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WHEREFORE, this petition is **GRANTED**. Accordingly, the July 15, 2013 Decision of the Court of Appeals and its January 8, 2014 Resolution in CA-G.R. CR No. 34428 are hereby **REVERSED** and **SET ASIDE**. Petitioner Kyle Anthony Zabala is **ACQUITTED** of the offense of theft, on account of reasonable doubt. No costs.

SO ORDERED.

Peralta, Villarama, Jr., Reyes, and *Leonen,*[*] *JJ.,* concur.

EN BANC

[A.C. No. 8235. January 27, 2015]

JOSELITO F. TEJANO, *complainant, vs.* **ATTY. BENJAMIN F. BATERINA,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; A LAWYER'S ACCEPTANCE TO TAKE UP A CASE IMPLIEDLY STIPULATES THAT HE WILL CARRY IT TO ITS TERMINATION, THAT IS UNTIL THE CASE BECOMES FINAL AND EXECUTORY, AND HIS DUTY TO HIS CLIENTS DOES NOT AUTOMATICALLY CEASE WITH HIS SUSPENSION FROM PRACTICING THE PROFESSION, FOR THE CLIENT SHOULD NEVER BE LEFT GROPING IN THE DARK AND INSTEAD MUST BE ADEQUATELY AND FULLY INFORMED ABOUT THE DEVELOPMENTS IN HIS CASE.— Lawyers have a "fourfold duty to society, the legal profession, the courts and their clients," and must act "in accordance with the values and norms of the legal profession

[*] Additional member per raffle dated September 10, 2014.

Supreme Court E-Library

as embodied in the Code of Professional Responsibility." When a lawyer agrees to take up a client's cause, he makes a commitment to exercise due diligence in protecting the latter's rights. Once a lawyer's services are engaged, "he is duty bound to serve his client with competence, and to attend to his client's cause with diligence, care and devotion regardless of whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed on him." A lawyer's acceptance to take up a case "impliedly stipulates [that he will] carry it to its termination, that is, until the case becomes final and executory. "Atty. Baterina's duty to his clients did not automatically cease with his suspension. At the very least, such suspension gave him a concomitant responsibility to inform his clients that he would be unable to attend to their case and advise them to retain another counsel.A lawyer - even one suspended from practicing the profession – owes it to his client to not "sit idly by and leave the rights of his client in a state of uncertainty." The client "should never be left groping in the dark" and instead must be "adequately and fully informed about the developments in his case."

2. ID.; ID.; THE LAWYER'S FAILURE TO FILE THE REQUIRED PLEADINGS ON HIS CLIENT'S BEHALF CONSTITUTES GROSS NEGLIGENCE; PROPER PENALTY.— Atty. Baterina practically abandoned this duty when he allowed the proceedings to run its course without any effort to safeguard his clients' welfare in the meantime. His failure to file the required pleadings on his clients' behalf constitutes gross negligence in violation of the Code of Professional Responsibility and renders him subject to disciplinary action. The penalties for a lawyer's failure to file the required brief or pleading range from warning, reprimand, fine, suspension, or in grave cases, disbarment.

3. ID.; ID.; LAWYERS ARE PARTICULARLY CALLED UPON TO OBEY COURT ORDERS AND PROCESSES, AND ARE EXPECTED TO STAND FOREMOST IN COMPLYING WITH COURT DIRECTIVES BEING THEMSELVES OFFICERS OF THE COURT, AS THE RESOLUTION OF THE COURT IS NOT A MERE REQUEST BUT AN ORDER WHICH SHOULD BE COMPLIED WITH PROMPTLY AND

COMPLETELY.— [A]tty. Baterina's reckless disregard for orders and directives of the courts is unbecoming of a member of the Bar. His conduct has shown that he has little respect for rules, court processes, and even for the Court's disciplinary authority. Not only did he fail to follow the trial court's orders in his clients' case, he even disregarded court orders in his own disciplinary proceedings. Considering Atty. Baterina's medical condition at that time, a simple explanation to the Court would have sufficed. Instead, however, he simply let the orders go unheeded, neglecting his duty to the Court. Lawyers, as this Court has previously emphasized, "are particularly called upon to obey court orders and processes and are expected to stand foremost in complying with court directives being themselves officers of the court." As such, Atty. Baterina should "know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely."

