



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 9, 2020** which reads as follows:*

“A.C. No. 12886 (*Nenita Marilao v. Atty. Zosimo Bedrijo Argawanon*). – This administrative case stemmed from a Complaint for Disbarment<sup>1</sup> filed by Nenita F. Marilao (complainant) against Atty. Zosimo Bedrijo Argawanon (respondent) for his gross negligence and irresponsible inaction in handling their case in violation of several Canons in the Code of Professional Responsibility, particularly: Canons 1, 7, 8, 10, 11 and 12 and Rules 1.01, 1.02, 1.03, 7.03, 10.01, 10.02 and 12.04.<sup>2</sup>

According to complaint, respondent was engaged by complainant as their counsel in an unlawful detainer case in S.C.A. Case No. 026-PN pending before the Municipal Trial Court (MTC) of Palompon, Leyte. On December 10, 2012, MTC issued a Decision against complainant and the other defendants of the case. As a result, they filed an appeal before the Regional Trial Court (RTC) of Palompon, Leyte.<sup>3</sup>

On April 29, 2013, respondent and the counsel of the opposing party were directed by the RTC to file their respective appeal memorandum within 15 days from receipt of the order. Based from the records, respondent received the said order on May 30, 2013 as evidenced by a registry return receipt.<sup>4</sup>

However, respondent failed to comply with the RTC’s order. Thus, on February 5, 2014, the RTC issued another Order dismissing the appeal pursuant to Section 7(b) of Rule 40 of the Rules of Court

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<sup>1</sup> *Rollo*, pp. 2-7.  
<sup>2</sup> *Id.* at 4-5.  
<sup>3</sup> *Id.* at 2-3.  
<sup>4</sup> *Id.* at 3.



for failure of the appellant to file a memorandum. Consequently, the adverse decision of the MTC became final and executory.<sup>5</sup>

On October 5, 2016, the MTC issued a Special Order of Demolition<sup>6</sup> against complainant and the other defendants of the case pursuant to its Decision dated December 10, 2012, which granted the unlawful detainer case in favor of the opposing party. Thus, complainant and the other defendants of the case were evicted from their respective homes, to their detriment and damage.<sup>7</sup>

Complainant contends that it was through the gross negligence and irresponsible non-performance of respondent that caused the dismissal of their appeal. By reason of his gross negligence, complainant and the other defendants of the case were evicted.<sup>8</sup>

In a Memorandum<sup>9</sup> dated April 5, 2017 the Integrated Bar of the Philippines (IBP) endorsed the Complaint to its Committee on Bar Discipline (CBD) for investigation, report and recommendation.<sup>10</sup>

In an Order<sup>11</sup> dated March 26, 2018, the Director for Bar Discipline directed respondent to submit his Answer to the Complaint within 15 days from the receipt thereof.<sup>12</sup>

Respondent requested for motion for extension of time to file his Answer twice.<sup>13</sup> Thus, it was only on August 14, 2018 that he was able to file his Answer.<sup>14</sup> In his Answer, respondent averred that it was not his intention to not comply with the RTC Order dated April 29, 2013 requiring the parties to submit their respective appeal memorandum. He explained that the failure to submit was due to the fault of his nephew who immediately placed the RTC Order inside the case folder thereby, disabling him to know that they have received the same.<sup>15</sup>

A mandatory conference was first held on June 23, 2018 but it was reset to August 13, 2018.<sup>16</sup> However, due to the failure of the

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<sup>5</sup> Id.  
<sup>6</sup> Id. at 11-15.  
<sup>7</sup> Id. at 3.  
<sup>8</sup> Id. at 3-4.  
<sup>9</sup> Id. at 18.  
<sup>10</sup> Id.  
<sup>11</sup> Id. at 19.  
<sup>12</sup> Id.  
<sup>13</sup> Id. at 23, 37.  
<sup>14</sup> Id. at 41-42.  
<sup>15</sup> Id. at 41.  
<sup>16</sup> Id. at 36.

complainant to appear, the mandatory conference was terminated and the parties were directed to submit their respective position papers.<sup>17</sup> Only complainant submitted her position paper on September 18, 2018.<sup>18</sup>

### **The Report and Recommendation of the IBP-CBD**

In his Report and Recommendation,<sup>19</sup> Investigating Commissioner Jose Villanueva Cabrera found that respondent is guilty of inexcusable negligence in handling the appeal of complainant before the RTC.<sup>20</sup>

