



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **December 7, 2022** which reads as follows:*

“**A.C. No. 9431 [Formerly CBD Case No. 13-3881] (Joseph B. Santos, Complainant v. Atty. Noel Y. Atienza, Respondent).** — This Court (1) **NOTES** the Integrated Bar of the Philippines Board of Governors’ Notice of Resolution¹ dated February 28, 2020, which approved and adopted the Report and Recommendation² dated October 2, 2019 of the Investigating Commissioner to suspend respondent Atty. Noel Y. Atienza (*Atty. Atienza*) from the practice of law for one (1) year for violation of Rules 18.03 and 18.04 of the Code of Professional Responsibility and Notice of Resolution No. CBD-XXV-2021-08-09³ dated August 14, 2021, which denied Atty. Atienza’s motion for reconsideration there being no new reason and/or argument adduced to warrant the reversal of the earlier decision of the Board; both transmitted by letter⁴ dated November 9, 2021 of Director Avelino V. Sales, Jr. of the Commission on Bar Discipline, Integrated Bar of the Philippines, together with the records and flash drive file of the case; and (2) resolves the Complaint⁵ filed by Joseph B. Santos (*Santos*) against Atty. Atienza.

The incident that preceded this administrative case was a Complaint for Damages filed by Angelo Rivera (*Rivera*) against Santos and his driver, Arturo C. Rimando, Jr. (collectively, *defendants*), which was eventually raffled to Branch 72, Regional Trial Court, Olongapo City.⁶ Santos sought Atty. Atienza’s services to represent the defendants sometime on July 24, 2009, which was when Santos received the summons for the said case.⁷ On September 2, 2009, Rivera filed a Motion to Declare Defendants in Default

¹ *Rollo*, p. 189. The February 28, 2020 Resolution in CBD Case No. 13-3881 (Admin. Case No. 9431) was penned by National Secretary Roland B. Inting of the Board of Governors, Integrated Bar of the Philippines, Pasig City.

² *Id.* at 190–200. The October 2, 2019 Report and Recommendation in CBD Case No. 13-3881 (Admin. Case No. 9431) was penned by Commissioner Vicente C. Andiano of the Commission on Bar Discipline, Integrated Bar of the Philippines, Pasig City.

³ *Id.* at 216. The August 14, 2021 Resolution in CBD Case No. 13-3881 (Admin. Case No. 9431) was penned by Assistant National Secretary Jose Angel B. Guidote, Jr. of the Board of Governors, Integrated Bar of the Philippines, Pasig City.

⁴ *Id.* at 215.

⁵ *Id.* at 1–6.

⁶ *Id.* at 17–20. The October 29, 2009 Decision in Civil Case No. 108-0-09 was penned by Judge Richard A. Paradeza of Branch 72, Regional Trial Court, Olongapo City.

⁷ *Id.*

(*Motion*)⁸ for their failure to file the answer within the required 15-day period.⁹ A hearing was conducted on September 8, 2009, and Santos and Atty. Atienza were not present. Consequently, the Motion was granted and the defendants were declared in default.¹⁰

The next day, on September 9, 2009, Atty. Atienza filed a Comment/Opposition to Motion to Declare Defendant in Default with Motion to Admit Answer with Counterclaims with Entry of Appearance (*Comment/Opposition to Motion to Declare in Default*).¹¹ During the hearing for the same on September 22, 2009, Santos and Atty. Atienza were likewise not present, and thus, the Motion was denied.¹²

In view of the foregoing, the Regional Trial Court proceeded with Rivera's presentation of evidence *ex parte* and thereafter, rendered a Decision¹³ ordering the defendants to pay Rivera the sum of PHP 700,000.00 for hospitalization expenses, PHP 350,000.00 for continuous medical expenses, PHP 100,000.00 as moral damages, PHP 35,000.00 as attorney's fees, and costs of suit.¹⁴

Without informing Santos, Atty. Atienza filed a Notice of Appeal but failed to file the appeal brief when later required by the Court of Appeals, despite being granted an extension of 30 days to file the same.¹⁵ Accordingly, the appeal was denied by the Court of Appeals¹⁶ for failure to file the required appeal brief.¹⁷

The Regional Trial Court's decision was then sought to be implemented, which Atty. Atienza did not oppose.¹⁸ This led to the issuance of a Writ of Execution¹⁹ and the levy of Santos' personal properties, the sale of his two public utility jeepneys, and the garnishment of his bank accounts.²⁰

On April 4, 2012, Atty. Atienza filed a motion²¹ with the Regional Trial Court to withdraw as counsel of Santos.

