EN BANC

[A.C. No. 13889 (Formerly CBD Case No. 18-5701). January 21, 2026]

YSMAEL V. ABO, COMPLAINANT, VS. ATTY. GINA P. BALLEBAR, RESPONDENT.

D E C I S I O N

PER CURIAM:

This resolves the administrative complaint[1] filed before the Integrated Bar of the Philippines (IBP) by Ysmael V. Abo (Abo) against Atty. Gina P. Ballebar (Atty. Ballebar) for her alleged negligence in representing Abo in a criminal case for estafa before the Regional Trial Court (RTC), Branch 12 of Ligao City, Albay.

Antecedent Facts

In the Complaint, Abo narrated that he engaged the services of Atty. Ballebar to be his counsel in the estafa case filed against him before the RTC. The case was docketed as Criminal Case No. 5992.[2]

The records reveal that Atty. Ballebar failed to attend at least 12 scheduled hearings for this case.[3] Due to her recurring absences, the RTC reprimanded her and imposed a fine of PHP 200.00 each in the Orders dated February 18, 2011[4] and August 17, 2012.[5] Atty. Ballebar was also directed to submit a written explanation for her failure to attend the hearings.[6]

The situation further escalated when both Atty. Ballebar and Abo failed to appear at the scheduled hearing on January 23, 2015. This prompted the RTC to issue an Order[7] on the same date with the following directives: (1) for Atty. Ballebar to submit a written explanation why she should not be held in contempt of court; (2) that Abo's cash bond be deemed forfeited; and (3) that a warrant of arrest be issued against Abo.[8]

On February 12, 2016, both Abo and Atty. Ballebar were again absent at the scheduled hearing. Hence, the RTC issued an Order[9] imposing a fine of PHP 1,000.00 against Atty. Ballebar and directing her to inform the RTC, in writing and within a period of 30 days, whether she is still representing Abo in the case. The trial court also declared that

Abo is deemed to have waived his right to present evidence due to his non-appearance. However, Atty. Ballebar failed to heed the said RTC Order.[10]

Abo also averred that Atty. Ballebar failed to timely submit a copy of the compromise agreement to the RTC. To prove this, Abo presented a copy of the RTC Order dated February 28, 2014. In the said Order, the RTC gave Atty. Ballebar a period of 10 days from March 19, 2013 to submit the written compromise agreement to the trial court. However, as of February 28, 2014, Atty. Ballebar has not yet complied with the said Order.[11]

Moreover, Abo claimed that he no longer attended subsequent hearings upon the advice of Atty. Ballebar. Atty. Ballebar allegedly assured him that the criminal case against him will be dismissed in view of the settlement of the civil aspect of the case and due to the impending execution of affidavits of desistance by the private complainants in the case. Abo relied on Atty. Ballebar's representations and left Ligao City to focus on his business operations in Naga City and Legazpi City.[12]

On May 1, 2016, Abo learned from his father that the promulgation of judgment of his case was scheduled on May 3, 2016.[13]

In the RTC Decision dated May 3, 2016,[14] the RTC found Abo guilty beyond reasonable doubt of the crime of estafa under Article 315(2)(a) of the Revised Penal Code and sentenced him to suffer the penalty of imprisonment of three years, two months, and 11 days of *prision correccional*, as minimum, to eight years of *prision mayor*, as maximum.[15]

Dissatisfied with Atty. Ballebar's supposed negligence and willful disinterest in protecting his rights, Abo engaged the services of another lawyer, Atty. Hanil B. Almoguera (Atty. Almoguera) to handle his criminal case. Abo asked Atty. Almoguera to determine whether it is still possible to appeal the case and seek a reversal of his conviction. On June 20, 2016, Atty. Almoguera filed an Entry of Appearance with Urgent Motion to Reopen the Case with Leave of Court[16] before the RTC, which was denied since the assailed judgment had already attained finality.[17]

Abo alleged that Atty. Ballebar violated the Code of Professional Responsibility (CPR) [18] due to her gross misconduct and negligence in handling his criminal case, which led to his conviction and incarceration.[19]

In her Answer,[20] Atty. Ballebar countered that she was constrained to file several postponements to give Abo sufficient time to raise the required amount for the settlement of the civil aspect of the case. She further claimed that her absences were with the acquiescence of Abo. Atty. Ballebar likewise asserted that it was through her efforts that the civil aspect of the case was settled.[21] Finally, Atty. Ballebar averred that Abo's conviction was not due to her alleged negligence; rather, it was due to the

