



Republic of the Philippines
Supreme Court
Manila

EN BANC

EVELYN M. BRATSCHI,
Complainant,

A.C. No. 11863

Present:

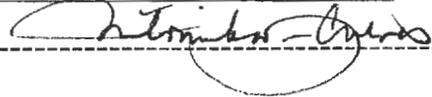
- versus -

ATTY. ROBERT Y. PENEYRA,
Respondent.

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,*
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

August 1, 2023



X-----X

DECISION

PER CURIAM:

Before the Court is a Complaint-Affidavit,¹ dated September 15, 2017, and a Verified Complaint,² dated February 5, 2018, filed with the Office of the Bar Confidant by Evelyn M. Bratschi (**Bratschi**) against Atty. Robert Y.

* On Official Business.

¹ *Rollo*, pp. 5-11.

² *Id.* at 136-142.

Peneyra (**Atty. Peneyra**), for Violation of Rule 138 of the Rules of Court and the Code of Professional Responsibility.

The Facts

In 1998, Bratschi engaged the services of Atty. Peneyra to be her defense counsel in a criminal case for falsification of a private document filed against her by a certain Douglas S. Hagedorn (**criminal case**).³ The criminal case was pending before Branch 47, Regional Trial Court, Puerto Princesa City (**RTC Branch 47**).⁴ Bratschi paid Atty. Peneyra PHP 64,000.00 covering the payment for acceptance fee, attorney's fees, and advance payment for court appearance fee. Bratschi likewise gave Atty. Peneyra PHP 18,000.00 to be used for paying her bail bond amounting to PHP 12,000.00. However, Atty. Peneyra did not return the excess amount to Bratschi.⁵

On January 12, 2001, the RTC Branch 47 provisionally dismissed the criminal case for lack of interest on the part of the private complainant and failure of the prosecution to prosecute the case.⁶ However, the criminal case was subsequently revived without any objection from Atty. Peneyra.⁷

After a series of postponements, the hearing for the criminal case was scheduled on July 5, 2004.⁸ However, Atty. Peneyra failed to appear on the said date. Bratschi, who was notified of the scheduled hearing through Atty. Peneyra, was likewise absent. Consequently, the RTC Branch 47 issued a Warrant of Arrest against Bratschi for her failure to appear despite due notice.⁹

Thereafter, Atty. Peneyra attended the hearing on September 6, 2004, wherein he manifested in open court that Bratschi was waiving her right to be present during trial. As such, the RTC Branch 47 allowed the trial to proceed *in absentia*.¹⁰

On January 26, 2007, the prosecution presented its first witness. However, Atty. Peneyra was absent despite due notice. Consequently, the RTC Branch 47 allowed the prosecution to conduct the direct examination of the witness. Atty. Peneyra was then given the opportunity to cross-examine the witness on July 27, 2007.¹¹ Again, Atty. Peneyra failed to appear during the scheduled date for cross-examination despite due notice. As a result, the

³ *Id.* at 136-137.

⁴ *Id.* at 159, RTC Order, dated September 15, 2000.

⁵ *Id.* at 137.

⁶ *Id.* at 160.

⁷ *Id.* at 137.

⁸ *Id.*

⁹ *Id.* at 162, RTC Order, dated July 5, 2004.

¹⁰ *Id.* at 175, RTC Decision, dated August 31, 2012.

¹¹ *Id.* at 167, RTC Order, dated January 26, 2007.

defense was deemed to have waived the cross-examination of the prosecution's first witness.¹²

In its Order,¹³ dated July 18, 2008, the RTC Branch 47 noted that Atty. Peneyra has been absent for more than eight times despite notice. Thus, the RTC Branch 47 directed Bratschi to hire a different lawyer, and ordered Atty. Peneyra to withdraw from the case. However, Atty. Peneyra did not file a motion to withdraw as counsel. As such, he remained as Bratschi's counsel.

