

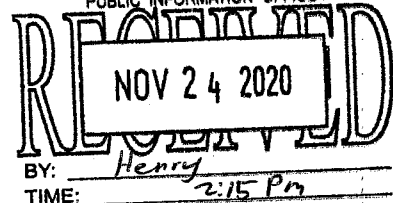


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 17, 2020**, which reads as follows:

“A.C. No. 10853 – (GLENN G. DE GUZMAN, *complainant* v. ATTY. NAPOLEON C. DE QUIROZ, *respondent*). – This resolves the complaint¹ for disbarment filed by Glenn De Guzman (complainant) against Atty. Napoleon De Quiroz (respondent).

FACTS

Complainant alleged that he engaged the services of respondent sometime in 2013 for the filing of a case for declaration of nullity of complainant’s marriage. Consequently, respondent filed complainant’s petition before the Regional Trial Court (RTC) of Manila. According to complainant, respondent insisted that the case be filed in Manila despite the fact that complainant’s residence is in Las Piñas City. Eventually, the case (docketed as Civil Case No. 13-129621) was dismissed by the RTC of Manila, Branch 4 for improper venue.²

Respondent then filed the petition before the RTC of Las Piñas City. Unfortunately, the second case (docketed as SP. PROC. CASE No. 13-0148) was also dismissed by Branch 254 of said RTC for failure of respondent to file a pre-trial brief.³ Respondent moved for reconsideration, but to no avail.⁴

On August 22, 2014, respondent re-filed complainant’s petition with the RTC of Las Piñas.⁵ Attached to the petition was an “Ex Parte Motion to Inhibit (For Purposes of Raffle),” seeking to exclude RTC-Branch 254 from the “re-affle” of the case.⁶ Nonetheless, the petition (docketed as Civil Case No. SP-

¹ Rollo, pp. 1-4.

² Id. at 1-2, 6.

³ Id. at 2, 7.

⁴ Id. at 2, 8-11.

⁵ Id. at 109-111.

⁵ Id. at 2, 91-103.

⁶ Id. at 109-111.

14-0130 and raffled this time to Branch 199) suffered the same fate as the two previous cases, for it was ultimately dismissed with prejudice by Judge Joselito DJ Vibandor (Judge Vibandor). The dismissal was grounded on respondent's alleged willful and deliberate forum shopping on account of his failure to disclose the two previously dismissed cases.⁷ Respondent elevated the dismissal of the third case to the Court of Appeals (CA) via a petition for *certiorari* under Rule 65. In a Resolution dated February 24, 2015, the then Thirteenth Division of the CA dismissed the petition outright due to formal infirmities.⁸ A motion for reconsideration was filed by respondent, which was still unresolved at the time complainant filed the present administrative complaint.⁹

It is complainant's stance that respondent was negligent as a lawyer and such negligence greatly prejudiced complainant's case for nullity of marriage.¹⁰ Hence, this disbarment case.

In a Resolution dated October 12, 2015, this Court's First Division directed respondent to comment on the complaint.¹¹

In gist, respondent countered that the allegations in the complaint are false, fabricated, and untruthful. He averred that he exerted utmost efforts to represent complainant and consistently showed fidelity to the cause of the latter. To be precise, respondent clarified that it was the legal services of his sister, Atty. Irene C. De Quiroz (Atty. Irene), that was actually and initially engaged by complainant. Due to Atty. Irene's subsequent appointment as Labor Arbiter of the National Labor Relations Commission, complainant was referred to respondent. Further, respondent denied that he insisted on the filing of complainant's petition before the RTC of Manila. Rather, it was complainant who misrepresented his place of residence to Atty. Irene. Complainant even obtained a Barangay Certificate stating that he is a resident of No. 482 Tenement Building, Punta, Sta. Ana, Manila. Anent the dismissal of the second case, respondent alleged that he had with him complainant's pre-trial brief and the judicial affidavits of the witnesses on the date of the scheduled pre-trial. However, he arrived late in court due to unusually heavy traffic. At that time, Judge Gloria Aglugub (RTC-Branch 254) already dismissed the case for complainant's failure to file a pre-trial brief. Respondent unsuccessfully moved for reconsideration. With no indication that the dismissal was with prejudice, respondent opted to re-file the petition with a motion to inhibit RTC-Branch 254 from the raffle of the case in view of Judge Aglugub's (alleged) bias against complainant. The petition was raffled to RTC-Branch 199 but was again dismissed by Judge Vibandor on the ground of forum shopping. Asserting that he did not commit forum shopping,

⁷ Id. at 2-3, 12-13.