4. ID.; ID.; RESPONDENT'S PATTERN OF NEGLECTING HIS DUTY TO HIS CLIENTS AND PROPENSITY FOR DISRESPECTING THE AUTHORITY OF THE COURTS WARRANT AN IMPOSITION OF A LONGER SUSPENSION PERIOD OF FIVE (5) YEARS FOR GROSS NEGLIGENCE.— In *Spouses Soriano v. Reyes,* the Court held that "the appropriate penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts." The Court notes that in 2001, Atty. Baterina was also suspended for two years after being found guilty of gross misconduct. x x x. The Court likewise noted in that case Atty. Baterina's "repeated failure to comply with the resolutions of the Court requiring him to comment on the complaint [which] indicates a high degree of irresponsibility tantamount to willful disobedience to the lawful orders of the Supreme Court." These two disciplinary cases against Atty. Baterina show a pattern of neglecting his duty to his clients, as well as a propensity for disrespecting the authority of the courts. Such incorrigible behavior is unacceptable and will not be tolerated among the members of the Bar. For this reason, the Court deems it proper to impose on Atty. Baterina a longer suspension period of five (5) years.

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D E C I S I O N

CARPIO,* ***J.*:**

The Case

Before the Court is a verified administrative complaint for disbarment against Atty. Benjamin F. Baterina.

The Facts

On 26 March 2009, Joselito F. Tejano filed an Affidavit-Complaint[1] before the Office of the Court Administrator (OCA) of the Supreme Court against Judge Dominador LL. Arquelada, Presiding Judge of the Regional Trial Court (RTC), Vigan City, Ilocos Sur, Branch 21, and Tejano's own counsel, Atty. Baterina.

Tejano accused Judge Arquelada of acting in conspiracy with Atty. Baterina for the former to take possession of his (Tejano) property, which was the subject matter of litigation in the judge's court.

The case stems from Civil Case No. 4046-V, a suit for recovery of possession and damages filed by Tejano, his mother and sisters against the Province of Ilocos Sur. The property involved in the suit is a strip of land located at the northern portion of Lot No. 5663 in Tamag, Vigan City. The lot was wholly owned by Tejano's family, but the Province of Ilocos Sur constructed an access road stretching from the provincial highway in the east to the provincial government's motor pool in the west without instituting the proper expropriation proceedings.[2]

The case was raffled off to Branch 21 of the Vigan City RTC in October 1988. Four judges would hear the case before Judge Arquelada became the branch's presiding judge in 2001.[3]

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* Acting Chief Justice per Special Order No. 1914-dated 27 January 2015.

[1] *Rollo*, pp. 2-10.

[2] *Id.* at 8.

[3] *Id.*

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Prior to his appointment to the bench, however, Judge Arquelada was one of the trial prosecutors assigned to Branch 21, and in that capacity represented the Province of Ilocos Sur in Civil Case No. 4046-V.[4]

In his Affidavit-Complaint, Tejano accused Judge Arquelada of colluding with Atty. Baterina in the former's bid to "take possession" of their property and was "collecting rentals from squatters who had set up their businesses inside the whole of Lot [No.] 5663." In support of his accusations, Tejano attached a copy of Transfer Certificate of Title No. T-43004[5] covering Lot No. 5663 in the name of Karen Laderas, purportedly the daughter of Judge Arquelada; receipts of rents paid to Terencio Florendo,[6] sheriff at Judge Arquelada's sala at the Vigan City RTC; receipts of rents paid to Aida Calibuso,[7] who was expressly designated by Laderas as her attorney-in-fact[8] in collecting said rents; and receipts of rents paid to Edgar Arquelada, Judge Arquelada's brother.[9]

