



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **September 7, 2022** which reads as follows:*

**“A.C. No. 13266 (Greymar Venturanza, complainant v. Atty. Ma. Gisella Josol-Trampe, respondent).** — This administrative case for disbarment arose from a Complaint-Affidavit<sup>1</sup> dated February 20, 2018, filed by complainant Greymar Venturanza (*Venturanza*) against respondent Atty. Ma. Gisella Josol-Trampe (*Atty. Josol-Trampe*) for violating Canons 17 and 18, as well as Rules 18.03 and 18.04 of the Code of Professional Responsibility (*CPR*).

Venturanza alleged that on March 28, 2011, he obtained a favorable decision from the Regional Trial Court (*RTC*) of Puerto Princesa City, Branch 51, under Civil Case No. 3252 for Annulment of Title and Reversion entitled “*Republic of the Philippines, Rep. by the CENRO of Puerto Princesa City, and Heirs of Tomas Zambales v. Heirs of Gregorio Venturanza, et al.*”<sup>2</sup> Venturanza was one of the defendants in this case.

The Republic appealed the decision to the Court of Appeals (*CA*) and this was docketed as CA-G.R. CV No. 99009. It was during this time that Venturanza engaged the services of Atty. Josol-Trampe as his defense counsel.<sup>3</sup>

On June 9, 2015, the *CA* reversed the Decision of the *RTC*.<sup>4</sup> Atty. Josol-Trampe moved for the reconsideration<sup>5</sup> of the adverse decision of the *CA*, but this was denied. Thereafter, she appealed the adverse decision to this Court via a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court<sup>6</sup> on March 11, 2016, but failed to state the material date of receipt of the questioned decision of the *CA*, deviating from the requirements of Sections 4(b) and 5 of Rule 45 in relation to Section 5(d), Rule 56 of the Rules of Court.<sup>7</sup> This Court, through the Second Division, found this fatal to their cause and denied the petition.<sup>8</sup> As a result, Free Patent No. 134 and Original

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<sup>1</sup> *Rollo*, pp. 1-5.

<sup>2</sup> *Id.* at 57.

<sup>3</sup> *Id.* at 58.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 148-165.

<sup>6</sup> *Id.* at 181-210.

<sup>7</sup> *Id.* at 211.

<sup>8</sup> *Id.* at 58.

Certificate of Title No. E-1895 issued to Venturanza's deceased father, Gregorio Venturanza, was annulled.<sup>9</sup>

Further, Venturanza alleged that Atty. Josol-Trampe failed to inform them of the status of the petition filed before this Court. Venturanza averred that Atty. Josol-Trampe ignored his phone calls and text messages to her, only to discover the denial of the petition and motion for reconsideration, through Atty. Josol-Trampe's secretary, when they informed him to collect the records from her office.<sup>10</sup>

In her Answer<sup>11</sup> dated July 17, 2018, Atty. Josol-Trampe denied the allegations and asserted that she performed her obligations in good faith, not only to Venturanza, but to the rest of the petitioners in the case.

On October 2, 2018, an initial order setting a Mandatory Conference dated November 15, 2018 was issued.<sup>12</sup> However, none of the parties appeared. Hence, the Mandatory Conference was reset to January 15, 2019. On November 26, 2018, the Integrated Bar of the Philippines (*IBP*) Commission on Bar Discipline (*CBD*) received a Motion to Reset with Manifestation filed by Atty. Josol-Trampe.<sup>13</sup>

Venturanza and Atty. Josol-Trampe filed their Mandatory Conference Briefs on January 10, 2019 and January 11, 2019, respectively.<sup>14</sup>

During the Mandatory Conference,<sup>15</sup> both parties appeared. As no other matters were discussed, the Mandatory Conference was terminated, and the parties were directed to file their respective verified position papers and other supporting documents within 30 days from January 15, 2019.<sup>16</sup>

Venturanza and Atty. Josol-Trampe filed their Position Papers on February 13, 2019 and February 18, 2019, respectively.<sup>17</sup>

For her part, Atty. Josol-Trampe argued that in Civil Case No. 3252 for Annulment of Title and Reversion filed before the RTC of Puerto Princesa City, Branch 51, Venturanza and his co-petitioners were originally represented by another counsel, Atty. Edgar O. Palay (*Atty. Palay*).<sup>18</sup> Before Atty. Josol-Trampe entered her appearance in the proceedings before the CA, she implored Venturanza to first secure the consent of their counsel, Atty.

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<sup>9</sup> Id.

<sup>10</sup> Id. at 59.

<sup>11</sup> Id. at 16-29.

<sup>12</sup> Id. at 31.

<sup>13</sup> Id. at 34-36.

<sup>14</sup> Id. at 42-51.

<sup>15</sup> Id. at 55.

<sup>16</sup> Id.

<sup>17</sup> Id. at 57-65; 72-94.

<sup>18</sup> Id. at 76.

Palay, and after the latter's acquiescence, Atty. Josol-Trampe entered her appearance in CA-G.R. CV No. 99009 as collaborating counsel.<sup>19</sup>

Atty. Josol-Trampe alleged that the Decision of the CA dated June 9, 2015 was received by Venturanza, through Atty. Palay, on July 6, 2015 and such fact was relayed to her by Atty. Palay himself.<sup>20</sup>

Atty. Josol-Trampe lost no time in securing a copy of the June 9, 2015 Decision and in filing a Motion for Reconsideration within a period of 15 days therefrom, but this was denied by the CA in a Resolution dated November 23, 2015. A copy of this Resolution was received by Atty. Josol-Trampe on January 5, 2016.<sup>21</sup>

On January 20, 2016, Atty. Josol-Trampe filed before this Court a Motion for Extension of Time to File a Petition for Review on *Certiorari*. In said motion, she manifested the payment of the amount of docket fees, other lawful fees, and the deposit for costs, a condition for the grant of an extension of 30 days to file a petition for review on *certiorari*. Further, she likewise prayed that the extension of 30 days be reckoned from the expiration of the original period of 15 days within which to file the petition, or until February 19, 2016.<sup>22</sup>

On March 11, 2016, Atty. Josol-Trampe filed the Petition for Review on *Certiorari* under Rule 45 assailing the June 9, 2015 Decision and the November 23, 2015 Resolution of the CA. However, by way of notice, Atty. Josol-Trampe found that the Second Division of this Court denied the petition for being filed out of time and for lack of a verified statement of material date or receipt of the assailed decision in accordance with Sections 4(b) and 5, Rule 45 in relation to Section 5(d), Rule 56 of the Rules.<sup>23</sup>

Following this, on June 17, 2016, Atty. Josol-Trampe filed a Motion for Reconsideration of the Resolution dated April 18, 2016. In a Resolution dated August 1, 2016, this Court, through the Second Division, also denied the said motion. In an Entry of Judgment, this Court declared the April 18, 2016 Resolution final and executory.<sup>24</sup>

This led to the filing of the disbarment complaint by Venturanza against Atty. Josol-Trampe.

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<sup>19</sup> Id.  
<sup>20</sup> Id. at 77.  
<sup>21</sup> Id.  
<sup>22</sup> Id. at 77-78.  
<sup>23</sup> Id. at 78-79.  
<sup>24</sup> Id. at 79-80.

In her position paper,<sup>25</sup> Atty. Josol-Trampe alleged that she performed and executed her obligations to Venturanza as diligently as she could and to the best of her ability.<sup>26</sup> Further, Atty. Josol-Trampe submitted that although she committed an egregious error in not strictly complying with the provisions of the Rules of Court in filing the appeals, the Petition for Review on *Certiorari* that she filed before this Court was decided on the merits and not on a mere technicality. Therefore, she should not be held liable for violations of Canons 17 and 18 and of Rules 18.03 and 18.04 of the CPR.<sup>27</sup>

After a thorough examination of the evidence presented by both parties, the CBD found that the act of Atty. Josol-Trampe in filing the appeal out of time amounted to simple neglect of duty. On June 27, 2019, Investigating Commissioner Denise Monina F. Uy recommended Atty. Josol-Trampe be reprimanded, decreeing as follows:

In view of the foregoing, it is respectfully recommended that Respondent Atty. Ma. Gisella Josol-Trampe be REPRIMANDED.<sup>28</sup>

Though the Commission stated that Atty. Josol-Trampe's failure to include a statement of the material date of the receipt of the decision in the petition for review on *certiorari* assailing the June 9, 2015 Decision and November 23, 2015 Resolution of the CA was not completely excusable, the Commission still took into consideration Atty. Josol-Trampe's efforts in trying to secure a reconsideration of the denial of the petition by this Court.

Consequently, the Investigating Commissioner found that a reprimand was the appropriate penalty.

On April 10, 2021, the Board of Governors of the IBP issued a Resolution<sup>29</sup> adopting the findings of fact and recommendation of the Investigating Commissioner. Thereafter, the records of the case were elevated to this Court.

The main issue is whether respondent should be held administratively liable based on the allegations in the complaint.

We adopt the findings of the IBP-Board of Governors and find that respondent should be held administratively liable.

At the onset, it must be emphasized that in administrative proceedings against lawyers, the burden of proof rests on the complainant, and he/she must

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<sup>25</sup> Id. at 72-94.

<sup>26</sup> Id. at 80.

<sup>27</sup> Id. at 81.

<sup>28</sup> Id. at 238.

<sup>29</sup> Id. at 227.

establish the case against the respondent by clear, convincing, and satisfactory proof, disclosing a case that is free from doubt as to compel the exercise by this Court of its disciplinary power.

Accordingly, the rule in administrative proceedings against lawyers is that this Court will only exercise its disciplinary power if the administrative guilt was proved by substantial evidence.<sup>30</sup> Substantial evidence is defined as the relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Should the complainant in a disbarment proceeding fail to meet the required standard or to establish his/her case by clear, convincing, and satisfactory evidence, this Court shall dismiss the said disbarment proceeding against a lawyer. This Court stresses that the power to disbar must be exercised with great caution. It may only be imposed in a clear case of misconduct that seriously affects the standing and character of the lawyer as an officer of this Court and as a member of the Bar.<sup>31</sup>

As the relationship between a lawyer and their client is one imbued with utmost trust and confidence, clients are always led to believe that lawyers would always be mindful of their cause and hence, would exercise the required degree of diligence in handling their affairs.<sup>32</sup> Lawyers are expected to maintain, at all times, a high standard of legal proficiency, and to devote their full attention, skill, and competence to the case, regardless of its importance and whether or not they accept it for a fee, as required in Canon 17 and Rules 18.02 and 18.03 of Canon 18 of the CPR, which respectively provide as follows:

CANON 17 — A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 — A lawyer shall serve his client with competence and diligence.

Rule 18.02 — A lawyer shall not handle any legal matter without adequate preparation.

Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Indeed, once a lawyer agrees to take up the cause of a client, he/she is required to give his/her truthful and best opinion of the case, and must always be mindful of the trust reposed in him/her.

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<sup>30</sup> *Adoracion Mercado v. Atty. Sherdale M. Valdez*, A.C. No. 12082, March 6, 2019 (Minute Resolution).

<sup>31</sup> *Id.*

<sup>32</sup> *Mica Security Agency, Inc. v. Gonzales-Santiago*, A.C. No. 12827, April 28, 2021 (Minute Resolution).



In the instant case, there is no question that respondent was the counsel of the complainant, in view of her admission in her Answer<sup>33</sup> and Position Paper<sup>34</sup> respectively, that she was engaged in the proceedings before the CA under CA-G.R. CV No. 99009 with complainant's initial counsel, Atty. Palay.

When respondent filed a motion for reconsideration against the adverse decision of the civil case, this was denied by the CA, causing respondent to file a Motion for Extension of Time to File a Petition for Review on *Certiorari*<sup>35</sup> with this Court. This was filed within the period to file the petition and the necessary fees were paid for the same. Furthermore, she was able to draft and file the actual petition within the extension period requested in her motion. However, respondent failed to include a statement of the material date of receipt of the assailed decision when she filed the petition, causing the dismissal of the same. After this, respondent sought a motion for reconsideration albeit denied.<sup>36</sup>

We agree with the findings of the IBP that it cannot be said that the failure of respondent to include a statement of the material date of receipt of the assailed decision is completely excusable for it resulted in the complainant losing the opportunity to have a full-blown review of a decision involving the loss of property that complainant and his co-petitioners believed to rightfully belong to them.<sup>37</sup>

At this juncture, this Court would like to remind respondent that she is bound by her duty as a lawyer to obey the laws of the land and to promote respect for legal processes. As held by the IBP, respondent should have been more careful about the technical requirements of appeals considering the consequence of such a mistake.

In *Andaya v. Field Investigation Office of the Office of the Ombudsman*,<sup>38</sup> this Court differentiated gross neglect of duty from simple neglect of duty, to wit:

x x x Gross Neglect of Duty is defined as "negligence characterized by want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property." In contrast, Simple Neglect of Duty is the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference."<sup>39</sup>

<sup>33</sup> *Rollo*, pp. 16-29.

<sup>34</sup> *Id.* at 72-94.

<sup>35</sup> *Id.* at 171-175.

<sup>36</sup> Minute Resolution dated August 1, 2016; *id.* at 68.

<sup>37</sup> *Id.* at 236.

<sup>38</sup> G.R. No. 237837, June 10, 2019, 904 SCRA 99.

<sup>39</sup> *Id.* at 112. (Citations omitted)

We agree with the findings of the IBP that the complainant is guilty of simple neglect of duty when she failed to include a statement of the material date of receipt of the assailed decision upon filing the petition.

Nevertheless, complainant failed to prove that respondent was impelled by bad faith in the performance of her duties. On the contrary, respondent still exerted efforts to protect the rights and interests of complainant in trying to secure a reconsideration of the denial of the Petition for *Certiorari* in this Court, though she mistakenly assumed that her Motion for Reconsideration would be granted without qualification.

As cited in the Investigating Commissioner's Report, in a case<sup>40</sup> of similar factual milieu, this Court found that:

In the case at bar, respondent was ill-informed about the disposition of his first motion for extension not by reason of genuine and excusable mistake or miscalculation but by his sheer negligence. It is noteworthy that the motions for extension, and even the petition for *certiorari*, were all filed at the last moment. Respondent had 120 days within which he could have filed the petition for *certiorari*. However, because of his cavalier attitude toward deadlines for the filing of pleadings, including the one set by himself in his first motion for extension, respondent lost the opportunity for filing the petition for review.

Nevertheless, having said this, it ought to be remembered, on the other hand, that respondent exerted efforts to protect the rights and interests of complainant, including trying to secure a reconsideration of the denial of his petition for *certiorari* in this Court. For this reason, we are inclined to adopt the investigating commissioner's recommendation that respondent be merely reprimanded for his simple neglect of duty.<sup>41</sup>

On the complainant's claim that respondent failed to update them regarding the status of the case, this Court highlights that no evidence was proffered to establish the same, therefore, the presumption of good faith in favor of respondent holds.

As to the appropriate penalty to be imposed, it should be emphasized that the same shall depend on the exercise of sound judicial discretion after due consideration of the surrounding facts.<sup>42</sup>

Again, simple neglect of duty is defined as the failure to give attention to a task due to carelessness or indifference.<sup>43</sup>

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<sup>40</sup> See *Ramos v. Atty. Dajoyag, Jr.*, 428 Phil. 267 (2002).

<sup>41</sup> Id. at 279-280.

<sup>42</sup> *Fuentes-Pitts v. Tabell*, A.C. No. 10719, September 14, 2021 (Minute Resolution).

<sup>43</sup> *Fuji v. Atty. Dela Cruz*, 807 Phil. 1, 14 (2017).

Under Section 15(b) of A.M. No. 21-08-09-SC, simple neglect of duty is considered as a less serious charge. The penalty imposable for such charges shall be suspension from office for not less than one month nor more than six months or a fine of more than ₱35,000.00 but not exceeding ₱100,000.00. Additionally, under the Civil Service Rules, the penalty for simple neglect of duty is suspension for one month and one day to six months. In previous cases, this Court imposed the penalty of suspension of three months to six months for erring lawyers, who were negligent in handling cases for their clients.<sup>44</sup>

In this case, respondent's negligence in providing material dates for the receipt of the assailed decision when she filed the same, severely affected the plight of her clients, causing the complainant to lose the opportunity to have their appeal, falling short of the standard of responsibility expected of her as counsel and as enunciated in Canon 17 and Rules 18.02, and 18.03 of Canon 18 of the CPR.

Thus, we are inclined to modify the Investigating Commissioner's recommendation that respondent be reprimanded for simple neglect of duty. We find that respondent should be suspended from the practice of law for a period of six months for failing to dutifully attend to her obligations as counsel for the complainants in this case.

**FOR THESE REASONS**, respondent Atty. Ma. Gisella Josol-Trampe is hereby meted with the penalty of **SUSPENSION** from the practice of law for a period of six (6) months with a **STERN WARNING** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

The suspension from the practice of law shall take effect immediately upon receipt of this Resolution by respondent Atty. Ma. Gisella Josol-Trampe. She is **DIRECTED** to immediately file a Manifestation to this Court that her suspension has started, copy furnished all courts and quasi-judicial bodies where she has entered her appearance as counsel.

Let a copy of the Resolution be attached to the personal records of Atty. Ma. Gisella Josol-Trampe in the Office of the Bar Confidant and copies be furnished to the Integrated Bar of the Philippines for its information and guidance, and the Office of the Court Administrator for circulation to all courts in the country.

**SO ORDERED.”**

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<sup>44</sup>

Id. at 15.



By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court *mg/r*  
07 JUN 2023

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AC13266. 9/07/2022(129)URES