



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 April 2022** which reads as follows:*

“A.C. No. 13211 (Angeles P. Gajunera v. ATTY. Richard R. Enojo.) – This is an administrative complaint filed by Angeles Gajunera (complainant) against Atty. Richard Enojo (respondent) for his alleged neglect in the legal matter for which his services was contracted to regain possession of a property inherited by complainant, her siblings, and the children of her deceased brother.

Antecedents

In her verified Complaint¹ dated 14 September 2017 filed before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP), complainant alleged that she is one of the nine children of Hilario P. Gajunera (Hilario), who died intestate on 01 December 2014. Hilario, who was a widower at the time of his death, owned a parcel of land (property) with an area of 376,006 sq.m., located at Barangay Canaway, Camboay, Siaton, Negros Oriental that was registered under OCT No. 3601 in his name. Since the property was occupied by informal settlers who refused to vacate, complainant secured the legal services of respondent on 05 May 2015 to regain possession of the property that she and her co-heirs inherited from their father, Hilario.

Complainant stated that respondent promised to file the appropriate case before the proper court and the Department of Agrarian Reform (DAR) and she then paid him his ₱10,000.00 acceptance fee. On 08 August 2015, complainant paid respondent an additional ₱40,000.00 as attorney’s fees and appearance fee. As proof, she attached the photocopy of the official receipts issued by respondent for the said amounts as annexes to her Complaint.² Complainant also averred that she also provided respondent with some

¹ *Rollo* (Vol. 1), pp. 3-5.

² *Id.* at 3.

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documents, which the latter asked, including: (1) list of family tree; (2) subdivision plan; (3) specimen signature of Hilario; (4) Declaration of Real Property; (5) Tax Declaration of the properties; (6) OCT No. 3601; and (7) Tax Map of Siaton, Negros Oriental.

In April 2016, when complainant and her brother went to respondent's office to follow up on the case, respondent made them sign a "Verification and Certification of Non-Forum Shopping,"³ and gave her a copy thereof. Since complainant was residing in Metro Manila, she repeatedly followed up the status of the case by calling respondent through his mobile phone, but respondent failed to give her any update. Complainant alleged that she also flew to Negros Oriental and went to respondent's office to talk with respondent regarding the status of the case. However, upon inquiry for any updates on the case, respondent just advised her to wait for the results from the court.⁴

Disheartened by the seeming slow progress of her case, complainant executed a Special Power of Attorney in favor of her friend, Reynaldo Laspiñas, to follow up the processing of titles on the property for transfer to the heirs of Hilario. Reynaldo flew to Dumaguete to inquire on the status of the case that respondent was supposed to file. However, upon inquiry with the court, Reynaldo learned that there was no pending case involving the subject property. When Reynaldo went to respondent's law office, respondent insisted that the case was already filed in court and the Department of Agrarian Reform Adjudication Board (DARAB), and that Reynaldo could check the status of the case with the DARAB. Reynaldo then went to the DARAB and DAR where he learned that respondent also failed to file any case there pertaining to the subject property. Upon learning that no case was filed at all, complainant asked Reynaldo to retrieve from respondent all the documents she submitted to him and to demand the return of the fees she paid to respondent. Respondent returned the documents but only refunded the amount of ₱30,000.00.⁵

In his Comment⁶ and Position Paper⁷, respondent stated that in May 2015, complainant, together with her brother and Reynaldo, went to his office to engage his legal services regarding the following matters: (1) cases that complainant intends to file against her brother and his live-in partner who allegedly swindled her; and (2) a case that complainant, her siblings, nephew and nieces intend to file to partially nullify the Certificate of Land Ownership Award (CLOA) issued to the beneficiaries over Lot No. 1991,

³ *Id.* at 4.

⁴ *Rollo* (Vol. II), pp. 7-8.

⁵ *Id.* at 2- 30; "Statement by Angeles P. Gajunera".

⁶ *Rollo* (Vol. I), pp. 25-28.

⁷ *Id.* at 48-55.

which she said is owned by their family. Respondent averred that he accepted complainant's partial payment of ₱10,000.00, subject to her submission of the documents necessary for the preparation of the complaints. However, complainant never gave him any document to substantiate her claim against her brother.

Regarding the case for nullification of CLOA, although the documents submitted were complete, respondent informed complainant that all the heirs of the deceased Hilario should join the petition. However, complainant failed to secure the needed special power of attorney for all her co-heirs. After complainant's inaction despite several follow-ups for her to secure the required authority from all her co-heirs, respondent thought that complainant no longer wanted to pursue the case. Respondent stated that he already returned ₱30,000.00 to complainant through her representative, Reynaldo, whom he asked to return to his office so he can pay the remaining balance. However, respondent claimed that Reynaldo never returned to his office to get the balance.

Replying to respondent's Comment and Position Paper, complainant averred that she only engaged respondent's services regarding her late father's property and not for the matter pertaining to her brother and his live-in partner. Complainant insisted that as her lawyer, it was respondent's duty to draft a complete Special Power of Attorney (SPA) for all the co-heirs to sign, which he failed to do despite all the documents already submitted to him by complainant. Respondent could easily draft a complete SPA considering that he had in his possession a copy of OCT No. 3601, which states on page 3 (three) thereof all the names and addresses of the Gajunera family who are entitled to the property. Unfortunately, respondent only made an SPA for her and her siblings.

Complainant also emphasized that had respondent given her a complete SPA, she would have no problem in securing the signatures of all her co-heirs since they all want to receive their share of the property. Moreover, she claimed to have belatedly learned that the SPA prepared by respondent was also incomplete since it did not include the name of her brother, Jose Genes Gajunera, as the representative of all the siblings and for him to sign as the Attorney-In-Fact. Finally, contrary to respondent's claim, he never made any follow up on complainant to secure the needed authorization. Complainant stressed that she was the one who communicated with respondent on numerous occasions to follow up on her case but respondent always told her that the case is already with the court.⁸

⁸ *Rollo* (Vol. II), pp. 2-30; "Statement by Angeles P. Gajunera".

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Report and Recommendation of the IBP

The Investigating Commissioner found that not only did respondent fail to file the case, he also misrepresented to complainant that the case was already pending in court. Respondent's failure to draft the necessary document to be signed by complainant's relatives shows respondent's negligence in handling the legal matter entrusted to him. The Investigating Commissioner noted that even the SPA drafted by respondent for complainant and her siblings was defective since it failed to provide the name of the attorney-in-fact where the latter can sign and accept the designation. In conclusion, the Investigating Commissioner recommended that respondent be found administratively liable for violating Canon 17 and Canon 18 of the Code of Professional Responsibility and that he be suspended from the practice of law for a period of six (6) months.

On 28 July 2021, the IBP Board of Governors issued a Resolution, the dispositive portion of which reads:

RESOLVED to APPROVE and MODIFY, as it is hereby APPROVED and MODIFIED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case in finding the Respondent GUILTY of the charges, but to recommend instead the imposition of the penalty of **SUSPENSION from the practice of law for a period of One (1) Year**. Further, it is recommended that Respondent **be ORDERED TO RETURN to the Complainant the remaining P20,000.00** of the unrefunded attorney's fees earlier paid by the Complainant, with legal interest thereon from the date of demand.⁹ (Emphasis in the original)

Ruling of the Court

After reviewing the records of this case, the Court finds the report of the IBP Investigating Commissioner, as adopted and affirmed with modification by the IBP Board of Governors, to be well taken.

In this case, complainant was able to prove, by substantial evidence, that respondent was clearly negligent in the performance of his duties as complainant's counsel. His failure to file the case shows the cavalier attitude which respondent took toward his client's cause. Moreover, he compounded his inefficiency with deceit when he made complainant believe that he already filed the case with the proper court. Respondent's acts and omission

⁹ *Rollo* (no pagination).

clearly constitute violation of the Code of Professional Responsibility, specifically Canon 17, Canon 18, and Rule 18.3, which read:

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

As this Court held in *Sta. Maria v. Atayde, Jr.*:¹⁰

The relationship between a lawyer and a client is "*imbued with utmost trust and confidence.*" 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.

When a lawyer agrees to act as a counsel, he guarantees that he will exercise that reasonable degree of care and skill demanded by the character of the business he undertakes to do, to protect the clients' interests and take all steps or do all acts necessary therefor.

Conversely, a lawyer's negligence in fulfilling his duties subjects him to disciplinary action. While such negligence or carelessness is incapable of exact formulation, the Court has consistently held that the lawyer's mere failure to perform the obligations due his client is *per se* a violation.¹¹

Respondent's attempt to evade responsibility by shifting the blame on complainant deserves scant consideration. It was respondent's duty to prepare a complete SPA before instructing complainant to secure the necessary signature of the co-heirs. The records reveal that respondent drafted an incomplete and defective SPA. As complainant emphatically stated, had respondent drafted a complete SPA, she could have easily secured the signatures of all her co-heirs since they all want to receive their share of the property.

In this case, the IBP Board of Governors modified the recommendation of the Investigating Commissioner by increasing the penalty of suspension from the practice of law to one (1) year and for

¹⁰ See A.C. No. 9197, 12 February 2020.

¹¹ *Id.*

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respondent to return to complainant the remaining balance of ₱20,000.00 with legal interest.

The Court finds that the penalty of six (6) months suspension from the practice of law, as recommended by the Investigating Commissioner, is more appropriate. In *Balmaceda v. Uson*,¹² the Court suspended respondent from the practice of law for six (6) months for neglecting the complainant's case by not filing a complaint for ejection despite the full payment of his attorney's fees. In *Bondoc v. Datu*,¹³ the Court also suspended respondent from the practice of law for six (6) months for failing to render legal service despite receiving his ₱25,000.00 legal fees, which he was also ordered to return. In *Reyes v. Vitan*,¹⁴ respondent was suspended from the practice of law for six (6) months for failing to do any legal acts for his client after receiving his legal fees worth ₱17,000.00 and failing to return the same. Similarly, in this case, the Court finds that a six (6) month suspension from the practice of law is an appropriate penalty for respondent Atty. Richard R. Enojo for neglecting his client's cause and failing to file the appropriate case.

Nonetheless, the IBP Board of Governors was correct in recommending the return of the ₱20,000.00 which respondent admittedly failed to refund to complainant.

WHEREFORE, in view of the foregoing, the Court finds respondent Atty. Richard R. Enojo **GUILTY** of violating Canon 17, Canon 18, and Rule 18.03 of the Code of Professional Responsibility. Accordingly, the Court hereby **SUSPENDS** him from the practice of law for **SIX (6) MONTHS** effective immediately upon receipt of this Resolution. He is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

Atty. Richard R. Enojo is **DIRECTED** to immediately file a Manifestation to this Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Atty. Richard R. Enojo is also **ORDERED** to **RETURN** to complainant Angeles P. Gajunera the amount of ₱20,000.00 with legal interest of six percent (6%) per *annum* from finality of this Resolution until fully paid.

¹² A.C. No. 12025, 833 Phil. 596 (2018).

¹³ A.C. No. 8903, 817 Phil. 299 (2017).

¹⁴ A.C. No. 5835, 496 Phil. 1 (2005).

Let copies of this Resolution be furnished to: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *pg*
12 AUG 2022

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*For circularization to all courts
Please notify the Court of any change in your address.
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