As to his counsel, Tejano claims that Atty. Baterina "miserably failed to advance [his] cause." Specifically, Tejano alleged that Atty. Baterina (1) failed to object when the trial court pronounced that he and his co-plaintiffs had waived their right to present evidence after several postponements in the trial because his mother was ill and confined at the hospital;[10] (2) manifested in open court that he would file a motion for reconsideration of the order declaring their presentation of evidence terminated but failed to actually do so;[11] (3) not only failed to file said

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[4] *Id*. at 4.

[5] *Id*. at 61.

[6] *Id*. at 62.

[7] *Id*. at 63-69.

[8] *Id*. at 70-71.

[9] *Id*. at 65-66.

[10] *Id*. at 96.

[11] *Id*.

Supreme Court E-Library

motion for reconsideration, but also declared in open court that they would not be presenting any witnesses without consulting his clients;[12] and (4) failed to comply with the trial court's order to submit their formal offer of exhibits.[13]

In a letter dated 27 March 2009, then Court Administrator (now Supreme Court Associate Justice) Jose P. Perez informed Tejano that the OCA has no jurisdiction over Atty. Baterina since it only has administrative supervision over officials and employees of the judiciary. However, Tejano was informed to file the complaint against his counsel at the Office of the Bar Confidant, and that the complaint against Judge Arquelada was already "being acted upon" by the OCA.[14]

In a Resolution dated 6 July 2009, the Court required Atty. Baterina to file a Comment on the complaint within 10 days from notice.[15] Failing to comply with the Court's order, Atty. Baterina was ordered to show cause why he should not be disciplinarily dealt with and once again ordered to comply with the Court's 6 July 2009 Order.[16]

In his Compliance dated 28 March 2010, Atty. Baterina explained that he had been recuperating from a kidney transplant when he received a copy of the complaint. He begged the Court's indulgence and said that his failure to comply was "not at all intended to show disrespect to the orders of the Honorable Tribunal."[17]

Atty. Baterina also denied the allegation of bad faith and negligence in handling the Tejano case. He explained that the reason he could not attend to the case was that in 2002, after

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[12] *Id*. at 96-97, 120.

[13] *Id*. at 97.

[14] *Id*. at 1; Per Complainant's Position Paper filed before the IBP Commission on Bar Discipline, Judge Arquelada has retired from the judiciary. *Id*. at 96.

[15] *Id*. at 77.

[16] *Id*. at 79.

[17] *Id*. at 81.

Supreme Court E-Library

the initial presentation of the plaintiffs' case, he was suspended by the Court from the practice of law for two years.[18] He alleged that this fact was made known to Tejano's mother and sister. However, the trial court did not order plaintiffs to secure the services of another lawyer. On the contrary, it proceeded to hear the case, and plaintiffs were not represented by a lawyer until the termination of the case.[19] Atty. Baterina instead points to the "displayed bias" and "undue and conflict of interest"[20] of Judge Arquelada as the culprit in Tejano's predicament.

The Court, in its 19 July 2010 Resolution, found Atty. Baterina's explanation "not satisfactory" and admonished him "to be more heedful of the Court's directives in order to avoid delay in the disposition of [the] case." The Court also referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

IBP Investigation, Report and Recommendation

After the proceedings, the IBP's Commission on Bar Discipline promulgated its Report and Recommendation,[21] part of which reads:

> First, it appears that respondent's failure to appear in representation of his clients in the said civil case before the RTC was due to his two-year suspension from the practice of law in 2001. While this is a justified reason for his non-appearance, respondent, however, manifestly failed to properly inform the RTC of this fact. That way, the RTC would have, in the meantime, ordered plaintiffs to seek the services of another lawyer. Respondent's contention that the fact of his suspension was nonetheless circularized to all courts of the Philippines including the RTC is unavailing. Still, respondent should have exerted prudence in properly informing the RTC of his suspension in order to protect the interests of his clients.

