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(9) attorney's fees equivalent to 10% of the total amount due to the petitioner; and

(10) legal interest of 12% *per annum* of the total monetary awards computed from July 27, 2007 to June 30, 2013, and 6% *per annum* from July 1, 2013 until their full satisfaction.

The Labor Arbiter is **ORDERED** to compute the total monetary benefits awarded and due the petitioner in accordance with this decision.

SO ORDERED.

Carpio,[*] *Velasco, Jr. (Chairperson), Villarama, Jr.,*[**] and *Leonen, JJ.,* concur.

EN BANC

[(A.C. No. 7766. August 5, 2014]

JOSE ALLAN TAN, *complainant, vs.* **PEDRO S. DIAMANTE,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; CODE OF PROFESSIONAL RESPONSIBILITY; RULE 18.04, CANON 18; IT IS THE LAWYER'S DUTY TO KEEP HIS CLIENT CONSTANTLY INFORMED OF THE DEVELOPMENTS OF THE CASE TO

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[*] Designated Member per Raffle, dated June 11, 2012, in lieu of Associate Justice Diosdado M. Peralta. No part, as his spouse Court of Appeals Justice Fernanda Lampas-Peralta concurred in the assailed Court of Appeals decision.

[**] Designated Acting Member in view of the vacancy in the Third Division, Per Special Order No. 1691 dated May 22, 2014.

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MINIMIZE MISUNDERSTANDING AND LOSS OF TRUST AND CONFIDENCE IN HIM; A CLIENT HAS THE RIGHT TO EXPECT FROM HIS COUNSEL NOT JUST A GOOD AMOUNT OF PROFESSIONAL LEARNING AND COMPETENCE BUT ALSO A WHOLE-HEARTED FEALTY TO THE CLIENT'S CAUSE.— Under Rule 18.04, Canon 18 of the CPR, it is the lawyer's duty to keep his client constantly updated on the developments of his case 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. Concomitantly, 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.

2. **ID.; ID.; ID.; LAWYERS ARE BOUND TO MAINTAIN NOT ONLY A HIGH STANDARD OF LEGAL PROFICIENCY, BUT ALSO OF MORALITY, HONESTY, INTEGRITY, AND FAIR DEALING, FAILING IN WHICH WHETHER IN HIS PERSONAL OR PRIVATE CAPACITY, HE BECOMES UNWORTHY TO CONTINUE HIS PRACTICE OF LAW.—** As officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing, failing in which whether in his personal or private capacity, he becomes unworthy to continue his practice of law. A lawyer's inexcusable neglect to serve his client's interests with utmost diligence and competence as well as his engaging in unlawful, dishonest, and deceitful conduct in order to conceal such neglect should never be countenanced, and thus, administratively sanctioned.

3. **ID.; ID; GROSS MISCONDUCT; THE COUNSEL'S CONDUCT OF EMPLOYING A CROOKED AND DECEITFUL SCHEME**

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TO KEEP COMPLAINANT IN THE DARK AND CONCEAL HIS CASE'S TRUE STATUS THROUGH THE USE OF A FALSIFIED COURT ORDER CONSTITUTES GROSS MISCONDUCT AND REVEALS A BASIC MORAL FLAW THAT MAKES HIM UNFIT TO PRACTICE LAW.— [R]espondent's conduct of employing a crooked and deceitful scheme to keep complainant in the dark and conceal his case's true status through the use of a falsified court order evidently constitutes Gross Misconduct. His acts should not just be deemed as unacceptable practices that are disgraceful and dishonorable; they reveal a basic moral flaw that makes him unfit to practice law. In this regard, the Court's pronouncement in *Sebastian v. Calis* is instructive, *viz.*: **Deception and other fraudulent acts by a lawyer are disgraceful and dishonorable.** They reveal moral flaws in a lawyer. They are unacceptable practices. A lawyer's relationship with others should be characterized by the highest degree of good faith, fairness and candor. This is the essence of the lawyer's oath. The lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and keep inviolable. The nature of the office of an attorney requires that he should be a person of good moral character. This requisite is not only a condition precedent to the admission to the practice of law, its continued possession is also essential for remaining in the practice of law. We have sternly warned that **any gross misconduct of a lawyer, whether in his professional or private capacity, puts his moral character in serious doubt as a member of the Bar, and renders him unfit to continue in the practice of law.**

