

EN BANC

[A.C. No. 12423, March 26, 2019]

ALFREDO SAN GABRIEL, COMPLAINANT, VS. ATTY. JONATHAN T. SEMPIO, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is a complaint^[1] dated February 29, 2016 filed before the Integrated Bar of the Philippines (IBP) – Commission on Bar Discipline by complainant Alfredo San Gabriel (complainant) against respondent Atty. Jonathan T. Sempio (respondent) praying that the latter be disbarred for his alleged unprofessional conduct.

The Facts

Complainant alleged that sometime in January 2014, he engaged the services of respondent to handle the annulment of his marriage (Nullity Case). In connection therewith and by virtue of the Contract of Legal Services^[2] they entered into, complainant paid respondent the amount of P120,000.00^[3] representing the latter's legal fees inclusive of all necessary and legal expenses up to the release of the decision, in said case. Shortly thereafter, respondent filed a petition^[4] praying for the nullification of complainant's marriage before the Regional Trial Court of Malabon City, Branch 73 (RTC).^[5]

More than a year later, complainant was surprised when he received a copy of the RTC's Order^[6] dated July 2, 2015 dismissing the Nullity Case without prejudice for respondent's failure to comply with a previous court order.^[7] Upon confronting respondent, complainant was promised that the situation will be rectified by filing the necessary motion, *i.e.*, a motion for reconsideration.^[8] After the reinstatement^[9] of the Nullity Case, complainant made several follow-ups with respondent to no avail. Soon thereafter, complainant found out that respondent had left the country without informing him, resulting in the archiving of the Nullity Case.^[10] As complainant felt that respondent had abandoned the Nullity Case, he filed the instant complaint. He further claimed that respondent already has a track record of unduly neglecting his clients' affairs, as seen in the case entitled *Baens v. Sempio*^[11] (*Baens*) where the Court suspended him for such negligence.^[12]

In his defense,^[13] respondent denied neglecting complainant's Nullity Case, maintaining that he was unable to handle the same due to his suspension from the practice of law in the case of *Baens*. Respondent then claimed that after learning of his suspension, he met with complainant to inform him of his predicament.

Respondent then asked complainant to look for a replacement counsel as he intended to go abroad to ease his "depression" on account of his suspension. Finally, respondent averred that he proceeded with his overseas trip, thinking that he and complainant had already agreed that the latter would just get another lawyer to handle his Nullity Case.^[14]

The IBP's Report and Recommendation

In a report and recommendation^[15] dated June 20, 2017, the Investigating Commissioner (IC) found respondent administratively liable for violating Canons 15, 17, 18, and Rule 18.03 of the Code of Professional Responsibility (CPR), and accordingly, recommended that he be suspended from the practice of law for a period of two (2) years.^[16]

The IC found that respondent was negligent in handling complainant's legal affairs which led to the incidents that transpired in the latter's Nullity Case. The IC did not find tenable respondent's excuse that he failed to act on the Nullity Case due to his suspension by the Court, considering that: (a) there was a seven (7)-month span between the time respondent filed the petition in the Nullity Case and the time he learned of his suspension; and (b) he did not make any positive action to further his client's interests during that time. Further, the IC opined that assuming respondent indeed got "depressed" upon learning of his suspension and asked complainant to look for a replacement counsel, he still failed to take the necessary steps to effectuate such replacement. Finally, the IC opined that respondent has not learned his lesson from his previous administrative case, *i.e.*, in *Baens*, observing that the negligent acts he committed therein were repeated in this case.^[17]

In a Resolution^[18] dated May 3, 2018, the IBP Board of Governors adopted the IC's report and recommendation that respondent be meted the penalty of suspension from the practice of law for a period of two (2) years.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

Once a lawyer agrees to handle a case, he is required by the CPR to undertake the task with zeal, care, and utmost devotion. Acceptance of money from a client establishes an attorney-client relationship and gives rise to the duty of fidelity to the client's cause. Every case which a lawyer accepts deserves full attention, diligence, skill, and competence, regardless of its importance.^[19] To this end, Canons 15, 17, 18, and Rule 18.03 of the CPR respectively state:

CANON 15 – A lawyer shall observe candor, fairness[,] and loyalty in all his dealings and transactions with his clients.

CANON 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust reposed in him.

CANON 18 – A lawyer shall serve his client with competence and diligence.

Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

"Clients are led to expect that lawyers would always be mindful of their cause and, accordingly, exercise the required degree of diligence in handling their affairs. On the other hand, the 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 or not he accepts it for a fee. To this end, he is enjoined to employ only fair and honest means to attain lawful objectives."^[20]

In this case, records show that sometime in January 2014, complainant secured respondent's services in order to assist him in filing his Nullity Case, and in connection therewith, paid the latter the amount of P120,000.00. Initially, respondent followed through with his undertaking by filing the necessary petition before the RTC. However, after such filing, respondent unduly neglected the Nullity Case, as evinced not only by the RTC Order^[21] dated July 2, 2015 which dismissed the case for respondent's failure to comply with the trial court's directives, but also by the RTC Order^[22] dated January 22, 2016 which ordered the archival of the case due to his non-filing of any pleadings in furtherance of the case after its reinstatement.^[23]

In an attempt to exculpate himself from any liability, respondent offered the excuse that his inaction was because he got "depressed" when the Court suspended him from engaging in legal practice in the case of *Baens*, and that in any case, he had met with complainant and already advised him to look for a replacement counsel. However, and as aptly pointed out by the IC, respondent's reasons are untenable, considering that: (a) there was a considerable period, *i.e.*, seven (7) months, between the filing of the petition and the time he learned of his suspension, and that it was never shown that he took steps to move forward with the Nullity Case during that time; and (b) assuming that he indeed gave such advice to complainant, he did not take positive steps to ensure his timely replacement.

Accordingly, respondent's neglect of the legal matter entrusted to him by complainant constitutes flagrant violations of the afore-cited tenets of the CPR. It is settled that "once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable x x x,"^[24] as in this case.