"weight of the evidence against him which was proven beyond reasonable doubt by the prosecution."[22]

Report and Recommendation of the IBP

In its Report and Recommendation,[23] the IBP-Commission on Bar Discipline (IBP-CBD) found Atty. Ballebar administratively liable, the relevant portion of which reads:

> In view of [Atty. Ballebar's] repeated violation of the Canons, particularly Canons 12, 12.04, 15, 17, 18 (18.03–18.04) [and] 19, as regards her responsibilities to her client (complainant) and Canons 10[–]11, as regards her responsibilities to the courts, she is hereby meted a penalty of SUSPENSION from the practice of law for a period of [three] years. She is likewise WARNED that a repetition of the same offense or similar acts in the future shall be dealt with more severely.
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> Most respectfully recommended.[24]

In its Resolution[25] dated February 17, 2023, the IBP Board of Governors modified the recommended penalty by reducing it to only two years, thus:

> RESOLVED, to MODIFY, as it is hereby MODIFIED, the Report and Recommendation of the Investigating Commissioner (IC), and instead recommend to mete out upon [r]espondent Atty. Gina P. Ballebar the penalty of SUSPENSION from the practice of law for [TWO] YEARS, with WARNING that a repetition of the same or similar act shall be dealt with more severely; and
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> RESOLVED FURTHER, to recommend the imposition upon [r]espondent of a FINE in the amount of [PHP] 5,000.00 for her failure to file a Position Paper, as required by the IC.[26]

Issue

The sole issue for the Court's resolution is whether Atty. Ballebar should be held administratively liable for the acts complained of.

Ruling of the Court

After a judicious review of the records of the case, the Court deems it proper to adopt the findings of the IBP, albeit with modification as to the imposable penalty.

The present administrative case is now governed by A.M. No. 22-09-01-SC, or the Code of Professional Responsibility and Accountability (CPRA).[27] Sections 1 and 2 of the General Provisions of the CPRA expressly state that the CPRA shall apply to all pending cases, and that it supersedes the provisions of the CPR. Thus, the Court's

disposition of the instant case is made with the applicable provisions of the CPRA in mind.

In this regard, Canon IV of the CPRA provides that it is the duty of the lawyer to serve their client with competence and diligence, more specifically:

> CANON IV
> COMPETENCE AND DILIGENCE
>
> A lawyer professionally handling a client's cause shall, to the best of his or her ability, observe competence, diligence, commitment, and skill consistent with the fiduciary nature of the lawyer-client relationship, regardless of the nature of the legal matter or issues involved, and whether for a fee or *pro bono*.
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> Section 1. *Competent, efficient and conscientious service*. — A lawyer shall provide legal service that is competent, efficient, and conscientious. A lawyer shall be thorough in research, preparation, and application of the legal knowledge and skills necessary for an engagement.
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> . . . .
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> Section 3. *Diligence and punctuality*. — A lawyer shall diligently and seasonably act on any legal matter entrusted by a client.
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> A lawyer shall be punctual in all appearances, submissions of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.
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> Section 4. *Diligence in all undertakings*. — A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.
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> Section 6. *Duty to update the client*. — A lawyer shall regularly inform the client of the status and the result of the matter undertaken, and any action in connection thereto, and shall respond within a reasonable time to the client's request for information.

Lawyers are duty-bound to attend to their client's cause with diligence, care, and devotion, whether they accept it for a fee or for free, so much so that a lawyer's neglect of a legal matter entrusted to him constitutes inexcusable negligence for which the lawyer must be held administratively liable.[28]

Here, it is undisputed that the respondent failed to live up to the high standards of professionalism expected of a lawyer. Her repeated absence from the scheduled trial court hearings, noncompliance with the RTC's directives despite being fined on more

than one occasion, and failure to promptly duly inform her client, who faced the imminent risk of losing his liberty if convicted, demonstrate a serious dereliction of duty and neglect in her role as counsel.

At this juncture, the Court echoes the IBP-CBD's observations on respondent's culpability:

> Whatever may be the reason or reasons for respondent's failure to appear on the scheduled hearings has/have become irrelevant in view of the sheer number of her unexplained absences. *The facts indubitably show gross neglect, if not outright indifference, on the part of the respondent to promote and protect the interests of her client; the herein complainant*.
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> . . . .
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> *By repeatedly failing to attend the hearings in Criminal Case No. 5992, the respondent has clearly jeopardized whatever chances the complainant had to avoid conviction and consequent jail time*. Respondent's suppositions that the prosecutor himself, being a victim of the complainant, and that some of the complainants in the criminal case were court employees, implying seemingly inevitable conviction, are unavailing to relieve respondent of her obligation and fidelity both to her client and the courts.[29] (Emphasis supplied)

To further aggravate the situation, the respondent never showed any remorse for her neglect in handling her client's case. On the contrary, she attempted to evade culpability by asserting that her absence was supposedly for the complainant's benefit — to buy him more time to raise funds for the settlement of the civil aspect of his case. She further contended that the complainant's conviction was attributable solely to the strength of the prosecution's evidence, dismissing any inference that her own professional failings contributed to the outcome of the case.

Based on the foregoing, the respondent clearly violated her client's trust and confidence, as well as her obligations as a lawyer under the CPRA. Gross negligence in the performance of duty, or conduct that is reckless and inexcusable, which results in the client being deprived of his or her day in court is deemed as a serious offense under Canon VI, Section 33(d) of the CPRA.

The CPRA provides that the following penalties may be imposed upon a lawyer who is found guilty of a serious offense:

> SECTION 37. *Sanctions*.
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> a. If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:
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> 1. Disbarment;

2. Suspension from the practice of law for a period exceeding [six] months;
3. Revocation of notarial commission and disqualification as notary public for not less than [two] years; or
4. A fine exceeding [PHP] 100,000.00.

In *Mattus v. Atty. Villaseca*,[30] the Court imposed the penalty of suspension from the practice of law for a period of five years against Atty. Villaseca due to his gross negligence in handling his client's criminal case for estafa. Atty. Villaseca's negligence in this case was evident from the following circumstances: (1) his repeated failure to appear at the scheduled hearings for his client in the said case; (2) failure to file a demurrer to evidence before the trial court, despite requesting for ample time to file the same; and (3) failure to present any testimonial, object or documentary evidence for the defense.[31]

In the recent case of *Bratschi v. Atty. Peneyra*,[32] the Court opined that a penalty of 10 years' suspension is proper against a lawyer who committed gross negligence in handling their client's criminal case for falsification of a private document. In ruling that Atty. Peneyra is guilty of gross negligence, the Court explained:

> Atty. Peneyra's gross negligence caused the denial of Bratschi's day in court. He failed to cross-examine the witnesses of the adverse parties in both the criminal and civil cases. Worse, he totally failed to present and offer evidence on behalf of Bratschi, which caused her conviction in the criminal case and the adverse decision in the civil case leading to the cancellation of her Torrens title. As such, Atty. Peneyra's violations fall within the classification of serious offenses under the CPRA, specifically, gross negligence in the performance of duty, or conduct that is reckless and inexcusable, which results in the client being deprived of his or her day in court.
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> . . . .
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> With respect to Atty. Peneyra's gross negligence in the criminal case, which resulted in Bratschi's conviction of the crime of falsification of a private document, which carries with it the indeterminate penalty of imprisonment of four months and one day of *arresto mayor* as minimum, to four years, nine months and 10 days of *prision correccional*, the Court imposes upon Atty. Peneyra the penalty of suspension from the practice of law for a period of five years pursuant to the Court's ruling in *Villaseca*. Indeed, the graver implications of Atty. Peneyra's violations in the criminal case deserve a heavier penalty. Certainly, the legal matter entrusted to him involved not merely money or property, but the very liberty and livelihood of his client.[33] (Citation omitted)

However, unlike in the instant case and in *Villaseca*, the respondent in *Peneyra* was meted the penalty of disbarment as he was found to have. committed a number of

offenses in handling the criminal and civil cases of his client. The fact that he was already previously suspended by the Court in another administrative case also served as one of the aggravating circumstances in the Court's decision to disbar him.[34]

Here, respondent must be penalized for her gross neglect in handling her client's cause. Similar to *Villaseca* and *Peneyra*, herein respondent's actions deserve the stiffer penalty of suspension since the legal matter entrusted to her involved not merely money or property, but the very liberty and livelihood of her client.

Additionally, respondent's disregard for legal processes was again demonstrated by her failure to file a position paper in this disbarment case, in complete disregard of the directive from the IBP-CBD. Applying Canon VI, Section 38(b) of the CPRA,[35] respondent's unjustified noncompliance with the directive of the IBP is deemed as an aggravating circumstance in determining the appropriate penalty against him.[36]

A review of the records reveals that this is the respondent's first offense, which, under Canon VI, Section 38(a) of the CPRA may be considered as a mitigating circumstance. Relevantly, Canon VI, Section 39 of the CPRA states that if there are both aggravating and mitigating circumstances present, the Court may offset these against each other for purposes of determining the appropriate penalty.

