

THIRD DIVISION

[**A.C. NO. 6597, September 23, 2005**]

EDUARDO M. DIZON, COMPLAINANT, VS. ATTY. FRANCISCO S. LAURENTE, RESPONDENT.

D E C I S I O N

GARCIA, J.:

This administrative matter stemmed from a sworn affidavit-complaint^[1] filed by complainant **Eduardo M. Dizon** with the Commission on Bar Discipline, Integrated Bar of the Philippines (IBP), charging respondent **Atty. Francisco S. Laurente** with violation of Canons 15, 17 and 18 of the Code of Professional Responsibility.

Complainant alleged that he engaged the services of respondent to handle his three (3) cases pending with the following courts or office, to wit:

<u>Case Title</u>	<u>Pending Before</u>
1) Dizon vs. Hon. Regional Trial Court of Quezon City, et al.,	Court of Appeals (CA-G.R. SP-66087)
2) People vs. Dizon	MTC of Quezon City, Branch 43 (Crim. Case No. 44625)
3) Dizon vs. Province of Cebu, et al.,	Construction Industry Arbitration Commission (CIAC Case No 15-1999)

Elaborating, complainant averred that he retained respondent's services to handle the cited cases due to the death of his former counsel and because he will be proceeding and staying in the United States for medical reasons. According to complainant, he and respondent agreed to communicate with each other on a regular basis by whatever means available to keep him abreast of the status of the above-mentioned cases.

Particularly referring to CA-G.R. No. SP-66087, complainant states that in a *Resolution*^[2] dated October 1, 2001, the Former Seventh Division of the Court of Appeals dismissed the petition for certiorari interposed by respondent on the ground that such remedy was "*wrong*" or "*inappropriate*". Though a notice of resolution^[3] was sent to and received by respondent on October 10, 2001, as evidenced by the Registry Return Receipt,^[4] respondent did not move for reconsideration of the resolution nor took steps to protect his client's rights and interests. As a consequence, the resolution of the Court of Appeals became final and executory on

October 26, 2001, as evidenced by an *Entry of Judgment made thereon*.^[5] Consequently, the Metropolitan Trial Court of Manila from whence the case originated issued in favor of Switch Borrow Corporation a *Writ of Possession*^[6] over complainant's and his family's condominium unit at Gardenville, Sta. Mesa Manila, where they were eventually evicted.

All the while, so complainant alleged, he was unaware, being in the USA, of the dismissal action taken in CA-G.R. No. SP-66087. According to him, before returning to the Philippines on May 13, 2003, he placed overseas call to respondent to inquire about this case, only to be told by the latter that he had not yet received any notice or decision relative thereto. In the light of this development, complainant averred that he just requested respondent to follow-up the case.

It was only upon his return to the country, complainant added, that he learned about the aforementioned adverse ruling of the Court of Appeals. Hence, he tried to communicate with respondent, but the latter avoided him and gave him a run-around. Thereafter, or more specifically on May 23, 2003, complainant addressed a letter^[7] to respondent demanding an explanation for what complainant regarded as respondent's "*gross and inexcusable negligence*" in handling said case.

Apropos CIAC Case No. 15-1999, complainant alleged that, upon his request, respondent agreed to answer a Land Bank of the Philippines letter addressed to Sheriff Rolando A. Cruz of the Regional Trial Court of Manila respecting his (complainant's) claim against the province of Cebu. In this regard, complainant pointed out, respondent asked him to pick up the draft letter-reply, but all his efforts proved in vain as the former did not even draft one. With respect to this case, complainant alleged paying respondent the total amount P12, 400.00 on top of the P5, 000.00 acceptance fee.

Relative to Criminal Case No. 44685, complainant made no specific declaration thereon in his affidavit- complaint.

In his answer, respondent alleges that, even before complainant solicited legal advice from him regarding the aforesaid pending cases, he had been filing letter-requests, comments and pleadings on his own. He claims that his arrangement with respondent was for him to provide legal advice and to file pleadings only if necessary. Respondent also contends that he never charged any acceptance fee.

With respect to Criminal Case No. 44685 wherein he alleged to have been replaced by a Public Attorney per order of the trial court, respondent states that the corresponding criminal complaint was tried *in absentia*. As regards the Land Bank letter adverted to in relation to CIAC Case No. 15-1999, respondent alleged, among other things, that Sheriff Rolando Cruz was the proper person to answer that letter, it being addressed to him.

Anent the allegations against him with regards to CA-G.R. SP-66087, respondent averred that "*there was already a judgment against complainant when [he] came into the picture*"; that even before the trial court allowed the Sheriff's Sale of complainant's condominium unit, complainant had already left for the USA without leaving a contact address; that when complainant's son visited him (respondent), he advised the son to join his mother in a case instituted to annul the Sheriff's sale;

and when complainant was finally able to contact him (respondent), it was already too late to remedy the situation. Thus, it was impractical, respondent continued, to pursue the case up to the Supreme Court or to have the Sheriff's Sale annulled.

The instant disciplinary case, docketed as CBD Case 03-1127, was thereafter assigned to IBP Investigating Commissioner Milagros V. San Juan for investigation, report and recommendation. Commissioner San Juan conducted a mandatory conference on February 19, 2004, after which she required the parties to submit their respective verified positions papers.

On May 5, 2004, Commissioner San Juan submitted her report^[8] to the IBP Commission on Bar Discipline finding respondent to have violated Rule 18.03 of Canon 18 of the Code of Professional Responsibility for committing an error in handling the appealed case of complainant. The Commissioner accordingly recommended that respondent be suspended from the practice of law for one (1) year with warning.

On July 30, 2004, the IBP Board of Governors passed and approved Resolution No. XVI-2004-370,^[9] adopting and approving Commissioner San Juan's report, but recommended that the penalty of one-year suspension from the practice of law be reduced to three (3) months, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for respondent's violation of Rule 18.03 of Canon 18 of the Code of Professional Responsibility which seriously prejudiced the interest of his client for filing an erroneous appeal from the decision of the Regional Trial Court in Civil Case No. Q-98-36056 and by his failure to take any action regarding the resolution of the Court of Appeals, consequently, the same became final and executory, Atty. Francisco S. Laurente is hereby **SUSPENDED** from the practice of law for three (3) months with a **Warning** that a similar offense in the future will be dealt with more severely."^[10] (Underscoring supplied).

which Resolution was transmitted to the Court via a covering letter dated September 1, 2004.

We agree with the resolution of the IBP Board of Governors.

Rule 18.03 of Canon 18 of the Code of Professional Responsibility provides as follows:

CANON 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE

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