, and a client who deals with him has the

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right to expect not just a good amount of professional learning and competence but also a whole-hearted fealty to the client's cause.

2. ID.; ID.; PUBLIC INTEREST REQUIRES THAT AN ATTORNEY SHOULD EXERT HIS BEST EFFORTS IN THE PROSECUTION OR DEFENSE OF A CLIENT'S CAUSE; VIOLATION; PENALTY.— In *Venterez v. Atty. Cosme*, a case involving a lawyer who committed culpable negligence in handling his clients' case, the Court reduced his period of suspension from six (6) months to three (3) months after considering the surrounding circumstances of the case. Similarly, in *Somosot v. Atty. Lara* which also involved a lawyer who was remiss in his duties as counsel, the Court also reduced the period of his suspension from six (6) months to three (3) months, in light of his client's contributory faults. In view of the foregoing, the Court finds that respondent's suspension from the practice of law for a period of three (3) months would be commensurate penalty to the acts complained of. It must be stressed that public interest requires that an attorney exert his best efforts in the prosecution or defense of a client's cause. A lawyer who performs that duty with diligence and candor not only protects the interests 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. Lawyers are indispensable part of the whole system of administering justice in this jurisdiction. At a time when strong and disturbing criticisms are being hurled at the legal profession, strict compliance with one's oath of office and the canons of professional ethics is an imperative.

APPEARANCES OF COUNSEL

Marlito I. Villanueva Law Office for respondent.

R E S O L U T I O N

PERLAS-BERNABE, *J.*:

For the Court's resolution is a *Sumbong*[1] dated November 26, 2008 filed by complainant Felipe Layos (complainant), charging

[1] *Rollo*, pp. 1-3.

respondent Atty. Marlito I. Villanueva (respondent) of violating the Code of Professional Responsibility (CPR) and the lawyer's oath for neglecting the interests of his client.

The Facts

In the *Sumbong*, it was alleged that respondent is complainant's counsel of record in Criminal Case No. 7367-B pending before the Regional Trial Court of Biñan, Laguna, Branch 24 (RTC), wherein the former's constant failure to appear during court hearings resulted in the RTC's issuance of an Order[2] dated June 26, 2003 (June 26, 2003 Order) waiving the defense's right to cross-examine a prosecution witness. Despite the issuance of such order, respondent remained absent and thus, complainant was only able to move for reconsideration,[3] thru respondent, only four (4) years later, or on April 21, 2007, which was denied in an Order[4] dated June 21, 2007. Aggrieved, complainant, also thru respondent, filed a petition for *certiorari* before the Court of Appeals (CA), docketed as CA-G.R. SP No. 101274.[5]

In a Decision[6] dated November 6, 2008, the CA dismissed the petition on the merits. The CA likewise chastised respondent for his "lack of candidness and fervor on [his part] to champion the cause" of his client, considering that, *inter alia*: (*a*) respondent never bothered to know the outcome of the hearings where he was absent from; (*b*) it took respondent a long amount of time before moving to reconsider the RTC's June 26, 2003 Order; and (*c*) respondent never questioned the appearances of other lawyers as complainant's counsel during his absence.[7] Citing as

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[2] *Id*. at 207. Penned by Judge Damaso A. Herrera.

[3] See Motion to Set Aside Order Dated June 26, 2003 dated April 17, 2007; *id*. at 213-221.

[4] *Id*. at 244. Penned by Presiding Judge Marino E. Rubia.

[5] See *id*. at 1.

[6] *Id*. at 5-17. Penned by Associate Justice Andres P. Reyes, Jr. with Associate Justices Jose C. Mendoza (now a member of the Court) and Sesinando E. Villon, concurring.

[7] See *id*. at 15-16.

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basis such disquisition by the CA, complainant filed the instant administrative case against respondent.

