



Republic of the Philippines  
Supreme Court  
Manila

SPECIAL FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special First Division, issued a Resolution dated **October 5, 2022** which reads as follows:*

**“A.C. No. 9942 (*Renesonia M. Destreza, complainant v. Atty. Roy Allan T. Arellano, respondent*). – Respondent Atty. Roy Allan T. Arellano (Atty. Arellano) seeks a reconsideration of the Resolution<sup>1</sup> dated October 7, 2020, finding him guilty of neglect of duty pertaining to a legal matter entrusted to him by his client complainant Renesonia M. Destreza (Destreza), and imposing a two (2) month suspension from the practice of law and a fine of Ten Thousand Pesos (₱10,000.00).**

To recall, in her complaint, Destreza alleged that Atty. Arellano was the counsel of her parents in Civil Case No. 02-103799 before the Regional Trial Court (RTC)-Branch 36, Manila City. On June 13, 2013, a court sheriff armed with a “break open order” came to their house. Atty. Arellano allegedly failed to comment on the Motion for Issuance of Break Open Order filed by the adverse party which, as a result, was granted by the trial court.<sup>2</sup>

She gave Atty. Arellano Fifteen Thousand Pesos (₱15,000.00) as payment for his services in the petition for annulment of judgment which her parents filed before the Court of Appeals. But Atty. Arellano neglected the case which consequently got dismissed.<sup>3</sup>

In his answer, Atty. Arellano countered that Destreza was introduced by a colleague who represented the latter’s parents in their case before the trial court. By Decision<sup>4</sup> dated January 19, 2009, RTC-

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<sup>1</sup> *Rollo*, pp. 99–106.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 1–2.

<sup>4</sup> *Id.* at 17–27.

Branch 36, Manila City ruled in favor of therein plaintiff Elizabeth F. Magat (Magat) and ordered defendants (Destreza's parents) to vacate the subject property where Destreza's family home was built.

He advised Destreza that the adverse judgment was already final and executory and even if a petition for annulment of judgment was filed, there was a slim chance for its reversal. He suggested that Destreza reach out to the prevailing party, Magat for a possible settlement of the case. But Destreza did not heed his advice as she insisted on filing the petition for annulment of judgment before the Court of Appeals.<sup>5</sup>

He agreed to handle the case for a fee of Thirty Thousand Pesos (₱30,000.00). Destreza, however, asked for more time to come up with the money and meantime, requested him to prepare the necessary petition. Out of the Fifteen Thousand Pesos (₱15,000.00) given by Destreza, Five Thousand Pesos (₱5,000.00) was used to pay for docket fees and other expenses.<sup>6</sup>

He filed before the Court of Appeals a petition for annulment of judgment and application for temporary restraining order and/or injunction. At this point, Destreza had paid him Ten Thousand Pesos (₱10,000.00) and requested a deferment of the balance.<sup>7</sup>

Later, Destreza had become desperate and asked him if he knew anyone from the trial court or the Court of Appeals who she could pay just to stop their impending ejectment from their family home. This made him finally decide to disassociate himself from Destreza. He informed Destreza that he would no longer ask for the balance of his professional fees but she should look for another lawyer to comply with the orders of the Court of Appeals. Destreza, however, reacted negatively and even threatened to file a disbarment case against him.<sup>8</sup>

Under Report and Recommendation<sup>9</sup> dated August 13, 2018, the Investigating Commissioner adjudged Atty. Arellano guilty of negligence and recommended his suspension from the practice of law for two (2) months.

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<sup>5</sup> Id. at 58.

<sup>6</sup> Id. at 58–59.

<sup>7</sup> Id. at 59.

<sup>8</sup> Id. at 61.

<sup>9</sup> Id. at 91–95.

The Investigating Commissioner found that Atty. Arellano was not the counsel of Destreza's parents in the case before the trial court. Thus, he could not be expected, much less, faulted for his alleged failure to comment on the motion for issuance of break open order filed by the opposing party.<sup>10</sup>

While Atty. Arellano, however, had good reasons to withdraw his services even without his client's consent due to his client's supposed immoral conduct and continuous refusal to pay his professional fees, he failed to file a formal written withdrawal of appearance in court. His omission resulted in the dismissal of the petition before the Court of Appeals. Thus, even assuming he had a good reason to terminate his services, he cannot just do so and leave his client in the cold unprotected.<sup>11</sup>

By Resolution<sup>12</sup> dated June 17, 2019, the Integrated Bar of the Philippines (IBP) Board of Governors adopted the factual findings of the Investigating Commissioner but modified the recommended penalty to suspension from practice of law for two (2) months and fine of Ten Thousand Pesos (₱10,000.00).

Under Resolution<sup>13</sup> dated October 7, 2020, the Court adopted and approved the recommendation of the IBP Board of Governors.

Atty. Arellano now prays for leniency to temper the penalties imposed on him. He alleges that his life has been besieged by personal tragedies. He cites three (3) reasons. *One*, his child is a person with disability (PWD) afflicted with Attention Deficit Hyperactivity Disorder (ADHD), as shown by the child's PWD card and the clinical evaluation of the child's Developmental Pediatrician.<sup>14</sup> *Two*, he is the sole breadwinner of the family who also supports his ailing septuagenarian parents. For this, he attached his parents' hospital bills and expenses.<sup>15</sup> *Three*, to make matters worse, he has been receiving death threats.<sup>16</sup>

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<sup>10</sup> Id. at 94.

<sup>11</sup> Id. at 94–95.

<sup>12</sup> Id. at 89–90.

<sup>13</sup> Id. at 99–106.

<sup>14</sup> See Supplemental Motion for Reconsideration, id. at 152–153.

<sup>15</sup> Id. at 153–154.

<sup>16</sup> Id. at 152.

He further contends that the penalty of suspension would affect the cases of his other clients, some of these cases are *pro bono* involving vendors and a taxi driver. The penalty of suspension would greatly impact his life and finances considering that he is the sole breadwinner of the family. Thus, he humbly implores the Court to delete the penalty of suspension, albeit retaining the fine. He invokes *Goopio v. Atty. Maglalang*,<sup>17</sup> where the Court imposed on therein respondent the penalty of reprimand instead of disbarment or suspension for committing material negligence in handling his client's case.

The motion is meritorious.

In several administrative cases, the Court has refrained from meting the prescribed penalties in consideration of certain mitigating factors.<sup>18</sup> In *Rayos v. Atty. Hernandez*,<sup>19</sup> the Court, on motion for reconsideration, tempered the penalty meted on respondent lawyer from suspension of six (6) months to a fine of Twenty Thousand Pesos (₱20,000.00). According to the Court, factors such as the respondent's length of service, acknowledgement of his or her infractions and remorse, family circumstances, humanitarian and equitable considerations, advanced age, among other things, have had varying significance in its determination of the imposable penalty.<sup>20</sup>

Further, in *Domingo v. Atty. Revilla, Jr.*,<sup>21</sup> the Court considered the sincere and heartfelt pleas for judicial clemency of respondent therein as a reflection of further remorse and repentance on the latter's part.

Too, in *Cristobal v. Atty. Cristobal*,<sup>22</sup> we emphasized that the consideration of mitigating circumstances in favor of respondent was in no way a condonation or justification for the latter's infraction. Rather, it was only for the purpose of reducing the penalty.

Here, we maintain that Atty. Arellano was indeed negligent when he failed to file with the Court of Appeals his withdrawal as counsel which eventually caused the dismissal of the case of his client Destreza. There is, however, another side of the story. **First**, Destreza

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<sup>17</sup> 837 Phil. 565, 586-587 (2018) [Per J. Jardeleza, En Banc].

<sup>18</sup> *Rayos v. Atty. Hernandez*, 558 Phil. 228, 230 (2007) [Per J. Chico-Nazario, Third Division].

<sup>19</sup> Id. at 235.

<sup>20</sup> Id. at 230.

<sup>21</sup> 824 Phil. 217, 237 (2018).

<sup>22</sup> A.C. No. 12702, November 8, 2020 [Per J. Carandang, En Banc].

had asked Atty. Arellano to pay someone to settle her case, both an immoral and illegal conduct which Atty. Arellano rightly refused. **Second**, Destreza deliberately failed to pay in full Atty. Arellano's professional fees. **Third**, Atty. Arellano only took over the case from the former counsel of Destreza and he had been forthright since day one that there was no way the case could be won before the Court of Appeals and that the best solution was for Destreza to reach out to the winning party for a possible out-of-court settlement. As it was though, Destreza stubbornly insisted on the filing of a petition for annulment of judgment which Atty. Arellano was constrained to heed. **Fourth**, this is only Atty. Arellano's first infraction, there being no other cases decided or pending against him. **Fifth**, Atty. Arellano's personal and family circumstances, shows that he has more to lose when he is suspended from practicing law, being the sole breadwinner of the family. **Finally**, Atty. Arellano has acknowledged his omission and profusely asked the Court's indulgence therefor.

All told, we deem it proper to exhibit a degree of leniency and temperance towards Atty. Arellano and accordingly delete the penalty of suspension as prayed for.

**FOR THESE REASONS**, the Motion for Reconsideration is **GRANTED**. The Court modifies the penalty imposed on Atty. Roy Allan T. Arellano for neglect of duty, deleting **Suspension** of two (2) months from the practice of law and retaining payment of a **FINE** of Ten Thousand Pesos (P10,000.00) only, with **Stern Warning** that a repetition of the same or similar infraction shall be dealt with more severely.

Let a copy of this Resolution be entered in the personal records of Atty. Roy Allan T. Arellano as a member of the Bar, and copies furnished 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."**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court


by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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