



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

ROMEO TELLES,
Complainant,

A.C. No. 5279

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
REYES, J. JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
BALTAZAR-PADILLA,*JJ.

- versus -

ATTY. ROGELIO P. DANCEL,
Respondent.

Promulgated:
September 8, 2020

X-----X

DECISION

Per Curiam:

Before the Court is a Complaint for disbarment filed by Romeo Telles (Telles) on June 1, 2000 against respondent Atty. Rogelio P. Dancel (Atty. Dancel) for gross negligence and inefficiency as a lawyer in handling Telles' case.

Atty. Dancel was Telles' legal counsel for an action for Annulment of a Deed of Quitclaim. After losing in the trial court, Telles, through Atty. Dancel elevated the case to the Court of Appeals (CA).

* On sick leave.

Atty. Dancel filed four motions for extension of time to file appellant's brief, dated August 30, 1999, September 29, 1999, October 15, 1999 and October 29, 1999. Despite the grant of all motions for extension, for a total of 75 days, Atty. Dancel still failed to file the required appellant's brief. Thus, the CA eventually dismissed Telles' appeal. Atty. Dancel also did not inform Telles of the dismissal of the appeal, nor did he offer any explanation for his failure to file the appellant's brief. Telles only learned of the dismissal of his appeal through acquaintances. Telles eventually engaged the services of another lawyer.

Telles also discovered that the trial court denied his Formal Offer of Evidence for having been filed out of time. Atty. Dancel filed the said pleading 88 days after the given period.¹

On August 2, 2000, the Court required Atty. Dancel to file his Comment to Telles' Complaint.²

Atty. Dancel did not comply. Thus, the Court, on August 21, 2000,³ required Atty. Dancel to show cause why he should not be disciplinarily dealt with for such failure.⁴ To this, Atty. Dancel filed a Motion for Extension of Time to File Answer dated September 11, 2000.⁵ This was followed by a Motion for Extension of 15 days to File Answer dated October 11, 2000⁶ and another such motion dated October 26, 2000.⁷ On November 29, 2000, the Court granted Atty. Dancel's motions.⁸

On August 21, 2002, the Court issued a show cause order to Atty. Dancel, asking him to explain why he should not be disciplinarily dealt with for failure to file the required comment.⁹

On July 14, 2003, the Court resolved to impose on Atty. Dancel a fine of ₱1,000.00 or to suffer imprisonment of 10 days in case he fails to pay, and ordered him to file the required comment, within 10 days from notice.¹⁰

Still, Atty. Dancel did not comply.

¹ *Rollo*, p. 92.

² *Id.* at 21.

³ The Minute Resolution attached in the *rollo* was dated August 21, 2002.

⁴ *Rollo*, p. 24.

⁵ *Id.* at 28.

⁶ *Id.* at 29.

⁷ *Id.* at 31.

⁸ *Id.* at 33.

⁹ *Id.* at 34.

¹⁰ *Id.* at 35.

On July 19, 2006, the Court resolved to impose upon him a fine of ₱2,000.00 and reiterate the order for him to file his comment.¹¹

On August 17, 2006, Atty. Dancel filed a Motion for Reconsideration stating that it was his first time to know that an administrative case was filed against him by Telles, and that he has not received a copy of the Court's Resolution dated July 14, 2003, since his secretary misplaced the same. He prayed that he be given the chance to submit the required explanation and comment.¹²

The Court, on November 29, 2006, granted Atty. Dancel's request that he be furnished with copies of the complaint and the Resolution dated July 14, 2003.¹³

Still, Atty. Dancel did not comply with the Court's Orders.

On April 20, 2009, the Court directed the National Bureau of Investigation to arrest and detain him, and directed Atty. Dancel to pay the fine of ₱3,000.00 and file the required Comment.¹⁴

On August 10, 2009, the Court noted Atty. Dancel's payment of the ₱3,000.00 fine.¹⁵

On November 19, 2014, the Court required Atty. Dancel to comply with the Resolution dated August 2, 2000 requiring him to comment on the complaint under pain of a more severe sanction, within 10 days from notice.¹⁶

Finally, on October 15, 2015, Atty. Dancel filed his one-page Comment stating that:

2. Briefly, respondent tried his very best in presenting evidence for the defendants in Civil Case No. U-5840. Unfortunately, after the presentation of evidence by the defendants, respondent became seriously ill due to diabetes. He could not anymore handle his cases properly at the time. The defendants, particularly the brother of complainant Manolito Telles [sic].

3. At any rate, during the pendency of the appeal in said case, the parties arrived at a compromise agreement, wherein the defendants were

¹¹ Id. at 41-42.

¹² Id. at 43-44.

¹³ Id. at 47-48.

¹⁴ Id. at 50.

¹⁵ Id. at 59.

¹⁶ Id. at 64.

paid by the prospective buyer [P]5,000,000.00 for and in consideration of the subject property.”¹⁷

In the meantime, Atty. Dancel submitted to the Court a copy of the Certificate of Death of Telles showing that the latter died on August 10, 2000, shortly after filing the instant complaint. Atty. Dancel claims that Telles failed to substantiate the complaint against him.¹⁸

On June 18, 2018, the Court referred the instant case to the Office of the Bar Confidant (OBC) for investigation, report and recommendation.¹⁹

On April 30, 2018, Atty. Dancel sent a letter requesting for an early resolution of the case.²⁰

OBC’s Report and Recommendation

On April 22, 2019, the OBC submitted its Report and Recommendation:

WHEREFORE, premises considered, for violating [Canon] 11 and [Rules] 12.03 and 18.03 of the Code of Professional Responsibility, it is respectfully recommended that respondent Atty. Rogelio P. Dancel be **SUSPENDED** from the practice of law for three (3) years, with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.²¹

The OBC noted that Atty. Dancel has ultimately the propensity of filing motions for extension of time to file pleadings, and not filing the same, in violation of Rule 12.03, Canon 12 in connection with Rule 18.03, Canon 18 of the Code of Professional Responsibility. His explanation that it was his diabetes that prevented him from filing Telles’ appeal brief did not convince the OBC as it noted that the appellate court gave him a total of 75 days within which to file his pleading. He also did not attach any documentary evidence to support his allegation that he was afflicted with said ailment.

The OBC further held that Telles’ death did not absolve Atty. Dancel from administrative liability. Not only was there sufficient documentary proof of Atty. Dancel’s negligence, there is also a need to discipline him if only to set an example for other lawyers.

¹⁷ Id. at 71.

¹⁸ Id. at 84-86.

¹⁹ Id. at 88.

²⁰ Id. at 90.

²¹ Id. at 95.

Finally, the OBC stated that not only was Atty. Dancel negligent in handling his client's case, he also blatantly disregarded the lawful orders of the Court, taking him 15 years to comply with the order for him to file a Comment.²²

The Court's Ruling

We agree with the findings of the OBC. However, we find that a stiffer penalty is in order.

The duties of a lawyer may be classified into four general categories. The duties he owes to the court, to the public, to the bar, and to his client. A transgression by a lawyer of any of his duties makes him administratively liable and subject to the Court's disciplinary authority.²³

Here, the duties transgressed by Atty. Dancel fall under the duties to his client and to the Court. As correctly observed by the OBC, Atty. Dancel has the propensity for filing motions for extension of time to file pleadings and failing to file the same.

When a lawyer is engaged to represent a client in a case, he bears the responsibility of protecting the latter's interest with utmost diligence. His failure to file a brief for his client amounts to inexcusable negligence. It is a serious lapse in the duty owed by him to his client, as well as to the Court not to delay litigation and to aid in the speedy administration of justice.²⁴

Atty. Dancel, in failing to file the appellant's brief on behalf of his client, had clearly fallen short of his duties as counsel as set forth in Canon 12 of the Code of Professional Responsibility.²⁵ According to said Canon, a lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. Rule 12.03 in particular 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."

Canon 18 further exhorts lawyers to serve their clients with competence and diligence. They shall not neglect legal matters entrusted to them and shall keep their clients informed of the status of their cases.²⁶

²² Id. at 93-94.

²³ *Enriquez v. Lavadia, Jr.*, 760 Phil. 1, 9 (2015).

²⁴ *Figueras v. Jimenez*, 729 Phil. 101, 108 (2014).

²⁵ Id. at 107.

²⁶ Code of Professional Responsibility, Rules 18.03 and 18.04.

Atty. Dancel was also duty-bound to inform Telles of the dismissal of their appeal before the CA following Rule 18.04, Canon 18 of the Code of Professional Responsibility which requires that a lawyer shall keep the client informed of the status of his case.

Atty. Dancel did not controvert Telles' allegation that he failed to file the appellant's brief before the CA and that he never informed Telles of the dismissal of their appeal as a result thereof. He also did not refute Telles' claim that he failed to timely file the Formal Offer of Evidence before the trial court. The only explanation Atty. Dancel gave was that he became "seriously ill due to diabetes [and] [h]e could not anymore handle his cases properly at the time."

