

FIRST DIVISION

[A.C. No. 10378, June 09, 2014]

**JOSE FRANCISCO T. BAENS, COMPLAINANT, VS. ATTY.
JONATHAN T. SEMPIO, RESPONDENT.**

DECISION

REYES, J.:

Before this Court is an administrative case, seeking the disbarment of Atty. Jonathan T. Sempio (respondent), for violation of Canons 15,^[1] 17,^[2] 18^[3] and Rule 18.03^[4] of the Code of Professional Responsibility (Code), commenced thru a complaint-affidavit^[5] filed before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) by Jose Francisco T. Baens (complainant).

This legal battle stemmed when the complainant engaged the services of the respondent to represent him and file a case for Declaration of Nullity of Marriage against his wife, Lourdes V. Mendiola-Baens. In his complaint-affidavit dated March 15, 2010, the complainant alleged, among others, that the respondent: (1) despite receiving the sum of P250,000.00 to cover for the expenses in the said case,^[6] failed to file the corresponding petition, and it was the complainant's wife who successfully instituted Civil Case No. 2463-08,^[7] for Declaration of Nullity of Marriage on December 8, 2008; (2) even with the complainant furnishing him a copy of the Summons dated December 15, 2008,^[8] belatedly filed an Answer^[9] and was able to file it only on March 13, 2009 which was after the 15-day period stated in the Summons; (3) failed to make an objection on the petition on the ground of improper venue as neither the complainant nor his wife were and are residents of Dasmariñas, Cavite; (4) never bothered to check the status of the case and thus failed to discover and attend all the hearings set for the case; and (5) as a result, Civil Case No. 2463-08 was decided^[10] on October 27, 2009 without the complainant being able to present his evidence.

In his Answer,^[11] the respondent denied the allegations in the complaint, and explained that: (1) after a meeting with the complainant, he drafted the Petition for Declaration of Nullity of Marriage and asked the complainant to go over said draft after which he proceeded to file the same with the Regional Trial Court (RTC) of Malabon City; (2) the complainant was aware that said petition will be filed in Malabon City as the latter had signed the verification and certification of the petition; (3) the case became pending and was later on withdrawn because of the complainant's refusal to testify; (4) what contributed to the delay in filing the Answer was the fact that he still had to let the complainant go over the same and sign the verification thereof; (5) he was not able to attend the hearings for the case because he did not receive any notice from the trial court; and (6) it was only on December 2, 2009 when he found out that the trial court has already rendered its decision and that the complainant had changed counsels.

In the mandatory conference held before the IBP-CBD on October 29, 2010, only the complainant appeared; thus, the respondent was declared as having waived his right to further participate in the IBP proceedings. Nonetheless, in the interest of justice, both parties were required to submit their respective position papers.^[12]

The Investigating Commissioner submitted his Report and Recommendation^[13] dated October 22, 2011, finding the respondent guilty of violation of the Code and recommended that the respondent be suspended for six (6) months from the practice of law. Specifically, the Investigating Commissioner found that the respondent failed to diligently attend to the case and was grossly negligent in discharging his responsibilities considering the fact that he has already been fully compensated. The Investigating Commissioner said that the respondent should have manifested or made known to the trial court that he was not receiving any notice at all since it behoves upon him to make a follow-up on the developments of the cases he is handling.

As to the respondent's argument that he indeed filed a Petition for the Declaration of Nullity of Marriage for the complainant, the Investigating Commissioner held that it cannot be taken at face value absent the presentation of the pleading itself which by a perusal of the records of the case was not submitted to the IBP-CBD. Moreso, the veracity of the Certification attached to the respondent's answer was highly questionable because it failed to state when the said petition was filed. Lastly, the Investigating Commissioner faulted the respondent for not sufficiently explaining to the complainant the consequences of the petition being filed in the RTC of Malabon City since it was the respondent's duty and responsibility to explain the complexities of the same to his client for he is the one tasked with the technical know-how in the field of law.

On June 22, 2013, the IBP Board of Governors resolved to adopt and approve the Investigating Commissioner's report but deemed it proper to increase the recommended period of suspension from six (6) months to one (1) year.^[14] On February 14, 2014, the IBP-CBD transmitted the notice of the resolution and the case records to the Court for final action pursuant to Rule 139-B of the Rules of Court.^[15]

The Court finds it fitting to sustain the IBP's findings and the recommended sanction of suspension from the practice of law since the attendant facts of the case show substantial evidence to support the respondent's delinquency.

The relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. For his part, 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 he accepts it for a fee or for free.^[16] Lawyering is not a business; it is a profession in which duty of public service, not money, is the primary consideration.^[17]

It is beyond dispute that the complainant engaged the services of the respondent to handle his case. The records, however, definitively bear out that the respondent was