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[18] See *Sipin-Nabor v. Baterina*, 412 Phil. 419 (2001).

[19] *Rollo*, p. 81.

[20] *Id*. at 82.

[21] *Id*. at 154-157.

Supreme Court E-Library

Moreover, while he relayed such fact of suspension to his clients, there is no showing that he explained the consequences to them, or that he advised them to seek another counsel's assistance in the meantime. Clearly therefore, respondent's inaction falls short of the diligence required of him as a lawyer.

Second, it must be recalled that the RTC in the said case required the plaintiffs therein to submit their formal offer of evidence. However, respondent did not bother to do so, in total disregard of the RTC's Order dated 8 November 2004. Respondent's bare excuse that he remembers making an oral offer thereof deserves no merit because the records of this case clearly reveal the contrary. Because of the said inaction of respondent, his clients' case was dismissed by the RTC.

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From the foregoing, it is clear that respondent's acts constitute sufficient ground for disciplinary action against him. His gross negligence under the circumstances cannot be countenanced. It is, therefore, respectfully recommended that respondent be suspended from the practice of law for two (2) years, and be fined in the amount of Fifty Thousand Pesos (₱50,000.00), considering that this is his second disciplinary action. x x x.[22]

On 20 March 2013, the IBP Board of Governors adopted the following resolution:

> RESOLUTION NO. XX-2013-237
> Adm. Case No. 8235
> Joselito F. Tejano vs.
> Atty. Benjamin F. Baterina

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that Respondent is guilty of gross negligence, Atty. Benjamin F. Baterina is hereby SUSPENDED from the practice of law for two (2) years. However,

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[22] *Id*. at 156-157.

the Fine of Fifty Thousand Pesos imposed on respondent is hereby deleted.[23]

The Court's Ruling

The Court adopts the IBP's report and recommendation, with modification as to the penalty.

The Code of Professional Responsibility governing the conduct of lawyers states:

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

x x x x x x x x x

RULE 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith 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 the client's request for information.

Lawyers have a "fourfold duty to society, the legal profession, the courts and their clients," and must act "in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility."[24]

When a lawyer agrees to take up a client's cause, he makes a commitment to exercise due diligence in protecting the latter's rights. Once a lawyer's services are engaged, "he is duty bound to serve his client with competence, and to attend to his client's cause with diligence, care and devotion regardless of whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed on him."[25] A lawyer's acceptance to take up a case

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[23] *Id*. at 153.

[24] *Del Mundo v. Capistrano*, A.C. No. 6903, 16 April 2012, 669 SCRA 462, 469. Citations omitted.

[25] *Lad vda. de Dominguez v. Agleron*, A.C. No. 5359, 10 March 2014. Citations omitted.

Supreme Court E-Library

"impliedly stipulates [that he will] carry it to its termination, that is, until the case becomes final and executory."[26]

Atty. Baterina's duty to his clients did not automatically cease with his suspension. At the very least, such suspension gave him a concomitant responsibility to inform his clients that he would be unable to attend to their case and advise them to retain another counsel.

A lawyer – even one suspended from practicing the profession – owes it to his client to not "sit idly by and leave the rights of his client in a state of uncertainty."[27] The client "should never be left groping in the dark" and instead must be "adequately and fully informed about the developments in his case."[28]

Atty. Baterina practically abandoned this duty when he allowed the proceedings to run its course without any effort to safeguard his clients' welfare in the meantime. His failure to file the required pleadings on his clients' behalf constitutes gross negligence in violation of the Code of Professional Responsibility[29] and renders him subject to disciplinary action.[30] The penalties for a lawyer's failure to file the required brief or pleading range from warning, reprimand, fine, suspension, or in grave cases, disbarment.[31]

Further, Atty. Baterina's reckless disregard for orders and directives of the courts is unbecoming of a member of the Bar. His conduct has shown that he has little respect for rules, court processes, and even for the Court's disciplinary authority. Not only did he fail to follow the trial court's orders in his clients'

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[26] *Villaflores v. Limos*, 563 Phil. 453, 460 (2007).