Apart from his bare assertion, however, Atty. Dancel did not present any document to substantiate his claim that he was gravely ill during the period in question. We, therefore, find such excuse flimsy and undeserving of any consideration. If he were truly incapable of properly handling his cases due to his physical condition, he should have excused himself from his client's case. Instead, he even took on filing an appellant's brief before the CA, when he already neglected filing a Formal Offer of Evidence before the trial court.

Even so, both the trial court and the CA gave him several extensions that would have enabled him to prepare and submit the required pleadings, if he were truly keen in honoring his duty to his client and to the court. A motion for extension of time to file an appellant's brief carries with it the presumption that the lawyer will file the same within the period granted.²⁷ But Atty. Dancel did not do so. Instead, Atty. Dancel continued to display his obstinate proclivity to shun orders of compliance, even from this Court.

As a member of the legal profession, Atty. Dancel owes his client entire devotion to the latter's genuine interest, and warm zeal in the maintenance and defense of his rights. As an attorney, he is expected to exert his best efforts and ability to preserve his client's cause, for the unwavering loyalty displayed to his client, likewise, served the ends of justice.²⁸

As a lawyer, he is required to observe and maintain due respect to the Court and its judicial officers. Atty. Dancel's cavalier attitude in repeatedly ignoring the orders of the Court constitutes utter disrespect to the institution. His conduct indicates a high degree of irresponsibility. The Court's resolutions are not to be construed as mere requests, nor should they be complied with partially, inadequately or selectively. Atty. Dancel's obstinate refusal to comply with the Court's orders not only shows his

²⁷ See *Abay v. Montesino*, 462 Phil 496, 505 (2003).

²⁸ *Cabuello v. Talaboc*, A.C. No. 10532, November 7, 2017, 844 SCRA 90, 107-108.

recalcitrant flaw in character, it also underscores his disrespect of the Court's lawful orders which is only too deserving of reproof.²⁹

Lawyers are called upon to obey court orders and processes and any willful disregard thereof will subject the lawyer not only to punishment for contempt, but to disciplinary sanctions as well. Graver responsibility is imposed upon lawyers than any other to uphold the integrity of the courts and to show respect to their processes.³⁰ A lawyer's blatant disregard of such directives and his consistent refusal to comply with court orders merit no less than disciplinary action.³¹

The present disbarment complaint was filed way back in year 2000. The Court gave no less than eight orders for Atty. Dancel to file his Comment. We gave warnings and even imposed fines. Instead of complying, however, Atty. Dancel repeatedly ignored the Court's directives and even claimed, at one point, not to have any knowledge about the complaint after having filed several motions for extension of time to file Comment.

It was only after 15 years that Atty. Dancel filed a one-page Comment, claiming to be afflicted with diabetes, nary a proof to support such claim.

The Court simply cannot countenance Atty. Dancel's act of repeatedly pleading for extensions of time and yet not submitting anything to the Court. His repeated non-compliance constitutes willful disregard for Court orders putting in serious question his suitability to discharge his duties and functions as a lawyer. As a lawyer who is made a respondent in a disbarment proceeding, Atty. Dancel should submit an explanation, and should meet the issue and overcome the evidence against him. The reason for this requirement is that an attorney, thus, charged, must prove that he still maintained that degree of morality and integrity expected of him at all times.³²

The practice of law is a special privilege bestowed only upon those who are competent intellectually, academically and morally. Members of the Bar are expected to always uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence of the public.³³

²⁹ See *Enriquez v. Lovadia, Jr.*, 760 Phil. 1, 12 (2015).

³⁰ *Id.*

³¹ *Id.*

³² *Pesto v. Milla*, 706 Phil. 286, 294 (2013).

³³ *Venterez v. Atty. Cosme*, 561 Phil. 479, 490 (2007).

The practice of law is a privilege, not a right, bestowed by the State on those who show that they possess and continue to possess the legal qualifications required for the conferment of such privilege. Lawyers are expected to maintain at all times a high standard of legal proficiency and morality — which includes honesty, integrity and fair dealing. They must perform their four-fold duty to the society, the legal profession, the courts, and their clients in accordance with the values and norms of the legal profession. Any conduct that is wanting in these considerations, whether in their professional or private capacity, shall subject them to disciplinary action.³⁴

The fact that Telles died soon after filing the present complaint would not absolve Atty. Dancel from any liability. Disciplinary proceedings against attorneys are unlike civil suits where the complainants are the plaintiffs and the respondent attorneys are the defendants. They neither involve private interests nor afford mere redress for private grievances. Rather, they are undertaken and prosecuted solely for the public welfare, for the purpose of preserving the courts of justice from the official ministrations of persons unfit to practice law before them. The complainant or any other person who has brought the attorney's misconduct to the attention of the Court is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice.³⁵