4. **ID.; ID.; ID.; PENALTY OF DISBARMENT SHALL BE IMPOSED WHERE A LAWYER FAILS TO INFORM HIS CLIENTS OF THE STATUS OF THEIR CASES AND ENGAGES IN UNLAWFUL, DISHONEST, AND DECEITFUL CONDUCT BY FALSIFYING DOCUMENTS, CAUSING DAMAGE AND PREJUDICE TO HIS CLIENTS; THE LAWYER'S FLAGRANT VIOLATIONS OF THE CODE OF PROFESSIONAL RESPONSIBILITY EXHIBIT HIS MORAL UNFITNESS AND INABILITY TO DISCHARGE HIS DUTIES AS A MEMBER OF THE BAR AND HIS ACTIONS ERODE RATHER THAN ENHANCE THE PUBLIC PERCEPTION OF THE LEGAL PROFESSION.—** Jurisprudence reveals that in analogous cases where lawyers failed to inform their clients of the status of their respective cases, the Court suspended them for a period of six

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> (6) months. x x x. However, in cases where lawyers engaged in unlawful, dishonest, and deceitful conduct by falsifying documents, the Court found them guilty of Gross Misconduct and disbarred them. x x x. [R]espondent committed acts of falsification in order to misrepresent to his client, *i.e.*, complainant, that he still had an available remedy in his case, when in reality, his case had long been dismissed for failure to timely file an appeal, thus, causing undue prejudice to the latter. To the Court, respondent's acts are so reprehensible, and his violations of the CPR are so flagrant, exhibiting his moral unfitness and inability to discharge his duties as a member of the bar. His actions erode rather than enhance the public perception of the legal profession. Therefore, in view of the totality of his violations, as well as the damage and prejudice caused to his client, respondent deserves the ultimate punishment of disbarment.

APPEARANCES OF COUNSEL

Castillo & Associates for complainant.

D E C I S I O N

PER CURIAM:

For the Court's resolution is an administrative Complaint[1] for disbarment dated February 1, 2008 filed by complainant Jose Allan Tan (complainant) against respondent Pedro S. Diamante (respondent), charging him of violating the Code of Professional Responsibility (CPR) and the lawyer's oath for fabricating and using a spurious court order, and for failing to keep his client informed of the status of the case.

The Facts

On April 2, 2003, complainant, claiming to be a recognized illegitimate son of the late Luis Tan, secured the services of respondent in order to pursue a case for partition of property against the heirs of the late spouses Luis and Natividad Valencia-

[1] *Rollo*, pp. 1-4.

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Tan.[2] After accepting the engagement, respondent filed the corresponding complaint[3] before the Regional Trial Court of Bacolod City, Branch 46 (RTC), docketed as Civil Case No. 03-11947. The complaint was eventually dismissed by the RTC in an Order[4] dated July 25, 2007 for lack of cause of action and insufficiency of evidence.[5] While respondent was notified of such dismissal as early as August 14, 2007,[6] complainant learned of the same only on August 24, 2007 when he visited the former's office.[7] On such occasion, respondent allegedly asked for the amount of ₱10,000.00 for the payment of appeal fees and other costs, but since complainant could not produce the said amount at that time, respondent, instead, asked and was given the amount of ₱500.00 purportedly as payment of the reservation fee for the filing of a notice of appeal before the RTC.[8] On September 12, 2007, Tan handed the amount of ₱10,000.00 to respondent, who on even date, filed a notice of appeal[9] before the RTC.[10]

In an Order[11] dated September 18, 2007, the RTC dismissed complainant's appeal for having been filed beyond the reglementary period provided for by law. Respondent, however, did not disclose such fact and, instead, showed complainant an Order[12] dated November 9, 2007 purportedly issued by the RTC

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[2] *Id*. at 1.

[3] *Id*. at 5-8. Complaint for Partition of Real Property filed on April 2, 2003 (partition case).

[4] *Id*. at 9-13. Penned by Judge George S. Patriarca.

[5] *Id*. at 146-147.

[6] See Order dated September 18, 2007; *id*. at 15.

[7] *Id*. at 1-2.

[8] *Id*.

[9] See Notice of Appeal dated September 11, 2007; *id.* at 16.

[10] *Id*. at 147.

[11] *Id*. at 15.

[12] *Id*. at 17.