[27] *Dagala v. Queseda, Jr.*, A.C. No. 5044, 2 December 2013, 711 SCRA 206.

[28] *Uy v. Tansinsin*, 610 Phil. 709, 716 (2009), citing *Edquibal v. Ferrer, Jr.*, 491 Phil. 1 (2005).

[29] *Supra* note 26, at 463.

[30] *Spouses Soriano v. Reyes*, 523 Phil. 1, 16 (2006).

[31] See *Pangasinan Electric Cooperative I v. Atty. Montemayor*, 559 Phil. 438 (2007).

case, he even disregarded court orders in his own disciplinary proceedings.

Considering Atty. Baterina's medical condition at that time, a simple explanation to the Court would have sufficed. Instead, however, he simply let the orders go unheeded, neglecting his duty to the Court.

Lawyers, as this Court has previously emphasized, "are particularly called upon to obey court orders and processes and are expected to stand foremost in complying with court directives being themselves officers of the court."[32] As such, Atty. Baterina should "know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely."[33]

Proper Penalty

In *Spouses Soriano v. Reyes*, the Court held that "the appropriate penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts."[34]

The Court notes that in 2001, Atty. Baterina was also suspended for two years after being found guilty of gross misconduct.[35] In that case, Araceli Sipin-Nabor filed a complaint against Atty. Baterina for failing to file her Answer with Counterclaim in a case for quieting of title and recovery of possession where she and her siblings were defendants. Because of such failure, Sipin-Nabor was declared by the trial court to be in default and unable to present her evidence, and which, in turn, resulted in a decision adverse to her.

Atty. Baterina was also found to have "convert[ed] the money of his client to his own personal use without her consent" and "deceiv[ed] the complainant into giving him the amount of

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[32] *Sibulo v. Ilagan,* 486 Phil. 197, 203-204 (2004).

[33] *Cabauatan v. Venida*, A.C. No. 10043, 20 November 2013, 710 SCRA 328.

[34] *Supra* note 30, at 16.

[35] *Sipin-Nabor v. Baterina*, 412 Phil. 419 (2001).

Supreme Court E-Library

₱2,000.00 purportedly to be used for filing an answer with counterclaim," which he never did.

The Court likewise noted in that case Atty. Baterina's "repeated failure to comply with the resolutions of the Court requiring him to comment on the complaint [which] indicates a high degree of irresponsibility tantamount to willful disobedience to the lawful orders of the Supreme Court."[36]

These two disciplinary cases against Atty. Baterina show a pattern of neglecting his duty to his clients, as well as a propensity for disrespecting the authority of the courts. Such incorrigible behavior is unacceptable and will not be tolerated among the members of the Bar.

For this reason, the Court deems it proper to impose on Atty. Baterina a longer suspension period of five (5) years.

WHEREFORE, Atty. Benjamin F. Baterina is found **GUILTY** of gross negligence. He is **SUSPENDED** from the practice of law for five (5) years. He is also **STERNLY WARNED** that a repetition of the same or a similar offense will be dealt with more severely.

This decision shall take effect immediately and copies thereof furnished the Office of the Bar Confidant, to be appended to respondent's personal record, and the Integrated Bar of the Philippines.

The Office of the Court Administrator is directed to circulate copies of this decision to all courts.

SO ORDERED.

Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, and *Jardeleza, JJ.,* concur.

Sereno, C.J. on leave.

Brion, J., on official leave.

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[36] *Id.* at 424.