In his Comment[8] dated March 30, 2009, respondent denied being remiss in his duty as complainant's counsel. He averred that during the hearing on April 4, 2002 where the criminal case was supposed to be amicably settled, his car broke down and thus, he was unable to attend the hearing. After his car was fixed, he decided to go back to his office and asked his secretary to call complainant to know what happened in the said hearing. However, respondent was unable to contact complainant and that he never heard from the latter for a long time. Respondent claimed that he no longer received any notices from the RTC, and thus, he assumed that the amicable settlement pushed through and that the case was dismissed already.[9]

Further, respondent maintained that it was only sometime before November 15, 2005 when he received a notice of hearing from the RTC.[10] Pursuant to the same, he went to the RTC and found out about the June 26, 2003 Order and that other lawyers were appearing for complainant.[11] After the hearing, respondent approached the RTC personnel in order to get a copy of the June 26, 2003 Order but was unable to do so due to lack of manpower in the RTC. Thus, he relied on the RTC personnel's word that they would mail him a copy of such Order, but they were unable to do so. Hence, he was only able to move for reconsideration of the June 26, 2003 Order on April 21, 2007 upon securing a copy of the same on April 4, 2006.[12]

Finally, respondent averred that he had a hard time locating complainant who was not at his home address and was staying at his workplace in Carmona, Cavite. According to respondent,

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[8] *Id*. at 26-57.

[9] See *id*. at 30-31.

[10] *Id*. at 31.

[11] See *id*. at 31-33.

[12] See *id*. at 33-36.

this caused him to advance the filing fees and other expenses of complainant's cases, not to mention that the latter has failed to pay the agreed appearance fees and attorney's fees due him.[13]

The IBP's Report and Recommendation

In a Report and Recommendation[14] dated February 4, 2010, the Integrated Bar of the Philippines (IBP) Commissioner found respondent administratively liable, and accordingly, recommended that he be suspended from the practice of law for a period of six (6) months.[15] Citing the CA Decision dated November 6, 2008 in CA-G.R. SP No. 101274, the IBP Commissioner found that respondent failed in his duty as counsel to serve complainant's interests with competence and diligence by neglecting the latter's criminal case which was pending before the RTC.[16] In a Resolution[17] dated February 13, 2013, the IBP Board of Governors (IBP Board) unanimously adopted and approved the IBP Commissioner's Report and Recommendation, and hence, upheld respondent's recommended penalty of suspension from the practice of law for a period of six (6) months for negligence in the performance of his legal duty to complainant.

Respondent moved for reconsideration[18] which was, however, denied by the IBP Board in a Resolution[19] dated May 2, 2014. Aggrieved, respondent filed a Notice of Appeal[20] as well as a Petition for Review on *Certiorari*[21] before the Court.

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[13] *Id.* at 36-38.

[14] *Id*. at 489-502. Signed by Commissioner Atty. Salvador B. Hababag.

[15] *Id.* at 502.

[16] See *id*. at 500-502.

[17] See Notice of Resolution signed by National Secretary Nasser A. Marohomsalic; *id*. at 488.

[18] See Motion for Reconsideration dated May 31, 2013; *id*. at 503-508.

[19] See Notice of Resolution; *id*. at 522.

[20] Dated September 23, 2014. (*Id*. at 539-542.)

[21] *Id.* at 543-582.

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The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for the acts complained of.

The Court's Ruling

After a judicious perusal of the records, the Court concurs with the IBP's findings, subject to the modification of the recommended penalty to be imposed upon respondent.

Under Canon 17 and Canon 18, Rules 18.03 and 18.04 of the CPR, it is the lawyer's duty to serve his client's interest with utmost zeal, candor and diligence. As such, he must keep abreast of all the developments in his client's case and should inform the latter of the same, as it is crucial in maintaining the latter's confidence, to wit:

CANON 17 – A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.

CANON 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

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Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection there with shall render him liable.

Rule 18.04 – A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to client's request for information.

