



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **November 6, 2023** which reads as follows:*

“A.C. No. 13874 (CATHERINE ANNE L. CARBALLO AND GLENN JOHN CARBALLO, Complainants v. ATTY. MANUEL R. ARBON, Respondent). – The Court resolves the administrative complaint for violations of the Code of Professional Responsibility and the Lawyer’s Oath against Atty. Manuel R. Arbon (Atty. Arbon) for his failure to file a notice of appeal from the dispositions of the Regional Trial Court of Dumaguete City, Negros Oriental, Branch 33 in Civil Case No. 14859 against his clients, herein complainants Catherine Anne L. Carballo and Glenn John Carballo.

Antecedents

In their Complaint-Affidavit¹ dated June 2, 2017, Catherine Anne L. Carballo and Glenn John Carballo (complainants) essentially averred:

They were the defendants in a civil suit for annulment of sale in Civil Case No. 14859 before the Regional Trial Court of Dumaguete City, Negros Oriental, Branch 33 (trial court). Respondent was their counsel in the said case. On August 3, 2015, the trial court annulled the deed of absolute sale between them, on one hand, and Lilia Wolff and Robert L. Wolff, on the other; and declared void TCT 103-2013002032 in the name of complainant Glenn John Carballo. They filed a motion for reconsideration but the same was denied under Order² dated September 23, 2015.

Despite receipt thereof, however, Atty. Arbon did not file a notice of appeal, resulting in the finality of the Decision dated September 23, 2015 and the issuance of a writ of execution. Also, throughout the proceedings, he failed to update them about the case, including his failure to file a notice of appeal.³

¹ *Rollo*, pp. 3-6.

² *Id.* at 2.

³ *Id.* at 2-3.

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What he filed instead was a petition for certiorari under Rule 65, albeit he should have known that the same was not a substitute for lost appeal.⁴

In his answer-affidavit, Atty. Arbon riposted that since he could no longer get in touch with complainants, he consequently failed to file a notice of appeal.⁵ He instead opted to file a petition for certiorari based on his honest belief that the pronouncement of the presiding judge that he would deny the motion for reconsideration he filed smacked of grave abuse of discretion.⁶

Report and Recommendation of the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD)

In its Report and Recommendation dated June 21, 2022, the IBP-CBD dismissed the case for lack of merit. It held that respondent is not administratively liable for his honest mistake, more so, since the complainants even failed to prove their allegations.⁷

Report and Recommendation of the IBP Board of Governors

By Resolution dated July 9, 2022, the IBP Board of Governors reversed and recommended that the penalty of suspension from the practice of law for six (6) months be imposed on Atty. Arbon, *viz.*:

RESOLVED TO REVERSE AS IT IS HEREBY REVERSED, the Report and Recommendation of the Investigating Commissioner, and instead to recommend the imposition upon Respondent Atty. Manuel R. Arbon of the penalty of **SUSPENSION from the practice of law for SIX (6) MONTHS**; and

RESOLVED FURTHER, that the Commission on Bar Discipline prepare an Extended Resolution Explaining the recommendation of the Board of Governors in this case, which shall be appended to this resolution.⁸

Ruling

The Court resolves to adopt and approve the Resolution dated July 9, 2022 of the IBP Board of Governors. On this score, the provisions of the Code of Professional Responsibility and Accountability (CPRA) which took effect

⁴ *Id.* at 4.

⁵ *Id.* at 48.

⁶ *Id.*

⁷ *Id.* at 81-86.

⁸ *Id.* at 79-91.

on May 30, 2023 will be applied to the present case by virtue of Section 1, of the General Provisions of CPRA, *viz.*:

Section 1. *Transitory Provision.* — The CPRA shall be applied to all pending and future cases, except to the extent that in the opinion of the Supreme Court, its retroactive application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern.

First off, Atty. Arbon violated the following provisions of the Code of Professional Responsibility and Accountability (CPRA) when he did not apprise complainant of the status of their case, *viz.*:

**CANON IV
COMPETENCE AND DILIGENCE**

X X X X

SECTION 3. *Diligence and punctuality.* — A lawyer shall diligently and seasonably act on any legal matter entrusted by a client.

A lawyer shall be punctual in all appearances, submissions of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.

SECTION 4. *Diligence in all undertakings.* — A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.

A lawyer shall appear for trial adequately familiar with the law, the facts of the case, and the evidence to be presented. A lawyer shall also be ready with the object and documentary evidence, as well as the judicial affidavits of the witnesses, when required by the rules or the court.

X X X X

SECTION 6. *Duty to update the client.* — A lawyer shall regularly inform the client of the status and the result of the matter undertaken, and any action in connection thereto, and shall respond within a reasonable time to the client's request for information.

In *Katipunan, Jr. v. Carrera*,⁹ this Court cited similar instances where a lawyer's negligence was penalized when it resulted in the abandonment of the remedy to appeal, *viz.*:

In *Ramirez v. Buhayang Margallo*, Atty. Margallo erroneously assumed that complainant Ramirez was no longer interested to pursue the appeal, causing complainant to lose any chance to have the case reviewed by a higher court. Atty. Margallo failed to exhaust all possible means to protect Ramirez's interest, contrary to what she had sworn to do as a member of the legal profession. She was, therefore, held liable for violating Canon 18, Rules 18.03 and 18.04 of the CPR.

Similarly, in *Cabauatan v. Venida*, respondent Atty. Freddie A. Venida was suspended from the practice of law as he had been remiss in handling his client's case. Complainant made several follow-ups with respondent but the latter ignored her and made her believe that he was diligently handling her case. Complainant was surprised when she received notice from the Court of Appeals informing her that her appeal had been abandoned and her case, dismissed. For his failure to file an appeal, the dismissal lapsed into finality. The Court held that Atty. Freddie A. Venida violated Rule 18.04, Canon 18 of the CPR.

Lastly, in *Caranza Vda. de Saldivar v. Cabanes, Jr.*, Atty. Ramon SG Cabanes, Jr. neglected to inform his client about the Court of Appeals' ruling which he had duly received, thereby precluding his client from availing of any further remedies. The Court found him guilty of violating Rules 18.03 and 18.04 of Canon 18 of the CPR.

Here, Atty. Arbon neglected to file a notice of appeal from the ruling of the trial court against his clients. He failed to even inform them of the adverse ruling, in effect robbing them of the ability to even decide if they should further pursue the case on appeal. In this regard, we find no merit in Atty. Arbon's defense that he could not contact the complainants, hence, he was not able to file a notice of appeal. To begin with, Atty. Arbon's defense, "to the best of his recollection" is contradicted by his own admission that he was eventually able to communicate with complainants regarding the filing of the petition for certiorari.¹⁰ Clearly, contacting his clients was not beyond the capacity of Atty. Arbon and it was merely through his negligence that he was not able to timely communicate to them the deadline to file the notice of appeal.

In *Domingo v. Sacdalan*,¹¹ the Court emphasized that the failure of a lawyer to avail of the numerous and modern channels of communication to reach his client shows the lawyer's failure to comply with his duties, *viz.*:

⁹ 871 Phil. 169, 179-180 (2020) [Per J. Lazaro-Javier, First Division].

¹⁰ *Rollo*, pp. 48-49.

¹¹ 850 Phil. 553, 563-564 (2019) [Per Curiam, *En Banc*].

Verily, respondent cannot invoke the distance of the parties or the erratic internet service in failing to comply with his duty as a lawyer. If respondent was sincere in updating complainant with her case, then he should have availed of the numerous and modern channels of communication to reach his client, but he failed to do so. Hence, respondent violated Rule 18.04, which requires that a lawyer must regularly update his or her client regarding the status of his or her case.

As an officer of the court, it is the duty of an attorney to inform his client of whatever important information he may have acquired affecting his client's case. He should notify his client of any adverse decision to enable his client to decide whether to seek an appellate review thereof. Keeping the client informed of the developments of the case will minimize misunderstanding and loss of trust and confidence in the attorney. The lawyer should not leave the client in the dark on how the lawyer is defending the client's interests. In this connection, the lawyer must constantly keep in mind that his actions, omissions, or nonfeasance would be binding upon his client. Concomitantly, the lawyer is expected to be acquainted with the rudiments of law and legal procedure, and a client who deals with him has the right to expect not just a good amount of professional learning and competence but also a whole-hearted fealty to the client's cause.

Atty. Arbon readily admitted that he only updated his clients when the "opportunity presented" ¹² itself but failed to use any other modern communication channel to timely update his clients about the remedy of filing a notice of appeal. While he later on opted to use these communication channels to reach his clients, it was too late in the day since the period to file a notice of appeal already expired.

Second. To be sure, Atty. Arbon's personal decision to forego the ordinary remedy of appeal just because he allegedly lost touch with his clients in the meantime, albeit much later, he opted to file a petition for certiorari without at all consulting with his clients runs counter to Section 5, Canon IV of the CPRA, *viz.*:

CANON IV
COMPETENCE AND DILIGENCE

X X X X

SECTION 5. *Prompt and objective assessment of the merits.*

— A lawyer shall, after reasonable inquiry, promptly give an objective assessment of the merits and probable results of the client's case.

¹² *Rollo*, p. 50.

A lawyer shall explain the viable options to the client to enable an informed decision regarding the matter.

Indeed, Atty. Arbon’s inaction or inexcusable negligence under the circumstances incapacitated his clients from making an informed decision regarding their own case. Countless times, the Court has ruled that the extraordinary writ of certiorari is not a substitute for a lost appeal.¹³ Indeed, a client is entitled to the benefit of any and every remedy, and is expected to rely on the lawyer to assert every such remedy or defense. Thus, a lawyer is not in the position to rule on the merits of his or her complainant's case. Neither can a lawyer unilaterally decide whether to forego the very last remedy available to his or her client.¹⁴

As it was, Atty. Arbon attempted to substitute a petition for certiorari for the lost remedy of appeal based on his personal opinion that the manifestation of the judge of the Regional Trial Court amounted to grave abuse of discretion, a supposed ground for filing a petition for certiorari. Assuming this to be true, still Atty. Arbon was not excused from his duty of updating his clients about the case, presenting to them the available remedies, and letting them make the choice of the remedy they would have wanted to pursue.

Penalty

Atty. Arbon’s neglect of the legal matter entrusted to him by his clients constitutes inexcusable negligence for which he must be held administratively liable, viz:

**CANON VI
ACCOUNTABILITY**

Section 34. Less serious offenses — Less serious offenses include:

x x x x

- (b) Simple negligence in the performance of duty, or such negligence which does not result in depriving the client of his or her day in court;

x x x x

¹³ *Tan v. Court of Appeals*, 551 Phil. 741, 751-752 (2007) [Per J. Ynares-Santiago, Third Division].
¹⁴ *Katipunan, Jr. v. Carrera*, supra note 9.

Section 37. Sanctions —

x x x x

- (b) If the respondent is found guilty of a less serious offense, any of the following sanctions, or a combination thereof shall be imposed:
- (1) Suspension from the practice of law for a period within the range of one (1) month to six (6) months, or revocation of notarial commission and disqualification as notary public for less than two (2) years; x x x

Atty. Arbon committed simple negligence which did not result in depriving the client of his or her day in court as the merits of the case were properly ventilated in the Regional Trial Court albeit their right to appeal got lost.¹⁵

In *Figueras v. Jimenez*,¹⁶ Atty. Diosdado B. Jimenez had been remiss in the performance of his duties as counsel for failure to timely file appellant's brief causing the dismissal of the appeal. For his negligence, he was found administratively liable and suspended from the practice of law for one (1) month. The same penalty for the lawyer's similar neglect to file a notice of appeal was imposed in *Toquib v. Tomol, Jr.*¹⁷ and *Katipunan, Jr. v. Carrera*¹⁸ cited and adopted in *Calisay v. Esplana*.¹⁹

Here, we likewise deem it proper to impose a one (1) month suspension on Atty. Arbon for his neglect to inform his clients of the developments in their case and for losing their right to file a notice of appeal.

FOR THESE REASONS, Atty. Manuel R. Arbon is found LIABLE for violating Canon IV Section 3, Section 4, Section 5, and Section 6 of the Code of Professional Responsibility and Accountability. He is **SUSPENDED** from the practice of law for one (1) month with a **STERN WARNING** that a repetition of the same or any similar act shall be dealt with more severely.

The suspension from the practice of law shall take effect immediately upon receipt of this Resolution. Atty. Manuel R. Arbon is directed to immediately file a Manifestation to the Court that his suspension has started

¹⁵ *Bagaporo v. People*, 846 Phil. 302, 311 (2019) [Per J. J. Reyes, Jr., Second Division].

¹⁶ 729 Phil. 101, 108 (2014) [Per J. Villarama, Jr., First Division].

¹⁷ 136 Phil. 1 (1969) [Per J. Sanchez, *En Banc*].

¹⁸ *Supra* note 14.

¹⁹ A.C. No. 10709, August 23, 2022 [Per J. Gaerlan, Third Division].

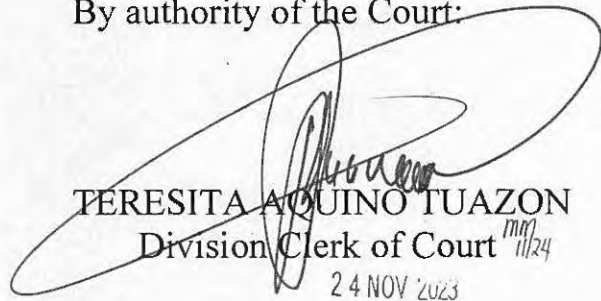
stating the exact date of receipt of this Resolution, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let a copy of this Resolution be furnished the Office of the Bar Confidant to be appended to Atty. Manuel R. Arbon's personal record as an attorney, the Integrated Bar of the Philippines for its information and guidance, and the Office of the Court Administrator for circulation to all the courts.

After completing his one (1) month suspension, Atty. Manuel R. Arbon shall file with the Office of the Bar Confidant a Sworn Statement pursuant to Section 45 of the Code of Professional Responsibility and Accountability.

SO ORDERED.” (SAJ Leonen, on official business)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court ^{11/24}
24 NOV 2023

CATHERINE ANNE L. CARBALLO (reg)
GLENN JOHN CARBALLO (reg)
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