EN BANC

[A.C. No. 7766, August 05, 2014]

JOSE ALLAN TAN, COMPLAINANT, VS. PEDRO S. DIAMANTE, RESPONDENT.

D E C I S I O N

PER CURIAM:

For the Court's resolution is an administrative Complaint[1] for disbarment dated February 1, 2008 filed by complainant Jose Allan Tan (complainant) against respondent Pedro S. Diamante (respondent), charging him of violating the Code of Professional Responsibility (CPR) and the lawyer's oath for fabricating and using a spurious court order, and for failing to keep his client informed of the status of the case.

The Facts

On April 2, 2003, complainant, claiming to be a recognized illegitimate son of the late Luis Tan, secured the services of respondent in order to pursue a case for partition of property against the heirs of the late spouses Luis and Natividad Valencia-Tan.[2] After accepting the engagement, respondent filed the corresponding complaint[3] before the Regional Trial Court of Bacolod City, Branch 46 (RTC), docketed as Civil Case No. 03-11947. The complaint was eventually dismissed by the RTC in an Order[4] dated July 25, 2007 for lack of cause of action and insufficiency of evidence.[5] While respondent was notified of such dismissal as early as August 14, 2007,[6] complainant learned of the same only on August 24, 2007 when he visited the former's office.[7] On such occasion, respondent allegedly asked for the amount of P10,000.00 for the payment of appeal fees and other costs, but since complainant could not produce the said amount at that time, respondent, instead, asked and was given the amount of P500.00 purportedly as payment of the reservation fee for the filing of a notice of appeal before the RTC.[8] On September 12, 2007, Tan handed the amount of P10,000.00 to respondent, who on even date, filed a notice of appeal[9] before the RTC.[10]

In an Order[11] dated September 18, 2007, the RTC dismissed complainant's appeal for having been filed beyond the reglementary period provided for by law. Respondent, however, did not disclose such fact and, instead, showed complainant an Order[12] dated November 9, 2007 purportedly issued by the RTC (November 9, 2007 Order) directing the submission of the results of a DNA testing to prove his filiation to the late Luis Tan, within 15 days from receipt of the notice. Considering the technical requirements for such kind of testing, complainant proceeded to the RTC and requested for an extension of the deadline for its submission. It was then that he discovered that the November 9, 2007 Order was spurious, as certified by

the RTC's Clerk of Court.[13] Complainant also found out that, contrary to the representations of respondent, his appeal had long been dismissed.[14] Aggrieved, he filed the instant administrative complaint for disbarment against respondent.

In his Comments/Compliance[15] dated September 4, 2009, respondent alleged that it was complainant's failure to timely produce the amount of P1,400.00 to pay for the appeal fees that resulted in the late filing of his appeal. According to him, he informed complainant of the lapse of the reglementary period to appeal, but the latter insisted in pursuing the same. He also claimed to have assisted complainant "not for money or malice" but being a desperate litigant, he was blamed for the court's unfavorable decision.[16]

The IBP's Report and Recommendation

In a Report and Recommendation[17] dated September 21, 2010, the Integrated Bar of the Philippines (IBP) Investigating Commissioner found respondent administratively liable, and accordingly recommended that the penalty of suspension for a period of one (1) year be meted out against him.[18]

The Investigating Commissioner found complainant's imputations against respondent to be well-founded, observing that instead of meeting complainant's allegations squarely, particularly, the issue of the non-disclosure of the dismissal of the partition case, respondent sidestepped and delved on arguments that hardly had an effect on the issues at hand.[19]

Moreover, the Investigating Commissioner did not find credence in respondent's accusation that the spurious November 9, 2007 Order originated from complainant, ratiocinating that it was respondent who was motivated to fabricate the same to cover up his lapses that brought about the dismissal of complainant's appeal and make it appear that there is still an available relief left for Tan.[20]

In a Resolution dated April 16, 2013, the IBP Board of Governors unanimously adopted and approved the aforesaid report and recommendation.[21]

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for violating the CPR.

The Court's Ruling

After a judicious perusal of the records, the Court concurs with the IBP's findings, subject to the modification of the recommended penalty to be imposed upon respondent.

Under Rule 18.04, Canon 18 of the CPR, it is the lawyer's duty to keep his client constantly updated on the developments of his case as it is crucial in maintaining the latter's confidence, to wit:

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

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

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.[22] 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.[23]

In the case at bar, records reveal that as of August 14, 2007, respondent already knew of the dismissal of complainant's partition case before the RTC. Despite this fact, he never bothered to inform complainant of such dismissal as the latter only knew of the same on August 24, 2007 when he visited the former's office. To add insult to injury, respondent was inexcusably negligent in filing complainant's appeal only on September 12, 2007, or way beyond the reglementary period therefor, thus resulting in its outright dismissal. Clearly, respondent failed to exercise such skill, care, and diligence as men of the legal profession commonly possess and exercise in such matters of professional employment.[24]

Worse, respondent attempted to conceal the dismissal of complainant's appeal by fabricating the November 9, 2007 Order which purportedly required a DNA testing to make it appear that complainant's appeal had been given due course, when in truth, the same had long been denied. In so doing, respondent engaged in an unlawful, dishonest, and deceitful conduct that caused undue prejudice and unnecessary expenses on the part of complainant. Accordingly, respondent clearly violated Rule 1.01, Canon 1 of the CPR, which provides:

CANON 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

As officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing,[25] failing in which whether in his personal or private capacity, he becomes unworthy to continue his practice of law.[26] A lawyer's inexcusable neglect to serve his client's interests with utmost diligence and competence as well as his engaging in unlawful,