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parties in subsequent proceedings and pleadings filed in the trial court. In the *Joint Stipulation of Facts*, dated December 14, 1990, *signed by both counsels* for respondent and petitioners and submitted to the trial court, the solidary liability of the individual petitioners was clearly put in issue. Clearly, the entire pre-trial proceedings undisputably show that the issue as to the solidary liability of the individual petitioners should have been properly considered in the resolution of the collection case.

Neither could respondent be faulted for failing to question paragraph 5 of the first pre-trial Order, dated March 6, 1989, stating therein the release of the individual petitioners from liability, as *the proceedings and pleadings subsequent thereto, filed by both parties, clearly included the issue of solidary liability for resolution of the trial court.* Thus, it came as a surprise for the respondent that the decision rendered by the trial court excluded the individual petitioners from liability, citing as ground therefor the alleged stipulation made by by the respondent in March 1989.

IN VIEW WHEREOF, the petition is *DISMISSED* and the assailed Decision of the Court of Appeals, dated May 12, 2000, is affirmed *in toto.* Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, and *Ynares-Santiago, JJ.,* concur.

SECOND DIVISION

[A.C. No. 5558. March 7, 2002]

SPS. LOLITA and ROMY GALEN, SPS. ENRIQUETA and TOMAS RASDAS, and SPS. ESPERANZA and ERNESTO VILLA, *complainants, vs.* **ATTY. ANTONIO B. PAGUIRIGAN,** *respondent.*

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SYNOPSIS

Complainants were the defendants in a civil case for recovery of a residential lot, while respondent was their attorney thereto. When judgment was rendered in favor of complainants and the other party filed an appeal to the Court of Appeals, complainants maintained respondent as their counsel. Later, however, complainants learned that the appellate court reversed the ruling of the trial court and that respondent had failed to file an appellee's brief in their behalf. Thereafter, when the Supreme Court granted respondent's motion for extension of time to file a petition for review on *certiorari*, respondent filed the same but out of time. Hence, this administrative case.

Respondent failed to file the appellee's brief because he was confident that the trial court's decision would be affirmed. This is flimsy and fatal to the cause of the client. Respondent failed to file his petition for review within the extended period granted because the Court did not grant his motion until close to the end of the 30-day period he was asking for. Not only did respondent manifest that he is ignorant of the basic principles of the law, but he also violated Rule 12.03 of the Code of Professional Responsibility which provides that lawyers shall not,

after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so. Respondent was suspended from the practice of law for six (6) months.

SYLLABUS

1. **LEGAL ETHICS; LAWYERS; NEGLIGENCE IN THE PERFORMANCE OF DUTIES; EEFECT OF FAILURE TO FILE APPELLEES' BRIEF.** — Respondent was clearly negligent in the performance of his duties as complainants' counsel. He admits that he failed to file the appellees' brief. His excuse that he failed to do so because he was confident that the trial court's decision would be affirmed is flimsy. It shows the cavalier attitude which respondent took toward his clients' cause. While the failure to file the appellee's brief in a case is not a ground for an adverse ruling against the appellee, unlike the failure to file the appellant's brief which may result in the dismissal of

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an appeal, nonetheless, the importance of filing an appellee's brief cannot be gainsaid. As this Court has pointed out, "Upon appeal, the appellate court, not being in a position to hear firsthand the testimony of parties, can only place great reliance on the briefs and memoranda of the parties. The failure to submit these pleadings could very well be fatal to the cause of a client." For this reason, this Court held that "[r]espondent's failure to submit the brief to the appellate court within the reglementary period entails disciplinary action. Not only is it a dereliction of duty to his client but also to the court as well."

2. **ID.; ID.; ID.; EFFECT OF FAILURE OF RESPONDENT TO FILE PETITION FOR REVIEW WITHIN THE OBTAINED EXTENSION OF TIME TO FILE.** – After being granted a 30-day extension of the time to file a petition for review of the decision of the Court of Appeals, respondent again lost through default the benefit of the extension granted as he failed to file his petition for review within the extended period granted. By claiming that this Court did not act on his motion until close to the end of the 30-day period he was asking for, respondent only succeeds in showing ignorance of two basic principles: first, that a party cannot presume that his motion will be granted, and, second, that any extension granted is always counted from the last day of the reglementary period or the last period of extension previously sought and/or granted. The last rule is important because unless the extension from the last day of the reglementary period or the day of last extension is granted, this period would become inextendible. Respondent is thus guilty of violation of Rule 12.03 of the Code of Professional Responsibility which provides that "A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so."

