Supreme Court E-Library

THIRD DIVISION

[A.C. No. 7504. November 23, 2007]

VIRGINIA VILLAFLORES, *complainant, vs.* **ATTY. SINAMAR E. LIMOS,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; ATTORNEY-CLIENT RELATIONSHIP; A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT; SUSTAINED. — The relation of attorney and client begins from the time an attorney is retained. To establish the professional relation, it is sufficient that the advice and assistance of an attorney are sought and received in any manner pertinent to his profession. x x x In short, respondent's acceptance of the payment for her professional fees and miscellaneous expenses, together with the records of the case, effectively bars her from disclaiming the existence of an attorney-client relationship between her and complainant. No lawyer is obliged to advocate for every person who may wish to become his client, but once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must be mindful of the trust and confidence reposed in him. Among the fundamental rules of ethics is the principle that an attorney who undertakes an action impliedly stipulates to carry it to its termination, that is, until the case becomes final and executory. As ruled in *Rabanal v. Tugade*: 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

Supreme Court E-Library

from any attorney, it is because the entrusted privilege to practice law carries with it the 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.

2. ID.; ID.; ID.; A LAWYER SHOULD SERVE HIS CLIENT IN A CONSCIENTIOUS, DILIGENT AND EFFICIENT MANNER; EXPLAINED.— This Court has emphatically ruled that the trust and confidence necessarily reposed by clients requires in the attorney a high standard and appreciation of his duty to his clients, his profession, the courts and the public. Every case a lawyer accepts deserves his full attention, diligence, skill and competence, regardless of its importance and whether he accepts if for a fee or for free. Certainly, a member of the Bar who is worth his title cannot afford to practice the profession in a lackadaisical fashion. A lawyer's lethargy from the perspective of the Canons is both unprofessional and unethical. A lawyer should serve his client in a conscientious, diligent and efficient manner, and he should provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation. By agreeing to be his client's counsel, he represents that he will exercise ordinary diligence or that reasonable degree of care and skill having reference to the character of the business he undertakes to do, to protect the client's interests and take all steps or do all acts necessary therefor, and his client may reasonably expect him to discharge his obligations diligently.

3. ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; FAILURE OF LAWYER TO FILE APPELLANT'S BRIEF FOR HIS CLIENT WITHIN THE REGLEMENTARY PERIOD CONSTITUTES GROSS NEGLIGENCE IN VIOLATION OF THE CODE OF PROFESSIONAL RESPONSIBILITY.— This Court will not countenance respondent's failure to observe the reglementary period to file the appellant's brief. Counsels are sworn to protect the interests of their clients and in the process, should be knowlegeable about the rules of procedure to avoid prejudicing the interests of their clients or worse compromising the integrity of the courts. Ignorance of the procedural rules

Supreme Court E-Library

on their part is tantamount to inexcusable negligence. However, the matter before us does not even call for counsel's knowledge of procedural rules, but merely her managerial skills in keeping track of deadlines for filing necessary pleadings, having difficulty with which, she could have always opted to timely withdraw from the case in order not to prejudice further her client's interest. The failure of respondent to file the appellant's brief for complainant within the reglementary period constitutes gross negligence in violation of the Code of Professional Responsibility. In *Perla Compania de Seguros, Inc. v. Saquilabon*, 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.

