



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2023** which reads as follows:*

“A.C. No. 9515 [Formerly CBD Case No. 14-4161] (Spouses Norberto R. Perez and Marina Perez v. Atty. Edgardo V. Cruz).—

The good lawyer is not the man [or woman] who has an eye to every side and angle of contingency, and qualifies all his [or her] qualifications, but who throws himself [or herself] on your part so heartily, that he [or she] can get you out of a scrape.

- Ralph Waldo Emerson

This is a Complaint-Affidavit¹ for disbarment filed by Spouses Norberto Perez (Norberto) and Marina Perez (Marina, collectively complainants) against respondent, Atty. Edgardo V. Cruz (Atty. Cruz), on the ground of gross professional misconduct due to several violations of the Code of Professional Responsibility (CPR).

The Factual Antecedents

In their undated Complaint-Affidavit received by the Office of the Bar Confidant on July 6, 2012, complainants alleged that some time in 2005, they engaged the services of respondent Atty. Cruz for the partition of a parcel of land of which they are part owners, upon the recommendation of their niece Myrna de los Reyes and her husband, Carlo (Sps. de los Reyes).² Complainants paid Atty. Cruz’s acceptance fee and the corresponding filing fees for their action.³

Atty. Cruz filed the partition case with the Regional Trial Court (RTC) Branch 170 of Malabon City on September 30, 2005. An amended complaint

¹ *Rollo*, Vol. 1, pp. 1-7.

² *Id.* at 1.

³ *Id.*

was subsequently filed to implead additional defendants who were in possession of the property.⁴ In turn, these additional defendants filed a case against complainants, and the same was later consolidated with the earlier case, considering that they involved the same property and parties.⁵ Owing to this new claim against complainants, Atty. Cruz charged an additional acceptance fee.⁶

The partition case was then set for pre-trial conference on June 25, 2007. The complainants alleged that they saw Atty. Cruz hug defendants' counsel, Atty. Angelito Cruz, who notably bears the same last name as respondent.⁷ Complainants maintained that after the hearing, Atty. Cruz collected PHP 3,000.00 and told them in a hush tone, "*Wag kayong kumuha ng ibang abogado ha, hindi ba may tiwala kayo sa akin, at iyon ang sabihin n[i]yo sa judge pag kayo makapa[g]-usap ha[.]*" Additionally, Atty. Cruz informed them that the pre-trial conference was postponed to July 27, 2007 at 1:30 p.m.⁸

On July 27, 2007, complainants arrived at the court in the afternoon upon Atty. Cruz's instructions. Unfortunately, they discovered that the hearing was already held at 8:30 a.m. that day. Resultantly, complainants were declared as in default for their failure to attend the pre-trial conference.⁹ Atty. Cruz was likewise not present as he was then out of the country.¹⁰

Complainants made several inquiries as to the whereabouts of Atty. Cruz, only to be told that he was still abroad. On August 12, 2007, they were informed that Atty. Cruz would be arriving the following day. Complainants went to the court to meet Atty. Cruz the following day as early as 6:00 a.m. and waited for him until he arrived at 8:30 a.m. As there was sudden downpour, complainant Marina stepped inside Atty. Cruz's car to take shelter and continue their conversation. She was taken aback when Atty. Cruz allegedly yelled at her, "*Ang sapatos mo, madudumihan ang sasakyan ko[.]*" thus prompting her to immediately dismount the car.¹¹ Atty. Cruz then demanded Marina for payment, to which Marina responded by asking him how much she should pay. Atty. Cruz allegedly replied angrily, thus: "*Tanong ka pa n[an]g tanong, iyong dati mong binibigay sa akin[.]*" Marina then handed him PHP 3,000.00 and informed him of the order of the court declaring them as in default.¹²

⁴ Id. at 2.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id. at 3.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

