



Republic of the Philippines
Supreme Court
Manila

EN BANC

UNITED COCONUT PLANTERS
BANK,

Complainant,

A.C. No. 3951

Present:

CARPIO,*
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,**
CAGUIOA,
MARTIRES,
TIJAM,
REYES, JR. and
GISMUNDO, JJ.

- versus -

ATTY. LAURO G. NOEL,
Respondent.

Promulgated:

June 19, 2018

X ----- X

DECISION

GISMUNDO, J.:

Before the Court is a Petition¹ filed by United Coconut Planters Bank (*complainant*) seeking the disbarment and/or suspension of Atty. Lauro Noel (*respondent*) allegedly for violation of the Lawyer's Oath.

* Senior Associate Justice, per Section 12, R.A. 296, The Judiciary Act of 1948, as amended.

** No part.

¹ *Rollo*, pp. 1-5.

The Antecedents

On November 22, 1990, complainant retained the legal services of respondent in a case for injunction and damages with writ of preliminary injunction and prayer for temporary restraining order (*LMWD case*) filed by Leyte Metro Water District (*LMWD*) before the Regional Trial Court of Palo, Leyte.

On November 23, 1990, respondent, on behalf of complainant, attended the hearing in connection with the *LMWD* case. During the said hearing, respondent promised to file a comment on the application for preliminary injunction within ten (10) days. Respondent failed to file the promised comment.

Respondent also failed to file an answer to the complaint.

Thus, on December 7, 1991, *LMWD*'s counsel, Atty. Francisco P. Martinez, moved to declare complainant in default.

On February 15, 1991, the motion to declare complainant in default was granted and *LMWD* was subsequently allowed to present evidence *ex-parte*.

On November 15, 1991, the decision in the said case was served on complainant. It referred the said decision to respondent, who assured complainant's Branch Manager in Tacloban, Mr. Francisco Cupin, Jr., that he need not worry since respondent would take care of everything.

On January 1, 1992, a writ of execution was served on the manager of complainant's Tacloban Branch. Again, the writ of execution was referred by complainant's Branch Manager to respondent, who once again reassured him that everything was alright and that he would take care of it.

On February 5, 1992, the sheriff enforced the writ of execution. Complainant was forced to open Savings Account No. 11724 in the name of said sheriff to satisfy the judgment.

Hence, complainant filed herein complaint for disbarment against respondent on November 17, 1992.

Proceedings before this Court

On January 25, 1993, the Court issued a Resolution² requiring respondent to comment on the complaint for disbarment within ten (10) days from notice. Respondent failed to comply with said resolution.

On July 31, 1995, the Court issued another Resolution³ requiring respondent to show cause why he should not be disciplinarily dealt with or held in contempt for failing to file a comment within the required period. It reiterated its order for respondent to file a comment within ten (10) days from notice. Respondent again failed to comply with the resolution.

On August 5, 1996, the Court issued another Resolution⁴ imposing on respondent a fine of Five Hundred Pesos (₱500.00) payable within ten (10) days from receipt thereof or to suffer imprisonment of five (5) days if the fine was not paid within the prescribed period. The Court then reiterated its July 31, 1995 resolution requiring an explanation and his comment. Records show that respondent received the August 5, 1996 resolution on August 29, 1996. However, he still failed to comply therewith.

Thus, on February 23, 1998, the Court issued a Resolution⁵ increasing the fine to One Thousand Pesos (₱1,000.00) payable to the Court within ten (10) days from receipt and, again, required respondent to comply with the July 31, 1995 and August 5, 1996 resolutions. It warned respondent that failure on his part to pay the increased fine and to comply with the resolutions within the period given would compel the Court to order his immediate arrest and detention until he satisfactorily complied with the said resolutions. Respondent again failed to comply with the resolution.

On September 5, 2001, the Court issued a Resolution⁶ declaring respondent guilty of contempt of court and ordered his detention until he complies with the Court's January 25, 1993 resolution by filing the required comment and pays the fine of ₱1,000.00.

On September 5, 2001, the Court issued the Order of Arrest and Commitment.⁷ It commanded the Director of NBI to commit respondent in a detention cell until he complies with the January 25, 1993 resolution by

² Id. at 6.

³ Id. at 8.

⁴ Id. at 9.

⁵ Id. at 12-13.

⁶ Id. at 15.

⁷ Id. at 16-17.

submitting the required comment and remitting the increased fine of ₱1,000.00. It directed the NBI to make an immediate return of compliance therewith.

On November 5, 2001, the NBI filed a 1st Endorsement⁸ informing the Court that it served respondent the order of arrest and commitment on October 29, 2001 at about 9:30 a.m. Respondent was detained at the NBI Eastern Visayas Regional Office, Tacloban City. At about 12:00 a.m. of the same day, respondent was released from custody upon submission of the required comment and payment of fine *via* postal money order.

In his Comment⁹ dated October 29, 2001, respondent stated that he had not been furnished a copy of the administrative complaint filed against him for which reason he had not filed his comment. He also alleged that he was not furnished a copy of the resolution declaring him guilty of contempt and adjudging him liable for a fine. In compliance with the order declaring him in contempt, he attached a money order in the amount of ₱1,000.00 as payment for the fine imposed but with reservation to file his extended comment upon receipt of a copy of the administrative complaint filed against him.

On January 28, 2002, the Court issued a Resolution¹⁰ noting (1) the NBI 1st endorsement; (2) respondent's comment; and (3) Official Receipt No. 15925598 issued on November 29, 2001 by the Collecting Officer of the Court evidencing payment by respondent of the fine of ₱1,000.00. In the said resolution, the Court resolved to require (1) complainant to furnish respondent a copy of the administrative complaint and its annexes and to submit proof of such service within five (5) days from notice, and (2) for respondent to file his comment within ten (10) days from receipt thereof.

On March 21, 2002, complainant filed its Manifestation and Compliance.¹¹ It manifested that it served respondent a copy of the complaint for disbarment on March 20, 2002 as evidenced by Registry Receipt No. 68540 and LBC Official Receipt No. 1510779. This manifestation and compliance was noted by the Court in its May 22, 2002 Resolution.¹²

⁸ Id. at 26.

⁹ Id. at 21-22.

¹⁰ Id. at 34-35.

¹¹ Id. at 36-37.

¹² Id. at 41.

On December 7, 2005, the Court issued a Resolution¹³ stating that respondent still had yet to comply with the January 28, 2002 resolution requiring him to submit his comment despite service upon him of a copy of the complaint on March 21, 2002. Thus, it resolved to require respondent to show cause why he should not be disciplinarily dealt with or held in contempt for such failure and to comply with the January 28, 2002 resolution within ten (10) days from notice.

On December 15, 2010, the Court issued a Resolution¹⁴ noting that respondent still had yet to comply with the December 7, 2005 resolution. Thus, it again resolved to require respondent to show cause why he should not be disciplinarily dealt with or held in contempt for such failure and to comply with the December 7, 2005 resolution within ten (10) days from notice.

In a Report,¹⁵ dated February 17, 2012, the Office of the Bar Confidant informed the Court that respondent did not comply with the resolutions dated December 7, 2005 and December 15, 2010.

Thus, on July 11, 2012, the Court issued a Resolution¹⁶ resolving to (1) impose upon respondent a fine of ₱1,000.00 within ten (10) days from notice thereof or a penalty of imprisonment of five (5) days if the fine is not paid within the said period; and (2) require respondent to comply with the December 7, 2005 resolution by filing the comment within ten (10) days from notice hereof.

On September 19, 2012, respondent filed a Motion for Extension of Time to File Comment,¹⁷ praying that he be given an extension of twenty (20) days from September 20, 2012 to file his comment on the administrative complaint. He alleged in his motion that he was not able to file his comment because the files related to the administrative case had not yet been located in the records of the Regional Trial Court of Leyte.