⁸ *Id.* at 7.

⁹ *Id.* at 192.

¹⁰ *Id.* at 15 and 192.

¹¹ *Id.* at 8–13.

¹² *Id.* at 16 and 192.

¹³ *Id.* at 17–20.

¹⁴ *Id.* at 192–193.

¹⁵ *Id.* at 121 and 193–194.

¹⁶ *Id.* at 121–122. The July 21, 2011 Resolution in CA-G.R. CV No. 94766 was penned by Associate Justice Danton Q. Bueser, and concurred in by Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario (now a Member of this Court) of the Tenth Division, Court of Appeals, Manila.

¹⁷ *Id.* at 193.

¹⁸ *Id.* at 36.

¹⁹ *Id.* at 37–38. The February 18, 2012 Writ of Execution in Civil Case No. 108-0-09 was penned by Judge Richard A. Paradeza of Branch 72, Regional Trial Court, Olongapo City.

²⁰ *Id.* at 194.

²¹ *Id.* at 41.

In response, Santos filed the instant Complaint, charging Atienza with gross negligence in the handling of his case and for deliberately misleading the Regional Trial Court by stating that Santos secured the services of Atienza only after the lapse of the 15-day period to file an answer.²²

In his Counter-Affidavit,²³ Atienza insisted that his appearance as counsel for Santos in Civil Case No. 108-0-09 was “merely for the purpose of negotiating a compromise agreement,” and that he only took the case because Santos was the spouse of his former classmate, to whom he explained that he would not be able to devote full attention to the case because he was occupied with activities for the 2010 elections where he ran as City Councilor of Olongapo City.²⁴ Atienza supposedly obtained a proposal from the opposing party which was relayed to Santos for counter-proposal, but the latter supposedly never got back to him until the said case was again brought to his attention due to the filing of the motion to declare in default.²⁵ Further, Atienza claims that he never charged Santos any professional fees, in view of his understanding that his participation was limited to brokering a compromise agreement.²⁶ Moreover, he did not withdraw as counsel as the proceedings continued because Santos was supposedly still in the process of securing the services of new counsel, and that he eventually withdrew as such anyway.²⁷ As to the failure to file the appeal brief, Atienza again cites his preparations for the 2010 elections.²⁸

In Santos’ Comment on Counter-Affidavit,²⁹ he essentially refuted Atienza’s ratiocination on his actions. Santos claimed that the appearance of Atienza was not just for a compromise agreement, as he was the one who advised Santos to ignore the demand letters of Rivera.³⁰ Rivera also claimed that Atienza was his counsel all along until he formally withdrew at the end.³¹

In its Resolution³² dated April 15, 2013, this Court referred the matter to the Integrated Bar of the Philippines for investigation, report and recommendation, or decision.

In its Report and Recommendation,³³ the Commission on Bar Discipline of the Integrated Bar of the Philippines, through Commissioner

²² *Id.* at 2.

²³ *Id.* at 55–58.

²⁴ *Id.* at 55.

²⁵ *Id.* at 56.

²⁶ *Id.* at 56–57.

²⁷ *Id.* at 57.

²⁸ *Id.*

²⁹ *Id.* at 61–64.

³⁰ *Id.* at 61.

³¹ *Id.* at 62–63.

³² *Id.* at 66.

³³ *Id.* at 190–200.

Vicente C. Andiano (*Andiano*) found that Atty. Atienza was remiss in his duty as counsel of Santos in failing to timely file an answer and attending the hearing of his Comment/Opposition to Motion to Declare in Default, thus:

It is without dispute that respondent had been remiss in the performance of duty as the counsel of complainant.

First, he failed to file the Answer to the Complaint within the period allowed by the rules. Respondent was aware that Summons was served to the complainant on July 24, 2009, and thus, he [had] until August 10, 2009 to file the same.

If it were true that he was busy negotiating for the possible amicable settlement of the case during that period, he could have filed a motion for extension of time to file the Answer but he did not. Respondent is very well aware that complainant may be declared in default for failure to file the same within the period allowed by the rules.

When a motion to declare herein complainant in default was filed, respondent was not even in Court to oppose the same when it was heard on September 8, 2009. Granting for the sake of argument that he received a copy of the said Motion to declare in default on September 9, 2009, the same date when he filed his “Comment/Opposition to Motion to Declare Defendant in Default”, he should have filed a motion to lift the Order of Default because he was unaware of the said Motion when the same was heard and granted by the Regional Trial Court.

As if the same were not yet enough, respondent also failed to appear during the hearing of his “Comment/Opposition to Motion to Declare Defendant in Default” on September 14, 2009, the date which he himself chose.

After all those gaffes that respondent committed, respondent appears to not have availed other remedies in order to protect the interest of his client. For sure, he received a copy of the denial of his Answer’s admission, but he opted not to avail [of] other legal remedies.³⁴

Moreover, the Commission on Bar Discipline of the Integrated Bar of the Philippines found that Atty. Atienza failed to inform Santos of the adverse decision of the Regional Trial Court. Even on appeal, he failed to submit the appeal brief which led to the dismissal of the appeal, thus:

Further, the respondent even failed to inform complainant of an adverse decision of the Regional Trial Court. This claim of the complainant is not disputed by the respondent. Complainant was only made aware of the adverse decision when respondent informed him that he already filed a Notice of [f] Appeal.

Indeed, respondent filed a Notice of Appeal. However, despite the extension given to him by the Court of Appeals to file his Appeal Brief,

³⁴ *Id.* at 198–199.

respondent failed to file the same which led to the dismissal of the appeal and execution of the decision of the Regional Trial Court.³⁵

In sum, the Commission on Bar Discipline of the Integrated Bar of the Philippines found that Atty. Atienza neglected to perform his sacred duty to the client, and consequently, committed serious breach of the Lawyer's Oath.³⁶ Thus, the Commission on Bar Discipline of the Integrated Bar of the Philippines recommended the penalty of one-year suspension from the practice of law.³⁷

In its Resolution,³⁸ the Board of Governors of the Integrated Bar of the Philippines adopted and approved the findings and recommendation of the Commission on Bar Discipline of the Integrated Bar of the Philippines, through Commissioner Andiano, and denied Atty. Atienza's motion for reconsideration³⁹ in its Resolution.⁴⁰

This Court adopts the foregoing recommendation of the Commission on Bar Discipline of the Integrated Bar of the Philippines, as approved by the Board of Governors of the Integrated Bar of the Philippines.

It is borne by the facts on record that Atty. Atienza was remiss in performing his duties as counsel. Canon 18 and Rule 18.03 of the Code of Professional Responsibility 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.

Thus, once a lawyer has agreed to handle a case, "he should undertake the task with dedication and care."⁴¹ Further, this responsibility continues until the proper withdrawal of the lawyer.⁴²

³⁵ *Id.* at 199.

³⁶ *Id.*

³⁷ *Id.* at 200.

³⁸ *Id.* at 189.

³⁹ *Id.* at 201-206.

⁴⁰ *Id.* at 216.

⁴¹ *Spouses Soriano v. Reyes*, 523 Phil. 1, 15 (2006) [Per J. Chico-Nazario, First Division].

⁴² *Spouses Vargas v. Oriño*, A.C. No. 8907, June 3, 2019 [Per J. Del Castillo, First Division] at 4. This pinpoint citation refers to the copy of this Resolution uploaded to the Supreme Court website, citing *Vda. De Enriquez v. San Jose*, 545 Phil. 379, 383-384 (2007) [Per J. Quisumbing, Second Division].

As found by the Commission on Bar Discipline of the Integrated Bar of the Philippines, Atty. Atienza failed to timely file an answer to the complaint, which led to defendants being declared in default. Further, Atty. Atienza failed to attend the hearing for the motion that he filed in response to the motion to declare defendants in default, which was belated at any rate as the defendants were already declared in default, leading to the denial thereof. Worse, after filing the notice of appeal without informing Santos beforehand, he failed to file the required appeal brief, ultimately leading to the dismissal of the appeal.

As to Atty. Atienza's defense wherein he told Santos that he would not be able to devote full attention to the case because he was occupied with activities for the 2010 elections, this Court has before said that attributing one's shortcomings as a lawyer to one's being a politician is "unacceptable, if not a display of insolence and arrogance."⁴³

The reasoning that he took the case because Santos was the spouse of his classmate, or that he never charged Santos any professional fees cannot also serve to erase or mitigate the liability present herein. In *Ramirez v. Buhayang-Margallo*,⁴⁴ this Court stated that once an attorney-client relationship is established, the same cannot be disregarded merely by reason that the lawyer was asked by an acquaintance, and that such relationship remains regardless of whether the case is for a fee or *pro bono*:

When an action or proceeding is initiated in our courts, lawyers become the eyes and ears of their clients. Lawyers are expected to prosecute or defend the interests of their clients without need for reminders. The privilege of the office of attorney grants them the ability to warrant to their client that they will manage the case as if it were their own. The relationship between an attorney and client is a sacred agency. *It cannot be disregarded on the flimsy excuse that the lawyer accepted the case only because he or she was asked by an acquaintance. The professional relationship remains the same regardless of the reasons for the acceptance by counsel and regardless of whether the case is highly paying or pro bono.*⁴⁵ (Emphasis supplied)

As to the appropriate penalty, We deem as appropriate and in line with prevailing jurisprudence the imposition of a one-year suspension against Atty. Atienza from the practice of law. In *Hipolito v. Atienza*,⁴⁶ this Court imposed a one-year suspension from the practice of law for failure to file several pleadings in court and failure to attend several hearings, which resulted in the client being declared in default, and also failing to submit the appeal brief in the eventual appeal leading to its dismissal. Likewise, in *Spouses Vargas*

⁴³ *Spouses Vargas v. Oriño*, *id.* at 5. This pinpoint citation refers to the copy of this Resolution uploaded to the Supreme Court website,

⁴⁴ 752 Phil. 473 (2015) [Per J. Leonen, *En Banc*].

⁴⁵ *Id.* at 475.

⁴⁶ A.C. No. 7359, June 19, 2017 [Notice of Resolution, Third Division].

v. Oriño,⁴⁷ this Court imposed a one-year suspension from the practice of law for failure to file several pleadings in court and failure to attend a hearing, which led to a judgment against the client and the subsequent failure to submit a pleading required in the appeal, leading to its dismissal. Moreover, this Court is mindful of the several cases involving violations of Canon 18 of the Code of Professional Responsibility, ultimately amounting to gross negligence, for failure to file pleadings or attend hearings, that were meted with the penalty of suspension for six months.⁴⁸ In view of the attending circumstances, we deem appropriate the suspension from the practice of law for one year.

FOR THESE REASONS, this Court resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendation of the Integrated Bar of the Philippines Investigating Commissioner in the Report and Recommendation dated October 2, 2019 in CBD Case No. 13-3881, which the Board of Governors of the Integrated Bar of the Philippines likewise adopted and approved in its Resolutions dated February 28, 2020 and August 14, 2021. Accordingly, respondent **ATTY. NOEL Y. ATIENZA** is found **GUILTY** of violation of Canon 18 and Rule 18.03 of the Code of Professional Responsibility and is hereby **SUSPENDED** from the practice of law for one (1) year with **STERN WARNING** that a repetition of similar acts shall be dealt with more severely.

Atty. Noel Y. Atienza, upon receipt of this Resolution, shall immediately serve his suspension. He shall formally manifest to this Court that his suspension has started, and copy furnish all courts and quasi-judicial bodies where he has entered his appearance, within five (5) days upon receipt of this Resolution. He shall also serve copies of his manifestation on all adverse parties in all the cases he has entered his formal appearance.

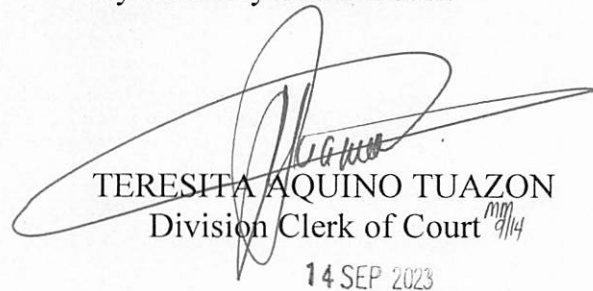
Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be attached to Atty. Atienza's personal record. Copies of this Resolution should also be served to the Integrated Bar of the Philippines for its proper disposition, and the Office of the Court Administrator for circulation to all courts in the country.

⁴⁷ A.C. No. 8907, June 3, 2019 [Per J. Del Castillo, First Division].

⁴⁸ See *Ramirez v. Buhayang-Margallo*, *supra* note, 44, 483-484, citing *Caranza Vda. De Saldivar v. Cabanes, Jr.*, 713 Phil. 530, 538 (2013) [Per J. Perlas-Bernabe, Second Division].

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court ^{mm} 9/14
14 SEP 2023

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***HON. RAUL B. VILLANUEVA (x)
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Supreme Court, Manila

*with copy of Report of Recommendations dated
October 2, 2019

**For this resolution only

***For Circularization to all Courts

Please notify the Court of any change in your address.
AC9431. 12/07/2022A(290)URES