Atty. Cruz later belatedly filed a motion for reconsideration of the court's Order declaring complainants as in default, which was denied on September 23, 2007.¹³ Thus, on November 20, 2007, Atty. Cruz filed a petition for *certiorari* before the Court of Appeals (CA).¹⁴ For such petition, Atty. Cruz charged PHP 5,000.00 to complainants. He additionally charged PHP 10,000.00 as acceptance fee for other cases the complainants filed against one Camille Aguirre and one Consolacion Marquez. Complainants alleged that Atty. Cruz failed to render any service for the latter cases.¹⁵

In the meantime, in the partition case where complainants were declared as in default, the trial court allowed the presentation of evidence many of which were allegedly spurious and objectionable, and proceeded to render a ruling adverse to the complainants on January 8, 2008.¹⁶ On January 20, 2008, the complainants attempted to consult with Atty. Cruz but he instead yelled at them, saying, "*Lumabas kayo, wala akong panahon makipag-usap sa inyo. Ako ang attorney n[i]yo, wala kang karapatan makialam kung ano ang dapat kong gawin[,]*" thus, they hurriedly left, feeling disturbed and humiliated.¹⁷

On March 19, 2008, Atty. Cruz once again collected a professional fee of PHP 5,000.00 and thereafter, on May 23, 2008, another amount of PHP 4,800.00 as filing fee for the appeal from the decision in the partition case before the CA, all of which were paid by the complainants.¹⁸

On May 13, 2008, Atty. Cruz filed complainant's notice of appeal, which was given due course on May 27, 2008.¹⁹

Consequently, on February 5, 2009, the CA issued a notice to the parties to inform them that the complete records of the case were already transmitted to its Judicial Records Division. It required the complainants to file their appellant's brief within 45 days, in accordance with Rule 44, Section 7 of the 1997 Rules of Civil Procedure.²⁰ Unfortunately, despite notice to Atty. Cruz, he failed to file the required appellant's brief. He likewise failed to inform complainants of his compliance nor did he advise them to seek the services of another counsel to prepare and file the required pleading because of his inability to do so.²¹

In a Resolution dated February 23, 2010, the CA dismissed the appeal, noting that despite notice, no appellant's brief was filed, thus the appeal was

¹³ Id. at 4.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 5.

²⁰ Id.

²¹ Id.

deemed abandoned.²² Allegedly, it was only after an inquiry with the court on the status of the case that the complainants learned of their loss.²³

Complainants additionally raised the issue of conflict of interest, alleging that Atty. Cruz accepted and represented Sps. de Los Reyes in a collection case filed by the complainant Marina against them before the Metropolitan Trial Court, Branch 81 of Valenzuela City.²⁴

In his Comment²⁵ dated October 19, 2012, Atty. Cruz denied the allegations of complainants. He maintained that the petition for *certiorari* filed with the CA contained the facts surrounding the declaration of the complainants as in default.²⁶ The petition stated that the case was initially set for pre-trial conference on June 25, 2007, and the parties appeared with their respective counsel. However, the documents presented by complainants for purposes of marking were mere photocopies, which was why Atty. Cruz had to move for deferment of the pre-trial to be able to secure certified true copies. The trial court insisted that the next setting be scheduled within a period of 30 days from June 25, 2007 despite the plea of Atty. Cruz that it be set some time in the third week of August, since he was going to be on a trip abroad from July 3 to August 13, 2007. Despite the reasonableness of the request, the judge set the pre-trial conference on July 25, 2007 at 8:30 a.m. and advised complainants to secure other counsel.²⁷ Atty. Cruz gave similar advice to complainants, but they were already of advanced age, unemployed, and merely relying on their pensions. When they consulted another counsel, they were allegedly asked to pay a substantial fee which they were not in the position to pay, thus they opted to retain the services of Atty. Cruz and wait for him to come back from his trip.²⁸ Unfortunately, on the date of the pre-trial conference, complainants decided to appear in court without counsel but only in the afternoon as they were under the impression that the schedule of the pre-trial conference was at 1:30 p.m. The trial court then declared them non-suited.²⁹

Atty. Cruz asseverated that the petition for *certiorari* was verified in compliance with Sec. 1, Rule 65 of the Rules of Court, thus complainants declared under oath that all the averments therein are true and correct.³⁰

Atty. Cruz likewise contended that the time of the pre-trial conference was announced in open court, thus complainants were sufficiently informed

²² Id.

²³ Id.

²⁴ Id. at 6.

²⁵ Id. at 44-48.

²⁶ Id. at 44.

²⁷ Id. at 45.

²⁸ Id.

²⁹ Id.

³⁰ Id.

of the schedule. He recalled that at the time, complainants were extremely apologetic for their lapse of memory.³¹

With respect to the dismissal of the appeal based on failure to file appellant's brief, Atty. Cruz asserted that complainants withdrew the records of their case in the latter part of 2009. As a result, it was no longer incumbent upon Atty. Cruz to continue extending legal services to complainants.³² In Atty. Cruz's Position Paper before the Integrated Bar of the Philippines (IBP), however, he claimed that complainants actually withdrew the records in the latter part of 2008, not 2009.³³

As to the issue of conflict of interest relative to Atty. Cruz being counsel for the adverse party in another case where complainant Marina is the plaintiff, he alleged that such case had nothing to do with any of the cases which he handled for complainants. The case did not involve any communication or advice given by Atty. Cruz in favor of complainants and conversely, any communication complainants relayed to Atty. Cruz during their lawyer-client relationship.³⁴

Report and Recommendation of the Commission on Bar Discipline

In a Report and Recommendation³⁵ dated October 22, 2015, Commissioner Ricardo M. Espina, Investigating Commissioner of the Commission on Bar Discipline (CBD) of the IBP, recommended to mete the penalty of suspension of two years.

The Investigating Commissioner was unconvinced by the contention that it was no longer incumbent upon Atty. Cruz to file the appellant's brief for complainants.³⁶ The notice to file appellant's brief from the CA dated February 5, 2009 was mailed to Atty. Cruz while he was still the counsel of record for complainants. He admitted this in his Comment dated October 19, 2012, where he stated that it was in the latter portion of 2009 when complainants withdrew the records of their cases from him.³⁷ The Investigating Commissioner found the claim that the records were withdrawn in 2008 instead of 2009 a mere afterthought to escape the consequences of Atty. Cruz's non-action.³⁸

³¹ Id. at 46.

³² Id.

³³ *Rollo*, Vol. 2, p. 126.

³⁴ *Rollo*, Vol. 1, p. 47.

³⁵ *Rollo*, Vol. 3, pp. 3-9.

³⁶ Id. at 6.

³⁷ Id.

³⁸ Id.

Besides, an attorney may only retire from a case either by written consent of his or her client or by permission of the court after due notice and hearing, in which event, the attorney should see to it that the name of the new lawyer is recorded in the case.³⁹ A lawyer who desires to retire from an action without the written consent of his or her client must file a petition for withdrawal in court. He must serve a copy of his or her petition upon his or her client and the adverse party at least three days before the date set for hearing, otherwise the court may treat the application as a mere scrap of paper. This was what Atty. Cruz failed to do, as he only alleged that complainants withdrew the records of their cases, without adducing any proof to that effect.⁴⁰ The Investigating Commissioner further opined that Atty. Cruz cannot escape liability for his failure to file the appropriate pleadings with the simple expedient reason that he already withdrew as counsel of his clients.⁴¹

Thus, the Investigating Commissioner concluded that Atty. Cruz was negligent for failing to file the appellant's brief, therefore violating Rules 12.03 and 18.03 of the CPR.⁴²

As to the issue of conflict of interest, it was likewise found that Atty. Cruz was guilty of handling cases for different parties with conflicting interests. When Atty. Cruz filed the answer for Sps. de Los Reyes, he did so knowing the fact that the adverse party is his client in actions before the trial court and the CA. When Atty. Cruz entered his appearance for Sps. de Los Reyes, the CA had yet to issue a Resolution on the complainants' appeal.⁴³ While Atty. Cruz filed a Notice of Withdrawal as counsel for the defendants in the case involving Sps. De Los Reyes and complainant Marina on March 25, 2013, the Investigating Commissioner ruled that it cannot serve to exculpate him from his violation of the prohibition of handling cases with conflict of interest.⁴⁴

Report and Recommendation of the IBP Board of Governors

In a Resolution⁴⁵ dated April 29, 2016, the IBP Board of Governors (Board) resolved to adopt the findings of the Investigating Commissioner of the CBD, as well as the recommendation to impose the penalty of suspension from the practice of law for a period of two years, with a warning that commission of the same or similar offense in the future will result in the imposition of a more severe penalty.