On September 27, 2012, respondent filed a Compliance¹⁸ to the July 11, 2012 resolution of the Court. He attached a photocopy of Official Receipt No. 0057019-SC-EP, dated September 14, 2012, as proof that he had paid the fine imposed upon him in the July 11, 2012 resolution.

¹³ Id. at 42.

¹⁴ Id. at 44.

¹⁵ Id. at 45.

¹⁶ Id. at 47-48.

¹⁷ Id. at 52-53.

¹⁸ Id. at 49.

On November 19, 2012, the Court issued a Resolution¹⁹ (1) granting respondent's motion for an extension of twenty (20) days from September 20, 2012 within which to file a comment; and (2) noting and accepting his compliance with the July 11, 2012 resolution ordering him to pay a fine.

In the Report for Agenda,²⁰ dated August 3, 2015, the Office of the Bar Confidant informed the Court that respondent's extended period to file his comment expired on October 10, 2012 without his compliance therewith.

On August 19, 2015, the Court, in a Resolution²¹ resolved to (1) consider respondent's right to file his comment as deemed waived; and (2) referred the complaint before the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation.

Thereafter, the IBP Commission on Bar Discipline (*Commission*) issued a Notice of Mandatory Conference²² notifying and directing the parties to appear during the mandatory conference set on December 8, 2015 at 9:00 a.m. Only respondent appeared during the conference, as stated in the Minutes of the Hearing,²³ dated December 8, 2015.

The Commission issued an Order²⁴ requiring him to file his verified answer to the complaint within five (5) days or until December 14, 2015. It expressly stated that respondent's failure to file his answer shall be deemed a waiver of the right thereof. The record is bereft of any evidence that respondent filed his answer.

Recommendation of the IBP Board of Governors

In its Report and Recommendation,²⁵ dated April 7, 2017, the Commission recommended the disbarment of respondent. It ruled that respondent violated the Lawyer's Oath and the Code of Professional Responsibility (*Code*), specifically Canons 1 and 12, because of his blatant refusal to obey the orders of the Court and the Commission. It noted that his conduct clearly manifests his dishonesty and lack of respect for the orders of the duly constituted authorities for a period of twenty-five (25) years. It also found that respondent violated Canons 17 and 18 of the Code when he ignored his responsibility to complainant, his client. It stated that his failure

¹⁹ Id. at 55.

²⁰ Id. at 57.

²¹ Id. at 58.

²² Id. at 60.

²³ Id. at 61.

²⁴ Id. at 62.

²⁵ Id. at 68-75.

to file an answer in the LMWD case resulted to an adverse decision against his client. It further found that he has not shown any remorse for his mistake or any vigilance to remedy the same. These acts, for the Commission, were clear manifestations of his lackadaisical behavior and conduct, warranting his removal from the Roll of Attorneys.

In its Resolution No. XXII-2017-1082,²⁶ dated May 27, 2017, the IBP – Board of Governors adopted the report and recommendation of the Commission, as follows:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of **disbarment**.²⁷

The record is bereft of any evidence that either party filed a motion for reconsideration or petition for review thereto.

The Ruling of the Court

The Court agrees with the IBP – Board of Governors that respondent violated the Lawyer’s Oath and the Code. However, it does not agree with the recommended penalty.

The core issue before the Court is whether respondent committed culpable negligence in failing to file an answer on behalf of complainant in the LMWD case for which reason complainant was declared in default and judgment rendered against it on the basis of *ex parte* evidence.

The Court answers in the affirmative.

Canon 17 of the Code provides that “a lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.”²⁸ Canon 18, in turn, imposes upon a lawyer the duty to serve his client with competence and diligence.²⁹ Further, Rule 18.03, Canon 18 expressly states that “[a] lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.”³⁰

²⁶ Id. at 66-67.

²⁷ Id. at 66.

²⁸ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 17.

²⁹ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 18.

³⁰ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 18, Rule 18.03.

It is axiomatic that no lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment, subject, however, to Canon 14 of the Code. However, once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care, and devotion. Elsewise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense. If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.³¹

In the instant case, it is uncontested that respondent failed to file an answer on behalf of complainant in the LMWD case. As a result, complainant was declared in default. When the matter of default was referred to respondent by complainant, he assured it that he would take care of it. He, however, did not do anything, hence, LMWD was allowed to present evidence *ex parte* and judgment was rendered in its favor. Again, complainant referred the adverse judgment to respondent. Once more, he assured it that he would take care of the matter. He failed to do so. Thus, the adverse judgment rendered on the basis of *ex parte* evidence was enforced and executed against complainant.

The Court is of the view that respondent's conduct constitutes inexcusable negligence. He grossly neglected his duty as counsel to the extreme detriment of his client. He willingly and knowingly allowed the default order to attain finality and he allowed judgment to be rendered against his client on the basis of *ex parte* evidence. He also willingly and knowingly allowed said judgment to become final and executory. He failed to assert any of the defenses and remedies available to his client under the applicable laws. This constitutes inexcusable negligence warranting an exercise by this Court of its power to discipline him.

³¹ *Santiago v. Atty. Fojas*, 318 Phil. 79, 86-87 (1995).



In addition, respondent's evident and willful disregard of court processes constitutes further reason to discipline him.

Respondent has repeatedly failed to comply with this Court's orders. He failed to file a comment on the administrative complaint despite numerous resolutions of the Court ordering him to do so. He was found guilty of contempt of court and was fined twice as result of his disobedience. He was even detained by the NBI due to his failure to comply with the Court's orders. He filed a pleading reserving his right to file an extended comment in order to escape detention but the extended comment never came into fruition. Later on, he asked for an additional period of twenty (20) days to file a comment, which the Court liberally granted. However, twenty-five (25) years has passed and respondent has yet to file such.

In *Sebastian v. Atty. Bajar*,³² the lawyer therein was required by the Court to file a rejoinder within ten (10) days from notice. However, she only submitted the rejoinder after she was detained at the NBI for five (5) days for failure to heed the Court's order. When she was directed to file a comment to the other party's manifestation, she instead filed a manifestation, almost four months thereafter. Hence, the Court found her guilty of willful disobedience of the lawful orders of this Court and of gross misconduct, and imposed upon her the penalty of suspension from the practice of law for three (3) years.

By reason of parity, the Court finds that respondent's acts constitute willful disobedience of the lawful orders of this Court, as well as gross misconduct.

In *Sebastian v. Atty. Bajar*,³³ the Court stated that:

Respondent's cavalier attitude in repeatedly ignoring the orders of the Supreme Court constitutes utter disrespect to the judicial institution. Respondent's conduct indicates a high degree of irresponsibility. A Court's Resolution is 'not to be construed as a mere request, nor should it be complied with partially, inadequately, or selectively.' Respondent's obstinate refusal to comply with the Court's orders 'not only betrays a recalcitrant flaw in her character; it also underscores her disrespect of the Court's lawful orders which is only too deserving of reproof.'

Lawyers are called upon to obey court orders and processes and respondent's deference is underscored by the fact that willful disregard thereof will subject the lawyer not only to punishment for contempt but to

³² 559 Phil. 211 (2007).

³³ Id.

disciplinary sanctions as well. In fact, graver responsibility is imposed upon a lawyer than any other to uphold the integrity of the courts and to show respect to their processes.

Respondent's failure to comply with the Court's directive to file a Rejoinder and to file a Comment also constitutes gross misconduct. The Court defined gross misconduct as 'any inexcusable, shameful, flagrant, or unlawful conduct on the part of the person concerned in the administration of justice which is prejudicial to the rights of the parties or to the right determination of a cause.' It is a 'conduct that is generally motivated by a premeditated, obstinate, or intentional purpose.'

In *Bernal Jr. v. Fernandez*, the Court held that failure to comply with the Court's directive to comment on a letter-complaint constitutes gross misconduct and insubordination, or disrespect. In *Cuizon v. Macalino*, a lawyer's failure to comply with the Court's Resolutions requiring him to file his comment was one of the infractions that merited his disbarment.³⁴

Undoubtedly, respondent's gross misconduct and willful disobedience have resulted in the extreme and inordinate delay of the instant proceedings. In doing so, he violated Canon 12 of the Code, which provides that "[a] lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice."³⁵ He also violated Rule 12.03, Canon 12 of the Code, which states that "[a] lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so."

To stress, the practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality, including honesty, integrity and fair dealing. They must perform their four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the Code. Falling short of this standard, the Court will not hesitate to discipline an erring lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion in consideration of the surrounding facts.³⁶

Under Section 27, Rule 138 of the Rules of Court,³⁷ a finding of gross misconduct and willful disobedience of any lawful order of a superior court is sufficient cause for suspension or disbarment.

³⁴ Id. at 224-225.

³⁵ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 12.

³⁶ *Del Mundo v. Atty. Capistrano*, 685 Phil. 687, 693 (2012).

³⁷ RULES OF COURT, Rule 138, Sec. 27.

The determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion. The penalties for a lawyer's failure to file a brief or other pleading range from reprimand, warning with fine, suspension and, in grave cases, disbarment.³⁸

Considering his inexcusable negligence in handling complainant's case, his gross misconduct, and his willful disobedience of the lawful orders of this Court resulting in extreme and inordinate delay, the Court deems it proper to impose upon him the penalty of suspension from the practice of law for a period of three (3) years.

WHEREFORE, respondent ATTY. LAURO G. NOEL is **SUSPENDED** from the practice of law for three (3) years, effective upon receipt of this judgment. He is **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant to be entered into the respondent's personal record. Copies shall likewise be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

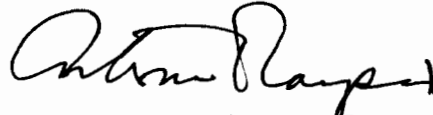
SO ORDERED.


ALEXANDER G. GESMUNDO
Associate Justice


SEC. 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* - A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wilful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

³⁸ *Figueras, et al. v. Atty. Jimenez*, 729 Phil. 101, 108 (2014).


WE CONCUR:



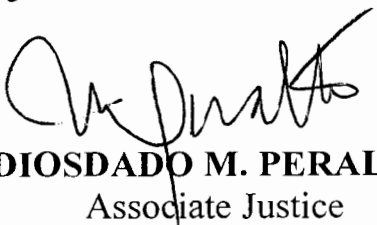
ANTONIO T. CARPIO
Senior Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice




TERESITA J. LEONARDO-DE CASTRO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



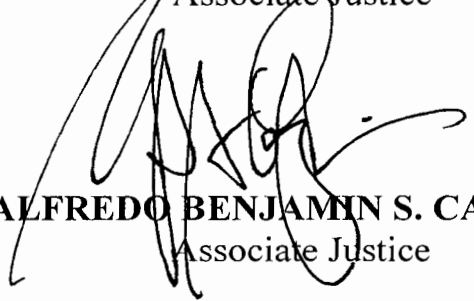
ESTELA M. PERLAS-BERNABE
Associate Justice




MARVIC M.V.F. LEONEN
Associate Justice



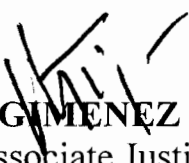
FRANCIS H. JARDELEZA *no part*
Associate Justice *clear relation*
to party



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice



NOEL GIMENEZ TIJAM
Associate Justice



ANDRES B. REYES, JR.
Associate Justice

