

EN BANC

[A.C. No. 7922, October 01, 2013]

MARY ANN T. MATTUS, COMPLAINANT, VS. ATTY. ALBERT T. VILLASECA, RESPONDENT.

DECISION

PER CURIAM:

Before us is a complaint for disbarment filed by complainant Mary Ann T. Mattus against Atty. Albert T. Villaseca for gross and inexcusable negligence in handling Criminal Case No. 10309-02.

Background Facts

The complainant, German Bernardo D. Mattus and Dexter Aligan were the accused in Criminal Case No. 10309-02 – a case for estafa thru falsification of public document filed in the Regional Trial Court (RTC), Branch 20, Imus, Cavite. The complainant and her husband, German, engaged the services of Atty. Villaseca to represent them in the proceedings. The complainant maintained that she and German were convicted due to Atty. Villaseca's gross and inexcusable negligence in performing his duties as their counsel.

In her complaint-affidavit,^[1] the complainant alleged, among others, that Atty. Villaseca: (1) was often absent during court hearings but still collected appearance fees; (2) frequently sought the postponement of trial when he was present; (3) failed to ask the RTC to direct a National Bureau of Investigation expert to examine the signatures of the spouses Leslie and Zuraida Porter^[2] in the special power of attorney (SPA); (4) failed to file a demurrer to evidence despite having been granted sufficient time by the RTC to submit one; (5) failed to present evidence on behalf of the defense, and only filed a memorandum; (6) did not inform her and German of the dates of the presentation of defense evidence and the promulgation of judgment; and (7) erroneously indicated the wrong case number in the notice of appeal. According to the complainant, Atty. Villaseca's negligence in handling the case resulted in her own and her husband's conviction.

In the Court's Resolution^[3] of July 16, 2008, we required Atty. Villaseca to comment on the complaint.

On September 10, 2008, Atty. Villaseca filed his comment,^[4] refuting the allegations against him. Atty. Villaseca explained that he made known to the complainant that the testimony of a handwriting expert was necessary only if the prosecution would be able to produce the original copy of the SPA. Atty. Villaseca also claimed that his absences during the hearings, as well as his numerous motions for postponement, were justified and were never intended for delay. He denied having collected appearance fees when he did not attend the scheduled hearings,

and maintained that the fees he received were intended to compensate him for his services in the other cases filed by the complainant. Atty. Villaseca further claimed that he immediately corrected the case number in the notice of appeal when he discovered this error.

In a Resolution^[5] dated October 15, 2008, we referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The IBPs' Report and Recommendation

In his Report and Recommendation^[6] dated September 16, 2009, Investigating Commissioner Salvador B. Hababag recommended that Atty. Villaseca be suspended for six (6) months from the practice of law.

Commissioner Hababag ruled that Atty. Villaseca's reckless and gross negligence deprived his clients of due process; his actuations in the criminal case showed utter disregard for his clients' life and liberty. Commissioner Hababag explained that Atty. Villaseca failed to file a demurrer to evidence despite the sufficient length of time that had been given to him by the RTC to submit this pleading, and waived his right to present evidence for the defense, opting instead to file a memorandum only. Commissioner Hababag concluded that Atty. Villaseca's failure to properly attend to the interests of his clients led to their conviction.

In Resolution No. XIX-2011-251^[7] dated May 14, 2011, the IBP Board of Governors adopted and approved the findings of the Investigating Commissioner, but increased Atty. Villaseca's period of suspension from the practice of law from six (6) months to one (1) year.

Our Ruling

After a careful review of the records, the Court finds the evidence on record sufficient to support the IBP's findings. We, however, increase Atty. Villaseca's period of suspension from the practice of law from one (1) year to five (5) years.

We stress at the outset that a lawyer "is expected to exert his best efforts and ability to preserve his client's cause, for the unwavering loyalty displayed to his client likewise serves the ends of justice."^[8] Once a lawyer agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.^[9]

The records of the present case show that Atty. Villaseca had been grossly remiss in handling Criminal Case No. 10309-02. To recall, Atty. Villaseca *requested for time to file demurrer to evidence* after the prosecution had rested its case. In its order^[10] of July 1, 2004, the RTC gave him 20 days from receipt of the transcript of

stenographic notes within which to file a demurrer to evidence. Atty. Villaseca, however, did not file a demurrer to evidence, without offering any explanation why he failed to do so. As a result, the RTC issued an order^[11] stating that Atty. Villaseca "is deemed to have waived his right to file the said pleading."

To our mind, Atty. Villaseca's failure to submit a demurrer to evidence to explain such omission constitutes inexcusable negligence; it showed his lack of devotion and zeal in preserving his clients' cause. We point out that nine months had lapsed from the time the RTC granted Atty. Villaseca 20 days to file the demurrer to the time it ruled that he was deemed to have waived his right to file this pleading. Clearly, Atty. Villaseca's actuations violated Rule 12.03 of the Code of Professional Responsibility which states that "[a] lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so."

The records further disclosed that after Atty. Villaseca's failure to file a demurrer to evidence, the RTC set the initial presentation of defense evidence on May 9, 2005. However, this hearing was postponed thrice: the May 9, 2005 hearing was reset to August 8, 2005 due to Atty. Villaseca's failure to appear;^[12] the August 8, 2005 hearing was reset to November 17, 2005 upon Atty. Villaseca's motion;^[13] and the November 17, 2005 hearing was reset to March 1, 2006 because of Atty. Villaseca's manifestation that his intended first witness was unavailable.^[14] During the March 1, 2006 hearing, the respondent manifested that the **defense would no longer present any evidence, and moved that he be given time to file a memorandum.**^[15]

We point out that the prosecution rested its case on July 1, 2004; yet Atty. Villaseca waited until March 1, 2006 *only to manifest that he would no longer present any evidence*. We are at a loss why Atty. Villaseca chose not to present any evidence for the defense, considering that the accused wanted and were ready to take the witness stand. As a result, the testimony of the lone prosecution witness remained uncontroverted. To make matters worse, Atty. Villaseca directed German to attend the hearing on June 6, 2007 without informing him that it was already the date of the promulgation of judgment.

The Code of Professional Responsibility states that "[a] lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him."^[16] It further mandates that "[a] lawyer shall serve his client with competence and diligence."^[17] It also states that "[a] lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection [therewith] shall render him liable."^[18]

Atty. Villaseca's failure to present any testimonial, object or documentary evidence for the defense reveals his lack of diligence in performing his duties as an officer of the Court; it showed his indifference towards the cause of his clients. Considering that the liberty and livelihood of his clients were at stake, Atty. Villaseca should have exerted efforts to rebut the presented prosecution evidence. He could have presented the complainant and/or her husband to the witness stand, instead of just opting to file a memorandum. Or, at the very least, the reason for this move should have been fully explained to the clients, and later to the IBP and to this Court. But