

THIRD DIVISION

[A.C. NO. 5525, March 04, 2005]

CONSOLIDATED FARMS, INC., ACTING THRU ITS PRESIDENT ANTONIO C. OPPEN, COMPLAINANT, VS. ATTY. CRISANTO E. ALPON, JR., RESPONDENT.

R E S O L U T I O N

GARCIA, J.:

Before the Court is this complaint for disbarment filed by complainant Consolidated Farms, Inc., thru its President Antonio C. Oppen, against respondent **Atty. Crisanto E. Alpon, Jr.** for gross negligence, incompetence, dereliction of duty and violation of his oath as counsel to protect the interest of his client.

Record reveals that complainant hired the services of respondent as counsel in its case before the Social Security Commission, docketed as **SSC Case No. 3-13961-93**, entitled "Agapita Padohinog vs. Margarita C. Vda. De Oppen et al. and the Social Security System".

Complainant alleged that respondent, as its counsel in said case, did not submit the position paper despite being required by the Social Security Commission, and that he likewise failed to attend the scheduled hearings of the case despite due notice. On account thereof, complainant was considered to have waived the right to present evidence and to cross examine those of the other party. As a consequence, the Social Security Commission, in its resolution dated February 7, 1996, held complainant liable in SSC Case No. 3-13961-93 and ordered it to remit to the Social Security System the amount of P27,117.09, representing the other party's claim for retirement benefits.

Complainant thus pray that respondent be disbarred; dismissed from the service as municipal judge of Castellana, Negros Occidental; and required to reimburse the amount of P27,117.09 it paid to the Social Security System.

In his COMMENT, respondent denied that he is the presiding judge of the Municipal Trial Court of La Castellana, Negros Occidental. He manifested willingness to reimburse complainant the amount of the judgment decreed in the February 7, 1996 resolution in SSC Case No. 3-1361-93.

Respondent explains that he stopped reporting to the *Octaviano, Pelayo and Associates Law Office* where he was previously connected as he was hounded by marital problems, adding that the notices issued by the Social Security Commission were not sent to him by the said law office. He asserts that he is not habitually negligent of his cases, albeit admitting that SSC Case No. 3-13961-93 was an oversight on his part. He also stresses that he did not represent any client before the courts except close friends and relatives on a *pro-bono* basis during the period

1995 to 1999. According to him, he limited his practice to being a consultant to local government leaders in the field of administration and development planning.

Upon verification with the Office of the Court Administrator, it was confirmed that respondent is not a municipal judge of Castellana, Negros Occidental, hence not a member of the Judiciary.

In a resolution dated March 10, 2003, the Court referred the case to the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. In time, the Commission designated Atty. Milagros V. San Juan as Investigating Commissioner.

On October 25, 2003, the IBP Board of Governors passed Resolution No. XVI-2003-229, adopting and approving the report and recommendation of the Investigating Commissioner, to wit:

*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 that respondent violated Rule 18.03, Canon 18 of the Code of Professional Responsibility, Atty. Crisanto E. Alpon, Jr. is hereby **SUSPENDED** from the practice of law for three (3) months with a stern **Warning** that a similar offense in the future will be dealt with more severely.*

We agree with the aforestated recommendation.

Records show that respondent admitted under oath the acts imputed against him and even offered to make amends by reimbursing the amount of P27,117.09 to the complainant.

In *People vs. Sevellano*,^[1] we ruled:

"Canon 18 of the Code of Professional Responsibility requires every lawyer to serve his client with utmost dedication, competence and diligence. He must not neglect a legal matter entrusted to him, and his negligence in this regard renders him administratively liable."

As complainant's counsel in SSC Case No. 3-13961-93, respondent is duty bound to monitor the progress of the case he is handling. He should have put himself on guard on all the processes issued by the hearing body relative thereto and should have, thus, anticipated a resolution thereof. So it is that in *Re: Vicente Y. Bayani*,^[2] we have made it clear that "[A] lawyer owes his client the exercise of utmost prudence and capability in that representation".

Respondent, through gross negligence and incompetence, failed to perform what is required of him. As it were, he fell short of the demands required of him as a lawyer and as a member of the bar. His offer to pay the amount of P27,117.09 would not exonerate him from liability.

This Court has always reminded the members of the legal profession that every case