

SECOND DIVISION

[A.C. No. 10043, November 20, 2013]

AURORA H. CABAUTAN, COMPLAINANT, VS. ATTY. FREDDIE A. VENIDA, RESPONDENT.

R E S O L U T I O N

DEL CASTILLO, J.:

The Integrated Bar of the Philippines (IBP) thru its Commission on Bar Discipline (CBD) received a Complaint^[1] filed by Aurora H. Cabauatan (complainant) against respondent Atty. Freddie A. Venida for serious misconduct and gross neglect of duty. In an Order^[2] 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 Commissioner^[3] 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, 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 Recommendation^[9] 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.

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]