As an officer of the court, it is the duty of an attorney to inform his client of whatever important information he may have acquired affecting his client's case. He should notify his client of any adverse decision to enable his client to decide whether to seek an appellate review thereof. Keeping the client informed of the developments of the case will minimize misunderstanding and loss of trust and confidence in the attorney. The lawyer should not leave the client in the dark on how the

lawyer is defending the client's interests. In this connection, the lawyer must constantly keep in mind that his actions, omissions, or nonfeasance would be binding upon his client. As such, the lawyer is expected to be acquainted with the rudiments of law and legal procedure, and a client who deals with him has the right to expect not just a good amount of professional learning and competence but also a whole-hearted fealty to the client's cause.[22]

In the case at bar, records reveal that since missing the April 4, 2002 hearing due to car trouble, respondent no longer kept track of complainant's criminal case and merely assumed that the same was already amicably settled and terminated. Thereafter, when respondent finally knew that the case was still on-going, he attended the November 15, 2005 hearing, and discovered the RTC's issuance of the June 26, 2003 Order which is prejudicial to complainant's cause. Despite such alarming developments, respondent did not immediately seek any remedy to further the interests of his client. Instead, he passively relied on the representations of the court employees that they would send him a copy of the aforesaid Order. Worse, when he finally secured a copy on April 4, 2006, it still took him over a year, or until April 21, 2007, just to move the RTC to reconsider its June 26, 2003 Order. Naturally, the RTC and the CA denied the motion for being filed way beyond the reglementary period, to the detriment of complainant. Clearly, respondent failed to exercise such skill, care, and diligence as men of the legal profession commonly possess and exercise in such matters of professional employment.[23]

While the Court agrees that respondent should be held administratively liable for the foregoing acts and thus, must be suspended from the practice of law, it nevertheless deems that the IBP's recommended period of suspension of six (6) months is too harsh a penalty, given the complainant's seeming disinterest in the developments of his own case. This is evidenced

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[22] See *Tan v. Diamante*, A.C. No. 7766, August 5, 2014; citations omitted.

[23] *Id.*, citing *Pineda v. Atty. Macapagal*, 512 Phil. 668, 672 (2005).

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by complainant not communicating with respondent, getting other lawyers referred to him by his friends despite having a counsel of record, and being indifferent despite being informed of a standing warrant of arrest against him.[24] In *Venterez v. Atty. Cosme*,[25] a case involving a lawyer who committed culpable negligence in handling his clients' case, the Court reduced his period of suspension from six (6) months to three (3) months after considering the surrounding circumstances of the case.[26] Similarly, in *Somosot v. Atty. Lara*[27] which also involved a lawyer who was remiss in his duties as counsel, the Court also reduced the period of his suspension from six (6) months to three (3) months, in light of his client's contributory faults.[28] In view of the foregoing, the Court finds that respondent's suspension from the practice of law for a period of three (3) months would be commensurate penalty to the acts complained of.

It must be stressed that public interest requires that an attorney exert his best efforts in the prosecution or defense of a client's cause. A lawyer who performs that duty with diligence and candor not only protects the interests 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. Lawyers are indispensable part of the whole system of administering justice in this jurisdiction. At a time when strong and disturbing criticisms are being hurled at the legal profession, strict compliance with one's oath of office and the canons of professional ethics is an imperative.[29]

WHEREFORE, respondent Atty. Marlito I. Villanueva is found administratively liable for violation of Canon 17 and Canon 18, Rules 18.03 and 18.04 of the Code of Professional

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[24] See *rollo*, pp. 36-38, 330-333, and 499-500.

[25] 561 Phil. 479 (2007).

[26] *Id.* at 490-491.

[27] 597 Phil. 149 (2009).

[28] *Id.* at 167-168.

[29] *Balatbat v. Atty. Arias*, 549 Phil. 517, 526-527 (2007); citations omitted.

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Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for three (3) months effective from the finality of this Resolution, and is **STERNLY WARNED** that a repetition of the same or similar act in the future shall be dealt with more severely.

Let a copy of this Resolution be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Further, let copies of this Resolution be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Perez, and *Reyes,*[*] *JJ.,* concur.

THIRD DIVISION

[A.M. No. P-13-3163. December 1, 2014]
(Formerly OCA IPI No. 12-3861-P)

MARCIDITO A. MIRANDA, *complainant, vs.* **ERNESTO G. RAYMUNDO, JR., Sheriff III, Metropolitan Trial Court, Branch 74, Taguig City,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; SHERIFFS; AS AGENTS OF THE LAW, HIGH STANDARDS ARE EXPECTED OF SHERIFFS; EXPLAINED.— Sheriffs play an important role in the

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[*] Designated Acting Member per Special Order No. 1892 dated November 28, 2014.