

FIRST DIVISION

[A.C. No. 7813, April 15, 2009]

CARLITO P. CARANDANG, COMPLAINANT, VS. ATTY. GILBERT S. OBMINA, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is a complaint filed by Carlito P. Carandang (Carandang) against Atty. Gilbert S. Obmina (Atty. Obmina). Atty. Obmina was counsel for Carandang in Civil Case No. B-5109 entitled "Sps. Emilia A. Carandang and Carlito Carandang v. Ernesto Alzona." Carandang brought suit for Atty. Obmina's failure to inform Carandang of the adverse decision in Civil Case No. B-5109 and for failure to appeal the decision.

The Facts

The facts of CBD Case No. 06-1869 in the Report and Recommendation of the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) read as follows:

Complainant's Sworn Statement is hereto reproduced as follows:

SWORN STATEMENT

Ako si CARLITO P. CARANDANG, nasa wastong gulang, may asawa't mga anak, at nakatira sa 5450 Alberto Apt., St. Francis Homes, Halang Biñan, Laguna.

Na ako ay may kasong isinampa kay ERNESTO T. ALSONA tungkol sa aming bahay at lupa, at isinampa sa BIÑAN RTC BRANCH 25, CIVIL CASE NO. B-5109.

Na ang naturang kaso ay natapos at nadisisyunan noong Enero 28, 2000 at ako ay natalo sa naturang kaso.

Na ang aking naging abogado ay si ATTY. GILBERT S. OBMINA, tubong Quezon at bilang kababayan ako ay nagtiwala sa kanyang kakayahan upang maipagtanggol sa naturang kaso, ngunit taliwas sa aking pananalig sa kanya ang nasabing kaso ay napabayaang hanggang sa magkaroon ng desisyon ang korte na kunin ang aking lupa't bahay, sa madali't sabi kami ay natalo ng hindi ko man lang nalalaman at huli na ang lahat ng malaman ko dahil hindi na kami pwedeng umapila.

Na nalaman ko lang na may desisyon na pala ang korte pagkatapos ng

anim na buwan. Ang aking anak na si ROSEMARIE ay nagpunta sa BIÑAN, sa RTC ay binati at tinatanong kung saan kayo nakatira at ang sagot [ng] aking anak BAKIT? At ang sagot naman [ng] taga RTC, HINDI MO BA ALAM NA ANG INYONG KASO AY TAPOS NA. Nang marinig yon ay umuwi na siya at sinabi agad sa akin. Tapos na daw yung kaso [ng] ating bahay at ako ay pumunta sa opisina ni ATTY. OBMINA at aking tinanong "BAKIT DI MO SINABI SA AKIN NA TAPOS NA ANG KASO?" At ang sagot niya sa akin "AY WALA KANG IBABAYAD SA ABOGADO DAHIL WALA KANG PERA PANG-APILA" dahil sa sagot sa akin ay para akong nawalan [ng] pag-asa sa kaso.

Lumapit ako sa Malacañang at binigay yung surat pero doon ay aking nakausap yung isang abogado at ako'y kanyang pinakinggan at aking inabot ang papeles at aking pinakita at ang sabi ay hindi na pwede dahil anim na buwan na [nang] lumipas ang kaso. Kaya aking sinabi sa ATTY. ng Malacañang na hindi sinabi sa akin agad ni ATTY. OBMINA na may order na pala ang kaso.

Kaya ang ginawang paraan ay binigyan ako ng surat para ibigay sa IBP, at nang mabasa ang surat ay sinabi sa akin na doon sa SAN PABLO ang hearing, at tinanong ako kung nasaan ang ATTORNEY'S WITHDRAWAL NYO? Ang sagot ko ay "WALA HO," kaya inutusan ako na kunin ang ATTORNEY'S WITHDRAWAL at agad akong nagpunta sa opisina ni ATTY. OBMINA at tinanong ko sa sekretarya niya kung nasaan si ATTY. OBMINA ang sagot sa akin ay nasa AMERICA NA! Kaya't aking tinanong kung sinong pwede magbigay sa akin ng attorney's withdrawal at ang sabi ay yung anak nya na si CARMELITSA OBMINA. Bumalik ako noong araw ng Biyernes at aking nakuha, pero hindi na ako nakabalik sa IBP dahil noong araw na iyon ay hindi ko na kayang maglakad, kaya hindi na natuloy ang hearing sa SAN PABLO.

