

## SECOND DIVISION

[ A.C. No. 12835, February 03, 2021 ]

**DANILO SANCHEZ, PETITIONER, VS. ATTY. DINDO ANTONIO Q. PEREZ, RESPONDENT.**

### R E S O L U T I O N

**LOPEZ, M., J.:**

"[A] lawyer's negligence in fulfilling his duties subjects him to disciplinary action. While such negligence or carelessness is incapable of exact formulation, the Court has consistently held that the lawyer's mere failure to perform the obligations due his client is *per se* a violation."<sup>[1]</sup>

#### ANTECEDENTS

On May 9, 2002, Danilo Sanchez (Danilo), through his counsel, Atty. Dindo Antonio Q. Perez (Atty. Perez), filed against Peter Lim a complaint for annulment of contract, recovery of possession of real property, and damages before the Regional Trial Court (RTC).<sup>[2]</sup> Thereafter, Danilo went back to the United States of America where he resides. On December 10, 2003, the RTC dismissed the complaint for failure of Atty. Perez to appear during the pre-trial conference scheduled on the same day. Atty. Perez sought reconsideration and the RTC rescheduled the pre-trial two times.<sup>[3]</sup> However, Atty. Perez still failed to attend. Consequently, the RTC dismissed again the complaint.<sup>[4]</sup>

Meanwhile, Danilo requested Atty. Perez for updates on the status of the proceedings. Yet, Danilo did not get a response. In October 2008, Danilo's cousin, Leonidas Sanchez (Leonidas), came across Atty. Perez and asked about the case. However, Leonidas failed to get a clear answer. Thus, Danilo and Leonidas inquired from the RTC and learned that the case had been dismissed. This prompted Danilo to file a disbarment complaint against Atty. Perez with the Integrated Bar of the Philippines (IBP).<sup>[5]</sup>

Atty. Perez denied the accusation and argued that he had been diligent in handling the case.<sup>[6]</sup> Atty. Perez stated that he appeared in court on November 23, 2004, for the presentation of the complainant's evidence but the hearing was reset for lack of material time. Afterwards, the RTC ordered the parties to go through mediation which eventually failed. On the other hand, the defendant Peter Lim and his counsel did not appear on the hearing on October 26, 2005. Atty. Perez then moved for the marking of documentary exhibits before the Clerk of Court. In addition, Atty. Perez claimed that he had informed Danilo of his desire to withdraw as counsel. Atty. Perez even signed notices of withdrawal and sent them with the records of the case to Danilo so he can facilitate the hiring of new counsel.<sup>[7]</sup>

On August 24, 2012, the Commission on Bar Discipline of the IBP recommended the suspension of Atty. Perez from the practice of law for a period of six months for his negligence in failing to attend the pre-trial hearings resulting in the dismissal of the case.<sup>[8]</sup> The IBP Board

of Governors adopted the Commission's findings.<sup>[9]</sup> Atty. Perez moved for a reconsideration.<sup>[10]</sup> On May 3, 2014, the IBP Board of Governors reduced the penalty to suspension for a period of three months, thus:

*RESOLVED to GRANT Respondent's Motion for Partial Reconsideration, there being no dishonest or selfish motive on his part and considering the absence of previous disciplinary record. Thus, the Board RESOLVED to AFFIRM, with modification, Resolution No. XX-2013-270 dated March 20, 2013 and accordingly reduced the penalty on Atty. Dindo Antonio Q. Perez from SUSPENSION from the practice of law for six (6) months to three (3) months.*<sup>[11]</sup>

Aggrieved, Danilo sought reconsideration explaining that the IBP erred in reducing the penalty.<sup>[12]</sup> On September 28, 2017, the IBP Board of Governors granted the motion and reinstated its earlier recommendation, to wit:

*RESOLVED to GRANT the Complainant's Motion for Reconsideration, and accordingly AFFIRM the earlier decision of the Board of Governors in Resolution No. XX-2013-270 dated March 20, 2013, SUSPENDING Respondent from the practice of law for a period of six (6) months.*<sup>[13]</sup>

## RULING

Lawyer-client relationship is fiduciary in nature or imbued with utmost trust and confidence.<sup>[14]</sup> A lawyer is expected to maintain at all times a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether he accepts it for a fee or for free.<sup>[15]</sup> Corollarily, a lawyer shall serve his client with competence and diligence.<sup>[16]</sup> Specifically, Rule 18.03 of the Code of Professional Responsibility (CPR) provides that a lawyer "*shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.*" Case law further explains that a lawyer's duty of competence and diligence includes not merely reviewing the cases entrusted to the counsel's care or giving sound legal advice, but also consists of properly representing the client before any court or tribunal, attending scheduled hearings or conferences, preparing and filing the required pleadings, prosecuting the handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him or her to do so.<sup>[17]</sup> Here, convincing evidence exist that Atty. Perez failed to exercise the required diligence in handling his client's case.

The records show that Atty. Perez did not attend the pre-trial on December 10, 2003, resulting in the dismissal of the case. The fact that Atty. Perez was able to reconsider the order of dismissal would not exculpate him from his omission since the RTC dismissed again the case for his failure to appear on the subsequent pre-trial dates. Atty. Perez did not even offer any explanation to justify his absence on the scheduled hearings. On this point, Atty. Perez exhibited carelessness in handling his client's cause. Atty. Perez should have been more circumspect to send a substitute counsel to appear on his behalf instead of leaving the proceedings unattended in view of its adverse consequence, *i.e.*, the dismissal of the case.

Moreover, Rule 18.04 of the CPR is explicit that a lawyer "*shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.*" The lawyer's duty to keep his clients constantly updated on the developments of their case is crucial in maintaining the fiduciary nature of their relationship.<sup>[18]</sup> Nevertheless,