

SECOND DIVISION

[A.C. No. 5558, March 07, 2002]

SPS. LOLITA AND ROMY GALEN, SPS. ENRIQUETA AND TOMAS RASDAS, AND SPS. ESPERANZA AND ERNESTO VILLA, COMPLAINANTS, VS. ATTY. ANTONIO B. PAGUIRIGAN, RESPONDENT.

DECISION

MENDOZA, J.:

This is a complaint for disbarment and damages filed by spouses Lolita and Romy Galen, spouses Enriqueta and Tomas Rasdas, and spouses Esperanza and Ernesto Villa against Atty. Antonio B. Paguirigan.

Complainants were the defendants in a civil case^[1] for recovery of a residential lot before the Regional Trial Court, Branch 16, Ilagan, Isabela, while respondent Paguirigan was their attorney thereto. On November 6, 1995, judgment was rendered in favor of complainants. Trusting in the able representation of respondent for their cause, complainants continued the services of respondent attorney when the plaintiff appealed the decision of the trial court to the Court of Appeals.

In October 1997, complainants were informed by a representative of respondent that the Court of Appeals had reversed the trial court's decision. Upon inquiry in the Court of Appeals, complainants learned that despite notice to him, respondent failed to file an appellees' brief in their behalf. When complainants confronted respondent, the latter assured them that he would seek a review of the decision of the Court of Appeals in this Court. For this reason, complainants gave him P10,000.00 for docket fees and other expenses.

On October 14, 1997, respondent filed a motion for extension of time to file a petition for review on certiorari, which this Court granted in its resolution dated November 19, 1997. On November 20, 1997, respondent filed the petition. However, it was denied for having been filed out of time, the due date being November 14, 1997. On April 16, 1999, complainants were surprised to receive a writ of execution issued by the trial court. It was only when they confronted respondent that they were told that their petition had been denied by this Court.

Hence, this complaint. It is alleged that because of respondent's gross negligence in failing to file an appellees' brief in the Court of Appeals and to file on time a petition for review before this Court, complainants lost not only their money but more importantly the lot where their family homes are built. Complainants pray that respondent be disbarred from the practice of law for violation of Canon 18 of the Code of Professional Responsibility and that he be ordered to pay damages to them.

Respondent alleges that he agreed to represent complainants in Civil Case No. 673

without remuneration, after their former counsel, Atty. Josephine Eduarte, had withdrawn from the case. He claimed he did his best to assist complainants and was in fact successful in obtaining from the trial court a favorable judgment for them. Confident that the trial court's decision would be affirmed, respondent said he did not find it necessary to file an appellees' brief, since the filing of the same, although required, is not mandatory as the entire records would be before the appellate court for review. Respondent points out that although the petition for review which he filed in this Court was denied for having been filed late for six days, the motion for reconsideration of the resolution denying the petition was denied on "a mere technicality."

On July 19, 2000, the Integrated Bar of the Philippines Commission on Bar Discipline, to which this case had been referred for investigation, submitted its report recommending that respondent be suspended from the practice of law for six months.^[2] Its report, as approved by the IBP Board of Governors in its resolution dated October 27, 2001, was indorsed to this Court for final approval pursuant to Rule 139-B, §12(b) of the Rules of Court.^[3]

On December 27, 2001, respondent filed a motion for reconsideration which is hereby treated as a petition for review. Respondent alleges that he failed to file the petition for review in this Court before November 14, 1997 because he thought that the 30-day extension which he sought would be reckoned from the time he would receive the resolution of this Court granting his motion, rather than from the expiration of the reglementary period for appeal. Respondent claims that he filed the petition for review on November 20, 1997 before he received the Court's resolution, dated November 19, 1997, granting his motion for extension. He claims that this Court granted his motion for extension belatedly, considering that the 30-day extension was to expire on November 14, 1997 but this Court acted on it only on November 19, 1997. As a token of his earnestness in representing his clients' cause, respondent claims that he filed a motion for reconsideration of this Court's resolution denying his petition for review and that when a motion for execution was filed by the plaintiff in the trial court, he opposed the motion. For these reasons, respondent prays that the complaint against him be dismissed for lack of merit.

After a review of the records of this case, the Court finds no basis for reversing the findings and recommendation of the IBP. Its recommendation is affirmed with the modification that, aside from the suspension for six (6) months, respondent Atty. Antonio B. Paguirigan should be ordered to reimburse to complainants the amount of P10,000.00.

Respondent was clearly negligent in the performance of his duties as complainants' counsel. He admits that he failed to file the appellees' brief. His excuse that he failed to do so because he was confident that the trial court's decision would be affirmed is flimsy. It shows the cavalier attitude which respondent took toward his clients' cause. While the failure to file the appellee's brief in a case is not a ground for an adverse ruling against the appellee, unlike the failure to file the appellant's brief which may result in the dismissal of an appeal, nonetheless, the importance of filing an appellee's brief cannot be gainsaid. As this Court has pointed out, "Upon appeal, the appellate court, not being in a position to hear firsthand the testimony of parties, can only place great reliance on the briefs and memoranda of the parties. The failure to submit these pleadings could very well be fatal to the cause of a