The determination of whether an attorney should be disbarred or merely suspended for a period of time 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.³⁶

In this case, Atty. Dancel's propensity for filing motions for extension of time and not filing the required pleading was clearly established. He also did not inform his client of the dismissal of their appeal, obviously to hide his ineptitude and neglect. To prevent any other unknowing client who might engage his services, only to lose their case due to Atty. Dancel's indifference and nonchalant attitude, we find that the imposition of the most severe penalty is in order. Considering the gravity of Atty. Dancel's recalcitrant attitude towards the Court and his utter indifference towards the cause of his client, we find the penalty of disbarment to be appropriate.

WHEREFORE, respondent Atty. Rogelio P. Dancel is hereby **DISBARRED** for violating Rule 12.03, Canon 12 and Rule 18.04, Canon 18

³⁴ *Abay v. Montesino*, supra note 27, at 503-504.

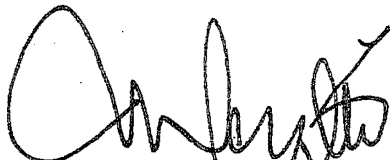
³⁵ *Pesto v. Millo*, supra note 32, at 295; *Cabuella v. Talaboc*, supra note 28, at 108, citing *Camara v. Atty. Reyes*, 612 Phil. 1, 7 (2009).

³⁶ *Figueras v. Jimenez*, supra note 24.


of the Code of Professional Responsibility and his name is **ORDERED STRICKEN OFF** from the Roll of Attorneys.

Let copies of this Decision be furnished the Office of the Bar Confidant to be appended to Atty. Dancel's personal record as a member of the Bar, the Integrated Bar of the Philippines, the Office of the Court Administrator, the Department of Justice and all courts in the country for their information and guidance.

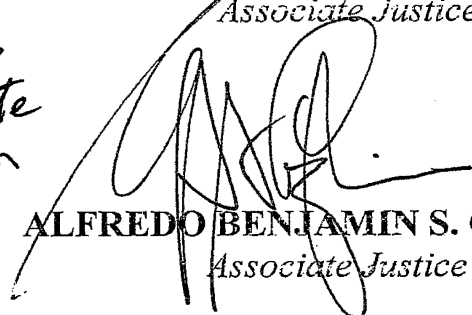
SO ORDERED.

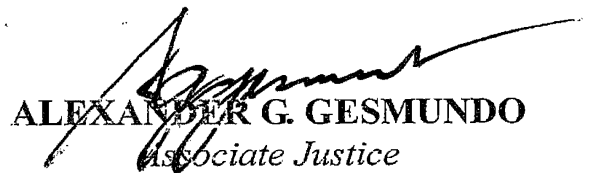

DIOSDADO M. PERALTA
Chief Justice

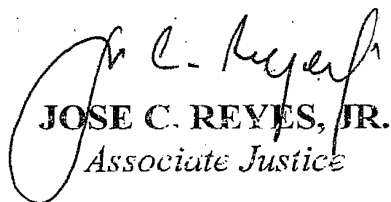

ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M. V. F. LEONEN
Associate Justice

*See
Separate
Opinion*



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice

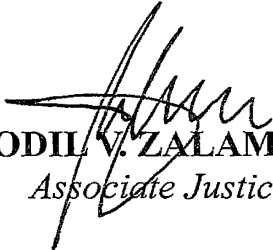

RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

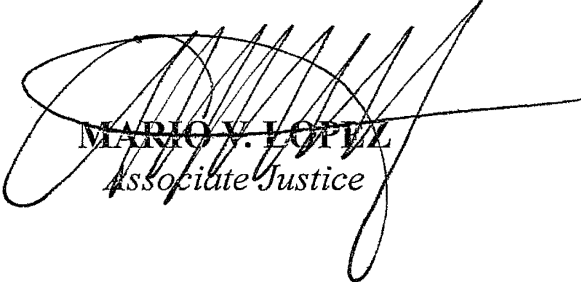

AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

(On Sick Leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

EN BANC

A.C. No. 5279 – ROMEO TELLES, *complainant* v. ATTY. ROGELIO P. DANCEL, *respondent*.

Promulgated:

September 8, 2020

X-----

X

SEPARATE OPINION

CAGUIOA, J.:

The *ponencia* adopts the findings of the Office of the Bar Confidant (OBC) but imposes a stiffer penalty against Atty. Rogelio P. Dancel (respondent), ruling as follows:

WHEREFORE, respondent Atty. Rogelio P. Dancel is hereby **DISBARRED** for violating Rule 12.03, Canon 12 and Rule 18.04, Canon 18 of the Code of Professional Responsibility and his name is **ORDERED STRICKEN OFF** from the Roll of Attorneys.¹

At the outset, I express my agreement with the *ponencia* in finding respondent liable for violating Canon 12,² Rule 12.03,³ Canon 18,⁴ and Rule 18.04⁵ the Code of Professional Responsibility. Respondent's propensity for filing motions for extension of time to file pleadings and then not filing the same, and his blatant disregard of the lawful orders of the Court warrant a finding of administrative liability against him.

Undoubtedly, respondent violated his duties toward his client as well as to the Court, for which he must be held accountable. Be that as it may, the recommended penalty by the OBC of suspension from the practice of law for a period of three (3) years appears more appropriate than disbarment which is too harsh a penalty.

It has been ruled that “[d]isbarment should never be decreed where any lesser penalty could accomplish the end desired. Undoubtedly, a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. These penalties are

¹ *Ponencia*, pp. 8-9.

² CANON 12 — A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

³ RULE 12.03 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.

⁴ CANON 18 — A lawyer shall serve his client with competence and diligence.

⁵ RULE 18.04 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.



imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair.”⁶

On whether the Court will impose the supreme penalty of disbarment, I am of the position that a clear bright line must be drawn between 1) lawyers who patently and unashamedly commit offenses that are, by themselves, gross because they are also violative of penal laws; and 2) those who commit offenses which ostensibly pale in comparison with the first. To illustrate, the first category would include such transgressions rising to the level of committing bigamy, siring illegitimate children with multiple women, and shameless continuous philandering. These acts indubitably show a degree of immorality deserving of the ultimate penalty of disbarment, especially considering that bigamy amounts to a crime. In contrast, while respondent’s transgressions in the instant case are serious, his acts still fall under the second category; hence, it does not rise up to the level which necessitates his disbarment.

To be sure, the Court is vested with the authority and discretion to impose either the extreme penalty of disbarment or mere suspension against a lawyer who commits any of the following: (1) deceit; (2) malpractice; (3) gross misconduct; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyer’s oath; (7) willful disobedience of any lawful order of a superior court; or (8) corruptly or willfully appearing as an attorney for a party to a case without authority to do so.⁷ Nevertheless, the Court is given leeway to impose the lesser penalty of suspension if it would achieve the “desired [end] of reforming the errant lawyer,”⁸ based on its appreciation of the facts and circumstances of the case.

Thus, the Court may exercise restraint in its imposition of penalties, should the circumstances of the case warrant, especially if the errant lawyer did not willfully commit a misconduct that is tantamount to, if not clearly, a grievous criminal act.

As applied to the instant case, I am of the view that sanctioning respondent with the less severe penalty of suspension than disbarment achieves the ends of the disciplinary proceeding which is to penalize an erring lawyer and to preserve the integrity of the legal profession. The period of three years is a very long period already, and suffices, to my mind, to instill in respondent the gravity of his misdeeds.

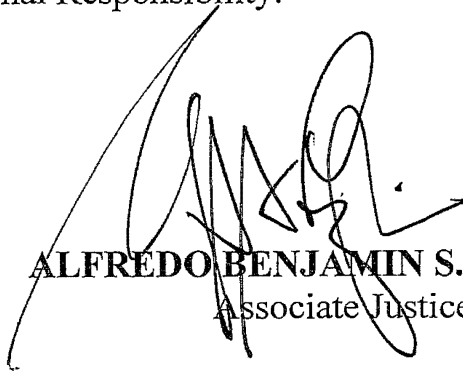
⁶ *Palalan Carp Farmers Multi-Purpose Coop v. Dela Rosa*, A.C. No. 12008, August 14, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65608>>.

⁷ *Anacta v. Resurreccion*, A.C. No. 9074, August 14, 2012, 678 SCRA 352, 361.

⁸ *Arma v. Montevilla*, A.C. No. 4829, July 21, 2008, 559 SCRA 1, 10.



IN VIEW THEREOF, I vote to **SUSPEND** respondent Atty. Rogelio P. Dancel **FROM THE PRACTICE OF LAW FOR A PERIOD OF THREE (3) YEARS** for violating Canon 12, Rule 12.03, and Canon 18, Rule 18.04 of the Code of Professional Responsibility.

A handwritten signature in black ink, appearing to read 'ALFREDO BENJAMIN S. CAGUIOA', is written over the printed name and title.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice