

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

**MONICA M. PONTIANO,
ROSALYN M. MATANDAG,
ELSIE R. BALINGASA,
CRISELDA J. ESPINOZA,
MIGUEL R. PANGLILINGAN,
MARLON A. VILLA, AND
LOUIE T. DELA CRUZ,**
Complainants,

- versus -

ATTY. FABIAN A. GAPPI,
Respondent.

A.C. No. 13118

Present:

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

Promulgated:

June 28, 2022

X

[Signature]
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DECISION

ROSARIO, J.:

This resolves the administrative complaint¹ filed before the Integrated Bar of the Philippines (IBP) by Monica M. Pontiano, Rosalyn M. Matandag,

* On Official Leave.

** On Leave on Official Time.

¹ *Rollo*, pp. 3-9. The complaint was denominated as “*Pinagsamang Sinumpaang Salaysay*” and docketed as CBD Case No. 17-5427.

Elsie R. Balingasa, Criselda J. Espinoza, Miguel R. Panglilingan, Marlon A. Villa and Louie T. Dela Cruz (complainants) against Atty. Fabian A. Gappi (respondent).

The Antecedents of the Case

The complaint accuses the respondent of gross negligence, gross inefficiency in the performance of duties and dishonesty based on the following allegations:²

1. Complainants are among the sixteen (16) complainants in an illegal dismissal case, docketed as NLRC NCR Case No. 12-16403-13 and 01-00057-14, before the Labor Arbiter (LA). Respondent was the counsel of complainants in that case.
2. Respondent failed to attend a single scheduled hearing of the illegal dismissal case.
3. Prior to 11 March 2014, which was the deadline for the submission of their position paper, complainants went to respondent's office to inquire about the status of their position paper. Respondent, however, merely told them, "*Ako na ang bahala.*"
4. Respondent did not submit any position paper on 11 March 2014. Thus, on the same day, complainants went to respondent's office again and asked that he withdraw as counsel for them. Respondent then prepared a document that would supposedly formalize his withdrawal as counsel and handed the same to complainants for their signature. Upon reading the document, however, complainants discovered that the same speaks not of the withdrawal of respondent as counsel but rather the withdrawal by complainants of their illegal dismissal complaint. Hence, complainants did not sign the document.
5. Because of respondent's failure to file a position paper for complainants, the illegal dismissal complaint was dismissed by the LA in a Decision³ dated 7 April 2014.

Respondent failed to file an answer to the administrative complaint as required by the IBP Commission on Bar Discipline (IBP-CBD) in its Order,⁴ dated 5 September 2017.

² Id.

³ Id. at 11-17. Penned by Labor Arbiter Remedios L.P. Marcos.

⁴ Id. at 31. Signed by IBP-CBD Director Marlou B. Ubano.

On 2 March 2018, the IBP-CBD issued a Notice of Mandatory Conference⁵ ordering complainants and respondent to appear before the commission on 6 April 2018. Both complainants and respondent, however failed to appear during the scheduled conference. Hence, the IBP-CBD ordered a resetting of the mandatory conference on 1 June 2018.

Only complainants⁶ attended the mandatory conference on 1 June 2018. The respondent did not.⁷ Thus, in an Order⁸ of even date, the IBP-CBD required complainants and respondent to file their respective verified position papers within 15 days from their receipt of the said order.

Complainants filed their Position Paper⁹ on 13 June 2018. Respondent, however, did not file any.

Report and Recommendation of the IBP

In a Report and Recommendation¹⁰ dated 21 November 2018, the IBP-CBD found respondent guilty of violations of Rule 1.01 of Canon 1, Canon 11, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility (CPR), and recommended his suspension from the practice of law for two (2) years.

On 15 February 2019, the IBP Board of Governors (IBP-BOG) issued a Resolution¹¹ adopting the findings and recommendation of the IBP-CBD albeit with modifications: (a) increasing the period of suspension from the practice of law to be suffered by the respondent to three (3) years, and (b) adding a fine in the amount of ₱15,000.00 against the respondent for the latter's failure to attend the mandatory conference and to file the required pleadings before the IBP-CBD.

On 27 September 2019, respondent filed a motion for reconsideration¹² from the IBP-BOG Resolution essentially asking for his absolution on the following grounds:

1. His failure to attend hearings and to submit the position paper in the illegal dismissal case was due to complainants' indecisiveness on whether they want to replace him as their counsel or not.

⁵ Id. at 35. Issued by IBP-CBD Commissioner Mae Elaine T. Bathan.

⁶ Id. at 40-41. All complainants attended except for Louie T. Dela Cruz.

⁷ Id.

⁸ Id. at 41. Signed by IBP-CBD Commissioner Mae Elaine T. Bathan.

⁹ Id. at 42-48.

¹⁰ Id. at 56-62. The Report and Recommendation was signed by IBP-CBD Commissioner Mae Elaine T. Bathan.

¹¹ Id. at 55. Signed by IBP Assistant National Secretary Doroteo L.B. Aguila.

¹² Id. at 63-66.

2. The long process of reading and evaluating evidence for all the 16 complainants of the illegal dismissal case also contributed to his failure to submit the required position paper.

On 22 August 2020, the IBP-BOG issued Resolution No. CBD-2020-08-36¹³ denying respondent's motion for reconsideration.

Hence, this administrative case.

OUR RULING

The Court adopts the findings and recommendation of the IBP-CBD, as modified by the IBP-BOG.

The established facts tell that respondent, as counsel of complainants in an illegal dismissal case, failed to appear in any of the scheduled hearings for the said case. He also failed, despite being reminded by his own clients, to file a position paper for them within the reglementary period. Respondent also tried to deceive complainants when he presented for their signature a document that stipulated their withdrawal of their illegal dismissal complaint, when what complainants requested was merely a document to formalize respondent's withdrawal as their counsel. As a consequence of respondent's actions or omissions, the illegal dismissal complaint was dismissed—to the prejudice of complainants. Respondent never repudiated these facts and even implicitly admitted them by the explanations he proffered in his motion for reconsideration.

The foregoing facts, to no controversy, speak of respondent's gross negligence and gross inefficiency in the performance of his duty as counsel of complainants, as well as of his propensity to disobey lawful processes of the LA. The facts also testify to respondent's dishonesty in his dealings with complainants. We, therefore, agree with the findings of the IBP-CBD, as approved by the IBP-BOG, that respondent should be administratively sanctioned for violation of Rule 18.03 of Canon 18, Canon 11, and Rule 1.01 of Canon 1 of the CPR. The IBP-CBD's exhaustive discussion on these points bears repeating:

Lawyers bear the responsibility to meet the profession's exacting standards. A lawyer is expected to live by the lawyer's oath, the rules of the profession and the [CPR]. The duties of a lawyer may be classified into four general categories namely duties he owes to the court, to the public, to the bar and to his client. A lawyer who transgresses any of his duties is administratively liable and subject to the Court's disciplinary authority.

¹³ Id. at 119-120. Signed by IBP National Secretary Roland B. Inting.

CODE OF PROFESSIONAL RESPONSIBILITY, Canon 18 and Rule 18.03 provides:

Canon 18 - A lawyer shall serve his client with competence and diligence.

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

Diligence is the attention and care required of a person in a given situation and is the opposite of negligence. It is axiomatic in the practice of law that the price of success is eternal diligence to the cause of the client.

By failing to attend the scheduled hearing of his clients, [r]espondent failed to employ his best efforts in the protection of his clients' interests. Due to [r]espondent's lack of diligence in the performance of his duties as legal counsel, his clients gravely suffered and resulted to the dismissal of their case.

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A lawyer so engaged to represent a client bears the responsibility of protecting the latter's interest with utmost diligence. The lawyer bears the duty to serve his client with competence and diligence, and to exert his best efforts to protect, within the bounds of the law, the interest of his or her client. Accordingly, competence, not only in the knowledge of law, but also in the management of the cases by giving these cases appropriate attention and due preparation, is expected from a lawyer.

Under the foregoing provisions, once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable.

CODE OF PROFESSIONAL RESPONSIBILITY, Canon 11 provides:

Canon 11 -A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

x x x x

By deliberately failing to attend the scheduled hearing ordered by the [LA], [r]espondent reflects his willful disregard for [c]ourt

orders putting in question his suitability to discharge his duties and functions as a lawyer. Respondent's absence during the scheduled hearing is an obvious disregard or refusal and disrespect to comply with the [c]ourt's orders.

When [r]espondent was admitted to the Bar, he also took an oath to "obey the laws," "do no falsehood," and conduct himself as a lawyer according to the best of his knowledge and discretion. In the facts of this case, [r]espondent clearly violated the canons and his sworn duty when he deliberately misrepresented the documents he submitted to his clients for signature. Had [c]omplainants failed to notice the false stipulations on the document presented by [r]espondent, they would have been prejudiced and would have caused the withdrawal of their labor case.

To be "**dishonest**" means the disposition to lie, cheat, deceive, defraud or betray; be unworthy; lacking in integrity, honesty, probity, integrity in principle, fairness and straight forwardness while conduct that is "deceitful" means the proclivity for fraudulent and deceptive misrepresentation, artifice or device that is used upon another who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.

Rule 1.01, Canon 1 of the CPR instructs that, as officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing. Indubitably, respondent fell short of such standard when [he] committed the [aforecited] acts of deception against complainants. Such acts are not only unacceptable, disgraceful, and dishonorable to the legal profession: they reveal basic moral flaws that make him unfit to practice law.

When lawyers, in the performance of their duties, act in a manner that prejudices not only the rights of their client, but also of their colleagues and offends due administration of justice, appropriate disciplinary measures and proceedings are available such as reprimand, suspension or even disbarment to rectify their wrongful acts.

The Court has often reminded members of the bar to live up to the standards and norms of the legal profession by upholding the ideals and principles embodied in the [CPR]. Lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity and fair dealing.

Respondent repeatedly failed to attend the scheduled hearing as well as to submit position paper. xxx. He is therefore liable for violation of the [CPR] Rule 1.01 of Canon 1, Canon 11 and Rule 18.03 of Canon 8.¹⁴ (Emphases in the original, citations omitted)

Anent the appropriate penalty imposable, We likewise adopt the IBP-BOG's recommendation for the respondent's suspension from the practice of

¹⁴ Id. at 58-62.

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law for three (3) years. In *Olvida vs. Gonzales*,¹⁵ (*Olvida*) We imposed the same penalty against a lawyer who was found to be grossly negligent in the performance of his duty as a counsel (when he failed to file a position paper on behalf of his client) and dishonest in his dealings with his client (when he concealed from his client the adverse decision that resulted from his negligence), thus:

In administrative complaints against lawyers, the Court has exercised its discretion on what penalty to impose on the basis of the facts of the case. Thus, for a lawyer's failure to file a brief or other pleading, the Court had imposed penalties ranging from reprimand, warning with fine, suspension, and in aggravated cases, disbarment.

In the present case, the IBP Board of Governors imposed a four-month suspension from the practice of law on the respondent for his negligence in filing the required position paper. **The established facts, however, show that the respondent was not only grossly negligent in the performance of his duties as the complainant's lawyer; he was also downright dishonest and unethical in his dealings with the complainant, an aspect of the case glossed over during the IBP investigation.**

For the injury he caused to the complainant and his family because of his malpractice, the respondent must be made to suffer the commensurate penalty, despite the fact that there was no motion for reconsideration of the IBP resolution. **In this light, We deem a three-year suspension from the practice of law an appropriate penalty for the respondent's gross negligence and dishonesty in his handling of the complainant's tenancy case.**¹⁶ (Emphasis supplied, citations omitted)

Like the lawyer in *Olvida*, respondent was established to have committed gross negligence in the performance of his duty as counsel by failing to attend any of the scheduled hearings in the illegal dismissal case and by failing to file complainants' position paper despite being reminded by the latter to do so. He was also dishonest in dealing with his clients as he attempted to make them sign a document for the withdrawal of their illegal dismissal complaint on the pretense that the same merely formalizes his withdrawal as their counsel. Hence, We find no qualms in applying the penalty of suspension as recommended by the IBP-BOG.

Finally, We also adopt the IBP-BOG's recommendation of imposing a fine against respondent for the latter's failure to attend the mandatory conference and to file the required pleadings before the IBP-CBD. The mentioned acts of the respondent reflect his willful disregard of the IBP-CBD's authority and disrespect of the board's proceedings that, in turn,

¹⁵ 760 Phil. 14 (2015).

¹⁶ Id. at 25-26.

constitute clear infractions of Canons 11 and 12 of the CPR.¹⁷ We find the imposition of a fine in the amount of ₱15,000.00 for such infractions to be reasonable and supported by jurisprudence.¹⁸

WHEREFORE, the Court finds respondent Atty. Fabian A. Gappi **GUILTY** of violations of Rule 1.01 of Canon 1, Canon 11, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility. Accordingly, he is **SUSPENDED** from the practice of law for three (3) years, effective upon his receipt of this Decision, with a **WARNING** that a repetition of the same offense shall be dealt with more severely.

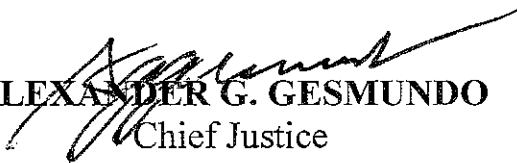
Respondent is also **ORDERED** to pay a fine in the amount of ₱15,000.00 for failure to comply with the directives of the Integrated Bar of the Philippines – Commission on Bar Discipline.

Let a copy of this Decision be entered in the personal records of respondent as a member of the Bar, and furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.


RICARDO R. ROSARIO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

¹⁷ CANON 11 — A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

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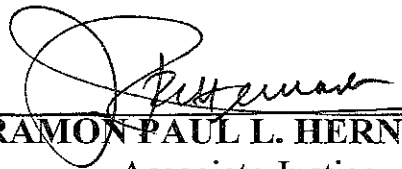
CANON 12 — A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

¹⁸ See *Jacolbia v. Panganiban*, A.C. No. 12627, 18 February 2020.

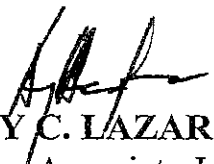


MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice

ON OFFICIAL LEAVE
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

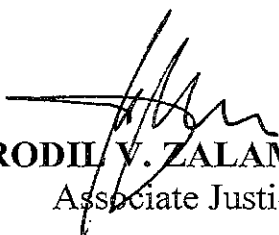


RAMON PAUL L. HERNANDO
Associate Justice

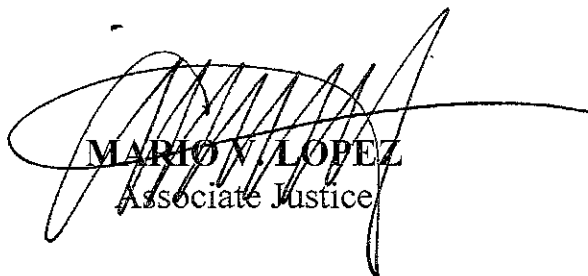


AMY C. LAZARO-JAVIER
Associate Justice


ON LEAVE ON OFFICIAL TIME
HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice




MARION N. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



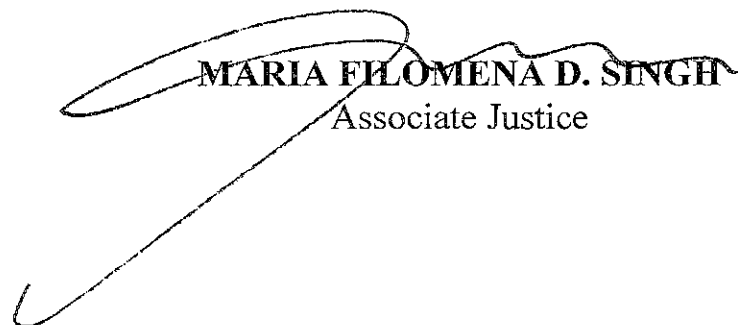
JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice