



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ISAAC C. BASILIO, PERLITA
PEDROZO and JUN BASILIO,

Complainants,

A.C. No. 6910

Present:

CARPIO, J., Chairperson,
BRION,
PEREZ,
SERENO and
REYES, JJ.

- versus -

ATTY. VIRGIL R. CASTRO,

Respondent.

Promulgated:

JUL 11 2012

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RESOLUTION

SERENO, J.:

Before this Court is an administrative complaint filed by Isaac C. Basilio, Perlita Pedrozo and Jun Basilio against respondent Atty. Virgil R. Castro (Atty. Castro).¹

On 5 July 2004, complainants engaged the legal services of Atty. Castro to handle the following: (a) Civil Case Nos. 1427 and 1428 before the Municipal Trial Court, Second Judicial Region, Bambang, Nueva Vizcaya (MTC Bambang), and (b) Civil Case No. 883 with the Regional Trial Court, Second Judicial Region, Bambang, Nueva Vizcaya, Station-Bayombong, Branch 37 (R. C. Br. 37).² The cases before MTC Bambang were for forcible

¹ Rollo, pp. 1-2; captioned as Petition.

² MTC No. 883, R. C. Br. 37, dated July 11, 2004.

entry filed against petitioners, while the case before RTC Br. 37 was for quieting of title filed by petitioners.³

In its Decision dated 10 February 2005, MTC Bambang ruled against petitioners.⁴ When they appealed,⁵ the Regional Trial Court, Second Judicial Region, Bambang, Nueva Vizcaya, Branch 30 (RTC Br. 30) ordered its dismissal for their failure to file the required appellants' memorandum despite notice.⁶ Meanwhile, Civil Case No. 883 before RTC Br. 37 was still pending at the time of the filing of the present administrative complaint.⁷

Complainants filed before this Court a Petition dated 27 September 2005 praying for the suspension or cancellation of the license of Atty. Castro.⁸ They allege that they were plaintiffs in Civil Case Nos. 1427 and 1428 before MTC Bambang, as well as in Civil Case No. 883 before RTC Br. 37. They likewise averred that they paid Atty. Castro the amounts of ₱40,000 as acceptance fee and ₱20,000 as filing fee, which he supposedly charged them despite the actual filing fee totalling only ₱1,000. Finally, they contended that he failed to prosecute the cases before MTC Bambang, resulting in their dismissal.⁹

In his Comment, Atty. Castro clarified that he was preceded by two other lawyers, who acted as petitioners' counsel in all three civil cases.¹⁰ Upon entering his appearance in these cases, he exerted all efforts to protect the interests of his clients. Further, he asserted that petitioners ordered him to abandon the appeal he filed on their behalf before RTC Br. 30 on the ground that they were unable to file the supersedeas bond required of them by MTC Bambang to stay the execution of its 10 February 2005 Decision. He maintained that in lieu of pursuing the appeal, they had ordered him to concentrate on Civil Case No. 883, in which he supposedly performed all his

³ Id.

⁴ *Rollo*, pp. 6-11, Decision dated 10 February 2005.

⁵ Id. at 4, Notice of Appeal dated 18 February 2005.

⁶ Id. at 5, Order dated 26 April 2005.

⁷ Id. at 1, Petition.

⁸ Id. at 1-2.

⁹ Id. at 1.

¹⁰ Id. at 21-26, Comment to the Petition.

duties as their counsel. Moreover, he pointed out the correction that petitioners were defendants – and not plaintiffs – in Civil Case Nos. 1427 and 1428, and that he did not repeatedly postpone the hearings in the three cases, contrary to what they alleged. Finally, he maintained that he used the money he received from them to pay for his legal fees and for the filing fees for the appeal.¹¹

On 28 June 2006, this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.¹² In the proceedings before the Investigating Commissioner, no actual hearing took place, since Atty. Castro was absent for the first setting due to a serious ailment,¹³ the Investigating Commissioner was unavailable during the second,¹⁴ and petitioners were unable to attend the third.¹⁵ Instead, the parties were only able to file their Pre-trial Briefs.¹⁶

In their Pre-trial Brief, petitioners averred, in addition to the allegations discussed above, that they paid Atty. Castro the aggregate amount of ₱110,500 for attorney's fees and other expenses.¹⁷ Of this sum, he supposedly issued an official receipt for only ₱40,000.¹⁸ Meanwhile, he presented no additional information in his Pre-trial Brief.¹⁹

Upon the termination of the mandatory conference, the IBP Commissioner directed the parties to submit their respective position papers.²⁰ However, neither complainants nor respondent complied.²¹

¹¹ Id.

¹² *Rollo*, p. 65, Resolution dated 28 June 2006.

¹³ Id. at 78, Order dated 25 October 2006; id. at 68-69, *see also* Motion to Reset Mandatory Conference/Hearing dated 17 October 2006 filed by Atty. Castro.

¹⁴ Id. at 86, Order dated 6 November 2006.

¹⁵ Id. at 88, Order dated 13 December 2006.

¹⁶ Id. at 73-75, Pre-Trial Brief for Complainants dated 19 October 2006; id. at 89-91, Pre-Trial Brief for the Respondent dated 8 December 2006.

¹⁷ Id. at 73-75, Pre-Trial Brief for Complainants dated 19 October 2006.

¹⁸ Id.

¹⁹ *Rollo*, pp. 89-91, Pre-Trial Brief for the Respondent dated 8 December 2006.

²⁰ Id. at 88, Order dated 13 December 2006.

²¹ Id. at 95; Report and Recommendation, p. 2.

In his Report and Recommendation dated 11 April 2008,²² the Investigating Commissioner recommended that Atty. Castro be **suspended for six months**.²³ The former ruled that there was insufficient evidence to show that the latter reneged on his obligation to serve his clients in Civil Case No. 883.²⁴ Nonetheless, he should be held administratively liable for failing to file the requisite appellants' memorandum before RTC Br. 30.²⁵ The Investigating Commissioner dismissed Atty. Castro's defense that the failure of petitioners to file the supersedeas bond and their instruction to abandon the appeal were the reasons why he did not file the memorandum, to wit:

[Atty. Castro] sought to shift the blame upon his clients for their failure to pay the supersedeas bond. Be that as it may, respondent should have done his part in filing seasonably the appellant[s'] brief. To say that he was merely following the instruction of his client[s] to abandon the appeal altogether is preposterous, if not self-serving. As a lawyer, he ought to know better. Needless to say, farmers (petitioners) are not conversant with the intricate workings of adjective law.

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To stay the immediate execution of judgment in ejectment proceedings, the defendant-appellant must: (a) perfect his appeal; (b) file a supersedeas bond; and (c) periodically deposit the rentals falling due during the pendency of the appeal. Inasmuch as respondent had perfected the appeal, he should have pursued such remedy to its logical conclusion in accordance with Rule 40, Section 7 of the Rules of Court. Regrettably, he stopped short of completing the appeal. The Order dated April 26, 2005 of the Regional Trial Court, Branch 30 showed that non-submission of the memorandum of appeal led to the dismissal of the cases.²⁶

In its Resolution No. XVIII-2008-239 dated 22 May 2008, the IBP Board of Governors adopted and approved with modification the Report and Recommendation of the Investigating Commissioner ordering the **suspension of Atty. Castro for three months**.²⁷

Atty. Castro then filed a Motion for Extension of Time to File Motion for Reconsideration of Resolution No. XVIII-2008-239.²⁸ However, no Motion for Reconsideration was filed.

²² Id. at 94-102, Report and Recommendation.

²³ Id. at 102.

²⁴ Id. at 98.

²⁵ Id. at 98-99.

²⁶ Id. at 98-100.

²⁷ Id. at 93, Notice of Resolution.

²⁸ Id. at 103-104.

The only issue for consideration is whether Atty. Castro should be held administratively liable for his failure to file the mandatory appellants' memorandum before RTC Br. 30. This Court rules in the affirmative, adopting the findings of the IBP.

In *Villaflores v. Limos*,²⁹ this Court reiterated the well-settled rule that the failure of counsel to file the requisite appellant's brief amounted to inexcusable negligence, to wit:

The failure of respondent to file the appellant's brief for complainant within the reglementary period constitutes gross negligence in violation of the Code of Professional Responsibility. In *Perla Compania de Seguros, Inc. v. Saquilabon*, this Court held:

An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. (Del Rosario v. Court of Appeals, 114 SCRA 159) *A failure to file brief for his client certainly constitutes inexcusable negligence on his part.* (People v. Villar, 46 SCRA 107) The respondent has indeed committed a *serious lapse in the duty owed by him to his client as well as to the Court* not to delay litigation and to aid in the speedy administration of justice. (People v. Daban, 43 SCRA 185; People v. Estocada, 43 SCRA 515).

All told, we rule and so hold that on account of respondent's failure to protect the interest of complainant, respondent indeed violated Rule 18.03, Canon 18 of the Code of Professional Responsibility. Respondent is reminded that the practice of law is a special privilege bestowed only upon those who are competent intellectually, academically and morally. This Court has been exacting in its expectations for the members of the Bar to always uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence of the public.

In *People v. Cawili*, we held that the failure of counsel to submit the brief within the reglementary period is an offense that entails disciplinary action. *People v. Villar, Jr.* characterized a lawyer's failure to file a brief for his client as inexcusable neglect. In *Blaza v. Court of Appeals*, we held that the filing of a brief within the period set by law is a duty not only to the client, but also to the court. *Perla Compania de Seguros, Inc. v. Saquilabon* reiterated *Ford v. Daitol* and *In re: Santiago F. Marcos* in holding that an attorney's failure to file a brief for his client constitutes inexcusable negligence.

In cases involving a lawyer's failure to file a brief or other pleadings before an appellate court, we did not hesitate to suspend the

²⁹ A.C. No. 7504, 23 November 2007, 538 SCRA 140.

erring member of the bar from the practice of law for three months, six months, or even disbarment in severely aggravated cases.³⁰

If it were true in this case that petitioners directed Atty. Castro to abandon their appeal, the prudent action should have been for him to file a motion to withdraw appeal before RTC Br. 30. In this regard, his failure to file the appellants' brief could indeed be construed as negligence on his part.

However, it appears that the conduct of Atty. Castro was not so grave as to warrant the recommended three-month suspension. In fact, he still fulfilled his duty as counsel of petitioners by attending the pretrial conference held on 6 February 2006 in Civil Case No. 883, even after they had already filed the instant Petition against him.³¹ Thus, this Court lowers the period of suspension to two months.

WHEREFORE, the Resolution of the IBP Board of Governors approving with modification the Report and Recommendation of the Investigating Commissioner is hereby **AFFIRMED WITH MODIFICATION**. Atty. Virgil R. Castro is hereby **SUSPENDED** from the practice of law for a period of two months, with a stern warning that a repetition of the same or a similar wrongdoing will be dealt with more severely.

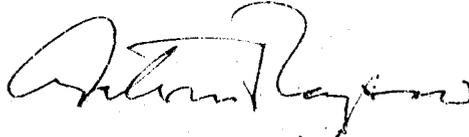
SO ORDERED.


MARIA LOURDES P. A. SERENO
Associate Justice

³⁰ Id. at 150-151, citing *Perla Compania de Seguros, Inc. v. Saquilabon*, 337 Phil. 555, 558 (1997); *People v. Cawili*, 145 Phil. 605, 608 (1970); *People v. Villar, Jr.*, 150-B Phil. 97, 99 (1972); *Blaza v. Court of Appeals*, 245 Phil. 409, 413 (1988); *Ford v. Daitol*, 320 Phil. 53, 58 (1995); *In re: Santiago F. Marcos*, 240 Phil. 769, 771 (1987).

³¹ *Id.*, p. 63. Certificate of Appearance dated 6 February 2006.

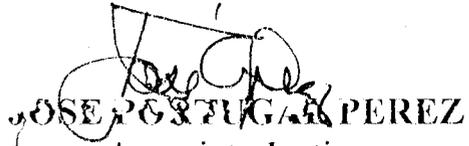
WE CONCUR:



ANTONIG T. CARPIO
Senior Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



JOSE POSTUGAR PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice