

## FIRST DIVISION

[ A.C. No. 10245, August 16, 2017 ]

**ELIBENA A. CABILES, COMPLAINANT, V. ATTY. LEANDRO S. CEDO, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Complainant Elibena Cabiles (Elibena) filed this administrative complaint<sup>[1]</sup> before the Integrated Bar of the Philippines (IBP) seeking the disbarment of Atty. Leandro Cedo (respondent lawyer) for neglecting the two cases she referred to him to handle.

#### ***The Facts***

According to Elibena, she engaged the services of respondent lawyer to handle an illegal dismissal case, *i.e.*, NLRC NCR Case No. 00-11-16153-08 entitled "Danilo Ligbos v. Platinum Autowork and/or Even Cabiles and Rico Guido," where therein respondents were Elibena's business partners. Respondent lawyer was paid Php5,500.00<sup>[2]</sup> for drafting therein respondents' position paper<sup>[3]</sup> and Php2,000.00<sup>[4]</sup> for his every appearance in the NLRC hearings.

During the hearing set on March 26, 2009, only Danilo Ligbos (Danilo), the complainant therein, showed up and submitted his Reply.<sup>[5]</sup> On the other hand respondent lawyer did not file a Reply for his clients,<sup>[6]</sup> despite being paid his appearance fee earlier.<sup>[7]</sup>

In a Decision<sup>[8]</sup> dated March 31, 2009, the Labor Arbiter ruled for Danilo, and ordered the clients of respondent lawyer to pay Danilo backwages, separation pay, and 13<sup>th</sup> month pay.

Worse still, on October 27, 2009, the NLRC likewise dismissed the appeal of the clients of respondent lawyer for failure to post the required cash or surety bond, an essential requisite in perfecting an appeal.<sup>[9]</sup>

According to Elibena, respondent lawyer misled them by claiming that it was Danilo who was absent during the said hearing on March 26, 2009; and that moreover, because of the failure to submit a Reply, they were prevented from presenting the cash vouchers<sup>[10]</sup> that would refute Danilo's claim that he was a regular employee.

With regard to the non-perfection of the appeal before the NLRC, Elibena claimed that respondent lawyer instructed them (his clients) to pick up the said Memorandum only on the last day to file the appeal, *i.e.*, on May 28, 2009; that the memorandum was ready for pick up only at around 2:30 p.m. that day; that left to themselves, with no help or assistance from respondent lawyer, they rushed to file

their appeal with the NLRC in Quezon City an hour later; that the NLRC Receiving Section informed them that their appeal was incomplete, as it lacked the mandatory cash/surety bond, a matter that respondent lawyer himself did not care to attend to; and, consequently, their appeal was dismissed for non-perfection.

Elibena moreover claimed that respondent lawyer failed to indicate his Mandatory Continuing Legal Education (MCLE) compliance<sup>[11]</sup> in the position paper and in the memorandum of appeal that he prepared. Elibena pointed to a certification<sup>[12]</sup> issued on June 29, 2010 by the MCLE Office that respondent lawyer had not at all complied with the first, second, and third compliance periods<sup>[13]</sup> of the (MCLE) requirement.

Elibena also averred that in May 2009, she hired respondent lawyer to file a criminal case for unjust vexation against Emelita Claudit; that as evidenced by a May 5, 2009 handwritten receipt,<sup>[14]</sup> she paid respondent lawyer his acceptance fees, the expenses for the filing of the case, and the appearance fees totalling Php45,000.00; and that in order to come up with the necessary amount, she sold 'to respondent lawyer her 1994 Model Mitsubishi Lancer worth Php85,000.00, this sale being covered by an unnotarized Deed of Sale<sup>[15]</sup> dated August 1, 2009.

