



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

AURORA H. CABAUTAN,
Complainant,

A.C. No. 10043

Present:

- versus -

CARPIO, *Chairperson,*
 BRION,
 DEL CASTILLO,
 PEREZ, *and*
 PERLAS-BERNABE, *JJ.*

ATTY. FREDDIE A. VENIDA,
Respondent.

Promulgated:

NOV 20 2013 *AW Cabautan*

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RESOLUTION

DEL CASTILLO, J.:

The Integrated Bar of the Philippines (IBP) thru its Commission on Bar Discipline (CBD) received a Complaint¹ filed by Aurora H. Cabautan (complainant) against respondent Atty. Freddie A. Venida for serious misconduct and gross neglect of duty. In an Order² dated June 14, 2007, the IBP-CBD directed respondent to file his Answer within 15 days from receipt. Respondent failed to file his Answer. On May 29, 2008, the Investigating Commissioner³ notified the parties of the mandatory conference scheduled on July 10, 2008.⁴ The parties were likewise directed to submit their Mandatory Conference Brief at least three days before the scheduled conference. Only the complainant submitted her brief.⁵ During the mandatory conference set on July 10, 2008, complainant who was already 78 years old appeared. Respondent failed to appear.⁶ Consequently,

¹ Rollo, pp. 2-5.
² Id. at 21.
³ Investigating Commissioner Ma. Editha A. Go-Biñas.
⁴ Rollo, p. 51.
⁵ Id. at 54-56.
⁶ Id. at 57.

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the Investigating Commissioner reset the mandatory conference to September 18, 2008.⁷

On September 18, 2008, respondent again failed to appear despite notice thus he was deemed to have waived his right to be present and to submit evidence in his behalf. Only the complainant was present and complied with the directive to submit her Position Paper together with the documents that would support her case.⁸

The facts of the case as incorporated in the Report and Recommendation⁹ of the Investigating Commissioner are as follows:

This is a Disbarment case filed by Complainant against Respondent for gross, reckless and inexcusable negligence. Complainant alleged that she was the appellant in CA-G.R. [No.] 85024 entitled Aurora Cabauatan, Plaintiff-Appellant vs. Philippine National Bank, Defendant-Appellee. The case was originally handled by a different lawyer but she decided to change her counsel and engaged the services of the Respondent x x x. Complainant was then furnished by the Respondent of the pleadings he prepared, such as “Appearance as Counsel/Dismissal of the Previous Counsel and a Motion for Extension of time to File a Memorandum.”

Complainant made several follow-ups on her case until she lost contact with the Respondent.

Complainant alleged the gross, reckless and inexcusable negligence of the Respondent [which she] was able to prove with the Entry of Judgment (attached as Annex “C” of her Position Paper, and as Annex “D” of her Complaint) issued by the Honorable Court of Appeals quoted hereunder.

“x x x

This is to certify that on March 31, 2006 a resolution rendered in the above-entitled case was filed in this Office, the dispositive portion of which reads as follows:

WHEREFORE, the appeal in this case is deemed ABANDONED and DISMISSED on authority of Sec. 1(e), Rule 50 of the 1996 Rules of Civil Procedure.

SO ORDERED.

⁷ Id.

⁸ Id. at 59.

⁹ Id. at 91-94.

and that the same has on April 23, 2006 become final and executor[y] and is hereby recorded in the Book of Entries of Judgments. x x x”

From the order itself, it is obvious that Respondent did not submit any pleading with the Court of Appeals. It is likewise very noticeable that the Respondent was not among those furnished with a copy of the Entry of Judgment hence it is crystal clear that he never submitted his Entry of Appearance with the Court of Appeals [insofar] as the case of [t]he Complainant is concerned.

When the Complainant was following up on the status of the case with him, Respondent assured the Complainant that he was doing his best in dealing with the case, nevertheless, later on Complainant lost contact with him.

The fact that the Entry of Judgment issued by the Court of Appeals that stated “x x x deemed ABANDONED and DISMISSED x x x,” including the fact that he was not one of the parties furnished with a copy of the Entry of Judgment proved the inaction and negligence of the Respondent.

Respondent did [furnish] Complainant x x x a copy of “Appearance as Counsel/Dismissal of the Previous Counsel and a Motion for Extension of time to File a Memorandum,” however, no further actions were [made] by the Respondent to protect [the] rights and interest of his client.¹⁰

Based on the foregoing narration of facts, the Investigating Commissioner found that respondent has not been diligent and competent in handling the case of the complainant when he failed to file the necessary pleading before the court resulting in its outright dismissal. The respondent also disregarded the orders of the IBP when he failed to file his Answer, to attend the mandatory conference, and to file his Position Paper despite receipt of the corresponding notices.¹¹ The Investigating Commissioner thus recommended that respondent be suspended from the practice of law for one year.¹²

In Resolution No. XX-2012-510¹³ dated December 14, 2012, the IBP Board of Governors adopted and approved the Investigating Commissioner's Report and Recommendation.

Our Ruling

We adopt the findings and recommendation of the IBP.

¹⁰ Id. at 91-92.

¹¹ Id. at 93.

¹² Id. at 94.

¹³ Id. at 90.

The Code of Professional Responsibility pertinently provides:

Canon 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed on him.

Canon 18 – A lawyer shall serve his client with competence and diligence.

x x x x

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

Rule 18.04 – A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

It is beyond dispute that complainant engaged the services of respondent to handle her case which was then on appeal before the Court of Appeals. However, respondent merely showed to complainant the draft of the pleading “Appearance as Counsel/Dismissal of the Previous Counsel and a Motion for Extension of time to File a Memorandum” but failed to file the same before the appellate court. Plainly, respondent had been remiss and negligent in handling the case of his client; he neglected the legal matter entrusted to him by the complainant and he is liable therefor.

Indeed, when a lawyer takes a client's cause, he covenants that he will exercise due diligence in protecting the latter's rights. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed on him by his client and makes him answerable not just to his client but also to the legal profession, the courts and society. x x x¹⁴

Complainant also established that she made several follow-ups with the respondent but the latter merely ignored her or made her believe that he was diligently handling her case. Thus, complainant was surprised when she received a notice from the Court of Appeals informing her that her appeal had been abandoned and her case dismissed. The dismissal had become final and executory. This is a clear violation of Rule 18.04, Canon 18 of the Code of Professional Responsibility which enjoins lawyers to keep their clients informed of the status of their case and shall respond within a reasonable time to the clients' request for information.

¹⁴ *Del Mundo v. Capistrano*, A.C. No. 6903, April 16, 2012, 669 SCRA 462, 468. See also *Vda. de Enriquez v. Atty. San Jose*, 545 Phil. 379, 383 (2007).

In addition, we concur with the findings of the IBP that respondent is guilty of disregarding its notices and orders. Respondent did not heed the IBP's Order to file his Answer. He also disregarded the IBP's directives for him to attend the mandatory conference. Moreover, he did not submit his Position Paper despite receipt of notice. Respondent's refusal to obey the orders of the IBP "is not only irresponsible, but also constitutes utter disrespect for the judiciary and his fellow lawyers. His conduct is unbecoming of a lawyer, for lawyers are particularly called upon to obey court orders and processes and are expected to stand foremost in complying with court directives being themselves officers of the court."¹⁵ Respondent should be reminded that -

As an officer of the court, [he] is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP as the investigating arm of the Court in administrative cases against lawyers.

Respondent should strive harder to live up to his duties of observing and maintaining the respect due to the courts, respect for law and for legal processes, and of upholding the integrity and dignity of the legal profession in order to perform his responsibilities as a lawyer effectively.¹⁶

WHEREFORE, respondent Atty. Freddie A. Venida is **SUSPENDED** from the practice of law for one year¹⁷ effective immediately, with **WARNING** that a similar violation will be dealt with more severely. He is **DIRECTED** to report to this Court the date of his receipt of this Resolution to enable this Court to determine when his suspension shall take effect.

Let a copy of this Resolution be entered in the personal records of respondent 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.


MARIANO C. DEL CASTILLO
Associate Justice

¹⁵ *Sibulo v. Ilagan*, 486 Phil. 197, 233-204.

¹⁶ *Id.* at 204.

¹⁷ *Del Mundo v. Capistrano*, supra note 14; *Fernandez v. Cabrera II*, 463 Phil. 352, 358 (2003).

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



ARTURO D. BRION

Associate Justice



JOSE PORTUGAL PEREZ

Associate Justice



ESTELA M. PERLAS-BERNABE

Associate Justice

