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[1] day of *reclusion temporal*, as maximum, with the accessory penalties provided for by law. The civil indemnity awarded to the heirs of the victim is hereby increased to ₱30,000. No costs.

SO ORDERED.

Makasiar (Chairman), *Aquino*, *Abad Santos,* and *Cuevas*, *JJ.*, concur.

Concepcion Jr., J., on leave.

SECOND DIVISION

[A.C. No. 2481. May 24, 1985]

LEONCIO DELA CRUZ, *petitioner-complainant, vs.* **ATTY. RICARDO A. FABROS, JR. and ATTY. GUILLERMO E. SUÑEGA,** *respondents.*

SYLLABUS

LEGAL ETHICS; ATTORNEYS; DISBARMENT; FAILURE OF COMPLAINANT TO REPLY TO COMMENTS OF RESPONDENTS PRODUCES AN INFERENCE THAT ALLEGATIONS IN THE COMPLAINT ARE FALSE AND BASELESS; CASE AT BAR.— In an order dated March 16, 1983, petitioner-complainant was required to file a reply to the respective comments of the respondents within ten (10) days from notice, which order was sent by registered mail to San Pablo City and received on April 5, 1983 by one Remedios dela Cruz. Until this date, May 21, 1985, no such reply has been filed. Such failure on the part of petitioner-complainant Leoncio dela Cruz to reply to the comments of respondents herein gives rise to the inference that the allegations in the comments of respondents are true and that the petition-complaint is false and baseless.

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RESOLUTION

MAKASIAR, *J.*:

On November 25, 1982, petitioner-complainant Leoncio dela Cruz alleged that Atty. Ricardo A. Fabros, Jr. has been his lawyer and counselor concerning his legal problems, paying him every time that he consults him; that every time he receives a letter from South Fortune Motors Corporation, he would consult Atty. Fabros, Jr. for him to prepare the required answer and accordingly pays him for his services; that on July 4, 1980, Atty. Fabros, Jr., as counsel of South Fortune Motors Corporation, filed two (2) complaints against him for sum of money in the Court of First Instance of Laguna and in San Pablo City, respectively docketed as Civil Cases Nos. SP-1748 and SP-1750 (Annexes A and B); that he approached Atty. Fabros, Jr., the counsel for South Fortune Motors Corporation, for help; that Atty. Fabros, Jr. told him that he will take care of the cases and he paid him for his services; that without informing him, Atty. Fabros, Jr. asked his friend, Atty. Guillermo E. Suñega, to appear in his (petitioner-complainant's) behalf; that Atty. Suñega, without also informing him, filed a motion for extension of time to file an answer on August 14, 1980 (Annex C); that on August 28, 1980, without filing any answer, Atty. Suñega filed a motion to withdraw his appearance (Annex D); that on September 4, 1980, Atty. Fabros, Jr. filed a motion to declare defendant in default signing said motion as "counsel for the defendant" and sending a copy thereof to Atty. Suñega despite his (Atty. Fabros, Jr.'s) knowledge that Atty. Suñega had already withdrawn his appearance (Annex E); that on September 9, 1980, the presiding Judge issued an order declaring him in default as well as approving the withdrawal of Atty. Suñega (Annex F); that Atty. Fabros, Jr. also phoned him and told him to allow South Fortune Motors Corporation to take his two trucks which were still quite new and had them appraised at a very low price; and that Atty. Fabros, Jr. caused to be levied properties in his possession although belonging to other persons, despite the filing of a third-party claim by the owners, and prayed that both lawyers should be disbarred for conniving in deceiving and cheating him.