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(November 9, 2007 Order) directing the submission of the results of a DNA testing to prove his filiation to the late Luis Tan, within 15 days from receipt of the notice. Considering the technical requirements for such kind of testing, complainant proceeded to the RTC and requested for an extension of the deadline for its submission. It was then that he discovered that the November 9, 2007 Order was spurious, as certified by the RTC's Clerk of Court.[13] Complainant also found out that, contrary to the representations of respondent, his appeal had long been dismissed.[14] Aggrieved, he filed the instant administrative complaint for disbarment against respondent.

In his Comments/Compliance[15] dated September 4, 2009, respondent alleged that it was complainant's failure to timely produce the amount of ₱1,400.00 to pay for the appeal fees that resulted in the late filing of his appeal. According to him, he informed complainant of the lapse of the reglementary period to appeal, but the latter insisted in pursuing the same. He also claimed to have assisted complainant "not for money or malice" but being a desperate litigant, he was blamed for the court's unfavorable decision.[16]

The IBP's Report and Recommendation

In a Report and Recommendation[17] dated September 21, 2010, the Integrated Bar of the Philippines (IBP) Investigating Commissioner found respondent administratively liable, and accordingly recommended that the penalty of suspension for a period of one (1) year be meted out against him.[18]

The Investigating Commissioner found complainant's imputations against respondent to be well-founded, observing

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[13] See Certification dated December 10, 2007; *id.* at 18.

[14] *Id.* at 2-3 and 146.

[15] *Id.* at 25-29.

[16] *Id.* at 28 and 147.

[17] *Id.* at 146-150. Penned by Commissioner Oliver A. Cachapero.

[18] *Id.* at 150.

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that instead of meeting complainant's allegations squarely, particularly, the issue of the non-disclosure of the dismissal of the partition case, respondent sidestepped and delved on arguments that hardly had an effect on the issues at hand.[19]

Moreover, the Investigating Commissioner did not find credence in respondent's accusation that the spurious November 9, 2007 Order originated from complainant, ratiocinating that it was respondent who was motivated to fabricate the same to cover up his lapses that brought about the dismissal of complainant's appeal and make it appear that there is still an available relief left for Tan.[20]

In a Resolution dated April 16, 2013, the IBP Board of Governors unanimously adopted and approved the aforesaid report and recommendation.[21]

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for violating the CPR.

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 Rule 18.04, Canon 18 of the CPR, it is the lawyer's duty to keep his client constantly updated on the developments of his case as it is crucial in maintaining the latter's confidence, to wit:

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

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.

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[19] *Id*. at 149.

[20] *Id*.

[21] See Notice of Resolution; *id*. at 145.

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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.[22] In this connection, the lawyer must constantly keep in mind that his actions, omissions, or nonfeasance would be binding upon his client. Concomitantly, 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.[23]

In the case at bar, records reveal that as of August 14, 2007, respondent already knew of the dismissal of complainant's partition case before the RTC. Despite this fact, he never bothered to inform complainant of such dismissal as the latter only knew of the same on August 24, 2007 when he visited the former's office. To add insult to injury, respondent was inexcusably negligent in filing complainant's appeal only on September 12, 2007, or way beyond the reglementary period therefor, thus resulting in its outright dismissal. 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.[24]

Worse, respondent attempted to conceal the dismissal of complainant's appeal by fabricating the November 9, 2007 Order which purportedly required a DNA testing to make it appear that complainant's appeal had been given due course, when in

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[22] See *Mejares v. Romana*, 469 Phil. 619, 629 (2004).

[23] *Penilla v. Alcid, Jr.*, A.C. No. 9149, September 4, 2013, 705 SCRA 1, 13.

[24] *Pineda v. Macapagal*, A.C. No. 6026, November 29, 2005, 476 SCRA 292, 296.

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truth, the same had long been denied. In so doing, respondent engaged in an unlawful, dishonest, and deceitful conduct that caused undue prejudice and unnecessary expenses on the part of complainant. Accordingly, respondent clearly violated Rule 1.01, Canon 1 of the CPR, which provides:

> CANON 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.
>
> Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

As officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing,[25] failing in which whether in his personal or private capacity, he becomes unworthy to continue his practice of law.[26] A lawyer's inexcusable neglect to serve his client's interests with utmost diligence and competence as well as his engaging in unlawful, dishonest, and deceitful conduct in order to conceal such neglect should never be countenanced, and thus, administratively sanctioned.

