

## FIRST DIVISION

[ A.C. No. 5092, August 11, 2004 ]

**LUCILA S. BARBUCO, COMPLAINANT, VS. ATTY. RAYMUNDO N. BELTRAN, RESPONDENT.**

### ***DECISION***

**YNARES-SATIAGO, J.:**

A lawyer shall serve his client with competence and diligence.<sup>[1]</sup> While a lawyer may decline to render services for a person for valid reasons, once he agrees to take up the cause of a client, he begins to owe fidelity to that cause and must always be mindful of the trust and confidence reposed in him. He must serve his client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care and devotion.<sup>[2]</sup>

On July 9, 1999, Lucila S. Barbuco filed a Sworn Complaint<sup>[3]</sup> against Atty. Raymundo N. Beltran for malpractice of law, negligence and dishonesty.

It appears that on March 31, 1998, complainant, through her son, Benito B. Sy, engaged the services of respondent for the purpose of filing an appeal before the Court of Appeals from the decision of the Regional Trial Court of Cavite, Branch 21, in the case entitled, "*Alexander Bermido, Plaintiff versus Lucila Barbuco, Defendant.*" On August 6, 1998, complainant, through Benito B. Sy, gave respondent the total sum of P3,500.00 for payment of the docket fees.

Complainant's appeal, docketed as CA-G.R. CV No. 58180, was dismissed by the Court of Appeals in a Resolution<sup>[4]</sup> dated September 25, 1998 for failure to file Appellant's Brief, pursuant to Rule 50, Section 1(e) of the 1997 Rules of Civil Procedure.

Complainant found out that her appeal had been dismissed only on June 4, 1999, when her son went to the Court of Appeals to verify the status of the case.

When asked to comment on the charges filed against him,<sup>[5]</sup> respondent Beltran averred that the docket fees were paid on time and that on September 22, 1998, he filed the Appellant's Brief<sup>[6]</sup> with the Court of Appeals. However, the appeal was dismissed. On October 19, 1998, respondent filed a motion for reconsideration,<sup>[7]</sup> on the ground that he received the notice to file brief on June 25, 1998; however, on June 26, 1998, he met a vehicular accident which physically incapacitated him for several days; and that as a result of the accident, he suffered head injuries which caused him to lose track of deadlines for the filing of pleadings.

On March 9, 1999, the Motion for Reconsideration was denied on the ground that the brief for defendant-appellant was filed forty-three (43) days late.<sup>[8]</sup>

On November 22, 1999, the complaint against respondent Beltran was referred to the Integrated Bar of the Philippines for investigation, report and recommendation.  
[9]

After hearing, Commissioner Rebecca Villanueva-Maala of the IBP Commission on Bar Discipline, submitted on October 6, 2003 her findings and recommendation that respondent Beltran be suspended from the practice of law for a period of five (5) years.

On October 25, 2003, the IBP Board of Governors passed Resolution No. XVI-2003-234 affirming the recommendation of Commissioner Villanueva-Maala but modified the recommended period of suspension from five (5) years to six (6) months only.

After a careful review of the records and evidence, we find no cogent reason to deviate from the findings and the recommendation of the IBP Board of Governors. Respondent's conduct relative to the belated filing of the Appellant's Brief falls below the standards exacted upon lawyers on dedication and commitment to their client's cause.

Rule 18.03 of the Code of Professional Responsibility for Lawyers states:

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

An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. Failure to file brief within the reglementary period certainly constitutes inexcusable negligence, more so if the delay of FORTY THREE (43) days resulted in the dismissal of the appeal.

The fact that respondent was involved in a vehicular accident and suffered physical injuries as a result thereof cannot serve to excuse him from filing his pleadings on time considering that he was a member of a law firm composed of not just one lawyer. This is shown by the receipt he issued to complainant and the pleadings which he signed for and on behalf of the Beltran, Beltran and Beltran Law Office. As such, respondent could have asked any of his partners in the law office to file the Appellant's Brief for him or, at least, to file a Motion for Extension of Time to file the said pleading.

In *B.R. Sebastian Enterprises, Inc. v. Court of Appeals*,<sup>[10]</sup> we ruled that the confusion in the office of the law firm following the death of one of its partners is not a valid justification for failing to file the brief. We further ruled in the said case that upon receipt of the notice to file the brief, the law firm should have re-assigned the case to another associate.

The failure to timely file a pleading is by itself inexcusable negligence on the part of respondent. Complainant's liability is further compounded by his failure to maintain an open line of communication with his client, in violation of the provisions of Rule 18.04, which reads:

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