

FIRST DIVISION

**[A.C. No. 9317 (Formerly CBD Case No. 12-3615),
June 04, 2014]**

**ADELIA V. QUIACHON, COMPLAINANT, VS. ATTY. JOSEPH ADOR
A. RAMOS, RESPONDENT.**

R E S O L U T I O N

SERENO, C.J.:

This is a disbarment case filed by Adelia V. Quiachon (complainant), against her lawyer, Atty. Joseph Ador A. Ramos (respondent). The latter represented complainant, who was then the plaintiff in a labor case filed before the National Labor Relations Commission (NLRC) and in a special proceeding case filed before the Regional Trial Court (RTC).^[1] Complainant charges respondent with gross negligence and deceit in violation of Canon Rules 18.03 and 18.04 of the Code of Professional Responsibility.^[2]

The Labor Arbiter (LA) granted complainant a favorable decision on 26 November 2007. Upon appeal, it was reversed and set aside by the NLRC in its Decision dated 25 July 2008.^[3] On 24 October 2008, the NLRC also denied the Motion for Reconsideration filed by respondent on complainant's behalf. A Petition for Certiorari was filed before the Court of Appeals (CA), but it affirmed the NLRC's reversal of the LA's Decision. The Notice of the CA Decision was received by respondent on 23 November 2010.

After the Petition was filed before the CA, complainant would always ask respondent about the status of her case. The latter always told her that there was no decision yet.

Sometime in August 2011, while complainant was in respondent's office waiting for him to arrive, she noticed a mailman delivering an envelope with the title of her labor case printed thereon.^[4] Complainant asked the secretary of respondent to open the envelope and was surprised to discover that it contained the Entry of Judgment of the CA's Decision. Thereafter, complainant tried repeatedly to contact respondent, but to no avail. When she finally got to talk to him, respondent assured her that "it was alright" as they still had six months to appeal the case to the Supreme Court. After that final meeting, no updates on the labor case were ever communicated to complainant.

With respect to the special proceeding case, the RTC of Roxas City dismissed it for lack of jurisdiction. A Motion for Reconsideration was filed, but it was also denied. Once again, respondent did nothing to reverse the RTC Decision. Consequently, the Entry of Judgment was received on 28 October 2008.

On 28 November 2011, complainant filed the instant disbarment Complaint^[5] against respondent.

In his Comment,^[6] respondent averred that complainant was informed of the status of the case. He claimed that he had told complainant that he “cannot cite any error of law or abuse of discretion on the part of the Court of Appeals’ decision that necessitates a Petition for Review with the Supreme Court;”^[7] thus, he supposedly advised her to “respect the decision of the Court of Appeals.”^[8] Respondent prayed that a Decision be rendered dismissing the instant disbarment Complaint for lack of merit.

In a Resolution^[9] dated 13 June 2012, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

During the pendency of the proceedings, specifically on 5 February 2013, complainant filed a Motion to Withdraw Complaint.^[10]

In his Report and Recommendation dated 23 April 2013, IBP Commissioner Hector B. Almeyda (Almeyda) declared:

True enough, it seems clear that respondent had been remiss in failing to update complainant in what had happened to the cases being handled by respondent in behalf of complainant. There was a failure to inform complainant (the client) of the status of the cases that thereafter prevented the client from exercising her options. There was neglect in that regard.^[11]

However, in spite of finding neglect on respondent’s part, he recommended the dismissal of the case against him, stating that “with the decision to withdraw the complaint, there does not appear basis to go ahead with the proceedings since without the complaint, there will be no basis to make any finding of liability.”^[12]

On 11 May 2013, a Resolution was passed by the Board of Governors of the IBP resolving to adopt and approve the Report and Recommendation of investigation commissioner Almeyda. The case against respondent was dismissed with a warning that a repetition of the same act shall be dealt with more severely.

This Court finds this to be an opportune time to remind the investigating commissioners and the members of the Board of Governors of the IBP that the withdrawal of a disbarment case against a lawyer does not terminate or abate the jurisdiction of the IBP and of this Court to continue an administrative proceeding against a lawyer-respondent as a member of the Philippine Bar.^[13]

In the present case, Almeyda recommended the dismissal of the case against respondent, even after finding that the latter had been negligent. On the basis of this finding, the latter was declared to have “been remiss in failing to update complainant in what had happened to the cases being handled by him in behalf of complainant.”^[14] Still, Almeyda recommended the dismissal of the case, because

"without the complaint, there will be no basis to make any finding of liability."^[15]
The Board of Governors of the IBP affirmed the recommendation.

The IBP Board of Governors should not have supported Almeyda's stance.

The complainant in a disbarment case is not a direct party to the case, but a witness who brought the matter to the attention of the Court.^[16] There is neither a plaintiff nor a prosecutor in disciplinary proceedings against lawyers. The real question for determination in these proceedings is whether or not the attorney is still a fit person to be allowed the privileges of a member of the bar.^[17] Public interest is the primary objective. We explained why in *Rayos-Ombac v. Rayos*,^[18] viz.:

The affidavit of withdrawal of the disbarment case allegedly executed by complainant does not, in any way, exonerate the respondent. A case of suspension or disbarment may proceed regardless of interest or lack of interest of the complainant. What matters is whether, on the basis of the facts borne out by the record, the charge of deceit and grossly immoral conduct has been duly proven x x x. The complainant or the person who called the attention of the court to the attorney's alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice. Hence, if the evidence on record warrants, the respondent may be suspended or disbarred despite the desistance of complainant or his withdrawal of the charges x x x.

In this case, the IBP found that respondent violated Canon Rules 18.03 and 18.04 of the Code of Professional Responsibility. Thus, it should have imposed the appropriate penalty despite the desistance of complainant or the withdrawal of the charges.

The failure of respondent to file an appeal from the CA Decision without any justifiable reason deserves sanction. Lawyers who disagree with the pursuit of an appeal should properly withdraw their appearance and allow their client to retain another counsel.^[19]

In *Abay v. Montesino*,^[20] the respondent-lawyer and his client disagreed on the legal course to be taken regarding the appealed case. The lawyer therein strongly advised the client to abandon the appeal and to consider the other available remedies. The client, on the other hand, wanted to pursue it. Without obtaining the assent of his client, the respondent-lawyer deemed it wise to abandon the appeal without informing the former. In finding the respondent-lawyer guilty of negligence, the Court explained:

Not filing an appellant's brief is prejudicial because, as happened in this case, such failure could result in the dismissal of the appeal. The conduct of respondent shows that he failed to exercise due diligence, and that he had a cavalier attitude towards the cause of his client. The abandonment by the former of the latter's cause made him unworthy of the trust that