

## THIRD DIVISION

[ A.C. No. 5039, November 25, 2005 ]

**SPOUSES EDUARDO AND TERESITA GARCIA, COMPLAINANTS,  
VS. ATTY. ROLANDO S. BALA, RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

The practice of law is a privilege bestowed on lawyers who meet the high standards of legal proficiency and morality. Any conduct that shows a violation of the norms and values of the legal profession exposes the lawyer to administrative liability.

#### The Case and the Facts

On April 8, 1999, Spouses Eduardo and Teresita Garcia filed before this Court a Letter-Complaint<sup>[1]</sup> against Atty. Rolando S. Bala. According to complainants, he failed to render a legal service contracted -- the preparation of a petition for review that he was to file with the Court of Appeals (CA) in connection with DARAB Case No. 5532. Moreover, he supposedly refused to return the P9,200 legal fees they had paid him for the purpose. Finally, he allegedly hurled invectives at them when they asked him for a copy of the petition that he claimed to have filed.

This Court required respondent to comment on the Complaint.<sup>[2]</sup> He failed to comply; thus, he was presumed to have waived his right to be heard.<sup>[3]</sup> In its Resolution, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.<sup>[4]</sup>

#### Report of the Investigating Commissioner

In her September 23, 2004 Report,<sup>[5]</sup> Investigating IBP Commissioner Teresita J. Herbosa found respondent guilty of violating the Code of Professional Responsibility.

Despite due notice, he neither submitted a position paper nor appeared at any of the hearings<sup>[6]</sup> called by the Commission. Thus, the case was decided on the basis of complainants' evidence.

According to the findings of Commissioner Herbosa, complainants engaged the services of respondent (sometime in May 1998)<sup>[7]</sup> to appeal to the CA the adverse Decision of the Department of Agrarian Relations Adjudication Board (DARAB).<sup>[8]</sup> Instead, he erroneously filed a Notice of Appeal<sup>[9]</sup> with the DARAB. Under Rule 43 of the Rules of Court, appeals from the decisions of the DARAB should be filed with the CA through a verified petition for review.<sup>[10]</sup> Because of respondent's error, the prescribed period for filing the petition lapsed, to the prejudice of his clients.

Commissioner Herbosa gave no credence, however, to the allegation of complainants that respondent had deceived them by resorting to a wrong remedy. While opining that he might not have been in bad faith in filing a notice of appeal instead of a petition for review, the commissioner in her Report nonetheless held that his failure to use the proper legal remedy constituted lack of professional competency that warranted an appropriate sanction.<sup>[11]</sup>

The Report also concluded that respondent should be sanctioned for his unjustified refusal and failure to return the money paid by his clients.<sup>[12]</sup> Their payment totaled P9,200, broken down as follows: P5,000 to write the appeal; P700 to mail it; and an additional P3,500 for writing the pleading on short notice. He, however, failed to return the money despite his promise -- and his obligation under the circumstances -- to do so.<sup>[13]</sup>

Finally, Commissioner Herbosa held that respondent should be sanctioned further for uttering unsavory words against complainants during one instance when they had called on him to ask for a copy of the supposed appeal. Hence, she recommended that, aside from a fine of P5,000 and the return to complainants of the amount of P9,200, suspension from the practice of law for a period of six months should be imposed upon him.

### **Recommendation of the IBP Board of Governors**

On March 12, 2005, the Board of Governors of the IBP passed Resolution No. XVI-2005-74,<sup>[14]</sup> which adopted with modification the Report and Recommendation of the investigating commissioner. It recommended that respondent should be reprimanded and suspended from the practice of law for six months; and that he should return, within thirty days from his receipt of the Decision, the amount of P9,200, with legal interest from the filing of the present Complaint with this Court.<sup>[15]</sup>

### **The Court's Ruling**

We agree with the findings and recommendation of the IBP.

### **Administrative Liability of Respondent**

The practice of law is considered a privilege bestowed by the State on those who show that they possessed and continue to possess the legal qualifications for it.<sup>[16]</sup> Indeed, lawyers are expected to maintain at all times a high standard of legal proficiency and morality, including honesty, integrity and fair dealing.<sup>[17]</sup> They must perform their fourfold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility.<sup>[18]</sup>

### **Negligence for Wrong Remedy**

The Code of Professional Responsibility<sup>[19]</sup> mandates lawyers to serve their clients

with competence and diligence.<sup>[20]</sup> Rule 18.02 states that "a lawyer shall not handle any legal matter without adequate preparation." Specifically, Rule 18.03 provides that "a lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable."

Once lawyers agree to take up the cause of a client, they owe fidelity to the cause and must always be mindful of the trust and confidence reposed in them.<sup>[21]</sup> A client is entitled to the benefit of any and every remedy and defense authorized by law, and is expected to rely on the lawyer to assert every such remedy or defense.<sup>[22]</sup>

Evidently, respondent failed to champion the cause of his clients with wholehearted fidelity, care and devotion. Despite adequate time, he did not familiarize himself with the correct procedural remedy as regards their case. Worse, he repeatedly assured them that the supposed petition had already been filed.<sup>[23]</sup>

Since he effectively waived his right to be heard, the Court can only assume that there was no valid reason for his failure to file a petition for review, and that he was therefore negligent.

### **Conduct Unbecoming**

Having become aware of the wrong remedy he had erroneously taken, respondent purposely evaded complainants, refused to update them on the appeal, and misled them as to his whereabouts.<sup>[24]</sup> Moreover, on June 17, 1998, he uttered invectives at them when they visited him for an update on the case.<sup>[25]</sup>

Rule 18.04 of the Code of Professional Responsibility states that a "lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information." Accordingly, complainants had the right to be updated on the developments and status of the case for which they had engaged the services of respondent.<sup>[26]</sup> But he apparently denied them that right.

Furthermore, for using unsavory words against complainants, he should also be sanctioned. Lawyers may be disciplined -- whether in their professional or in their private capacity -- for any conduct that is wanting in morality, honesty, probity and good demeanor.<sup>[27]</sup> Canon 7 of the Code of Professional Responsibility mandates a lawyer to "uphold the integrity and dignity of the legal profession" at all times.

In addition, the Court notes the nonparticipation of respondent even in the present proceedings. He ignored the directive for him to file his comment,<sup>[28]</sup> just as he had disregarded the IBP hearing commissioner's orders<sup>[29]</sup> for the conduct of hearings, submission of documentary evidence and position paper. Never did he acknowledge or offer any excuse for his noncompliance.

Clearly, his conduct manifests his disrespect of judicial authorities. Despite the fact that his profession and honor are at stake, he did not even bother to speak a word in his defense. Apparently, he has no wish to preserve the dignity and honor expected of lawyers and the legal profession. His demeanor is clearly demeaning.