³⁹ Id. at 6-7.

⁴⁰ Id. at 7.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Id. at 9.

⁴⁵ Id. at 1-2.

Atty. Cruz sought reconsideration and the reversal of the April 29, 2016 Resolution of the IBP Board.⁴⁶ Essentially, Atty. Cruz argued in his Motion that: (1) the complainants did not overcome the presumptive innocence of Atty. Cruz as they failed to discharge their burden of proving with preponderant evidence that he was still their counsel at the time they were required to file their appellant's brief before the CA, thereby making the Report and Recommendation of the Investigating Commissioner, as adopted by the IBP Board, patently erroneous;⁴⁷ (2) basing on flagrantly erroneous finding of the subsistence of Atty. Cruz's attorney-client relation with the complainants, a serious error has been similarly committed in holding the presence of conflict of interest when Atty. Cruz represented Sps. De Los Reyes in a totally unrelated case;⁴⁸ and (3) the accusations of the complainants against Atty. Cruz are tainted with bad faith and ill motive to vex and harass him.⁴⁹

In a Resolution dated April 20, 2017, the IBP Board granted the Motion for Reconsideration and recommended the dismissal of the case against Atty. Cruz, justified by the fact that he already filed his withdrawal of appearance in the case involving his client, Sps. De Los Santos, and complainants, his former clients.⁵⁰

In an Extended Resolution dated July 3, 2022, the IBP Board held that an attorney enjoys the legal presumption that he or she is innocent of the charges against him or her until the contrary is proved, and that as an officer of the Court, he or she is presumed to have performed his or her duties in accordance with his or her oath. In disbarment proceedings, the quantum of proof is substantial evidence and the burden is on the complainant to establish the allegations in his or her complaint.⁵¹ It was found that complainants did not overcome the presumption of innocence of Atty. Cruz for failure to prove that he was still their counsel at the time they were required to file their appellant's brief.⁵²

The IBP Board found that the Affidavit of Atty. Cruz's secretary, Alice De Guzman, dated December 4, 2014, would show that in the latter part of 2008, complainants have already terminated the services of Atty. Cruz and withdrawn the entire records of the case. Instead of indicating "in the latter part of 2008" in Atty. Cruz's Comment, the secretary inadvertently typed "during the latter part of 2009," which was erroneously taken into consideration in the 2016 Resolution.⁵³ Thus, the IBP Board ruled that with the cessation of the attorney-client relationship in the latter part of 2008 or

⁴⁶ Id. at 10-55.

⁴⁷ Id. at 31.

⁴⁸ Id. at 48.

⁴⁹ Id. at 53.

⁵⁰ Notice of Resolution of the IBP Board of Governors in CBD Case No. 14-4161.

⁵¹ Extended Resolution of the IBP Board of Governors in CBD Case No. 14-4161 dated July 3, 2022, p. 4.

⁵² Id.

⁵³ Id.

long before the receipt of the Notice to File Appellant's Brief on February 19, 2009, it was no longer incumbent upon Atty. Cruz to continue extending legal services to complainants.⁵⁴

On the issue of conflict of interest, the IBP Board noted that a lawyer's immutable duty to a former client does not cover transactions that occurred beyond the lawyer's employment with such client. The intent of the law is to impose upon the lawyer the duty to protect the client's interests only on matters that he or she previously handled for the former client and not for matters that arose after the relationship has terminated.⁵⁵ In this case, Atty. Cruz defended Sps. de Los Reyes from complainants a year after the termination of their attorney-client relationship in the latter part of 2008.⁵⁶ Further, the matter handled by Atty. Cruz is totally unrelated to the consolidated cases that he previously handled for the complainants, thus no confidential information acquired from complainants may be used against them.⁵⁷

Finally, the IBP Board considered Atty. Cruz's withdrawal of appearance as counsel of Sps. de los Reyes when he learned from a seminar that it is better practice not to represent any adverse party to a former client.⁵⁸

As of this date, no motion for reconsideration or petition for review has been filed by either party.