CARLITO P. CARANDANG
Affiant
CTC No. 21185732
Issued on March 7, 2006
At Biñan, Laguna

On November 16, 2006, the Commission on Bar Discipline, through Rogelio A. Vinluan, the then Director for Bar Discipline (now the incumbent Executive Vice President of the Integrated Bar of the Philippines), issued an Order directing respondent Atty. Gilbert S. Obmina to submit his Answer, duly verified, in six (6) copies, and furnish the complainant with a copy thereof, within fifteen (15) days from receipt of the Order.

On December 12, 2006, this Commission was in receipt of a Manifestation dated December 11, 2006 filed by a certain Atty. Ma. Carmencita C. Obmina-Muaña. Allegedly, she is the daughter of respondent Atty. Gilbert S. Obmina. She further alleged that [her] father is already a permanent resident of the United States of America since March 2001 and had already retired from the practice of law.

That on February 20, 2007, undersigned Commissioner [Jose I. De La Rama, Jr.] scheduled the Mandatory Conference/Hearing of the case on March 20, 2007 at 9:30 a.m.

On March 19, 2007, Atty. Ma. Carmencita C. Obmina-Muaña filed a Manifestation and Motion reiterating her earlier Manifestation that the respondent, Atty. Gilbert S. Obmina is already a permanent resident of the United States for the last six (6) years and likewise, she reiterated her request that summons be served on her father thru extraterritorial service. Atty. Muaña likewise requested the cancellation of the mandatory conference and resetting of the same on April 10, 2007.

On the scheduled Mandatory Conference on March 20, 2007, complainant Carlito P. Carandang appeared. The undersigned Commissioner directed Atty. Carmelita Muaña to appear before this Commission on May 18, 2007 at 2:00 p.m. and to bring with her the alleged withdrawal of appearance filed by her father and to bring proof that her father is now really a permanent resident of the United States of America.

That on May 18, 2007, Atty. Muaña again filed a Manifestation and Motion informing this Honorable Commission that she cannot possibly appear for the reason that she is the legal counsel of a candidate in Muntinlupa City and that the canvassing of the election results is not yet finished. She likewise submitted copies of her father's Passport and US Permanent Residence Card. That with respect [to] the Withdrawal of Appearance, Atty. Muaña alleged that copies of the same were all given to complainant Carlito P. Carandang.

That an Order dated May 18, 2007 was issued by the undersigned Commissioner granting the aforesaid Manifestation and Motion. Atty. Muaña was likewise directed to appear before this Office on June 22, 2007 at 2:00 p.m.

On June 22, 2007, in the supposed Mandatory Conference, Atty. Carmencita Obmina Muaña appeared. Likewise presented was Mr. Carlito Carandang who is the complainant against Atty. Gilbert Obmina. In the interest of justice, Atty. Muaña was given a period of ten (10) days within which to file a verified answer. The Mandatory Conference was set on August 3, 2007 at 3:00 o'clock in the afternoon.

On June 29, 2007, Atty. Muaña filed a Motion for Extension of Time to file Answer.

On July 3, 2007, this Commission is in receipt of the verified Answer filed by respondent Atty. Gilbert S. Obmina.

On August 3, 2007, during the Mandatory Conference, complainant Carlito Carandang appeared. Atty. Muaña appeared in behalf of [her] father. After making some admissions, stipulations and some clarificatory matters, the parties were directed to submit their verified position papers within ten (10) days. Thereafter, the case will be submitted on report and recommendation.