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(8) Promulgate its own rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

In turn, Section 18 of the Ombudsman Act of 1989 provides:

Section 18. Rules of Procedure. — (1) The Office of the Ombudsman shall promulgate its rules of procedure for the effective exercise or performance of its powers, functions and duties.

Furthermore, under Section 27 of R.A. No. 6770, the Office of the Ombudsman has the power to amend or modify its rules as the interest of justice may require.

Obviously, the Court of Appeals' reliance on Section 7, Rule III of Administrative Order No. 07, as amended by Administrative Order No. 17, is in order.

WHEREFORE, we *DENY* the petition. Costs against petitioner.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and *Garcia, JJ.*, concur.

THIRD DIVISION

[A.C. No. 1666. April 13, 2007]

LUISITO BALATBAT, *complainant, vs.* **ATTY. EDGARDO ARIAS *Y* SANCHEZ,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; ATTORNEY-CLIENT RELATIONSHIP; CONTINUES UNTIL THE CLIENT GIVES A NOTICE OF DISCHARGE, OR MANIFESTS TO

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THE COURT OR TRIBUNAL WHERE THE CASE IS PENDING THAT COUNSEL IS BEING DISCHARGED, WITH A COPY SERVED UPON THE ADVERSE PARTY.— The settled rule is that the attorney-client relation continues until the client gives a notice of discharge, or manifests to the court or tribunal where the case is pending that counsel is being discharged, with a copy served upon the adverse party. Thus, the only way to be relieved as counsel is to have either the written conformity of his client or an order from the court relieving him of the duties of counsel, in accordance with Rule 138, Section 26 of the Rules of Court. This rule is consistent with the principle that an attorney who undertakes to conduct an action impliedly stipulates to carry it to its termination, and is not at liberty to abandon it without reasonable cause. The duty of a lawyer to safeguard his client's interests commences from his retainer until his effective discharge from the case or the final disposition of the entire subject matter of the litigation. The discharged attorney must likewise see to it that the name of the new counsel is properly recorded and the records properly handed over. Verily, the abandonment of a client in violation of the attorney's contract amounts to an ignorance of the most elementary principles of professional ethics.

2. ID.; ID.; THE DUTIES OF THE LAWYER TO APPEAR IN COURT ALWAYS MINDFUL OF HIS DUTIES, TO SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE, AND TO KEEP THE CLIENT INFORMED OF THE STATUS OF THE CASE AND RESPOND WITHIN A REASONABLE TIME TO A CLIENT'S REQUEST FOR INFORMATION, VIOLATED IN CASE AT BAR.— Respondent's actuations belie his claim that he had not been remiss in his duties to his client. The records show that on March 25, 1976, he received a notice of hearing for the setting of the case for trial on April 30, 1976. He went to the City Court on the appointed day. However, finding that plaintiff and defendant (complainant herein) therein had not yet arrived, he requested the clerk of court to cancel the hearing on the ground that he had two (2) criminal cases pending in the Court of First Instance of Manila, Branches 17 and 29 which he had to attend to. He then failed to verify the next hearing date with the court. When asked why he failed to do so, respondent declared that

it "slipped [his] mind and took the word of the Clerk of Court that notices [would] be sent to both parties. As it turned out, the said hearing was re-scheduled to June 18, 1976, the day plaintiff presented his evidence *ex parte*. Forthwith, judgment was rendered based solely thereon after which, execution ensued. Respondent should have, at the very least, moved to have the hearing postponed on the ground of conflict in his scheduled hearings in other cases. Indeed, the negligent failure of respondent to act accordingly under the circumstances clearly negates not only his claim that he "appeared in court always mindful of his duties," but also his vow to serve his client with competence and diligence and not neglect a legal matter entrusted to him. Respondent's actuations likewise violate Rule 18.04, which mandates that a lawyer keep the client informed of the status of the case and respond within a reasonable time to a client's request for information. A client must never be left in the dark for to do so would destroy the trust, faith and confidence reposed in the lawyer so retained in particular and the legal profession in general.