4. ID.; ID.; ID.; VIOLATION THEREOF; PENALTY, JUSTIFIED. — All told, we rule and so hold that on account of respondent's failure to protect the interest of complainant, respondent indeed violated Rule 18.03, Canon 18 of the Code of Professional Responsibility. Respondent is reminded that the practice of law is a special privilege bestowed only upon those who are competent intellectually, academically and morally. This Court has been exacting in its expectations for the members of the Bar to always uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence of the public. In *People v. Cawili*, we held that the failure of counsel to submit the brief within the reglementary period is an offense that entails disciplinary action. *People v. Villar, Jr.* characterized a lawyer's failure to file a brief for his client as inexcusable neglect. In *Blaza v. Court of Appeals*, we held that the filing of a brief within the period set by law is a duty not only to the client, but also to the court. *Perla Compania de Seguros, Inc. vs. Saquilabon* reiterated *Ford v. Daitol* and *In re: Santiago F. Marcos* in holding that an attorney's failure to file a brief for his client constitutes inexcusable negligence. In cases involving a lawyer's failure to file a brief or other pleadings before an appellate court, we did not hesitate to suspend the erring member of the Bar from the practice of law for three months, six months, or even disbarment in severely aggravated cases.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Carmencita M. Chua for complainant.

R E S O L U T I O N

CHICO-NAZARIO, *J.*:

Before Us is a Complaint[1] for Disbarment filed by complainant Virginia Villaflores against respondent Atty. Sinamar Limos, charging the latter with Gross Negligence and Dereliction of Duty.

Complainant Virginia Villaflores is the defendant in Civil Case No. 1218-BG entitled, "*Spouses Sanchez represented by Judith Medina vs. Spouses Villaflores*," filed before the Regional Trial Court (RTC) of Bauang, La Union, Branch 33.

Receiving an unfavorable judgment, complainant sought the help of the Public Attorney's Office (PAO) to appeal her case to the Court of Appeals. The PAO filed for her a Notice of Appeal with the RTC.

On 1 September 2004, complainant received a copy of a Notice[2] from the Court of Appeals requiring her to file her appellant's brief within 45 days from receipt thereof.

Immediately thereafter, complainant approached respondent, who had previously handled her son's case, to file on her behalf the required appellant's brief. Since respondent agreed to handle the appeal, complainant handed to respondent on 8 September 2004 the amount of ₱10,000.00 as partial payment of the latter's acceptance fee of ₱20,000.00, together with the entire records of the case. The following day, on 9 September 2004, complainant paid the balance of respondent's acceptance fee in the amount of ₱10,000.00. These payments were duly receipted and acknowledged[3] by the respondent.

---

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

[2] *Id*. at 9.

[3] *Id*. at 5-6.

Supreme Court E-Library

On 21 September 2004, an Employment Contract[4] was executed between complainant and respondent whereby the former formally engaged the latter's professional services. Upon the execution of said contract, complainant again paid the respondent the amount of ₱2,000.00 for miscellaneous expenses.[5]

On 14 January 2005, complainant received a copy of a Resolution[6] dated 6 January 2005 issued by the Court of Appeals dismissing her appeal for failure to file her appellant's brief within the reglementary period. Thus, on 17 January 2005, complainant went to respondent's office but failed to see respondent.

After several unsuccessful attempts to talk to the respondent, complainant went to Manila on 18 January 2005 to seek help from another lawyer who agreed to handle the case for her. On 19 January 2005, complainant went back to the respondent's office to retrieve the records of her case. Respondent allegedly refused to talk to her.

Aggrieved by respondent's actuations, complainant filed the instant administrative complaint against respondent.

In her Answer,[7] respondent admitted her issuance of the acknowledgment receipts for the aggregate amount of ₱22,000.00, the execution of the Employment Contract between her and complainant, and the issuance by the Court of Appeals of the Notice to File Appellant's Brief and Resolution dated 6 January 2005. She, however, denied all other allegations imputed against her. Respondent argued that the non-filing of the appellant's brief could be attributed to the fault of the complainant who failed to inform her of the exact date of receipt of the Notice to File Appellant's Brief from which she could reckon the 45-day period to file the same. Complainant allegedly agreed to return to respondent once she had ascertained the actual

---

[4] *Id*. at 9.

[5] *Id*. at 8.

[6] *Id*. at 10.

[7] *Id*. at 21-30.

Supreme Court E-Library

date of receipt of said Notice, but she never did. Complainant supposedly also agreed that in the event she could not give the exact date of receipt of the Notice, respondent would just wait for a new Order or Resolution from the Court of Appeals before she would file the appropriate pleading. Respondent further contended that she had, in fact, already made preliminary study and initial research of complainant's case.