Issue

The core issue is whether respondent should be held administratively liable for gross misconduct.

Our Ruling

The Court resolves not to adopt the recommendation of the IBP to dismiss the complaint against Atty. Cruz. We cannot absolve a lawyer who was not only grossly negligent in assisting his clients resulting to their loss in a case, but was also guilty of betraying their trust by serving as counsel for the adverse party in another civil case they filed.

Disbarment proceedings are *sui generis*. Being neither criminal nor civil, these are not intended to inflict penal or civil sanctions. The main question to be determined is whether respondent is still fit to continue to be an officer of the court in the dispensation of justice.⁵⁹

⁵⁴ Id.

⁵⁵ Id. at 5.

⁵⁶ Id. at 6.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ *Gonzalez v. Alcaraz*, 534 Phil. 471, 482 (2006).

Apropos to the Court's disciplinary powers, the burden of proof in disbarment proceedings rests upon the complainant. He/she must therefore establish by substantial evidence the guilt of the respondent lawyer warranting the imposition of the proper administrative sanction. In *Buntag v. Toledo*,⁶⁰ citing *Spouses Boyboy v. Yabut, Jr.*,⁶¹ the Court defined the standard of substantial evidence in administrative proceedings in this wise:

The standard of substantial evidence required in administrative proceedings is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. While rules of evidence prevailing in courts of law and equity shall not be controlling, the obvious purpose being to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order, this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without basis in evidence having rational probative force.⁶²

A thorough evaluation of the records of the case at bench shows substantial evidence that Atty. Cruz is administratively liable.

On the non-filing of appellant's brief required by the CA

We hold that Atty. Cruz was still responsible for filing the appellant's brief for the complainants, as required by the CA.

In Atty. Cruz's Brief for Mandatory Conference before the IBP-CBD,⁶³ he admitted that he did not inform the complainants about the non-filing of the appellants' brief nor did he advise them to secure the services of another counsel to prepare and file their appellants' brief after he received the notice on February 19, 2009.⁶⁴ Atty. Cruz justified his non-action, saying that in the latter part of 2008 or long before the receipt of the Notice to File Appellants' Brief on February 19, 2009, the complainants had already terminated his legal services. Atty. Cruz asserted that as such, he had no more authority to file the Appellants' Brief in the appealed consolidated cases. With the prior termination of counsel-client relationship, Atty. Cruz expected that the complainants would secure the services of another counsel to prosecute their appeal as he had already lost authority to represent them.⁶⁵ In his Position Paper,⁶⁶ Atty. Cruz argued that had he filed the appellants' brief of the complainants, he would have been subjected to a disciplinary action in line

⁶⁰ A.C. No. 12125, February 11, 2019.

⁶¹ 449 Phil. 664 (2003).

⁶² *Buntag v. Toledo*, supra, citing *Spouses Boyboy v. Yabut, Jr.*, supra at 670.

⁶³ *Rollo*, Vol. 2, pp. 50-85.

⁶⁴ Id. at 71.

⁶⁵ Id.

⁶⁶ Id. at 111-139.

with *Vargas v. Ignes*,⁶⁷ where the Court held that a member of the bar may be disbarred or suspended from his or her office as attorney by the Supreme Court for, among others, willfully appearing as an attorney for a party to a case without authority to do so.⁶⁸

On this score, *Anastacio-Briones v. Atty. Zapanta*⁶⁹ is instructive:

Section 26, Rule 138 of the Rules of Court provides the proper procedure for a lawyer's withdrawal as counsel in a case. Unless the procedure prescribed in the abovementioned section is complied with, the attorney of record is regarded as the counsel who should be served with copies of the judgments, orders and pleadings and who should be held responsible for the case. For its part, the court could recognize no other representation on behalf of the client except such counsel of record until a formal substitution of attorney is effected.

