

FIRST DIVISION

[A.C. NO. 5302, February 18, 2005]

MARCIAL L. ABIERO, COMPLAINANT, VS. ATTY. BERNARDO G. JUANINO, RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

A lawyer owes fidelity to the cause of his client at all times, mindful of the trust and confidence reposed in him. He must always serve with competence and diligence, and never neglect a legal matter entrusted to him. An attorney should endeavor to keep his client informed of the status of his case and respond within a reasonable time to the latter's request for information. Failure to comply with these abiding precepts of ethical conduct renders counsel liable for violating the canons of his profession.

On July 20, 2000, an administrative complaint^[1] was filed by Marcial L. Abiero charging respondent Atty. Bernardo G. Juanino with negligence in connection with a legal matter entrusted to him.

It appears that complainant engaged the services of respondent of the law firm P.C. Nolasco and Associates as counsel *de parte* in NLRC NCR OCW Case No. 00-12-00904-95.^[2] On January 29, 1998, Labor Arbiter Eduardo J. Carpio ruled in favor of complainant by ordering the respondents to pay complainant his unpaid wages and unpaid vacation leave pay, to refund his plane fare and to pay moral damages and attorney's fees.^[3]

On appeal, the National Labor Relations Commission reversed the arbiter's decision and dismissed the case for lack of basis.^[4]

For several times, complainant, either personally or through his designated agents, tried to follow up the status of the case. Each time, respondent would advise him to call on a later date at which time he may have some news of any development with the case.^[5]

Respondent filed with the Court of Appeals a motion for extension of time to file a petition for review and paid the corresponding docket fee.

When complainant verified with the Court of Appeals the status of the case, he found out that respondent never filed a Petition for Review of his labor case. Consequently, the NLRC decision became final and executory. Thus, complainant filed this administrative complaint against respondent.

On August 30, 2000, respondent was required to file his comment within 10 days

from notice.^[6] On September 25, 2000, respondent requested for additional time to file comment.^[7] Subsequently, respondent filed a series of motions for extension to file comment. On February 28, 2001, respondent was warned that no further extension shall be granted.^[8] Notwithstanding, and despite 11 extensions, respondent still failed to file his comment.

Consequently, on July 29, 2002, respondent was required to show cause why he should not be disciplinarily dealt with or held in contempt for failure to comply with our directives.^[9]

On September 2, 2002, respondent filed his *Compliance with Motion for Final Twelve (12) Day Extension With No Further Extension*.^[10]

Finally, on September 17, 2002, respondent filed his comment^[11] together with a *Motion to Admit Comment Filed One Day Late*.

In a Resolution dated October 21, 2002, respondent's Motion to Admit Comment Filed One Day Late was referred to the Integrated Bar of the Philippines for investigation, report and recommendation.^[12]

As summarized, respondent alleged by way of defense, the following:

(1) that complainant became respondent's client after respondent handled these cases for complainant's uncle Aniceto Encio and his family namely Criminal Case No. F-10088, POEA Case No. M-91-06-602, I.S. No. 93 E-17909 and POEA Case No. L-93-04-610; that respondent successfully handled these cases which led to the dismissal of the criminal case against Aniceto Encio and recovery of monetary awards in the other cases; (2) that NLRC NCR OCW Case No. 00-12-00904-95 was referred by Aniceto Encio to respondent for handling; that herein complainant and Aniceto Encio requested respondent not to charge them an acceptance fee for said case and instead offered to pay respondent 30% of any monetary award recovered in said case; ... that on appeal to the National Labor Relations Commission, the Decision of Labor Arbiter Carpio was reversed and NLRC OCW Case No. 00-12-00904-95 was dismissed by the NLRC for lack of merit; ... (4) that at the time respondent advanced the docket fees, complainant and respondent did not have any agreement that a Petition for Certiorari would be filed with the Court of Appeals; ... (5) that weeks later, when complainant reimbursed respondent for the docket fees he had advanced, respondent advised complainant and his uncle that respondent intended to appeal the Decision of the NLRC to the Court of Appeals and so he filed a Petition for Extension of Time to File Petition ...; (7) that there was an error in judgment on respondent's part when instead of filing a Petition for Certiorari as originally intended, respondent chose to pursue another course of action, that of entertaining the idea of filing a Motion for Execution to enforce the Labor Arbiter's Decision against the other respondents who did not appeal said Decision; (8) that respondent pleads good faith in the subsequent course of action taken; that respondent entertained the idea that he could enforce the original Decision through a Motion for Execution; ... (9) that respondent tried his

best to win complainant's labor case and in fact, he won it at the Labor Arbiter's level; (10) that respondent appeals to the sense of fairness of complainant; that in the 4 cases respondent handled for complainant and his uncle, respondent won 3 cases for them especially the criminal complaint for Homicide against complainant's uncle; that in said criminal case, respondent did not charge a single centavo for attorney's fees.^[13]

In his letter-reply filed on February 7, 2003, complainant averred the following statements originally in the vernacular:

... it is not true that there was no acceptance fee because complainant paid respondent the amount of P1,500 plus the amount of P500 per hearing but no receipts were issued for these payments; that there is no truth to respondent's allegation that complainant was in the province because complainant's uncle called respondent 3 times a week to follow-up the Petition for Review; that it was actually complainant who paid for the docket fees but respondent who physically paid the same to the Court of Appeals; and that respondent made several promises to complainant's uncle regarding the status of the Petition for Review but nothing came out of said promises.^[14]

The lone issue for resolution is whether respondent violated Canons 17 and 18 of the Code of Professional Responsibility.

In its Report and Recommendation, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP),^[15] held that there was no sufficient justification for respondent's failure to file the petition for review with the Court of Appeals. It found that respondent was aware of the period for filing said petition because he himself paid the docket fees and filed the *Motion for Extension of Time to File the Petition for Review*. His claim that he was pursuing another legal remedy in the labor case did not justify his failure to file the petition for review within the prescribed period. Complainant had placed his trust in respondent to handle his claims against his previous employer. Failure to comply with his legal duty as counsel of complainant in NLRC NCR OCW Case No. 00-12-00904-95 has caused damage and prejudice to the latter. Thus, in failing to file the petition for review, respondent was held to have breached Canons 17 and 18 of the Code of Professional Responsibility. The Commission on Bar Discipline of IBP recommended that respondent be suspended from the practice of law for a period of six (6) months.^[16]

The Board of Governors of the Integrated Bar of the Philippines, adopted the Report and Recommendation of the Investigating Commissioner, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering respondent's violation of Canons 17 & 18 of the Code of Professional Responsibility by failing to file the Petition for Certiorari, Atty. Bernardo G. Juanino is hereby SUSPENDED from the practice of law for six (6) months.^[17]