

## THIRD DIVISION

[ A.C. No. 10254, March 09, 2020 ]

**ADELA H. VIOLAGO, COMPLAINANT, V. ATTY. BONIFACIO F. ARANJUEZ, JR., RESPONDENT.**

### RESOLUTION

**GAERLAN, S.H., J.:**

The instant administrative case arose from a sworn *Complaint-Letter* dated November 20, 2013<sup>[1]</sup> (*Complaint-Letter*) filed on November 26, 2013 by Adela Hernandez Violago (complainant) against Atty. Bonifacio F. Aranjuez, Jr. (respondent) before the Supreme Court-Office of the Bar Confidant (OBC) for alleged negligence in handling an ejectment suit filed against E. Quiogue Extension Neighborhood Association, which complainant was previously a member of.

This Court referred the administrative case to the Integrated Bar of the Philippines (IBP) for the conduct of investigation, report and recommendation, which was docketed as CBD Case No. 15-4627.<sup>[2]</sup>

#### ***Version of Complainant***

Complainant is a member of the E. Quiogue Extension Neighborhood Association (Neighborhood Association) and one of the defendants in an ejectment case entitled *Estate of Francisco De Borja represented by Elisea S. De Borja vs. Norberto Borja, et al.*, docketed as Civil Case No. 1352-10<sup>[3]</sup> (Ejectment Case). Respondent represented the Neighborhood Association in the Ejectment Case.<sup>[4]</sup>

As alleged by complainant, as of the time of the filing of the administrative case, the Neighborhood Association had already lost before the Municipal Trial Court and the Regional Trial Court. Thereafter, respondent filed a petition for review before the Court of Appeals on behalf of the Neighborhood Association.<sup>[5]</sup> Complainant claims that she was not made aware of the status of their petition for review before the Court of Appeals and that it was only after she and other members of the Neighborhood Association inquired on October 16, 2013 that they discovered that it was already dismissed by the Court of Appeals on July 25, 2013 due to several fatal defects.<sup>[6]</sup>

In dismissing the Petition for Review filed in the Ejectment Case, the Court of Appeals in its *Resolution*<sup>[7]</sup> promulgated on July 25, 2013, cited the following five (5) material defects:

As filed, the present petition is infirmed with deficiencies, to wit:

1. Petitioners failed to attach pleadings and other material portions of the record as would support the allegations of the petition such as complaint, answer, position papers of the parties and appeal memorandum;

2. The Verification and Certification on Non-Forum Shopping executed and signed by petitioners Belle Cruz Delgado, Yolanda Reyes, Fely Candichoy Pineda, Adela Hernandez, Virgilio Palero, Mariline Amarillo and Teodoro Apolis, Jr. failed to comply with the Rules on Notarial Practice (as amended by A.M. No. 02-8-13, SC, February 19, 2009) as the same does not contain a duly accomplished jurat for failure of the affiants to present before the Notary Public at least one (1) current identification document issued by an official agency bearing their respective photographs and signatures showing competent evidence of their identities. It also appears that Verification and Certification on Non Forum Shopping for Norberto Borja, Dominador Menguito, Jr., Ananias Vergara, and Edina Gatpayat were executed and signed by other individuals in their behalf without proof of authority submitted to this Court for them to execute and sign for and in behalf of said individuals;

3. In the caption of the petition, Domingo Ignacio appeared as petitioner but in the verification and certification on non-forum shopping, his name appeared as Doming Ignacio;

4. Petitioners' counsel failed to indicate in the petition the date of his MCLE Compliance IV and the date of its issuance in violation of Bar Matter No. 1922, dated June 3, 2008;

5. Petitioner, Cresencio Palero stated in the Affidavit of Service the copies of the petition were [personally] served upon the Regional Trial Court and Metropolitan Trial Cou[r]t, however, the petition indicated that copies of the same were sent by them through LBC.<sup>[8]</sup>

As a result, complainant sought the advice of various lawyers regarding the matter, who informed her that respondent's mistakes were supposedly "**BASIC**" for which reason the Court of Appeals dismissed their Petition for Review.<sup>[9]</sup>

Due to respondent's supposed negligence, complainant and another member of the Neighborhood Association submitted a *Resignation Letter*<sup>[10]</sup> dated November 06, 2013 informing the officers of the Neighborhood Association that they will be resigning from the said Association and expressed their intention to engage the services of another counsel and requested that respondent file a formal Motion to Withdraw as counsel for complainant in the Ejectment Case.<sup>[11]</sup> However, as alleged by complainant, respondent failed to act on their request or even reply to their *Letter*.