In 2010, Atty. Peneyra again failed to appear before the court despite due notice during the presentation of the prosecution's second and third witnesses. He likewise failed to conduct the cross-examinations of the said witnesses after being given the opportunity to do so. Consequently, the cross-examinations of the witnesses were waived.¹⁴

Thereafter, the prosecution filed its Formal Offer of Exhibits, to which Atty. Peneyra did not file any comment or opposition even after the lapse of the period given to the defense. Thus, the RTC Branch 47 admitted all the exhibits offered by the prosecution.¹⁵

On November 19, 2010, the RTC Branch 47 reiterated its observation that Atty. Peneyra has been consistently absent, and that all the cross-examinations of the prosecution's witnesses were deemed waived. Still, the RTC Branch 47 gave Atty. Peneyra one last time to appear and to present evidence for the defense on August 4, 2011. According to the RTC Branch 47, if Atty. Peneyra fails to appear despite notice, the defense will be considered to have waived the right to present evidence.¹⁶

On August 1, 2011, the RTC Branch 47 issued an Order notifying the parties through counsels of the resetting of the reception of evidence for the defense on February 23, 2012. The said Order was personally received by Atty. Peneyra on August 10, 2011.¹⁷ However, Atty. Peneyra again failed to appear on the said date. Thereafter, the criminal case was deemed submitted for decision.

On August 31, 2012, the RTC Branch 47 convicted Bratschi of falsification of a private document and sentenced her to suffer the indeterminate penalty of imprisonment of four months and one day of *arresto*

¹² *Id.* at 168, RTC Order, dated July 27, 2007.

¹³ *Id.* at 169.

¹⁴ *Id.* at 171, RTC Order, dated August 4, 2010; *id.* at 172, RTC Order, dated October 7, 2010; and *id.* at 173, RTC Order, dated November 19, 2010.

¹⁵ *Id.* at 172.

¹⁶ *Id.* at 173.

¹⁷ *Id.* at 180-181, Decision, dated August 31, 2012.

mayor, as minimum, to four years, nine months and 10 days of *prision correccional*, as maximum, and to pay a fine of PHP 5,000.00.¹⁸

Meanwhile, a separate civil case for cancellation of certificate of title was filed against Bratschi on December 8, 2003 (**civil case**) before Branch 95, Regional Trial Court, Puerto Princesa City (**RTC Branch 95**). Considering that this civil case was related to the criminal case previously filed against Bratschi, she again engaged Atty. Peneyra as counsel in the civil case.¹⁹

However, just like in the criminal case, Atty. Peneyra failed to appear in almost all of the scheduled hearings for the civil case. During the hearing scheduled on June 16, 2008, Atty. Peneyra and the plaintiff's counsel were absent despite due notice. Considering their previous absences, the RTC Branch 95 issued an Order²⁰ dismissing the civil case for lack of interest of the parties to pursue the case. However, the plaintiff subsequently filed a Motion for Reconsideration,²¹ to which Atty. Peneyra did not file a comment or opposition. As such, the RTC Branch 95 granted the Motion for Reconsideration and set the civil case for hearing.²²

In its Order,²³ dated March 7, 2011, the RTC Branch 95 noted that Atty. Peneyra has not made his appearance in the civil case for quite some time. Thereafter, the testimony of the plaintiff and his witness were terminated after their respective direct examinations. Atty. Peneyra was not able to conduct any cross-examination as he was absent during the scheduled hearings for the same.²⁴

The plaintiff then filed his Formal Offer of Exhibits without any comment or opposition from Atty. Peneyra. As such, the RTC Branch 95 issued a Decision ordering the Register of Deeds of Puerto Princesa City to cancel the original certificate of title in the name of Bratschi. The RTC Branch 95 also permanently enjoined Bratschi from selling or offering for sale the land subject of the civil case to any interested buyer.²⁵

Due to the foregoing, Bratschi filed a Complaint-Affidavit and a Verified Complaint with the Office of the Bar Confidant alleging that Atty. Peneyra committed grave misconduct and violated the Code of Professional Responsibility, as well as his oath as a lawyer, when he failed to protect the

¹⁸ *Id.* at 184.

