

THIRD DIVISION

[A.C. No. 5554, June 29, 2004]

LUIS DE GUZMAN, REPRESENTED BY HIS SON RODRIGO C. DE GUZMAN, COMPLAINANT, VS. ATTY. EMMANUEL M. BASA, RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

When a lawyer accepts to handle a case, whether for a fee or *gratis et amore*, he undertakes to give his utmost attention, skill and competence to it, regardless of its significance. Thus, his client, whether rich or poor, has the right to expect that he will discharge his duties diligently and exert his best efforts, learning and ability to prosecute or defend his (client's) cause with reasonable dispatch. Failure to fulfill his duties will subject him to grave administrative liability as a member of the Bar. For the overriding need to maintain the faith and confidence of the people in the legal profession demands that an erring lawyer should be sanctioned.

On August 14, 2000, Luis de Guzman, represented by his son Rodrigo C. de Guzman, filed with the Integrated Bar of the Philippines (IBP) a complaint against Atty. Emmanuel M. Basa for disbarment for having committed "misrepresentation and gross negligence in his duties as counsel."

The complaint, docketed as CBD Case No. 00-756, alleges that complainant was the defendant in Civil Case No. 535-M-90 for rescission and recovery of possession of two lots and damages filed by Roxas Realty Corporation with the Regional Trial Court (RTC), Branch XI, Malolos, Bulacan. His counsel was Atty. Emmanuel M. Basa, herein respondent.

On September 2, 1992, the RTC issued an Order adverse to complainant. Desiring to challenge the Order through a petition for certiorari before the Court of Appeals, he agreed to pay respondent P15,000.00 for his legal services. Thereupon, respondent collected and received from complainant a down payment of P5,000.00.^[1] However, no such petition was filed by respondent, in violation of their agreement.

On September 20, 1994, the RTC rendered its Decision in Civil Case No. 535-M-90 against complainant. He filed a motion for reconsideration but was denied in an Order dated December 28, 1994.^[2]

Complainant, through respondent, appealed the RTC Decision to the Court of Appeals, docketed as CA-G.R. CV No. 49928. Respondent then filed successively three motions for extension of time to submit the appellant's brief, or a total of 135 days from March 11, 1996 until July 25, 1996. The motions were granted, but with a warning that no further extension would be allowed.^[3]

Notwithstanding the Court of Appeals' warning, respondent still failed to file the appellant's brief. Instead, he filed two more motions for extension on July 24, 1996 and August 3, 1996, or a total of 15 days.

Expectedly, the Court of Appeals, in its Resolution dated September 17, 1996, denied respondent's motions and "ordered the appellant's brief filed on August 8, 1996 expunged from the records."^[4] Respondent then filed a motion for reconsideration. In a Resolution dated November 29, 1996,^[5] the Appellate Court denied his motion and dismissed the appeal.

Consequently, complainant, through respondent, filed with this Court a petition for review on certiorari assailing the Court of Appeals' Resolutions of September 17, 1996 and November 29, 1996, docketed as G.R. No. 127190.

However, this Court, in a Resolution dated February 26, 1997, dismissed complainant's petition for his failure to submit a certification of non-forum shopping **duly executed by him.**

Respondent rectified the error by filing with this Court a motion for reconsideration, attaching thereto the required certification signed by the complainant himself. Still, the motion was denied on the ground that the Court of Appeals did not commit any reversible error in dismissing complainant's appeal.^[6]

On September 19, 1997, the dismissal of complainant's petition in G.R. No. 127190 became final and executory.^[7]

Complainant claims that he "lost his case before the Court of Appeals and this Court, not on the merits, but due to technicality caused by respondent's dereliction of his duty as counsel."^[8] "In effect," he adds, "it totally dissipated his quest for justice and thereby deprived him of all the remedies that may be availed of."^[9] Complainant thus prayed that respondent be disbarred or suspended from the practice of law.

In his answer to the complaint before the IBP, respondent **admitted** the following material facts: (1) he received from complainant P5,000.00 as expenses to be incurred in filing the petition for certiorari with the Court of Appeals; (2) he was granted by the Court of Appeals in CA-G.R. CV No. 49928 three extensions of time to file the appellant's brief, but he filed it beyond the extended period due to his illness, resulting in the dismissal of his appeal; and (3) he signed the certification of non-forum shopping attached to the petition for review filed with this Court in G.R. No. 127190 because complainant was ill.^[10] Respondent thus prayed that the complaint be dismissed.^[11]

During the scheduled hearing of the instant case before the IBP, the parties agreed to submit it for resolution on the basis of the pleadings and other documents filed.

In its Report dated March 7, 2001,^[12] the IBP Commission on Bar Discipline (CBD), through Commissioner Tyrone R. Cimafranca, found respondent negligent in the performance of his professional duty to his client, herein complainant, and recommended that:

- "1. The respondent be **REPRIMANDED** and **warned** that any similar or other complaint in the future for breach of his professional duties will be dealt with more severely; and
2. To **return** to the complainant, within fifteen (15) days from notice of the order, **the collected amount of P5,000.00.**"

Commissioner Cimafranca's Report was adopted and approved by the IBP Board of Governors in its Resolution No. XV-2001-259 dated October 27, 2001.^[13]

The IBP then forwarded the records of CBD Case No. 00-756 to this Court.

Canon 18 of the Code of Professional Responsibility provides that "A lawyer shall serve his client with competence and diligence." Rule 18.03 of the same Canon mandates that "A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable."

Also, Rule 12.03, Canon 12 of the same Code requires 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."

In his lawyer's sacred oath, respondent imposed upon himself the duty, among others, that he "will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients, x x x."

We sustain the IBP Board of Governor's finding that respondent was negligent in the performance of his professional duty towards complainant. Clearly, he violated the above Canons^[14] and his lawyer's oath.

Firstly, respondent admitted that he did not seasonably file with the Court of Appeals the required appellant's brief in CA-G.R. CV No. 49928 resulting in the dismissal of the complainant's appeal. Despite several extensions to file the appellant's brief, respondent failed to do so. Instead, he filed two more motions for extension. While he eventually filed the appellant's brief, however, it was late, being beyond the last extension granted by the Appellate Court. His excuse that his illness caused such delay is flimsy and deserves no consideration. A motion for extension of time to file an appellant's brief carries with it the presumption that the applicant-lawyer will file the same within the period granted. As aptly stated in the IBP-CBD Report:

"Respondent failed to show in his Answer and other pleadings that he exercised that degree of competence and diligence required of him in prosecuting particularly the appeal of his client (now complainant) which resulted in its dismissal. If respondent really believed that his physical condition was the cause why he was not able to submit the requisite appellant's brief seasonably, resulting in its being expunged from the record, he should have excused himself from the case. A lawyer may withdraw his services when his mental or physical condition renders it difficult for him to carry out the employment effectively (see Rule 22.01 (d), Canon 22, Code of Professional Responsibility). That could have