

## EN BANC

[ A.C. No. 5169, November 24, 1999 ]

**ELMO S. MOTON, COMPLAINANT, VS. ATTY. RAYMUNDO D. CADIAO, RESPONDENT.**

### R E S O L U T I O N

**PARDO, J.:**

The case is a verified letter-complaint for disbarment<sup>[1]</sup> against Atty. Raymundo D. Cadiao, for violation of the lawyer's oath.

The antecedent facts show that on September 29, 1987, complainant Elmo S. Moton filed with the Regional Trial Court, Quezon City, a civil complaint against Pablito M. Castillo and The Philippine Veterans Bank denominated as Right to Use Urban Land and Damages.<sup>[2]</sup>

On August 14, 1990, when the case was scheduled for pre-trial conference, the complainant's counsel, Atty. Raymundo D. Cadiao, failed to appear, hence, the court dismissed the case.<sup>[3]</sup> On August 15, 1990, Atty. Cadiao filed with the trial court an entry of appearance for the complainant and a motion for reconsideration of the dismissal of the case.<sup>[4]</sup> Acting on the motion, the court set aside the August 14, 1990 order of dismissal and reset the pre-trial conference on May 5, 1991.<sup>[5]</sup>

On May 5, 1991, upon motion of Atty. Cadiao, the court declared the defendant Castillo in default and allowed plaintiffs to present their evidence *ex-parte* before a Commissioner.<sup>[6]</sup> It turned out that the court appointed Commissioner was on official leave. Consequently, plaintiffs filed a motion for appointment of a substitute Commissioner. The court granted the motion in an order dated June 28, 1991. The reception of evidence was set on August 13, 1991.<sup>[7]</sup>

On August 2, 1991, Atty. Cadiao filed a motion to reset the hearing from August 13, 1991 to August 26, 27, 28 or 29, 1991, for the reason that he had to attend a scheduled hearing in Antique.<sup>[8]</sup> At the hearing of the motion on August 9, 1991, respondent was absent because he had left for Antique. Therefore, the court denied the motion to reset hearing. A subsequent motion for reconsideration with prayer to set case for reception of evidence was similarly denied.<sup>[9]</sup>

On November 20, 1991, Atty. Cadiao filed with the Court of Appeals a petition for *certiorari* alleging that the trial court acted with grave abuse of discretion amounting to lack of jurisdiction when it dismissed the case. On October 23, 1992, the Court of Appeals dismissed the petition for lack of merit.<sup>[10]</sup>

On January 20, 1993, respondent filed with the Court of Appeals a Withdrawal of