¹⁹ *Id.* at 139, Verified Complaint.

²⁰ *Id.* at 192.

²¹ *Id.* at 193-194.

²² *Id.* at 195, RTC Order, dated July 11, 2008.

²³ *Id.* at 198.

²⁴ *Id.* at 199, RTC Order, dated August 22, 2011; *Id.* at 200, RTC Order, dated May 25, 2012.

²⁵ *Id.* at 205-212, Decision, dated November 29, 2012.

rights and interest of his client.²⁶ Bratschi prayed that the Court disbar Atty. Peneyra.²⁷

On December 14, 2017, the Court referred this administrative case to the Integrated Bar of the Philippines (**IBP**) for investigation, report, and recommendation.²⁸

On May 31, 2018, the IBP Commission on Bar Discipline (**IBP-CBD**) issued an Order²⁹ requiring Atty. Peneyra to submit his Answer to the Verified Complaint. Atty. Peneyra failed to comply with the IBP-CBD's Order.³⁰

The dispute was set for mandatory conference on February 5, 2020.³¹ Only the counsel of Bratschi appeared despite Atty. Peneyra having been notified of the scheduled mandatory conference. The parties were then directed to submit their position papers.³² Again, only Bratschi filed her Position Paper.³³

The Report and Recommendation of the IBP-CBD

On July 22, 2022, the IBP-CBD issued a Report and Recommendation³⁴ finding Atty. Peneyra liable for violating Rule 18.03, Canon 18 of the Code of Professional Responsibility.³⁵ Consequently, the IBP-CBD recommended that Atty. Peneyra be suspended from the practice of law for one year. The IBP-CBD also recommended the imposition of a fine amounting to PHP 5,000.00 against Atty. Peneyra for his total disregard of the IBP's orders.³⁶

In its Resolution, dated October 14, 2022, the IBP Board of Governors adopted and approved the recommendation of the IBP-CBD, thus:

RESOLVED, to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner (IC) to impose upon Respondent Atty. Robert Y. Peneyra the penalty of **SUSPENSION from the practice of law for ONE (1) YEAR**; and

RESOLVED FURTHER, to recommend the imposition of a **FINE** upon Respondent in the amount of Php 5,000.00 each for disobeying the

²⁶ *Id.* at 140, Verified Complaint.

²⁷ *Id.* at 140-141.

²⁸ *Id.* at 132.

²⁹ *Id.* at 216.

³⁰ *Id.* at 290, Report and Recommendation.

³¹ *Id.* at 217, Notice of Mandatory Conference.

³² *Id.* at 218, Minutes of the Meeting; *Id.* at 219, IBP-CBD Order, dated October 12, 2020.

³³ *Id.* at 290.

³⁴ *Id.* at 289-292.

³⁵ *Id.* at 292.

³⁶ *Id.*

directives of the IC, i.e. – i) failure to file an Answer, ii) failure to file Mandatory Conference Brief, iii) failure to appear during the Mandatory Conference, and iv) failure to submit his Position Paper, or a **total of Twenty Thousand Pesos (Php 20,000.00)**.³⁷ (Emphasis in the original)

Atty. Peneyra did not file a Motion for Reconsideration of the IBP Board of Governors' Resolution.

The Issue

Did Atty. Peneyra commit gross negligence in repeatedly failing to appear during the hearings, file the necessary motions and pleadings, and present evidence in the two cases in which he was engaged as the counsel of Bratschi?

The Ruling of the Court

The Court finds that the severity of Atty. Peneyra's violations, coupled with the fact that he was already previously suspended by the Court for violating the Code of Professional Responsibility, warrant the imposition of the ultimate penalty of disbarment against him.