Elibena claimed that, despite payment of his professional fees, respondent lawyer did not exert any effort to seasonably file her Complaint for unjust vexation before the City Prosecutor's Office; that the Office of the City Prosecutor of Muntinlupa City dismissed her Complaint for unjust vexation on September 10, 2009 on the ground of prescription; and that although she moved for reconsideration of the Order dismissing the case, her motion for reconsideration was denied by the City Prosecutor's Office in a resolution dated October 19, 2009.<sup>[16]</sup>

In his Answer,<sup>[17]</sup> respondent lawyer argued that the March 26, 2009 hearing was set to provide the parties the opportunity either to explore the possibility of an amicable settlement, or give time for him (respondent lawyer) to decide whether to file a responsive pleading, after which the case would be routinely submitted for resolution, with or without the parties' further appearances. As regards the cash vouchers, respondent lawyer opined that their submission would only contradict their defense of lack of employer-employee relationship. Respondent lawyer likewise claimed that Elibena was only feigning ignorance of the cost of the appeal bond, and that in any event, Elibena herself could have paid the appeal bond. With regard to Elibena's allegation that she was virtually forced to sell her car to respondent lawyer to complete payment of the latter's professional fee, respondent lawyer claimed that he had fully paid for the car.<sup>[18]</sup>

Respondent lawyer did not refute Elibena's claim that he failed to indicate his MCLE compliance in the position paper and in the memorandum of appeal.

### ***The IBP's Report and Recommendation***

In a May 18, 2011 Report and Recommendation,<sup>[19]</sup> the Investigating Commissioner found respondent lawyer guilty of having violated Canons 5, 17, and 18 of the Code of Professional Responsibility and recommended his suspension from the practice of law for two years. Aside from respondent lawyer's failure to comply with the MCLE requirements, the Investigating Commissioner also found him grossly negligent in representing his clients, particularly (1) in failing to appear on the March 26, 2009

hearing in the NLRC, and file the necessary responsive pleading; (2) in failing to advise and assist his clients who had no knowledge of, or were not familiar with, the NLRC rules of procedure, in filing their appeal and; 3) in failing to file seasonably the unjust vexation complaint before the city prosecutor's office, in consequence of which it was overtaken by prescription.

In its March 20, 2013 Resolution, the IBP Board of Governors adopted and approved the Investigating Commissioner's Report and Recommendation, but modified the recommended administrative sanction by reducing the suspension to one year.

### **The Court's Ruling**

We adopt the IBP's finding that respondent lawyer violated the Code of Professional Responsibility. We also agree with the recommended penalty.

#### *Violation of Canon 5*

Firstly, Bar Matter 850 mandates continuing legal education for IBP members as an additional requirement to enable them to practice law. This is "to ensure that throughout their career, they keep abreast with law and jurisprudence, maintain the ethics of the profession and enhance the standards of the practice of law."<sup>[20]</sup> Non-compliance with the MCLE requirement subjects the lawyer to be listed as a delinquent IBP member.<sup>[21]</sup> In *Arnado v. Adaza*,<sup>[22]</sup> we administratively sanctioned therein respondent lawyer for his non-compliance with four MCLE Compliance Periods. We stressed therein that in accordance with Section 12(d) of the MCLE Implementing Regulations,<sup>[23]</sup> even if therein respondent attended an MCLE Program covered by the Fourth Compliance Period, his attendance therein would only cover his deficiency for the First Compliance Period, and he was still considered delinquent and had to make up for the other compliance periods. Consequently, we declared respondent lawyer therein a delinquent member of the IBP and suspended him from law practice for six months or until he had fully complied with all the MCLE requirements for all his non-compliant periods.

In the present case, respondent lawyer failed to indicate in the pleadings filed in the said labor case the number and date of issue of his MCLE Certificate of Compliance for the Third Compliance Period, *i.e.*, from April 15, 2007 to April 14, 2010, considering that NLRC NCR Case No. 00-11-16153-08 had been pending in 2009. In fact, upon checking with the MCLE Office, Elibena discovered that respondent lawyer had failed to comply with the three MCLE compliance periods. For this reason, there is no doubt that respondent lawyer violated Canon 5, which reads:

CANON 5 - A LAWYER SHALL KEEP ABREAST OF LEGAL DEVELOPMENTS, PARTICIPATE IN CONTINUING LEGAL EDUCATION PROGRAMS, SUPPORT EFFORTS TO ACHIEVE HIGH STANDARDS IN LAW SCHOOLS AS WELL AS IN THE PRACTICAL TRAINING OF LAW STUDENTS AND ASSIST IN DISSEMINATING INFORMATION REGARDING THE LAW AND JURISPRUDENCE.

#### *Violation of Canons 17 and 18 and Rule 18.03*

The circumstances of this case indicated that respondent lawyer was guilty of gross negligence for failing to exert his utmost best in prosecuting and in defending the interest of his client. Hence, he is guilty of the following: