

SECOND DIVISION

[A.C. No. 5817, May 26, 2004]

**EMMA V. DE JUAN, COMPLAINANT, VS. ATTY. OSCAR R. BARIA
III, RESPONDENT.**

R E S O L U T I O N

QUISUMBING, J.:

In her *Salaysay* filed with the Office of the Bar Confidant on August 29, 2002, complainant, former client of respondent, charged respondent with negligence in handling her labor case and threats against her person.

The complainant alleged that respondent Atty. Oscar R. Baria III, as her counsel in NLRC NCR CA No. 022654-00/NLRC RAB IV-7-11287-99-R, *Emma De Juan v. Triple AAA Antique/Mr. Yappe and Mr. Godofredo Nadia*, negligently failed to file motion for reconsideration of the decision dated September 24, 2001 of the NLRC in her behalf.

[1]

The complainant avers that she was hired by Triple AAA on or about December 15, 1998 as packer on probation status for six months in its Packing Department.^[2] Based on a performance evaluation citing her irregular attendance and inefficiency, the company terminated her services on June 11, 1999,^[3] after waiting for two weeks for her to report. She claims that she was terminated without notice nor explanation^[4] so she filed a complaint before the National Labor Relations Commission (NLRC) against the company for illegal dismissal, non-payment of premium pay for holiday, rest day, and 13th month pay. She also claimed moral and exemplary damages and attorney's fees.^[5]

In search of a lawyer, she asked the assistance of Banahaw Broadcasting Corporation (BBC) which assigned respondent to handle her labor case. Respondent represented complainant on a contingency fee agreement.

On December 29, 1999, the Labor Arbiter rendered a decision in favor of complainant.^[6] Triple AAA appealed to the NLRC. In a decision promulgated on September 24, 2001, the NLRC reversed the Labor Arbiter and declared there was no illegal dismissal.^[7]

Complainant blamed respondent for the reversal. She said that she came to know of the reversal of the Labor Arbiter's decision when she called respondent in October 2001. When she asked the respondent what they should do, respondent answered, "*Paano iyan iha...eh...hindi ako marunong gumawa ng Motion for Reconsideration.*" Sometime in November 2001, her husband called respondent to ask if he did anything in connection with the NLRC's Decision and he was advised by respondent's secretary that, "*Sabi ni Atty...huwag na kayong magpakita sa kanya*

dahil galit na galit sa inyo si Attorney at baka kung ano pa ang magawa niya sa inyo."^[8]

The Court required respondent to comment and referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.^[9]

In his Comment, respondent explained that soon after passing the bar in 1999, he was employed as a broadcaster in DWAN's radio program offering free legal services to the poor. He gave free legal services to indigent clients one of whom was complainant. As a practice, he said he forewarned his clients that he was just a new lawyer and that they should not expect too much from him because of his limited legal experience. According to respondent he tried to explain to complainant the legal remedies available to her as well as the time her case may take. It appeared to him that complainant did not fully grasp the usual delays that may be involved in her case. He recalled that when he told complainant that the Labor Arbiter's decision was in her favor, she was so jubilant at the money judgment. Later however, the complainant became furious when he told her that Triple AAA Antique had appealed. Respondent filed a Motion for Writ of Execution of the Labor Arbiter's Decision but this Motion was ruled premature. Respondent then filed an opposition to the appeal filed by Triple AAA but the NLRC still gave due course to the appeal. While Triple AAA's appeal was pending resolution he told complainant to call him every week so that she could be advised of any developments in her case. He generously suggested that complainant call "collect" to lessen her expenses. He even allowed complainant and her husband to stay in his home when they came to Manila from the province. He said he even fed them when they were in Manila.

In October 2001, the NLRC rendered its decision reversing the Labor Arbiter. By this time, according to respondent, he confronted complainant for lying to him about her employment with Triple AAA and told her that because of her lies there was a possibility she could lose the appeal. He advised complainant to get a more experienced lawyer for her appeal because as a new lawyer he was not confident he could handle her appeal. Thereafter, complainant no longer contacted him and at some time, he even had to ask her whereabouts from her relatives.

On December 2001, respondent received calls from the staff of Raffy Tulfo, a radio commentator. In one of these calls, his wife talked to one of Tulfo's employees and she was told that complainant told Tulfo that the respondent received money from Triple AAA Antique. As a result Tulfo lambasted him on his radio program. Respondent thereafter called Tulfo, explained his side, and demanded that the latter apologize on air otherwise he would file a libel case against Tulfo.

Sometime in January 2002, respondent's secretary received a call from the complainant's husband. When respondent's secretary confronted the husband regarding the Tulfo incident, complainant's husband retorted, "*Sabihin mo sa kanya mag ingat siya at baka may mangyari sa kanya.*" Shortly thereafter, respondent began receiving death threats over the phone and also noticed armed men casing his office. He reported these calls and presence of suspicious armed men to the police.

Respondent surmises that complainant believed Triple AAA paid him off and he pocketed money supposedly for her. Respondent vehemently denied he did. He asks