In view of the foregoing, respondent's conduct of employing a crooked and deceitful scheme to keep complainant in the dark and conceal his case's true status through the use of a falsified court order evidently constitutes Gross Misconduct.[27] His acts should not just be deemed as unacceptable practices that are disgraceful and dishonorable; they reveal a basic moral flaw that makes him unfit to practice law.[28] In this regard, the Court's pronouncement in *Sebastian v. Calis*[29] is instructive, *viz.*:

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[25] *Tabang v. Gacott*, A.C. No. 6490, July 9, 2013, 700 SCRA 788, 804.

[26] See *Ronquillo v. Cezar*, A.C. No. 6288, June 16, 2006, 491 SCRA 1, 5-6.

[27] See *Mejares v. Romana*, supra note 22; *Penilla v. Alcid, Jr.*, supra note 23; *Embido v. Pe*, A.C. No. 6732, October 22, 2013; and *Brennisen v. Contawi*, A.C. No. 7481, April 24, 2012, 670 SCRA 358.

[28] See *Spouses Olbes v. Deciembre*, 496 Phil. 799, 812 (2005).

[29] 372 Phil. 673 (1999).

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Deception and other fraudulent acts by a lawyer are disgraceful and dishonorable. They reveal moral flaws in a lawyer. They are unacceptable practices. A lawyer's relationship with others should be characterized by the highest degree of good faith, fairness and candor. This is the essence of the lawyer's oath. The lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and keep inviolable. The nature of the office of an attorney requires that he should be a person of good moral character. This requisite is not only a condition precedent to the admission to the practice of law, its continued possession is also essential for remaining in the practice of law. We have sternly warned that **any gross misconduct of a lawyer, whether in his professional or private capacity, puts his moral character in serious doubt as a member of the Bar, and renders him unfit to continue in the practice of law.**[30] (Emphases and underscoring supplied)

Jurisprudence reveals that in analogous cases where lawyers failed to inform their clients of the status of their respective cases, the Court suspended them for a period of six (6) months. In *Mejares v. Romana*,[31] the Court suspended the lawyer for the same period for his failure to timely and adequately inform his clients of the dismissal of their petition. In the same vein, in *Penilla v. Alcid, Jr.*,[32] the same penalty was imposed on the lawyer who consistently failed to update his client of the status of his cases, notwithstanding several follow-ups.

However, in cases where lawyers engaged in unlawful, dishonest, and deceitful conduct by falsifying documents, the Court found them guilty of Gross Misconduct and disbarred them. In *Brennisen v. Contawi*,[33] the Court disbarred the lawyer who falsified a special power of attorney in order to mortgage and sell his client's property. Also, in *Embido v. Pe*,[34] the penalty of disbarment was meted out against the lawyer who falsified an inexistent court decision for a fee.

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[30] *Id.* at 679.

[31] *Supra* note 24.

[32] *Supra* note 23.

[33] See *supra* note 27.

[34] See *supra* note 27.

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As already discussed, respondent committed acts of falsification in order to misrepresent to his client, *i.e.*, complainant, that he still had an available remedy in his case, when in reality, his case had long been dismissed for failure to timely file an appeal, thus, causing undue prejudice to the latter. To the Court, respondent's acts are so reprehensible, and his violations of the CPR are so flagrant, exhibiting his moral unfitness and inability to discharge his duties as a member of the bar. His actions erode rather than enhance the public perception of the legal profession. Therefore, in view of the totality of his violations, as well as the damage and prejudice caused to his client, respondent deserves the ultimate punishment of disbarment.

WHEREFORE, respondent Pedro S. Diamante is hereby **DISBARRED** for Gross Misconduct and violations of Rule 1.01, Canon 1, and Rule 18.04, Canon 18 of the Code of Professional Responsibility, and his name is ordered **STRICKEN OFF** from the roll of attorneys.

Let a copy of this Decision be attached to respondent Pedro S. Diamante's record in this Court. Further, let copies of this Decision be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

SO ORDERED.

Carpio,[*] *Acting C.J., Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe,* and *Leonen, JJ.,* concur.

Sereno, C.J. on leave.

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[*] Acting Chief Justice per Special Order No. 1743 dated August 4, 2014.