

FIRST DIVISION

[A.C. NO. 4676, May 04, 2006]

**SPS. ANTONIO AND NORMA SORIANO, COMPLAINANTS, VS.
ATTY. REYNALDO P. REYES, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

For alleged gross negligence in handling two civil cases, a complaint^[1] for disbarment was filed by complainant spouses Antonio and Norma Soriano against Atty. Reynaldo P. Reyes.

Complainants alleged that sometime in the latter part of 1990, they engaged the services of respondent in a case they filed against Peninsula Development Bank entitled, "*Norton Resources and Development Corporation, et al. v. Peninsula Development Bank.*" The case was for Declaration of Nullity with Injunction and/or Restraining Order before the Regional Trial Court (RTC) of Davao City, Br. 13, docketed as Civil Case No. 20-465-90.^[2] While the case was pending, respondent reassured complainants that he was diligently attending to the case and will inform them of the status of their case.

In 1994, complainants again engaged the services of respondent in a case they filed against the Technology and Livelihood Resource Center entitled, "*Spouses Antonio M. Soriano and Norma Soriano v. Technology and Livelihood Resource Center*" for Declaration of Nullity with Injunction and Temporary Restraining Order before the RTC of Davao City, Br. 16, docketed as Civil Case No. 22-674-94.^[3] During the pendency of the second case, complainants inquired from respondent the status of the earlier Civil Case No. 20-465-90, the latter informed them that the same was still pending and/or ongoing.

Later, complainants learned that Civil Case No. 20-465-90 was dismissed^[4] on 16 December 1991 for failure of the respondent to file a pre-trial brief. The dismissal reads:

On record is a pre-trial brief filed by defendant, thru counsel, Atty. Marlon B. Llauder, and this morning a supplemental pre-trial brief was submitted by defendant's counsel. Atty. Reynaldo Reyes, counsel for the plaintiffs is present in Court but he moved for a suspension of the pre-trial conference this morning for the reason that plaintiffs are proposing to amicably settle this case. Defendant's counsel vehemently objected to the postponement of the pre-trial conference and instead moved for a declaration of plaintiffs as non-suited for the reason that up to this time, plaintiffs have not submitted their pre-trial brief in violation of the Order of the Court, dated October 11, 1991, wherein plaintiffs' counsel was afforded five (5) days from said date within which to submit to Court

plaintiffs' pre-trial brief.

The said motion is well-taken for the reason that the records failed to show that plaintiffs filed pre-trial brief. They are thus, declared as non-suited.

This case is hereby ordered dismissed.^[5] (Underscoring supplied.)

A motion^[6] for reconsideration was filed but the same was denied in an Order dated 27 April 1992.

As to Civil Case No. 22-674-94, complainants likewise found out that the case was dismissed for failure to prosecute. The order reads:

The records show that summons with a copy of the complaint have been served upon the defendant on May 11, 1994, but plaintiffs did not file the necessary pleadings in order to prosecute the same.

IN VIEW HEREOF, for failure to prosecute this case is ordered DISMISSED.

Furnish copy of this order, Atty. Reynaldo P. Reyes, plaintiffs' counsel and defendant's counsel, Atty. Francisco Figura.^[7] (Underscoring supplied.)

Upon filing of a Motion for Reconsideration, though, the case was reconsidered and reinstated^[8] on 15 August 1995.

Claiming that the acts of respondent greatly prejudiced and damaged them, complainants filed a Complaint for disbarment against respondent before this Court.

On 20 October 1997, the Supreme Court referred^[9] the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision.

In his Comment,^[10] respondent admitted that he was hired by the complainants in the case against the Peninsula Development Bank in the latter part of 1990. He averred that Peninsula Development Bank foreclosed the property of the complainants for failure to pay monetary obligations amounting to several millions of pesos. He said that some of the properties of the complainants were foreclosed in 1989, and the one-year redemption period was to expire in the latter part of 1990. About one week before the expiration of the redemption period, the complainants, through the respondent, filed a case against the Peninsula Development Bank before the RTC of Davao City, which was docketed as Civil Case No. 20-465-90. From the time of the filing of the complaint up to the present, herein complainants are in continuous possession of the already foreclosed properties, consisting of a Ford Econovan and farm tractors. According to respondent, complainants are still holding office in the real properties subject of the foreclosure and a portion thereof is being rented by a big taxi company. He disclosed that at the time he was hired in 1990, the agreement was that he would be paid the amount of Three Hundred Thousand Pesos (P300,000.00) as attorney's fees in five years. Respondent claimed that he assisted complainants in applying for a loan to pay off their obligations with Peninsula Development Bank but because of the numerous estafa cases filed against

complainants, said loans did not materialize. Respondent further claimed that their agreed strategy was to arrange a settlement with regard to Civil Case No. 20-465-90. Respondent said he later realized that the complainants had no interest in paying their obligations to Peninsula Development Bank, and his attorney's fees. Respondent added that they differed in opinion with regard to the handling of the case and that complainants did not understand that the filing of the case had already helped them gain time to negotiate with the bank especially on the matter of interest incurred by their loans. Finally, respondent concluded by saying that his attorney's fees, paid in meager installments, remain outstanding and unpaid.

In their reply,^[11] complainants refuted respondent's allegation of the alleged "numerous estafa cases" filed against them. Complainants averred that the certification attached by respondent showing that there were estafa cases filed against them has no bearing insofar as the disbarment case is concerned. They likewise denied that respondent assisted them in their loan application. They engaged the services of the respondent to prevent them from losing their properties to the Peninsula Development Bank and for no other reason. Finally, complainants maintained that respondent was paid his attorney's fees.

As early as 27 June 2000, the case had already been scheduled for hearing by Commissioner Augustine V. Gonzaga of the Commission on Bar Discipline. On 18 January 2002, after several hearings, the Commission admitted the documentary evidence offered as part of the testimony of complainants. On 1 March 2002, the day respondent was ordered to present his defense evidence, he failed to appear. Counsel for the complainants moved that the respondent be deemed to have waived his right to present his evidence for failure to appear on scheduled hearing despite due notice. In the interest of substantial justice, respondent was given a period of 10 days to comment on the complainants' motion and scheduled the case for hearing on 19 April 2002. Despite due notice, however, respondent again failed to appear, thus, the Hearing Commissioner declared that respondent was considered to have waived his right to present his defense evidence. The parties were given 20 days from 19 April 2002 to file their respective memoranda, after which the case will be deemed submitted for resolution.

Only complainants filed a memorandum.

On 28 May 2003, Investigating Commissioner Milagros V. San Juan found respondent negligent in handling the cases of complainants; hence, said Investigating Commissioner recommended that he be disbarred. The pertinent portions of the report read:

There is no question that the respondent was engaged by the complainants as their counsel in two cases, namely Civil Case No. 20-465-90 and Civil Case No. 22-674-94. The respondent accepted both cases by filing a case of Nullity with Injunction and/or Restraining Order before the Regional Trial Court Br. 13, Davao City, against Peninsula Development Bank and against Livelihood Resource Center for Declaration of Nullity with Injunction and/or Temporary Restraining Order docketed as 22-674-94, Br. 16 RTC Davao City. The failure and negligence of respondent in handling the aforementioned cases is fully reflected in the Order of the Court re: Civil Case No. 20-465-90 which reads:

On record is a pre-trial brief filed by defendant thru counsel, Atty. Marlon B. Llander and this morning a supplemental pre-trial brief was submitted by defendants' counsel, Atty. Reynaldo Reyes, counsel for the plaintiff is present in court but he moved for a suspension of the pre-trial conference this morning for the reason that plaintiffs are proposing to amicably settle this case. Defendants' counsel vehemently objected to the postponement of the pre-trial conference and instead moved for a declaration of plaintiff's as non-suited for the reason that up to this time, plaintiff have not submitted their pre-trial brief in violation of the Order of the Court, dated October 11, 1991 wherein plaintiff's counsel was afforded five (5) days time from date within which to submit to court plaintiff's pre-trial brief.

The motion is well taken for the reason that the records failed to show that plaintiffs filed pre-trial brief. They are thus declared as non-suited.

This case is hereby ordered dismissed. "x x x Regarding Civil Case No. 22-674-94, Regional Trial Court Br. 16, Davao City in the case filed against Technology and Livelihood Resource Center the court issued an Order dated May 5, 1995 which reads:

"The record show that summons with a copy of the Complaint have been served upon the defendant on May 11, 1994, but plaintiffs did not file the necessary pleadings in order to prosecute the same."

In view hereof, for failure to prosecute this case is ordered Dismissed. "x x x The records show that the real status of the cases were kept from the complainants by respondent. Despite the dismissal of both cases due to respondent's negligence and irresponsibility he continued receiving compensation from complainants are evidenced by the receipts and vouchers which respondent acknowledged with his signatures. (Exhibits "F", "G", "H", "H-1" and "I"). Likewise, the respondent deceived the complainant by giving them false hopes that everything was alright and there was no problem regarding the cases.

All the foregoing show that there is clear violation of his oath as a lawyer particularly Canon 17 and Canon 18 of the Code of Professional Responsibility. Thus, it is submitted that Atty. Reynaldo P. Reyes be meted the penalty of Disbarment.^[12]

On 21 June 2003, the IBP Board of Governors adopted and approved^[13] the recommendation of the Investigating Commissioner.

In the interregnum, a Motion to Withdraw Testimony and Evidence^[14] was filed by complainant Norma B. Soriano before this Court, stating that:

1. That although the complainant in this case names the spouses Antonio Soriano and Norma B. Soriano as the complainants, it is only complainant Norma B. Soriano who has testified and presented evidence during the hearing of this case due to the untimely demise

of her husband, complainant Antonio Soriano;

2. That subsequently to the undersigned complainants testimony and presentation of evidence, she has come upon information and facts that need to be reviewed and re-examine[d] in the highest interests of justice;
3. That before going into those information and facts that she came to learn after she gave her testimony before this Honorable Board, it is important to stress the following antecedent circumstances:

(a) That it was undersigned complainant's late husband who conferred constantly with respondent Atty. Reynaldo P. Reyes;

(b) That herein complainant was not present in a conference with Atty. Reyes at the time his professional services were hired. So, it was only the deceased complainant Antonio Soriano who was familiar with the scope of professional engagement;

(c) That undersigned complainant did not participate in the conference between her late husband and respondent counsel on the agreed strategy because the late husband was the one actively managing the affairs of the family. Moreover, herein complainant was not really knowledgeable of the facts and details involved in the cases handled by respondent counsel;

(d) That for example, it was only later after her testimony that she learned that respondent was also attending to and handling the other cases of the late complainant Antonio Soriano, especially those cases filed in Makati, Complainant herein had the mistaken impression that the complainant-decedent had availed of the services of lawyers in Makati. Hence, the fees that respondent Atty. Reyes received after the cases below were for those cases in Makati;

(e) That it was a surprise for herein undersigned complainant to also learn that respondent Atty. Reyes went out of his way to accompany her late husband to a financier, who was an intimate friend of respondent, in Quezon City for the purpose (sic) sourcing the necessary funds to pay off our obligations to some creditors as the agreed strategy at the very start. Thus, it appears that respondent counsel went out of his way to help the late complainant Antonio Soriano solve his problems; and

(f) That I likewise subsequently learned that when respondent counsel became a city councilor of Davao City, he did what he can to help the late complainant Antonio Soriano have a council clearance over a parcel of land that he was selling for a memorial park.