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On February 16, 1983, respondent Atty. Ricardo A. Fabros, Jr. filed his *Comment and/or Answer* denying the accusation of petitioner-complainant that he has been his lawyer and counselor concerning his legal problems and as such received payments for his services, the truth being that petitioner-complainant has a retainer lawyer, Atty. Guillermo E. Suñega, who handled all petitioner-complainant's cases of estafa and bouncing checks mostly either as accused or debtor in the different courts; that in connection with Civil Cases Nos. SP-1748 and SP-1750, he never assured petitioner-complainant to take care of his cases, much less received any payment for his alleged promises; that it was petitioner-complainant who was the one who approached him and made false promises to settle his accounts and/or to return the two mini buses he purchased on credit from his client; that petitioner-complainant did not pay his client up to the present and instead hid the buses somewhere in San Pedro, Laguna, where the provincial sheriff of Laguna recovered the same; that after petitioner-complainant as defendant in the aforesaid civil cases was given ample time to settle his arrearages or to surrender the two buses by the manager of South Fortune Motors Corporation, the latter instructed him to file the complaints in court; that despite the extension of time granted by the court to his lawyer, Atty. Guillermo E. Suñega, petitioner-complainant failed to file his responsive pleading to said complaints; that upon his motion, petitioner-complainant was declared in default as defendant in the two aforementioned cases; that petitioner-complainant, as defendant, did not file any motion for the reconsideration of the order of default, much less appeal the same; that several attempts were made by mail to send the decision against petitioner-complainant on the said two cases but said petitioner-complainant was nowhere to be found and his family refused to give information as to his whereabouts as certified to by the Bureau of Posts (Annex 1); that accordingly, a writ of execution was issued by the court which was levied by the provincial sheriff for the possession of the two mini buses in San Pedro, Laguna, where petitioner-complainant hid the same; that said mini buses were already mechanically defective and were sold at public auction; that because the proceeds of

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the sale of the vehicles were not sufficient to cover the amount decreed in the decision, the provincial sheriff levied on the house and lot of petitioner-complainant and scheduled the same for auction sale, in connection with which a third party claim was filed by a claimant whose alleged deed of sale was unregistered; and that this petition-complaint is merely intended to harass him and accordingly prayed that petition-complaint be denied.

On February 17, 1985, respondent Atty. Guillermo E. Suñega filed his answer-comment averring that there is no truth to the accusation against him made by petitioner-complainant; that as early as 1979, petitioner-complainant, the manager of Citadel Insurance Company branch at San Pablo City, engaged his services on a case-to-case basis to handle reckless imprudence cases involving drivers of vehicles insured by petitioner-complainant with Citadel Insurance Company and involving drivers and employees of petitioner-complainant's own transportation company, which he operates as LDC Liner plying the Gumaca-Manila route; that this lawyer-client relationship between him and petitioner-complainant continued until the latter part of 1980 during which period he handled estafa cases involving petitioner-complainant for violation of Batas Pambansa Blg. 22 for issuing bouncing checks (Annexes A, A-1, B, C and D); that he appeared as lawyer for petitioner-complainant without being paid for his services, because petitioner-complainant was in financial straits due to business reverses in his transportation company and in his insurance agency; that on August 9, 1980, his services were engaged by petitioner-complainant in the two cases filed against him by South Fortune Motors Corporation; that in the afternoon of said day, August 9, 1980, he agreed to be the counsel of petitioner-complainant in the aforementioned two cases because petitioner-complainant himself pleaded with him; that he filed a motion for extension of time on August 14, 1980 and the court granted him an extension of fifteen (15) days from August 16, 1980 within which to file an answer (Annex E); that from August 14, 1980, he tried, to no avail, to communicate with petitioner-complainant but petitioner-complainant did not show up to confer with him on the two cases; that every time he tried to contact petitioner-complainant, he would be informed that

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petitioner-complainant was somewhere else or out of town; that he was reliably informed that petitioner-complainant was hiding from and evading his creditors and insurance claimants; that on August 27, 1980, he became apprehensive as the period for the filing of the answer was running out, and he wrote petitioner-complainant notifying him that he is withdrawing his appearance in the two cases (Annex F); and that he denies the allegation that he connived with Atty. Ricardo Fabros, Jr., the truth being that both respondents had never discussed the two cases. Respondent Atty. Suñega accordingly prayed for the dismissal of this petition-complaint and that petitioner-complainant should be admonished for filing such a baseless, reckless and malicious imputation against him.

In an order dated March 16, 1983, petitioner-complainant was required to file a reply to the respective comments of the respondents within ten (10) days from notice, which order was sent by registered mail to San Pablo City and received on April 5, 1983 by one Remedios dela Cruz. Until this date, May 21, 1985, no such reply has been filed.

Such failure on the part of petitioner-complainant Leoncio dela Cruz to reply to the comments of respondents herein gives rise to the inference that the allegations in the comments of respondents are true and that the petition-complaint is false and baseless.

HENCE, SAID PETITION-COMPLAINT IS HEREBY DISMISSED AND PETITIONER-COMPLAINANT LEONCIO DELA CRUZ IS HEREBY ADMONISHED FOR FILING SUCH A BASELESS COMPLAINT.

SO ORDERED.

Aquino, *Abad Santos*, *Escolin,* and *Cuevas*, *JJ.*, concur.

Concepcion Jr., *J.*, on leave.