From the foregoing, the Court finds it proper to impose the penalty of suspension from the practice of law for a period of five years against the respondent.

On a final note, the Court's pronouncement in *Villaseca* is worth reiterating:

> We emphasize that while a-lawyer has complete discretion on what legal strategy to employ in a case entrusted to him, he must present every remedy or defense within the authority of the law to support his client's cause. A memorandum, no matter how lengthy, should not be made a substitute for testimonial, object or documentary evidence, more so in a criminal case where a conviction could lead to dire consequences. *In saying so, we are not insinuating that the RTC decision would have tilted in favor of the defense had Atty. Villaseca presented evidence; we simply stress that utmost fidelity and attention are demanded once counsel agrees to take the cudgels for his client's cause*.
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> We again remind members of the-bar to live up to the standards and norms expected of the legal profession by upholding the ideals and principles embodied in the Code of Professional Responsibility. A lawyer engaged to represent a client bears the responsibility of protecting the latter's interest with utmost diligence. It is his duty to serve his client with competence and diligence, and he should exert his best efforts to protect, within the bounds of the law, the interests of his client. *A lawyer's diligence and vigilance is more imperative in criminal cases, where the life and liberty of an accused is at stake.* Verily, the entrusted privilege to practice law carries with it the

corresponding duties, not only to the client, but also to the court, to the bar and to the public.[37] (Emphasis supplied, citation omitted)

ACCORDINGLY, the Court finds respondent Atty. Gina P. Ballebar **GUILTY** of gross negligence in violation of Canon VI, Section 33(d) of the Code of Professional Responsibility and Accountability and she is **SUSPENDED** from the practice of law for a period of five years, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely. She is **DIRECTED** to immediately file a manifestation with the Court that her suspension has started, copy furnished all courts and quasi-judicial bodies where she has entered her appearance as counsel.

Let a copy of this Decision be furnished to: (a) the Office of the Court Administrator for dissemination to all courts throughout the country for their information and guidance; (b) the Integrated Bar of the Philippines; and (c) the Office of the Bar Confidant to be appended to respondent's records.

SO ORDERED.

Gesmundo, C.J., Leonen, SAJ., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., Singh, and *Villanueva, JJ.*, concur.

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

[2] *Id.* at 2.

[3] Id at 17-31.

[4] *Id.* at 19.

[5] *Id.* at 22.

[6] *Id.* at 19.

[7] *Id.* at 27.

[8] *Id.*

[9] *Id.* at 30-31.

[10] *Id.* at 48.

[11] *Id.* at 4.

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

[13] *Id.* at 6.

[14] *Id.* at 33-56.

[15] *Id.* at 55.

[16] *Id.* at 57-63.

[17] *Id.* at 6-7.

[18] At the time of the filing of the administrative complaint on March 1, 2018, the Code of Professional Responsibility was still in effect.

[19] *Rollo*, p. 8.

[20] *Id.* at 74-78.

[21] *Id.* at 75.

[22] *Id.* at 77.

[23] *Id.* at 124-130. The September 28, 2022 Report and Recommendation in CBD Case No. 18-5701 was issued by the CBD Commissioner Atty. Jude A. Alaga.

[24] *Id.* at 129.

[25] *Id.* at 122-123.

[26] *Id.* at 122.

[27] *See* Court Resolution dated November 14, 2023, stating that the CPRA took effect on May 30, 2023.

[28] **Agot v. Atty. Rivera**, 740 Phil. 393, 400 (2014) [Per J. Perlas-Bernabe, *En Banc*].

[29] *Rollo*, pp. 126-127.

[30] 718 Phil. 478 (2013) [*Per Curiam, En Banc*].

[31] *Id.* at 483-485.

[32] 945 Phil. 8 (2023) [*Per Curiam, En Banc*].

[33] *Id.* at 17-18, 21.

[34] *Id.* at 21-23.

[35] Under Canon VI, sec. 38(b) of the CPRA, failure to comply with the orders of the Court and the IBP in relation to an administrative case may be considered by the Court as an aggravating circumstance in determining the appropriate penalty to be imposed against the respondent lawyer.

[36] CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon VI, sec. 34(c).

[37] **Mattus v. Atty. Villaseca**, 718 Phil. 478, 486 (2013) [*Per Curiam, En Banc*].

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