Thus, on November 20, 2013, complainant was constrained to file the instant administrative case against respondent praying that the latter formally withdraw as counsel of record for complainant in the Ejectment Case.<sup>[12]</sup>

### ***Version of Respondent***

At the onset, respondent claims that he handled the case on behalf of the Neighborhood Association *pro bono* upon the request and plea of then-Mayor of the Municipality of Pateros, Joey Medina considering that the members of the Neighborhood Association belong to the urban poor.<sup>[13]</sup> Moreover, respondent claims that ever since he started representing the Neighborhood Association, he had been

coordinating and communicating with its officers and has not personally met with complainant.<sup>[14]</sup>

The only instance that respondent met with complainant was when the latter chanced upon him at the Municipal Hall of Pateros and complainant personally requested that respondent formally withdraw as their counsel in the Ejectment Case.<sup>[15]</sup> Respondent denied that he refused to withdraw as counsel for complainant and that he in fact filed a formal withdrawal which was noted by the Supreme Court.<sup>[16]</sup>

Moreover, respondent vehemently denies that he was negligent in handling the Ejectment Case on behalf of the Neighborhood Association, including complainant. Respondent claims that he tried his best to represent their interests and has filed several pleadings and handled the case from the trial court up to the Supreme Court.<sup>[17]</sup> Respondent claims that although he was not able to have the adverse rulings in the lower courts reversed, nevertheless, it was through respondent's efforts before the trial court that complainant was not evicted from the property and which culminated into an amicable settlement with the complainant in the Ejectment Case.<sup>[18]</sup> The efforts of respondent were recognized by complainant herself.<sup>[19]</sup>

Anent the infirmities that the Court of Appeals cited as basis for dismissing the Petition for Review in the Ejectment Case, respondent filed an *Omnibus Motion (Motion for Reconsideration and Motion to Admit Additional Documentary Evidence)* dated August 27, 2013 (*Omnibus Motion*). In his *Omnibus Motion*, respondent attempted to remedy the deficiencies cited by the Court of Appeals and explained that some of the infirmities were merely typographical or clerical errors.<sup>[20]</sup>

Nevertheless, the Court of Appeals resolved to deny the *Omnibus Motion*.<sup>[21]</sup> Thus, respondent filed a Petition for Review on *Certiorari* before this Court to question the ruling of the Court of Appeals in the Ejectment Case.<sup>[22]</sup> For this reason, respondent denies that he was negligent in handling the case on behalf of complainant considering that he exerted efforts even going so far up the Supreme Court.<sup>[23]</sup>

### ***Report and Recommendation***

In his *Report and Recommendation*<sup>[24]</sup> dated May 3, 2017, Commissioner Erwin L. Aguilera (Commissioner Aguilera) recommended that respondent be suspended from the practice of law for a period of three (3) years.<sup>[25]</sup>

According to Commissioner Aguilera, respondent's failure to comply with the basic rules in the filing of pleadings, which resulted in the dismissal of the Petition for Review in the Ejectment Case is a manifestation of respondent's negligence.<sup>[26]</sup> Commissioner Aguilera reasoned that a lawyer is primarily responsible for filing the vital pleading that would have at least satisfied his clients with a result far different from an outright dismissal, and that respondent's omission is a culpable act of negligence for which he must be held liable.<sup>[27]</sup>

In a *Resolution*<sup>[28]</sup> dated February 22, 2018, the IBP Board of Governors resolved to adopt the findings of Commissioner Aguilera, to wit:

*RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, **with modification**, by lowering the*

recommended of [sic] penalty of **Suspension from the practice of law** for three (3) years to **six (6) months**.<sup>[29]</sup>

## **Issues**

Whether or not respondent should be administratively disciplined for negligence in handling the Ejectment Case on behalf of complainant.

## **Discussion**

This Court resolves to adopt the findings of the IBP, with modification as to the recommended penalty.

Respondent is sought to be held administratively liable for supposed negligence in handling the Ejectment Case for complainant. In particular, complainant cites the dismissal of the fatally defective Petition for Review filed by respondent, as basis to hold him administratively liable.

In denying the Petition for Review, the Court of Appeals in its *Resolution* promulgated on July 25, 2013, cited the several material defects in the said pleading to dismiss the same.<sup>[30]</sup>

Notably, respondent attempted to remedy the foregoing defects by submitting an *Omnibus Motion*,<sup>[31]</sup> and attaching therein the necessary pleadings and material portions of the record, a duly accomplished Verification and Certification on Non-Forum Shopping, and a copy of respondent's MCLE Certification of compliance. Moreover, respondent reasoned that the other cited material defects were merely typographical or clerical errors.<sup>[32]</sup>

Accordingly, respondent sought for the reconsideration of the *Resolution* of the Court of Appeals; however, the same was denied based on, among others, substantive grounds.<sup>[33]</sup>

The Court is not here to review the propriety of the dismissal of the Petition for Review, but merely to exercise its constitutionally mandated duty to discipline lawyers<sup>[34]</sup> and to determine if the material defects which attended its filing constitute gross and inexcusable negligence which would warrant the imposition of administrative penalty upon respondent.

The Code of Professional Responsibility mandates that a lawyer shall serve his client with competence and diligence. He shall not neglect a legal matter entrusted to him; his negligence in connection therewith shall render him liable.<sup>[35]</sup>

A lawyer is bound to protect his client's interests to the best of his ability and with utmost diligence.<sup>[36]</sup> He should serve his client in a conscientious, diligent, and efficient manner; and provide the quality of service at least equal to that which he, himself, would expect from a competent lawyer in a similar situation.<sup>[37]</sup> By consenting to be his client's counsel, a lawyer impliedly represents that he will exercise ordinary diligence or that reasonable degree of care and skill demanded by his profession, and his client may reasonably expect him to perform his obligations diligently.<sup>[38]</sup>