The CPRA is applicable to this administrative case

On April 11, 2023, the Court promulgated the Code of Professional Responsibility and Accountability (CPRA).³⁸ Thereafter, the CPRA was published on May 14, 2023 in a newspaper of general circulation and took effect on May 30, 2023.³⁹

Admittedly, the acts imputed against Atty. Peneyra were committed before the effectivity of the CPRA. However, the transitory provision of the CPRA expressly provides for its retroactive application:

SECTION 1. Transitory provision. – The CPRA shall be applied to all pending and future cases, except to the extent that in the opinion of the Supreme Court, its retroactive application would not be feasible or work

³⁷ *Id.* at 287-288.

³⁸ Administrative Matter No. 22-09-01-SC, entitled "CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY (CPRA)," approved on April 11, 2023.

³⁹ Section 3 of the General Provisions of the CPRA states that it shall take effect 15 calendar days after its publication in the Official Gazette or any newspaper of general circulation.

injustice, in which case the procedure under which the cases were filed shall govern.⁴⁰

Based on the foregoing, the CPRA squarely applies to the present administrative case.

Atty. Peneyra violated his obligations of fidelity and competence and diligence towards his client

It is well settled that the relationship between a lawyer and a client is imbued with utmost trust and confidence. As such, lawyers are expected to exercise the necessary diligence and competence in managing cases entrusted to them. They commit not only to review cases or give legal advice, but also to represent their clients to the best of their ability without need to be reminded by either the client or the court.⁴¹ The expectation to maintain a high degree of legal proficiency and attention remains the same whether the represented party is a high-paying client or an indigent litigant.⁴²

This extraordinary characteristic of a lawyer-client relationship and the concomitant obligation of fidelity imposed upon a lawyer towards his or her client have been codified under Sections 3 and 6, Canon III of the CPRA:

CANON III FIDELITY

....

SECTION 3. *Lawyer-client relationship.* – A lawyer-client relationship is of the highest fiduciary character. As a trust relation, it is essential that the engagement is founded on the confidence reposed by the client on the lawyer. Therefore, a lawyer-client relationship shall arise when the client consciously, voluntarily and in good faith vests a lawyer with the client's confidence for the purpose of rendering legal services such as providing legal advice or representation, and the lawyer, whether expressly or impliedly, agrees to render such services.

....

SECTION 6. *Fiduciary duty of a lawyer.* – A lawyer shall be mindful of the trust and confidence reposed by the client.

⁴⁰ CPRA, General Provisions, sec. I.

⁴¹ *Sta. Maria v. Atayde*, A.C. 9197, 931 SCRA 600, 605 (2020) [Per J. Lazaro-Javier, First Division].

⁴² *Ramirez v. Buhayang-Margallo*, 752 Phil. 473, 481 (2015) [Per J. Leonen, *En Banc*].

To this end, a lawyer shall not abuse or exploit the relationship with a client.⁴³

Owing to the highly fiduciary nature of the relationship between a lawyer and client, the CPRA requires a lawyer to handle the client's cause with a high degree of competence and diligence. In line with this, lawyers are obliged under the CPRA (1) to be punctual in their court appearances and filing of pleadings,⁴⁴ (2) not to cause any delay in any legal matter before any court,⁴⁵ and (3) to regularly update the client of the status of the case.⁴⁶

CANON IV COMPETENCE AND DILIGENCE

A lawyer professionally handling a client's cause shall, to the best of his or her ability, observe competence, diligence, commitment, and skill consistent with the fiduciary nature of the lawyer-client relationship, regardless of the nature of the legal matter or issues involved, and whether for fee or *pro bono*.

SECTION 1. *Competent, efficient and conscientious service.* – A lawyer shall provide legal service that is competent, efficient, and conscientious. A lawyer shall be thorough in research, preparation, and application of the legal knowledge and skills necessary for an engagement.

....

SECTION 3. *Diligence and punctuality.* – A lawyer shall diligently and seasonably act on any legal matter entrusted by a client.

A lawyer shall be punctual in all appearances, submissions of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.

SECTION 4. *Diligence in all undertakings.* – A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.

A lawyer shall appear for trial adequately familiar with the law, the facts of the case, and the evidence to be presented. A lawyer shall also be ready with the object and documentary evidence, as well as the judicial affidavits of the witnesses, when required by the rules or the court.

....

SECTION 6. *Duty to update the client.* – A lawyer shall regularly inform the client of the status and the result of the matter undertaken, and

⁴³ CPRA, Canon III, secs. 3 & 6.

⁴⁴ CPRA, Canon IV, sec. 3.

⁴⁵ CPRA, Canon IV, sec. 4.

⁴⁶ CPRA, Canon IV, sec. 6.

any action in connection thereto, and shall respond within a reasonable time to the client's request for information.

In this case, Atty. Peneyra was unjustifiably remiss in his duties as legal counsel to Bratschi.

The IBP-CBD found that Atty. Peneyra was absent for 13 times or more in the criminal case, and 12 times or more in the civil case.⁴⁷ Worse, Atty. Peneyra's unjustifiable absences despite due notice and warnings from the courts resulted in the: (a) waiver of objections during direct examinations of the witnesses of the adverse parties, (b) waiver of the conduct of cross-examinations on said witnesses, (c) non-filing of the necessary comments or oppositions to the adverse parties' formal offer of evidence, (d) issuance of warrant of arrest against Bratschi and forfeiture of her bail bond, and (e) failure to present and offer evidence on behalf of his client. Ultimately, Atty. Peneyra's gross negligence in handling Bratschi's cases resulted in her conviction of the crime of falsification of a private document for which she was sentenced to suffer imprisonment, and in the adverse decision in the civil case wherein her original certificate of title was cancelled.

Based on the foregoing, Atty. Peneyra clearly violated his client's trust and confidence, and miserably failed to perform his duties with competence and diligence. Atty. Peneyra effectively abandoned his client's cause without any justifiable reason. Consequently, he is administratively liable under the CPRA.

Proper impossible penalty

Atty. Peneyra's gross negligence caused the denial of Bratschi's day in court. He failed to cross-examine the witnesses of the adverse parties in both the criminal and civil cases. Worse, he totally failed to present and offer evidence on behalf of Bratschi, which caused her conviction in the criminal case and the adverse decision in the civil case leading to the cancellation of her Torrens title. As such, Atty. Peneyra's violations fall within the classification of serious offenses under the CPRA, specifically, "[g]ross negligence in the performance of duty, or conduct that is reckless and inexcusable, which results in the client being deprived of his or her day in court."⁴⁸

The CPRA imposes the following penalties if a lawyer is found guilty of a serious offense:

SECTION 37. Sanctions. –

⁴⁷ Rollo, p. 291, Report and Recommendation.

⁴⁸ CPRA, Canon VI, sec. 33(d).

- a. If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:
- 1) Disbarment;
 - 2) Suspension from the practice of law for a period exceeding six (6) months;
 - 3) Revocation of notarial commission and disqualification as notary public for not less than two (2) years; or
 - 4) A fine exceeding P100,000.00.⁴⁹

In *Heirs of Ballesteros, Sr. v. Apiag (Apiag)*,⁵⁰ a lawyer who did not file a pre-trial brief and was absent during the pre-trial conference was suspended for six months. In *Abiero v. Juanino (Juanino)*,⁵¹ a lawyer who neglected a legal matter entrusted to him by his client in breach of Canons 17 and 18 of the Code was also suspended for six months. In *Aranda v. Elayda (Elayda)*,⁵² a lawyer who failed to appear at the scheduled hearing despite due notice which resulted in the submission of the case for decision was found guilty of gross negligence and was suspended for six months. In *Hernandez v. Padilla (Padilla)*,⁵³ a lawyer who failed to file the proper pleading and comment to the Motion to Dismiss was found negligent and thus, suspended for six months. Lastly, in *Spouses Warriner v. Dublin (Dublin)*,⁵⁴ a lawyer who deliberately failed to submit the formal offer of evidence which resulted to the dismissal of the case of his client and for disobeying and disregarding the directives of the IBP and the Court was suspended for six months.

On the other hand, in *Ramirez v. Buhayang-Margallo (Buhayang-Margallo)*,⁵⁵ a lawyer who failed to file an Appellant's Brief was suspended for two years because her neglect resulted in her client having no further recourse in court to protect his legal interests. In *Portuguese v. Centro (Centro)*,⁵⁶ the Court suspended a lawyer, who unjustifiably neglected and abandoned his client's cause, for three years because the lawyer's inaction deprived his client of a relief from the adverse decision in a civil case.

Moreover, the penalty imposed by the Court is more severe when the gross negligence of a lawyer results in the conviction of his or her client of a criminal offense. In *Mattus v. Villaseca (Villaseca)*,⁵⁷ the Court suspended a lawyer for a period of five years because of the graver implications of his negligence, thus:

⁴⁹ CPRA, Canon VI, sec. 37(a).

⁵⁰ 508 Phil. 113 (2005) [Per J. Carpio, First Division].

⁵¹ 492 Phil. 149 (2005) [Per J. Ynares-Santiago, First Division].

⁵² 653 Phil. 1 (2010) [Per J. Leonardo-De Castro, First Division].

⁵³ 688 Phil. 329 (2012) [Per. J. Sereno, Second Division].

⁵⁴ 721 Phil. 277 (2013) [Per. J. Del Castillo, Second Division].

⁵⁵ *Supra* note 42.

⁵⁶ A.C. No. 12875, January 26, 2021 [Per J. Hernando, *En Banc*].

⁵⁷ 718 Phil. 478 (2013).

Atty. Villaseca's negligence in the present case had much graver implications, as the legal matter entrusted to him involved not merely money or property, but the very liberty and livelihood of his clients. We stress that the moment Atty. Villaseca agreed to handle the complainant's criminal case, he became duty-bound to serve his clients with competence and diligence, and to champion their cause with whole-hearted fidelity. By failing to afford his clients every remedy and defense that is authorized by the law, Atty. Villaseca fell short of what is expected of him as an officer of the Court. We cannot overstress the duty of a lawyer to uphold the integrity and dignity of the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients.

All told, Atty. Villaseca showed a wanton and utter disregard to his clients' cause; his failure to exercise due diligence in attending to their interest in the criminal case caused them grave prejudice. Under the circumstances, we find a five-year suspension from the practice of law to be a sufficient and appropriate sanction against him. The increased penalty serves the purpose of protecting the interest of the Court, the legal profession and the public.⁵⁸ (Emphasis supplied)

The Court rules that the repeated violations of Atty. Peneyra in the civil case constitute more serious offenses as compared to the infractions committed by the lawyers in *Apiag, Juanino, Elayda, Padilla, and Dublin*. Atty. Peneyra has unjustifiably abandoned the cause of his client from the early stages of the trial until the promulgation of the decision adverse to Bratschi. Consequently, Atty. Peneyra deserves to be suspended for more than six months for the serious offense that he committed in relation to the civil case.

However, nothing in the records of the case shows that Bratschi was not able to avail of any legal remedy to assail the decision in the civil case. To emphasize, the CPRA provides that "[i]n administrative disciplinary cases, the complainant has the burden of proof to establish with substantial evidence the allegations against the respondent."⁵⁹ As such, the Court deems it proper to impose a penalty lower than the ones ordered in *Buhayang-Margallo and Centro*. The Court likewise notes that based on the records of the case, Bratschi did not inquire with Atty. Peneyra or with the trial court about the status of her case despite the pendency of the said case for almost a decade.

From the foregoing, Atty. Peneyra should be suspended from the practice of law for a period of one year for his gross negligence and abandonment of his client's cause that he committed in the civil case, which resulted in the denial of his client's day in court.

With respect to Atty. Peneyra's gross negligence in the criminal case, which resulted in Bratschi's conviction of the crime of falsification of a

⁵⁸ *Id.* at 487-488.

⁵⁹ CPRA, Canon VI, sec. 32.

private document, which carries with it the indeterminate penalty of imprisonment of four months and one day of *arresto mayor*, as minimum, to four years, nine months and 10 days of *prision correccional*, the Court imposes upon Atty. Peneyra the penalty of suspension from the practice of law for a period of five years pursuant to the Court's ruling in Villaseca. Indeed, the graver implications of Atty. Peneyra's violations in the criminal case deserve a heavier penalty. Certainly, the legal matter entrusted to him involved not merely money or property, but the very liberty and livelihood of his client.

Considering that Atty. Peneyra committed serious offenses in two separate cases, separate penalties should be imposed against him for each case. This is consistent with Section 40, Canon VI of the CPRA which provides that:

SECTION 40. *Penalty for multiple offense.* – If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension from the practice of law or P1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of disbarment.

Nevertheless, the Court resolves to increase the penalties impossible against Atty. Peneyra due to the presence of aggravating circumstances. The CPRA states that in determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate some modifying circumstances enumerated therein,⁶⁰ which include the following aggravating circumstances: (a) **finding of previous administrative liability where a penalty is imposed, regardless of nature or gravity;**⁶¹ and, (b) **failure to comply with the orders of the Court and the IBP in relation to an administrative case.**⁶² These circumstances are imposed using the following guidelines:

SECTION 39. *Manner of imposition.* – If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under the CPRA.

⁶⁰ CPRA, Canon VI, sec. 38.

⁶¹ CPRA, Canon VI, sec. 38(b)(1).

⁶² CPRA, Canon VI, sec. 38(b)(7).

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.⁶³ (Emphasis supplied)

The Court notes that in the 2015 case of *Gacott v. Peneyra*,⁶⁴ Atty. Peneyra has already been suspended from the practice of law by the Court for one year for violating Canon 15, Rule 15.03 of the Code of Professional Responsibility. Clearly, this is not the first serious offense committed by Atty. Peneyra. Moreover, Atty. Peneyra never appeared before the IBP-CBD during the investigation for this administrative case. He likewise failed to file his Answer to the Verified Complaint, as well as his Mandatory Conference Brief and Position Paper.

Applying the first sentence of Section 39, Canon VI of the CPRA, the Court can impose against Atty. Peneyra the penalty of suspension from the practice of law for two years for his serious offense committed in the civil case, and an additional period of suspension of 10 years for his gross negligence in handling the criminal case, for an aggregate period of suspension of 12 years. Notably, Section 40, Canon VI of the CPRA states that should the aggregate of the imposed penalties exceed five years of suspension from the practice of law, the respondent may, in the discretion of the Court, be meted with the penalty of disbarment.⁶⁵ Additionally, Section 39, Canon VI of the CPRA provides that when aggravating circumstances are present, the Court may, in its discretion impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.⁶⁶

Based on the foregoing, the Court rules to disbar Atty. Peneyra from the practice of law, pursuant to Sections 39 and 40, Canon VI of the CPRA.

As to the penalty of fine recommended by the IBP, the Court deems it necessary to delete the same considering that Atty. Peneyra's non-appearance before the IBP-CBD during the investigation for this administrative case, as well as his failure to submit the pleadings required by the IBP-CBD, have already been considered by the Court as aggravating circumstance which led to the imposition of the penalty of disbarment.