Pursuant to the complaint, a hearing was conducted by the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) at the IBP Building, Ortigas Center, Pasig City, on 17 June 2005.

On 11 April 2006, Investigating Commissioner Acerey C. Pacheco submitted his Report and Recommendation,[8] finding respondent liable for gross negligence and recommending the imposition upon her of the penalty of one year suspension, to wit:

> WHEREFORE, it is respectfully recommended that herein respondent be declared guilty of gross negligence in failing to file the required appellants' brief for which act she should be suspended from the practice of law for a period of one (1) year. Also, it is recommended that the respondent be ordered to return the amount of ₱22,000.00 that she received from the complainant.

Thereafter, the IBP Board of Governors passed Resolution[9] No. XVII-2006-584 dated 15 December 2006, approving with modification the recommendation of the Investigating Commissioner, thus:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification,** the Report and Recommendation of the Investigating Commissioner of 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 Respondent's gross negligence in failing to file the required appellant's brief, Atty. Sinamar

---

[8] *Id*. at 125-128.

[9] *Id*. at 123.

Supreme Court E-Library

E. Limos is hereby SUSPENDED from the practice of law for three (3) months with Warning that a repetition of similar conduct will be dealt with more severely and ORDERED TO RETURN the amount of ₱22,000.00 she received from complainant.

The core issue in this administrative case is whether the respondent committed culpable negligence in handling complainant's case as would warrant disciplinary action.

After a careful review of the records and evidence, we find no cogent reason to deviate from the findings and the recommendation of the IBP Board of Governors and, thus, sustain the same. Respondent's conduct in failing to file the appellant's brief for complainant before the Court of Appeals falls below the standards exacted upon lawyers on dedication and commitment to their client's cause.

The relation of attorney and client begins from the time an attorney is retained.[10] To establish the professional relation, it is sufficient that the advice and assistance of an attorney are sought and received in any manner pertinent to his profession.[11]

It must be noted that as early as 8 September 2004, respondent already agreed to take on complainant's case, receiving from the latter partial payment of her acceptance fee and the entire records of complainant's case. The very next day, 9 September 2004, complainant paid the balance of respondent's acceptance fee. Respondent admitted her receipt of ₱20,000.00 as acceptance fee for the legal services she is to render to complainant and ₱2,000.00 for the miscellaneous expenses she is to incur in handling the case, and the subsequent execution of the employment contract between her and complainant. Hence, it can be said that as early as 8 September 2004, respondent's rendition of legal services to complainant had commenced, and from then on, she should start protecting the complainant's interests. The employment contract between respondent and complainant already existed as of 8 September 2004, although it was only reduced into writing on 21 September 2004. In short, respondent's

[10] *Solatan v. Inocentes*, A.C. No. 6504, 9 August 2005, 466 SCRA 1, 11.

[11] *Id*.

Supreme Court E-Library

acceptance of the payment for her professional fees and miscellaneous expenses, together with the records of the case, effectively bars her from disclaiming the existence of an attorney-client relationship between her and complainant.

No lawyer is obliged to advocate for every person who may wish to become his client, but once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must be mindful of the trust and confidence reposed in him.[12] Among the fundamental rules of ethics is the principle that an attorney who undertakes an action impliedly stipulates to carry it to its termination, that is, until the case becomes final and executory.

As ruled in *Rabanal v. Tugade:*[13]

> 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 it the 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 defense that complainant failed to inform her of the exact date when to reckon the 45 days within which to file the appellant's brief does not inspire belief or, at the very

---

[12] *Tan v. Lapak*, 402 Phil. 920, 929-930 (2001).

[13] 432 Phil. 1064, 1070 (2002).

Supreme Court E-Library

least, justify such failure. If anything, it only shows respondent's cavalier attitude towards her client's cause.