The Investigating Commissioner found that respondent's defense is weak and flimsy to overcome the evidence presented by complainant. Respondent did not dispute that he failed to file the appeal memorandum before the RTC. He averred that he did not intend to ignore the Order of the RTC but his failure to file the appeal memorandum was due to the fact that his nephew failed to inform him of the receipt of the aforementioned Order of the RTC.<sup>21</sup>

The Investigating Commissioner ruled that shifting the blame for respondent's inexcusable neglect to his nephew cannot be given credence. He took note of the fact that respondent did not file any motion for extension to file the appeal memorandum. In fact, respondent did not file any pleading to contest the dismissal of the appeal and let nine months lapse until the complainant's received the Special Order of Demolition from the MTC. Such act constituted abandonment of his client's case in violation of Canon 18 and Rules 18.03 and 18.04 of the Code of Professional Responsibility.<sup>22</sup>

Citing similar administrative rulings of the Court, the Investigating Commissioner recommended that respondent be found administratively liable for his inexcusable neglect and be suspended for six months with a stern warning that similar infractions in the future shall be dealt with more severely.<sup>23</sup>

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<sup>17</sup> Id. at 48.

<sup>18</sup> Id. at 49-53.

<sup>19</sup> Id. at 61-72.

<sup>20</sup> Id. at 71.

<sup>21</sup> Id. at 69.

<sup>22</sup> Id.

<sup>23</sup> Id. at 71.

In a Resolution<sup>24</sup> dated June 18, 2019, the IBP Board of Governors resolved to adopt and approve the findings of fact of the Investigating Commissioner to impose upon respondent the penalty of suspension for six months from the practice of law with a stern warning that a similar infraction shall be dealt with more severely.<sup>25</sup>

### **Ruling of the Court**

After a review of the records of the case, the Court adopts the findings and recommendation of the IBP Board of Governors.

The Court finds respondent guilty of violating not only Canon 18 and Rules 18.03 and 18.04, but also of Canons 17 and 19 of the Code of Professional Responsibility, which provide:

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

CANON 19 – A lawyer shall represent his client with zeal within the bounds of the law.

Respondent does not dispute that he was engaged as counsel by the complainant in the unlawful detainer case before MTC of Palompon, Leyte.<sup>26</sup> It is also not disputed that the above-mentioned case was decided against complainant and the other defendants and the same was appealed before the RTC. However, respondent, as counsel of complainant, failed to file the appeal memorandum required by the RTC thereby resulting to the dismissal of the appeal.<sup>27</sup>

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<sup>24</sup> Id. at 60.

<sup>25</sup> Id.

<sup>26</sup> Id. at 41.

<sup>27</sup> Id. at 2-3.

Further, respondent has not filed anything to remedy the dismissal of the appeal, to the prejudice and detriment of complainant and the other defendants in the case. As a result thereof, the MTC decision attained finality for failure of the defendants to perfect an appeal and a Special Order of Demolition was later on issued by the MTC which resulted to the eviction of the complainant from their home.<sup>28</sup>

As duly noted by the Investigating Commissioner, nine months have lapsed from the dismissal of the appeal to the issuance of the Special Order of Demolition and no action has been done by respondent as counsel of complainant.<sup>29</sup> Such lack of action on the part of respondent is tantamount to gross and inexcusable negligence violative of the Canons and Rules under the Code of Professional Responsibility.

In a number of cases, the Court ruled that a lawyer's failure to file a mandatory pleading before the Court constitutes gross negligence which violates his duty to his clients. In the case of *In Re: Atty Briones*,<sup>30</sup> the counsel failed to submit the required brief within the reglementary period which resulted to the continued incarceration of the client. In *Mariveles v. Mallari*,<sup>31</sup> the lawyer, despite requesting for numerous extension of time, failed to file the Appellant's Brief to the prejudice of the client. In the case of *Figueras v. Jimenez*,<sup>32</sup> the counsel likewise failed to file the client's Appellant's Brief with note from the Court of Appeals that the motion for extension of time to file the brief was filed 95 days late from the time that it should have been filed. In the case of *Ramirez v. Buhayang-Margallo*,<sup>33</sup> the lawyer failed to file the Appellant's Brief which resulted to the dismissal of the appeal of his client. More similar to the case at hand is the case of *Enriquez v. Lavadia* wherein the counsel, Atty. Lavadia, failed to file the appeal memorandum after more than 71 days from the reglementary period.

As held in *Solidon v. Macalalad*:

All these rulings drive home to the fiduciary nature of a lawyer's duty to his client once an engagement for legal services is accepted. A lawyer

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<sup>28</sup> Id. at 3.

<sup>29</sup> Id. at 69.

<sup>30</sup> 415 Phil. 203 (2001).

<sup>31</sup> AM. No. 3294, February 1993.

<sup>32</sup> 729 Phil. 101 (2014).

<sup>33</sup> 752 Phil 473 (2015).

so engaged to represent a client bears the responsibility of protecting the latter's interest with utmost diligence. The lawyer bears the duty to serve his client with competence and diligence, and to exert his best efforts to protect, within the bounds of the law, the interest of his or her client. Accordingly, competence, not only in the knowledge of law, but also in the management of the cases by giving these cases appropriate attention and due preparation, is expected from a lawyer.<sup>34</sup>

As culled from the records, respondent failed to comply with the fiduciary duty expected of him by his client. His failure to file the appeal memorandum which resulted to the dismissal of the appeal is tantamount to gross negligence. His inaction for nine (9) months from the dismissal of the appeal to the issuance of the Special Order of Demolition constitutes abandonment of his client's cause. Complainant, along with the other defendants of the case, was evicted from their home because of the adverse ruling they received from the MTC. Complainant was not able to fully litigate the merits of their case because of a technical procedure resulting to the dismissal of their appeal.

Respondent must remember that the relationship between an attorney and his client is one imbued with utmost trust and confidence. In this light, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. Verily, a lawyer is expected to maintain at all times a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether he accepts it for a fee or for free.<sup>35</sup>

Furthermore, respondent is duty bound to uphold and safeguard the interests of his clients. As the counsel of the complainant and the other defendants of the case, respondent is expected to monitor the progress of said complainant's case and is obligated to exert all efforts to present every remedy or defense authorized by law to protect the cause espoused by them. Regrettably, respondent failed to fulfill all these duties expected of him.

As to the proper penalty, the Court affirms the penalty of suspension from the practice of law for six months imposed by the IBP Board of Governors. Several cases show that lawyers who have

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<sup>34</sup> *Solidon v. Macalalad*, A.C. No. 8158, February 24, 2010.

<sup>35</sup> *Ramirez v. Buhayang-Margallo*, A.C. No. 10537, February 3, 2015.

been held liable for gross negligence for infractions similar to those of respondent were suspended for a period of six months.

In *Heirs of Ballesteros, Sr. v. Apiag*,<sup>36</sup> a lawyer who did not file a pre-trial brief and was absent during the pre-trial conference was likewise suspended for six months. In *Abiero v. Juanino*,<sup>37</sup> a lawyer who neglected a legal matter entrusted to him by his client in breach of Canons 17 and 18 of the Code was also suspended for six months. In *Aranda v. Elayda*,<sup>38</sup> a lawyer who failed to appear at the scheduled hearing despite due notice which resulted in the submission of the case for decision was found guilty of gross negligence and hence, suspended for six months. In *Hernandez v. Padilla*,<sup>39</sup> a lawyer who failed to file the proper pleading and comment to the Motion to Dismiss was found negligent and thus, suspended for six months. Lastly, in *Sps. Warriner v. Dublin*,<sup>40</sup> a lawyer who deliberately failed to submit the formal offer of evidence which resulted to the dismissal of the case of his client and for disobeying and disregarding the directives of the IBP and the Court was suspended for six months.

Thus, consistent with existing jurisprudence, the Court finds it proper to impose the same penalty against respondent and accordingly suspends him for a period of six months.

**WHEREFORE**, premises considered, the Resolution dated June 18, 2019 of the IBP Board of Governors approving and adopting the Report and Recommendation of the Investigating Commissioner is hereby **AFFIRMED**. Accordingly, respondent Atty. Zosimo Bedrijo Argawanon is hereby **SUSPENDED** from the practice of law for a period of **SIX (6) MONTHS** with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

Let a copy of this Resolution be attached to respondent Atty. Zosimo Bedrijo Argawanon's personal record with the Office of the Bar Confidant and be furnished to all chapters of the Integrated Bar of the Philippines and to all the courts in the country for their information and guidance.

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<sup>36</sup> 508 Phil 113 (2005).  
<sup>37</sup> 492 Phil. 149 (2005).  
<sup>38</sup> 653 Phil. 1 (2010).  
<sup>39</sup> 688 Phil. 329 (2012).  
<sup>40</sup> 721 Phil. 277 (2013).

**SO ORDERED.”**

**By authority of the Court:**

**LIBRADA C. BUENA**  
Division Clerk of Court *m 2/18*

by:

*m 2/18*  
**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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(For circulation of the Resolution to all  
chapters of the IBP)

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