In *Orcino v. Gaspar*, we held that **until a lawyer's withdrawal shall have been approved, he remains counsel of record and is expected by his client as well as by the court to do what the interests of his client require. He must still appear on the date of hearing for the attorney-client relation does not terminate formally until there is a withdrawal of his appearance on record.**

In this case, respondent admitted that he did not attend the January 6, 2003 hearing despite being notified by the court. His claim that he was already discharged as counsel as early as October 25, 2002 is negated by the record that he withdrew his appearance only on March 5, 2003. **Until his dismissal or withdrawal was made of record, any judicial notice sent to him was binding upon his client even though as between them the professional relationship may have been terminated. Thus, unless properly relieved, respondent is responsible for the conduct of the cases and his failure to attend the hearing and comply with the trial court's directive to file a formal offer of evidence constitute inexcusable negligence.**

x x x x

Certainly not to be overlooked is the duty of an attorney to inform his [or her] client of the developments of the case. We note that it was only on May 5, 2003 that complainant learned that she defaulted in the case. As a lawyer mindful of the interest of his client, respondent should have informed the complainant of the court's order addressed to him, especially if he considered himself discharged in order for complainant and her new counsel to be guided accordingly.⁷⁰ (Emphases supplied)

Significantly, Sec. 26 of Rule 138 of the Rules of Court provides:

SECTION 26. *Change of attorneys.* – An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special

⁶⁷ 637 Phil. 1, 12 (2010).

⁶⁸ *Rollo*, Vol. 2, p. 130.

⁶⁹ 537 Phil. 218 (2006).

⁷⁰ *Id.* at 222-224.

proceeding, **without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire.** In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.

A client may at any time dismiss his [or her] attorney or substitute another in his [or her] place, but if the contract between client and attorney has been reduced to writing and the dismissal of the attorney was without justifiable cause, he [or she] shall be entitled to recover from the client the full compensation stipulated in the contract. However, the attorney may, in the discretion of the court, intervene in the case to protect his [or her] rights. For the payment of his [or her] compensation the attorney shall have a lien upon all judgments for the payment of money, and executions issued in pursuance of such judgment, rendered in the case wherein his [or her] services had been retained by the client. (Emphases supplied)

In another case, the Court held that assuming a client was justified in terminating the services of his or her lawyer, the lawyer cannot just leave the client in the cold unprotected. The lawyer has no right to presume that his or her petition for withdrawal will be granted by the court.⁷¹ Until his or her withdrawal shall have been approved, the lawyer remains counsel of record who is expected by his or her client as well as by the court to do what the interests of his or her client require.⁷² He or she must still appear on the date of hearing⁷³ for the attorney-client relation does not terminate formally until there is a withdrawal of record.⁷⁴

In the instant case, there was no showing that there was any withdrawal of appearance filed by Atty. Cruz at all nor that he informed complainants of the Notice of File Appellant's Brief from the CA. A practicing lawyer like Atty. Cruz should have known the procedure to terminate the attorney-client relationship and to properly turn over the case to new counsel. Evidently, the claim that complainants withdrew the records of the case, absent showing of court approval, cannot serve to relieve him of his obligations as an attorney.

On representing a party adverse to his client

Proceeding to the issue of conflict of interest, We likewise hold that Atty. Cruz is administratively liable.

Atty. Cruz maintained that his attorney-client relationship with complainants had long been terminated by the time he represented Sps. de los

⁷¹ *Orcino v. Gaspar*, 344 Phil. 792, 800 (1997), citing *Visitacion v. Manit*, 137 Phil. 348, 356 (1969).

⁷² *Id.*, citing *People v. Icalla*, 150-A Phil. 944, 946 (1972); *Wack Wack Golf and Country Club v. Court of Appeals*, 106 Phil. 501, 504-505 (1959).

⁷³ *Id.*, citing *Visitacion v. Manit*, supra; *Wack Wack Golf and Country Club v. Court of Appeals*, supra.

⁷⁴ *Id.*, citing *Tumbagahan v. Court of Appeals*, 247-A Phil. 656, 570 (1988); *Visitacion v. Manit*, supra.

Reyes as defendants in a case filed by the complainant Marina.⁷⁵ The matters litigated in such case were also totally unrelated to the case Atty. Cruz handled for complainants, thus it did not involve any communication acquired by him while he was counsel of complainants.⁷⁶

In *Hornilla v. Atty. Salunat*,⁷⁷ the Court elucidated on the three kinds of conflict of interest:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is “whether or not in behalf of one client, it is the lawyer’s duty to fight for an issue or claim, but it is his [or her] duty to oppose it for the other client. In brief, if he [or she] argues for one client, this argument will be opposed by him [or her] when he [or she] argues for the other client.” This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his [or her] first client in any matter in which he [or she] represents him [or her] and also whether he [or she] will be called upon in his [or her] new relation to use against his [or her] first client any knowledge acquired through their connection. **Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his [or her] duty of undivided fidelity and loyalty to his [or her] client or invite suspicion of unfaithfulness or double dealing in the performance thereof.**⁷⁸ (Emphasis supplied)

In *Lee v. Simando*,⁷⁹ the Court ruled that it is improper for respondent therein to appear as counsel for one party against the adverse party who is also his client, since a lawyer is prohibited from representing conflicting interests. He or she may not, without being guilty of professional misconduct, act as counsel for a person whose interests conflict with that of his or her present or former client. In that case, respondent asserted that there is no conflict of interest because complainant and respondent are his clients in unrelated cases. The Court ruled that the representation of opposing clients in both cases, though unrelated, obviously constitutes conflict of interest or, at the least, invites suspicion of double-dealing.⁸⁰

Under Rule 15.03, Canon 15 of the CPR, “[a] lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts. [A lawyer is] therefore bound to refrain from representing parties with conflicting interests in a controversy. By doing so,

⁷⁵ *Rollo*, Vol. 2, p. 78.

⁷⁶ *Id.*

⁷⁷ 453 Phil. 108 (2003).

⁷⁸ *Id.* at 111-112.

⁷⁹ 710 Phil. 600 (2013).

⁸⁰ *Id.* at 609, citing *Aniñon v. Sabitsana*, 685 Phil. 322, 327 (2012).

without showing any proof that he or she had obtained the written consent of the conflicting parties, respondent should be sanctioned.”⁸¹

It is worth noting the significant dates involved in this case. On October 6, 2009, Atty. Cruz filed an Answer representing Sps. de los Reyes in the case filed by complainant Marina.⁸² On February 23, 2010, when the CA issued the Resolution dismissing complainants’ appeal, Atty. Cruz was still their counsel of record, which was precisely why he was furnished a copy of the same.⁸³ There can be no other conclusion other than that Atty. Cruz undertook the representation of Sps. de los Reyes while he was still counsel of record for complainants. Clearly, there is conflict of interest because the acceptance of representation of Sps. de los Reyes in an action filed by one of the complainants will prevent Atty. Cruz from the full discharge of his duty of undivided fidelity and loyalty to complainants or invite suspicion of unfaithfulness or double dealing in the performance thereof.

In disciplinary proceedings against lawyers, public interest is the primary objective. The real question for determination is whether the attorney is still a fit person to be allowed the privileges as such.⁸⁴ In the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his or her actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who, by their misconduct, have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.⁸⁵

Atty. Cruz’s acts constitute grave misconduct. It is therefore clear that he transgressed Canons 15, 18, and 22 of the CPR, to wit:

CANON 15 — A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS [OR HER] DEALINGS AND TRANSACTIONS WITH HIS [OR HER] CLIENTS.

Rule 15.03 — A lawyer shall not represent conflicting interests except by written consent of all concerned given a full disclosure of the facts.

CANON 18 — A LAWYER SERVE HIS [OR HER] CLIENT WITH COMPETENCE AND DILIGENCE.

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

⁸¹ *Castro-Justo v. Galing*, 676 Phil. 139, 144 (2011).

⁸² *Rollo*, Vol. 2, p. 299.

⁸³ *Rollo*, Vol. 1, p. 35.