3. ID.; ID.; A LAWYER WHO PERFORMS HIS DUTY WITH DILIGENCE AND CANDOR NOT ONLY PROTECTS THE INTERESTS OF HIS CLIENT, HE ALSO SERVES THE END OF JUSTICE, DOES HONOR TO THE BAR AND HELPS MAINTAIN THE RESPECT OF THE COMMUNITY TO THE LEGAL PROFESSION.— 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

Guillermo C. Lucas for complainant.

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D E C I S I O N

CALLEJO, SR., *J.*:

The instant administrative complaint refers to the charges of "malpractice and gross negligence" against Atty. Edgardo Arias *y* Sanchez of relative to Civil Case No. 003066-CV for recovery of a sum of money.

In the Complaint[1] dated September 8, 1976, Luisito Balatbat alleged that he engaged the services of respondent to undertake his defense in the said civil case. According to complainant, he did not attend the scheduled hearings because respondent told him that there was no need to be present. But when he verified the status of the case from the then City Court of Manila, he was surprised to learn that a Decision[2] dated June 21, 1976 had already been rendered. Complainant alleged that the enforcement of the decision caused him and his family "untold miseries, embarrassment and public ridicule."[3]

The evidence on record shows that the city court declared complainant in default for failure to appear during the June 18, 1976 hearing. Plaintiff was, thereafter, allowed to present evidence *ex parte*. After three days, a judgment adverse to complainant was rendered, prompting the plaintiff to move for execution *ex-parte*;[4] Two days thereafter, a Writ of Execution[5] was issued.

In his Answer,[6] respondent claimed that the notice of the hearing of the June 18, 1976 trial was "made to appear as though signed by him."[7] He insisted that it was not his signature. He,

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[1] *Rollo*, p. 4.

[2] Annex "A", *id*. at 5.

[3] *Rollo*, p. 4.

[4] Annex "B", *id*. at 6.

[5] Annex "C", *id*. at 7.

[6] *Rollo*, pp. 13-17.

[7] *Id*. at 14.

likewise, asserted that contrary to complainant's allegations, he always tried to take the complainant with him to the city court for all the scheduled hearings; it was always the complainant who, for one reason or another, could not go with him.[8]

Respondent further alleged that complainant had filed a Manifestation in the City Court terminating his (respondent's) legal services, and a new counsel for complainant entered an appearance. Respondent claimed that he could not have possibly opposed the *Ex Parte* Motion for Execution filed in the civil case since he was not furnished a copy thereof.[9] Respondent prayed that complainant be punished for contumacy for being motivated by ill will and malice in filing the instant administrative complaint against him.

The Court referred the complaint to the Office of the Solicitor General for investigation.

Complainant testified that he had gone to the City Court to make a follow-up on the status of the case since respondent had not been communicating nor collecting fees from him for two months. He then discovered that a decision had already been rendered.[10] He went to respondent's office to inquire the status of his case, and respondent told him that "they were on the loss." He asked respondent to show him the copy of the decision, and respondent replied that "it was already in default." Complainant then demanded that the records of the case be shown to him but again, respondent refused.[11]

Respondent, for his part, claimed that it was complainant who notified him of the adverse decision and promised that he would verify this with the city court.[12] Respondent then requested the complainant to return the next day. He insisted that unlike

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[8] TSN, August 2, 1977, p. 27.

[9] *Rollo*, pp. 10-12.

[10] TSN, February 4, 1977, pp. 10-11.

[11] *Id.*, at 40-42.

[12] TSN, August 2, 1977, pp. 39-43.

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the notices of previous hearings in the case, he did not receive any notice from the City Court of the supposed hearing that was reset on June 18, 1976;[13] that the signature appearing therein was not his; and that he did not know who had affixed the same.[14] Thereafter, he informed the complainant that he had already prepared a draft pleading; that he would file it to have the decision set aside; and that it could easily be proven that "the signature appearing in the records was not his signature."[15]

The presentation of the parties' respective evidence was terminated on September 6, 1977. After they submitted their respective Memoranda, the case was transferred to the Integrated Bar of the Philippines Committee on Bar Discipline (IBP-CBD). The parties were then required to furnish copies of the documentary exhibits submitted in evidence.

Incidentally, it appears that a confusion as to the identity of respondent arose when the IBP-CBD sent a Notice[16] dated January 15, 1992 setting the hearing of the case on February 28, 1992 to a certain Atty. Edgardo S. Arias at the latter's address in Puerto Princesa City, Palawan. On the date set for hearing, the said Edgardo S. Arias filed a Motion to Be Furnished Copy of Complaint and for Re-Setting of Hearing, averring therein that he did not know the nature of the charge against him because he had not been furnished a copy of the complaint and other supporting documents. Accordingly, he requested that complainant be ordered to furnish him a copy of the complaint and that he be given at least fifteen days thereafter to file his answer or comment.[17] On May 5, 1992, he filed his comment. Emphasizing therein that his middle name was SORCA, he lamented that the instant complaint must have referred to Atty. Edgardo SANCHEZ Arias, a practicing lawyer in Manila, and not to himself for the

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[13] *Id.* at 18-19.

[14] *Id.* at 19.

[15] *Id.* at 20.

[16] *Rollo*, p. 2.

[17] *Id.* at 4.

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reason that he had been permanently residing and practicing his profession in Puerto Princesa City, Palawan since 1971.[18]

In its Report dated October 20, 1995, the IBP-CBD recommended that respondent be suspended from the practice of law for one (1) month, and warned that a repetition of the same act shall be dealt with more severely. The IBP Board of Governors then issued Resolution No. XII-96-45 dated January 27, 1996, adopting the said Report and Recommendation.

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[18] *Id.* at 8.

In his Comment, Edgardo Sorca Arias futher argued that —

a. The undersigned Atty. EDGARDO SORCA ARIAS has not met and, hence, does not know personally the complainant LUISITO BALATBAT. It goes to reason that BALATBAT has never been his client.

b. Atty. EDGARDO SORCA ARIAS has never held office at Rm. 310, Goiti Building, Sta, Cruz, Manila, from March 15, 1969 (the date he took his lawyer's oath) up to the present. It may sound funny, facetious or droll, but the truth is he does not know where Goiti Building exactly is nor has he never seen it!

c. On June 18, 1976, or prior thereto, undersigned Atty. EDGARDO SORCA ARIAS wa employed as Municipal Attorney at Roxas, Palawan and had been appearing in court in cases involving the municipality of Roxas, Palawan.

A copy of one of his pleadings filed on May 11, 1976 with the then COURT OF FIRST INSTANCE OF PALAWAN, Branch IV, in Civil Case No. 939, entitled "*BRUNO C, RODRIGUEZ, Plaintiff, versus MUNICIPALITY OF ROXAS, PALAWAN, et al., Defendants*," is hereto attached as ANNEX "1" hereof. This pleading (ANNEX "1") readily shows that Atty. EDGARDO SORCA ARIAS was then Municipal Attorney of Roxas, Palawan, and was in said province in May and June, 1976 practicing his profession within the period of time mentioned in the complaint. How, then, could he have held office at Goiti Building, Sta. Cruz, Manila, at that time? And how could he possibly have a client by the name of LUISITO BALATBAT when he was in Palawan all the time serving as Municipal Attorney of Roxas, Palawan?

d. As earlier adverted to, the undersigned Atty. EDGARDO SORCA ARIAS has been residing and practicing the law profession in Puerto Princesa City since 1970 continuously up to the present. Attached hereto is a copy of his pleadings filed in 1972 with the Office of the Provincial Fiscal of the Province of Palawan in re: Crim. Case No. 136 (Alonzo de Leon, *et al.*). This pleading readily shows that in 1972, undersigned attorney was then residing at Milagrosa Village, Liberty, Puerto Princesa City. Said pleading is marked as ANNEX "2" thereof.

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We agree that respondent is administratively liable.

Based on respondent's own admissions, he did not properly withdraw as counsel for complainant. The settled rule is that the attorney-client relation continues until the client gives a notice of discharge, or manifests to the court or tribunal where the case is pending that counsel is being discharged, with a copy served upon the adverse party.[19] Thus, the only way to be relieved as counsel is to have either the written conformity of his client or an order from the court relieving him of the duties of counsel, in accordance with Rule 138, Section 26[20] of the Rules of Court.