A case in point is *Canoy v. Ortiz*,[14] where the Court ruled that the lawyer's failure to file the position paper was *per se* a violation of Rule 18.03 of the Code. There, the Court ruled that the lawyer could not shift the blame to his client for failing to follow up his case because it was the lawyer's duty to inform his client of the status of cases.

Respondent cannot justify her failure to help complainant by stating that "after receipt of part of the acceptance fee, she did not hear anymore from complainant." The persistence displayed by the complainant in prosecuting this complaint belies her lack of enthusiasm in fighting for her rights, as alleged by respondent.

This Court has emphatically ruled that the trust and confidence necessarily reposed by clients requires in the attorney a high standard and appreciation of his duty to his clients, his profession, the courts and the public. Every case a lawyer accepts deserves his full attention, diligence, skill and competence, regardless of its importance and whether he accepts it for a fee or for free. Certainly, a member of the Bar who is worth his title cannot afford to practice the profession in a lackadaisical fashion. A lawyer's lethargy from the perspective of the Canons is both unprofessional and unethical.[15]

A lawyer should serve his client in a conscientious, diligent and efficient manner; and he should provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation. By agreeing to be his client's counsel, he represents that he will exercise ordinary diligence or that reasonable degree of care and skill having reference to the character of the business he undertakes to do, to protect the client's interests and take all steps or do all

---

[14] A.C. No. 5485, 16 March 2005, 453 SCRA 410, 419, cited in *Heirs of Tiburcio Ballesteros, Sr. v. Apiag*, A.C. No. 5760, 30 September 2005, 411 SCRA 111, 124.

[15] *Jardin v. Villar, Jr.*, 457 Phil. 1, 9 (2003).

Supreme Court E-Library

acts necessary therefor, and his client may reasonably expect him to discharge his obligations diligently.[16]

Respondent has obviously failed to measure up to the foregoing standards.

It may be true that the complainant shares the responsibility for the lack of communication between her and respondent, her counsel. Respondent, however, should not have depended entirely on the information her client gave or at the time the latter wished to give it. Respondent, being the counsel, more than her client, should appreciate the importance of complying with the reglementary period for the filing of pleadings and know the best means to acquire the information sought. Had she made the necessary inquiries, respondent would have known the reckoning date for the period to file appellant's brief with the Court of Appeals. As a lawyer representing the cause of her client, she should have taken more control over her client's case.

Respondent's dismal failure to comply with her undertaking is likewise evident from the fact that up until 19 January 2005, when complainant retrieved the entire records of her case, and more than four months from the time her services were engaged by complainant, respondent still had not prepared the appellant's brief.

Rule 18.03 of the Code of Professional Responsibility for Lawyers states:

> A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

In this case, by reason of respondent's negligence, the complainant suffered actual loss. Complainant faced the risk of losing entirely her right to appeal and had to engage the services of another lawyer to protect such a right.

This Court will not countenance respondent's failure to observe the reglementary period to file the appellant's brief. Counsels

---

[16] *Adecer v. Akut*, A.C. No. 4809, 3 May 2006, 489 SCRA 1, 12-13.

Supreme Court E-Library

are sworn to protect the interests of their clients and in the process, should be knowlegeable about the rules of procedure to avoid prejudicing the interests of their clients or worse, compromising the integrity of the courts. Ignorance of the procedural rules on their part is tantamount to inexcusable negligence.[17] However, the matter before us does not even call for counsel's knowledge of procedural rules, but merely her managerial skills in keeping track of deadlines for filing necessary pleadings, having difficulty with which, she could have always opted to timely withdraw from the case in order not to prejudice further her client's interest.

The failure of respondent to file the appellant's brief for complainant within the reglementary period constitutes gross negligence in violation of the Code of Professional Responsibility. In *Perla Compania de Seguros, Inc. v. Saquilabon,*[18] this Court held:

> An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. (*Del Rosario v. Court of Appeals,* 114 SCRA 159) *A failure to file brief for his client certainly constitutes inexcusable negligence on his part.* (*People v. Villar,* 46 SCRA 107) 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. (*People v. Daban,* 43 SCRA 185; *People v. Estocada,* 43 SCRA 515).

All told, we rule and so hold that on account of respondent's failure to protect the interest of complainant, respondent indeed violated Rule 18.03, Canon 18 of the Code of Professional Responsibility. Respondent is reminded that the practice of law is a special privilege bestowed only upon those who are competent intellectually, academically and morally. This Court has been exacting in its expectations for the members of the Bar to always uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence of the public.

---

[17] *Ginete v. Court of Appeals*, 357 Phil. 36, 48 (1998).

[18] 337 Phil. 555, 558 (1997).

Supreme Court E-Library

In *People v. Cawili,*[19] we held that the failure of counsel to submit the brief within the reglementary period is an offense that entails disciplinary action. *People v. Villar, Jr.*[20] characterized a lawyer's failure to file a brief for his client as inexcusable neglect. In *Blaza v. Court of Appeals,*[21] we held that the filing of a brief within the period set by law is a duty not only to the client, but also to the court. *Perla Compania de Seguros, Inc. v. Saquilabon*[22] reiterated *Ford v. Daitol*[23] and *In re: Santiago F. Marcos*[24] in holding that an attorney's failure to file a brief for his client constitutes inexcusable negligence.

In cases involving a lawyer's failure to file a brief or other pleadings before an appellate court, we did not hesitate to suspend the erring member of the Bar from the practice of law for three months,[25] six months,[26] or even disbarment in severely aggravated cases.[27]

WHEREFORE, the resolution of the IBP Board of Governors approving and adopting the report and recommendation of the Investigating Commissioner is hereby *AFFIRMED.* Accordingly, respondent ATTY. SINAMAR E. LIMOS is hereby *SUSPENDED* from the practice of law for a period of *THREE (3) MONTHS,* with a stern warning that a repetition of the same or similar wrongdoing will be dealt with more severely. Furthermore, respondent is hereby *ORDERED* to return the

---

[19] 145 Phil. 605, 608 (1970).

[20] 150-B Phil. 97, 100 (1972).

[21] G.R. No. L-31630, 23 June 1988, 162 SCRA 461, 465.

[22] *Supra* note 18.

[23] 320 Phil. 53, 58 (1995).

[24] A.C. No. 922, 29 December 1987, 156 SCRA 844, 847.

[25] *Ford v. Daitol, supra* note 23; *In re: Santiago F. Marcos, id.*

[26] *Guiang v. Antonio,* A.C. No. 2473, 3 February 1993, 218 SCRA 381, 384.

[27] *Mariveles v. Mallari,* A.C. No. 3294, 17 February 1993, 219 SCRA 44, 46.

Supreme Court E-Library

amount of Twenty-Two Thousand Pesos (₱22,000.00), which she received from complainant Virginia Villaflores.

Let a copy of this decision be attached to respondent's personal record with the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines and to all courts of the land.

SO ORDERED.

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

EN BANC

[A.M. No. 2006-15-SC. November 23, 2007]

RE: ANONYMOUS COMPLAINT AGAINST MR. PEDRO G. MAZO, ANTONIO C. PEDROSO and ALEXANDER A. DAYAP.

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; WHEN FOUND GUILTY OF GAMBLING; IMPOSABLE PENALTY. — Respondents' disclaimer that money was not involved is inconsequential. In fact, their defense that they were simply having an innocuous card game *sans* monetary bets does not excuse their misconduct. In *Albano-Madrid v. Apolonio,* we held: What is more alarming, in our view, is respondents' nonchalance concerning the effect of their misconduct. They have the gall to split hairs and say that they were playing cards, but not gambling. If loafing during office hours could not be countenanced, the more reason playing cards could not be tolerated in the judge's chambers. Such act or conduct that violates the norm of public accountability or