⁸⁴ *BSA Towers Condominium Corporation v. Reyes*, 833 Phil. 588, 595 (2018).

⁸⁵ *Id.*, citing *Reyes v. Nieva*, 794 Phil. 360, 379-380 (2016).

CANON 22 — A LAWYER SHALL WITHDRAW HIS [OR HER] SERVICES ONLY FOR GOOD CAUSE AND UPON NOTICE APPROPRIATE IN THE CIRCUMSTANCES.

Rule 22.02 — A lawyer who withdraws or is discharged shall, subject to a retainer lien, immediately turn over all papers and property to which the client is entitled, and shall cooperate with his [or her] successor in the orderly transfer of the matter, including all information necessary for the proper handling of the matter.

The Appropriate Penalty

The penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.⁸⁶

Atty. Cruz abandoned his clients' cause without following the proper procedure. Worse, he turned his back against them when he took on the representation of the adverse parties in an action one of them filed while their appeal was pending with the CA.

In *Vda. de Robosa v. Mendoza*,⁸⁷ the Court imposed the penalty of a six-month suspension on a lawyer who failed to file the required appellant's brief and who filed a Notice of Withdrawal long after the expiration of the period to file appellant's brief.

In *Ramirez v. Margallo*,⁸⁸ the Court sanctioned the errant lawyer with a two-year suspension for failing to file the required appellant's brief as she thought the client was no longer interested to continue the case, resulting to the dismissal of the appeal and leaving the client without any other recourse to protect his interest.

In *Dagohoy v. San Juan*,⁸⁹ the Court meted the penalty of a one-year suspension on a lawyer who negligently failed to file appellant's brief due to the alleged lapse of his client in providing him a copy of the case records.

In *Quiambao v. Bamba*,⁹⁰ the Court imposed a one-year suspension on a lawyer who filed a case against a client while he was, at the time, representing her in another case.

In *Lee v. Simando*,⁹¹ the Court penalized with a suspension of six months a lawyer who represented both plaintiff and defendant in one of his cases in separate, unrelated cases.

⁸⁶ *Villanueva v. Gonzales*, A.C. No. 7657, February 12, 2008, citing *Heirs of Ballesteros, Sr. v. Apiag*, A.C. No. 5760, September 30, 2005, 471 SCRA 111, 127.

⁸⁷ 769 Phil. 359 (2015).

⁸⁸ 752 Phil. 473 (2015).

⁸⁹ 710 Phil. 1 (2013).

⁹⁰ 505 Phil. 126 (2005).

⁹¹ *Supra*, note 79.

In *Samson v. Era*,⁹² the Court meted the erring lawyer with a penalty of suspension of two years for assisting complainants therein in filing a criminal complaint and representing the accused in such criminal case in his other criminal cases.

Guided by jurisprudence and Our independent assessment of the circumstances of this case, Atty. Cruz's negligence of his clients' case without proper withdrawal as counsel and his representation of conflicting interests justify the penalty of suspension from the practice of law for two years, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

The Court takes this opportunity to remind lawyers that they must be diligent in pursuing cases entrusted to them, as they are relied on for the protection of life, liberty, and property. The trust and confidence conferred upon an attorney deserves in return nothing less than faithful execution of duty and loyalty to the client's cause within the bounds of law.


WHEREFORE, the Court finds respondent Atty. Edgardo V. Cruz **GUILTY** of grave misconduct in violation of Canons 15, 18, and 22, and Rules 15.03, 18.03, and 22.02 of the Code of Professional Responsibility. He is, thus, hereby **SUSPENDED** from the practice of law for a period of two years effective immediately upon receipt of this Resolution. Respondent Atty. Edgardo V. Cruz is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished the Office of the Bar Confidant, for recording in the personal files of respondent Atty. Edgardo V. Cruz as attorney-at law; the Office of the Court Administrator for dissemination to all the courts of the Philippines; the Integrated Bar of the Philippines, which shall disseminate copies thereof to all its chapters; and all administrative and quasi-judicial agencies in the country.

⁹² 714 Phil. 101 (2013).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *CB/27*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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MAR 28 2023

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