This rule is consistent with the principle that an attorney who undertakes to conduct an action impliedly stipulates to carry it to its termination, and is not at liberty to abandon it without reasonable cause.[21] The duty of a lawyer to safeguard his client's interests commences from his retainer until his effective discharge from the case or the final disposition of the entire subject matter of the litigation.[22] The discharged attorney must likewise see to it that the name of the new counsel is properly recorded and the records properly handed over.[23] Verily, the abandonment of a client in violation of the attorney's contract amounts to an ignorance of the most elementary principles of professional ethics.[24]

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[19] *Canoy v. Ortiz*, A.C. No. 5485, March 16, 2005, 453 SCRA 410, 420.

[20] Rule 138, Section 26 provides in part, "An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire.

[21] *Santeco v. Avance*, 463 Phil. 359, 369 (2003); *Orcino v. Gaspar*, 344 Phil. 792, 798 (1997).

[22] *Emiliano Court Townhouses v. Dioneda*, 447 Phil. 408, 414 (2003).

[23] *Santeo v. Avance, supra*, at 370.

[24] *In Re: Yeager*, 56 Phil. 691, 692 (1932).

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As the Investigating Commissioner noted, it was respondent's duty, upon being apprised of the adverse decision, to exhaust all available remedies at the time to prevent its attaining finality and, more importantly, to forestall the inevitable execution that would follow considering that at that time, the winning party had not yet filed the motion for execution.[25] Our pronouncement in *Santiago v. Fojas*[26] is instructive on this point:

> x x x Once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care and devotion. Elsewise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense. If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with its correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest 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.

Respondent's actuations belie his claim that he had not been remiss in his duties to his client. The records show that on March 25, 1976, he received a notice of hearing[27] for the setting of the case for trial on April 30, 1976. He went to the City Court on the appointed day.[28] However, finding that plaintiff and defendant (complainant herein) therein had not yet arrived, he requested the clerk of court to cancel the hearing on the

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[25] Report, pp. 3-4.

[26] A.C. No. 4103, September 7, 1995, 248 SCRA 68, 73-74.

[27] *Rollo*, p. 19.

[28] TSN, August 2, 1977, p. 30.

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ground that he had two (2) criminal cases pending in the Court of First Instance of Manila, Branches 17 and 29 which he had to attend to.[29] He then failed to verify the next hearing date with the court. When asked why he failed to do so, respondent declared that it "slipped [his] mind and took the word of the Clerk of Court that notices [would] be sent to both parties.[30] As it turned out, the said hearing was re-scheduled to June 18, 1976, the day plaintiff presented his evidence *ex parte*. Forthwith, judgment was rendered based solely thereon after which, execution ensued.[31] Respondent should have, at the very least, moved to have the hearing postponed on the ground of conflict in his scheduled hearings in other cases.

Indeed, the negligent failure of respondent to act accordingly under the circumstances clearly negates not only his claim that he "appeared in court always mindful of his dutries,"[32] but also his vow to serve his client with competence and diligence[33] and not neglect a legal matter entrusted to him.[34] Respondent's actuations likewise violate Rule 18.04, which mandates that lawyer keep the client informed of the status of the case and respond with a reasonable time to a client's request for information. A client must never be left in the dark for to do so would destroy the trust, faith and confidence reposed in the lawyer so retained in particular and the legal profession in general.[35]

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

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[29] *Rollo*, p. 15.

[30] TSN, August 2, 1977, p. 35.

[31] Report, p. 3.

[32] *Rollo*, p. 14.

[33] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 18.

[34] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 18.03.

[35] *Edquibal v. Ferrer, Jr.*, A,C, No. 5687, February 3, 2005, 450 SCRA 406, 411.

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candor not only protects the interests of his client, he also serves the ends of justice, does honor to the bar an helps maintain the respect of the community to the legal profession.[36] 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.[37]

CONSIDERING THE FOREGOING, for violation of the Code of Professional Responsibility, respondent Atty. Edgardo Arias *y* Sanchez is *SUSPENDED* from the practiced of law for One (1) month. He is *STERNLY WARNED* that a repetition of the same or siminar act in the future shall be dealth with more severely. He is likewise *DIRECTED* to report the date of his receipt of this Decision to enable the Court to determine when his suspension shall have taken effect.

Let copies of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the courts of the country.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Chico-Nazario, and *Nachura, JJ.*, concur.

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[36] *Cantiller v. Potenciano,* A.C. No. 3195, December 18, 1989, 180 SCRA 246, 248.

[37] *Id.* at 253.