WHEREFORE, the Resolution, dated October 14, 2022, of the Integrated Bar of the Philippines Board of Governors approving and adopting the Report and Recommendation of the Investigating Commissioner in CBD/AC Case No. 18-5670 is **AFFIRMED with MODIFICATION**.

⁶³ CPRA, Canon VI, sec. 39.

⁶⁴ A.C. No. 6319, October 14, 2015.

⁶⁵ CPRA, Canon VI, sec. 40.

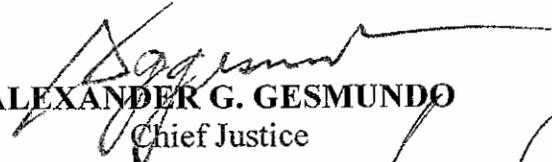
⁶⁶ CPRA, Canon VI, sec. 39.

The Court **FINDS** respondent Atty. Robert Y. Peneyra **GUILTY** of violating Canon III, Section 6, as well as Canon IV, Sections 1, 3, 4 and 6 of the Code of Professional Responsibility and Accountability. He is **DISBARRED** from the practice of law. The Office of the Bar Confidant is **DIRECTED** to remove the name of Robert Y. Peneyra from the Roll of Attorneys.

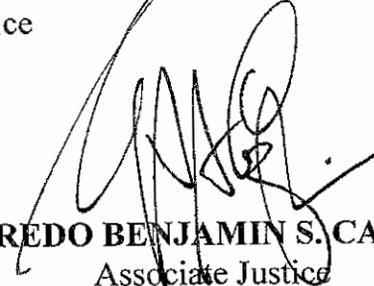
Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as a member of the Bar; the Integrated Bar of the Philippines; the Office of the Court Administrator, for dissemination to all courts throughout the country for their information and guidance; and the Department of Justice.

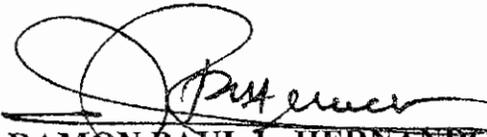
This Decision is immediately executory.

SO ORDERED.

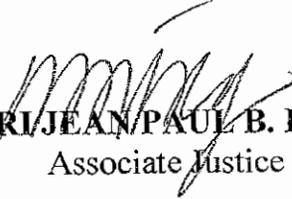

ALEXANDER G. GESMUNDO
Chief Justice

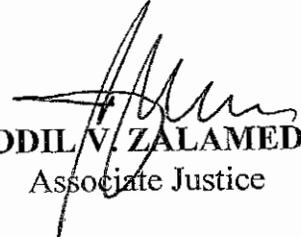

MARVIC M.V.F. LEONEN
Associate Justice

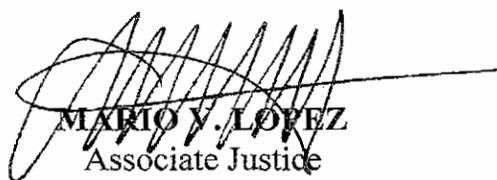

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

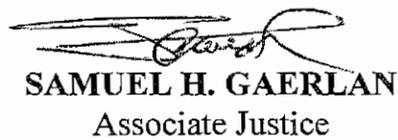
(On Official Business)
AMY C. LAZARO-JAVIER
Associate Justice


HENRIJEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice



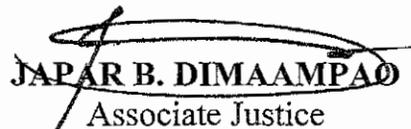
SAMUEL H. GAERLAN
Associate Justice



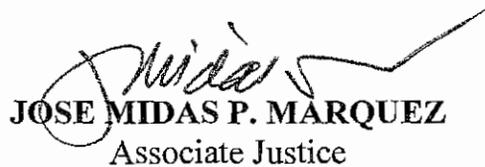
RICARDO R. ROSARIO
Associate Justice



JHOSEP V. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