3. **ID.; ID.; ID.; DUTY OF COUNSEL TO RENDER FULL SERVICE TO THE CLIENT NOT COMPLIED WITH IN CASE AT BAR; EFFECT.** – A lawyer is expected to be familiar with these rudiments of law and procedure and anyone who acquires his service is entitled to not just competent service but also whole-hearted devotion to his client's cause. It is the duty of a lawyer to serve his client with competence and diligence and he should exert his best efforts to protect within the bounds of law the interest of his client. A lawyer should never neglect a legal

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matter entrusted to him, otherwise his negligence in fulfilling his duty will render him liable for disciplinary action. For failing to render competent service to complainants, respondent should refund to them the amount of ₱10,000.00 which he received from them for litigation expenses.

D E C I S I O N

MENDOZA, *J.*:

This is a complaint for disbarment and damages filed by spouses Lolita and Romy Galen, spouses Enriqueta and Tomas Rasdas, and spouses Esperanza and Ernesto Villa against Atty. Antonio B. Paguirigan.

Complainants were the defendants in a civil case[1] for recovery of a residential lot before the Regional Trial Court, Branch 16, Ilagan, Isabela, while respondent Paguirigan was their attorney thereto. On November 6, 1995, judgment was rendered in favor of complainants. Trusting in the able representation of respondent for their cause, complainants continued the services of respondent attorney when the plaintiff appealed the decision of the trial court to the Court of Appeals.

In October 1997, complainants were informed by a representative of respondent that the Court of Appeals had reversed the trial court's decision. Upon inquiry in the Court of Appeals, complainants learned that despite notice to him, respondent failed to file an appellees' brief in their behalf. When complainants confronted respondent, the latter assured them that he would seek a review of the decision of the Court of Appeals in this Court. For this reason, complainants gave him ₱10,000.00 for docket fees and other expenses.

On October 14, 1997, respondent filed a motion for extension of time to file a petition for review on *certiorari,* which this Court granted in its resolution dated November 19, 1997. On

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[1] Civil Case No. 673 entitled *Jaime Estenor v. Sps. Lolita Galen & Romy Galen.*

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November 20, 1997, respondent filed the petition. However, it was denied for having been filed out of time, the due date being November 14, 1997. On April 16, 1999, complainants were surprised to receive a writ of execution issued by the trial court. It was only when they confronted respondent that they were told that their petition had been denied by this Court.

Hence, this complaint. It is alleged that because of respondent's gross negligence in failing to file an appellees' brief in the Court of Appeals and to file on time a petition for review before this Court, complainants lost not only their money but more importantly the lot where their family homes are built. Complainants pray that respondent be disbarred from the practice of law for violation of Canon 18 of the Code of Professional Responsibility and that he be ordered to pay damages to them.

Respondent alleges that he agreed to represent complainants in Civil Case No. 673 without remuneration, after their former counsel, Atty. Josephine Eduarte, had withdrawn from the case. He claimed he did his best to assist complainants and was in fact successful in obtaining from the trial court a favorable judgment for them. Confident that the trial court's decision would be affirmed, respondent said he did not find it necessary to file an appellees' brief, since the filing of the same, although required, is not mandatory as the entire records would be before the appellate court for review. Respondent points out that although the petition for review which he filed in this Court was denied for having been filed late for six days, the motion for reconsideration of the resolution denying the petition was denied on "a mere technicality."

On July 19, 2000, the Integrated Bar of the Philippines Commission on Bar Discipline, to which this case had been referred for investigation, submitted its report recommending that respondent be suspended from the practice of law for six months.[2] Its report, as approved by the IBP Board of Governors in its resolution dated October 27, 2001, was indorsed to this

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[2] Report and Recommendation of the Investigating Commissioner, p. 6.

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Court for final approval pursuant to Rule 139-B, §12(b) of the Rules of Court.[3]

On December 27, 2001, respondent filed a motion for reconsideration which is hereby treated as a petition for review. Respondent alleges that he failed to file the petition for review in this Court before November 14, 1997 because he thought that the 30-day extension which he sought would be reckoned from the time he would receive the resolution of this Court granting his motion, rather than from the expiration of the reglementary period for appeal. Respondent claims that he filed the petition for review on November 20, 1997 before he received the Court's resolution, dated November 19, 1997, granting his motion for extension. He claims that this Court granted his motion for extension belatedly, considering that the 30-day extension was to expire on November 14, 1997 but this Court acted on it only on November 19, 1997. As a token of his earnestness in representing his clients' cause, respondent claims that he filed a motion for reconsideration of this Court's resolution denying his petition for review and that when a motion for execution was filed by the plaintiff in the trial court, he opposed the motion. For these reasons, respondent prays that the complaint against him be dismissed for lack of merit.

After a review of the records of this case, the Court finds no basis for reversing the findings and recommendation of the IBP. Its recommendation is affirmed with the modification that, aside from the suspension for six (6) months, respondent Atty. Antonio B. Paguirigan should be ordered to reimburse to complainants the amount of ₱10,000.00.

Respondent was clearly negligent in the performance of his duties as complainants' counsel. He admits that he failed to file the appellees' brief. His excuse that he failed to do so because he was confident that the trial court's decision would be affirmed is flimsy. It shows the cavalier attitude which respondent took toward his clients' cause. While the failure to file the appellee's brief in a case is not a ground for an adverse

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[3] IBP Resolution No. XV-2001-207.

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ruling against the appellee, unlike the failure to file the appellant's brief which may result in the dismissal of an appeal, nonetheless, the importance of filing an appellee's brief cannot be gainsaid. As this Court has pointed out, "Upon appeal, the appellate court, not being in a position to hear firsthand the testimony of parties, can only place great reliance on the briefs and memoranda of the parties. The failure to submit these pleadings could very well be fatal to the cause of a client."[4] For this reason, this Court held that "[r]espondent's failure to submit the brief to the appellate court within the reglementary period entails disciplinary action. Not only is it a dereliction of duty to his client but also to the court as well."[5]

In another case,[6] this Court held:

> An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. A failure to file brief for his client certainly constitutes inexcusable negligence on his part. The respondent has indeed committed a serious lapse in the duty owed by him to his client as well as to the Court not to delay litigation and to aid in the speedy administration of justice.

In this case, respondent did not only fail to file an appellees' brief. To make matters worse, after being granted a 30-day extension of the time to file a petition for review of the decision of the Court of Appeals, he again lost through default the benefit of the extension granted as he failed to file his petition for review within the extended period granted. By claiming that this Court did not act on his motion until close to the end of the 30-day period he was asking for, respondent only succeeds in showing ignorance of two basic principles: first, that a party cannot presume that his motion will be granted, and, second, that any extension granted is always counted from the last day of the reglementary period or the last period of extension previously sought

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[4] *Torres v. Orden*, 330 SCRA 1, 5 (2000).

[5] *Id.*

[6] *Tan v. Lapak*, G.R. No. 93707, Jan. 23, 2001 *citing* In Re: Santiago F. Marcos, 156 SCRA 844, 847 (1987) (citations omitted).[7] In Re: Vicente Y. Bayani, 337 SCRA 451 (2000).

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and/or granted. The last rule is important because unless the extension from the last day of the reglementary period or the day of last extension is granted, this period would become inextendible. Respondent is thus guilty of violation of Rule 12.03 of the Code of Professional Responsibility which provides that "A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so."

A lawyer is expected to be familiar with these rudiments of law and procedure and anyone who acquires his service is entitled to not just competent service but also whole-hearted devotion to his client's cause.[7] It is the duty of a lawyer to serve his client with competence and diligence and he should exert his best efforts to protect within the bounds of law the interest of his client.[8] A lawyer should never neglect a legal matter entrusted to him, otherwise his negligence in fulfilling his duty will render him liable for disciplinary action.[9] For failing to render competent service to complainants, respondent should refund to them the amount of ₱10,000.00 which he received from them for litigation expenses.

WHEREFORE, in view of the foregoing, respondent Atty. Antonio B. Paguirigan is *SUSPENDED* from the practice of law for six (6) months effective upon finality hereof and *ORDERED* to refund to complainants the amount of ₱10,000.00 with WARNING that a repetition of the same negligent act charged in this complaint will be dealt with even more severely.

Let copies of this decision be furnished to all courts in the Province of Isabela for their guidance and information.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.,* concur.

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[8] In Re: Atty. David Briones, Adm. Case No. 5486, Aug. 15, 2001.

[9] Code of Professional Responsibility, Rule 18.03.