⁸ Id. at 16-17.

⁹ Id.

¹⁰ Id. at 3-4.

¹¹ Id. at 20.

respondent highlighted the fact that the third petition was accompanied by a motion to inhibit RTC-Branch 254, which only shows that he had no ill motive to conceal the previous filing of the petition. Also, the present administrative complaint was prematurely filed. As alleged by the complainant, the CA still has to rule on the motion for reconsideration filed by respondent with respect to the outright dismissal of the petition for *certiorari*, challenging Judge Vibandor's Order dismissing the third case. In sum, respondent averred that complainant is not without fault, for the root cause of the series of dismissals was complainant's blatant misrepresentation as to his real residency. Respondent thus prayed that the complaint be dismissed for lack of merit and prematurity.¹²

On July 27, 2016, this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.¹³

In a Report and Recommendation dated July 25, 2017, the Investigating Commissioner recommended that respondent be suspended from the practice of law for a period of one year for violating Canons 17 and 18 of the Code of Professional Responsibility. Further, the Investigating Commissioner recommended that respondent should be made to take additional nine units of remedial law, particularly civil procedure, apart from the existing Mandatory Continuing Legal Education requirements before he can be allowed to practice law again.¹⁴

In a Resolution dated February 22, 2018, the IBP Board of Governors resolved to adopt the recommendation of the Investigating Commissioner as to the penalty of suspension from the practice of law for one year, but set aside the recommendation for respondent to take additional nine units of remedial law.¹⁵

Respondent moved for reconsideration but was denied by the IBP through the Resolution dated November 8, 2018.¹⁶

THE COURT'S RULING

We adopt the resolution of the IBP.

Records preponderantly established that respondent had been remiss in the performance of his duty as complainant's counsel. While respondent's tardiness on - and eventually, absence from - the scheduled pre-trial may be

¹² Id. at 27-37; see respondent's Comment/Answer.

¹³ Id. at 157.

¹⁴ Id. at 480.

¹⁵ Id. at 469.

¹⁶ Id. at 504-505.

excused on grounds of liberality and substantial justice, nonetheless, his unjustified failure to file complainant's pre-trial brief was clear negligence on respondent's part.

Under the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages,¹⁷ failure of the petitioner to file a pre-trial brief has the same effect as failure to appear at the pretrial,¹⁸ that is, dismissal of the case.¹⁹ Applying Section 5, Rule 18 of the Rules of Court suppletorily,²⁰ such dismissal is with prejudice and would bar the refile of the petition.

On this score, We quote with approval the findings of the Investigating Commissioner, viz.:

x x x The Rules of Court properly provides under Rule 18 thereof that attendance in the Pre-trial as well as submission of the Pre-trial Brief are required:

Sec. 4. *Appearance of parties.* --- **It shall be the duty of the parties and their counsel to appear at the pre-trial.** The non[-]appearance of a party may be excused only if a valid cause is shown therefore or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and [of] documents.

Sec. 5. *Effect of failure to appear.* --- **The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action.** The dismissal shall be without [sic] prejudice, unless otherwise ordered by the court. x x x

Section 6. *Pre-trial Brief.* --- The parties shall file with the court and serve on the adverse party, in such manner **as shall ensure their receipt thereof at least three (3) days before the date of pre-trial** x x x

x x x x

Failure to file the pre-trial [brief] shall have the same effect as failure to appear at the pre-trial.

Any lawyer worth his salt should be knowledgeable of these requirements under the rules. He cannot cavalierly discount their importance in the orderly disposition of cases.

¹⁷ A.M. No. 02-11-10-SC, dated March 4, 2003, which took effect on March 15, 2003.

¹⁸ Id. at Section 12.

¹⁹ Id. at Section 13(a).

²⁰ Id. at Section 1 provides:

SECTION 1. Scope. — This Rule shall govern petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages under the Family Code of the Philippines.

The Rules of Court shall apply suppletorily. (Emphasis supplied)

After due consideration, it is of no moment that Respondent lawyer was a victim of Manila's unforgiving traffic gridlock. Even if he spent four (4) hours in the traffic, he was still required to submit his Pre-Trial Brief three (3) days prior to the date of the hearing. In fact, the Rules do not only require filing within that period, but also the assurance that receipt of the Pre-Trial Brief by the opposing party should be done three (3) days before the date of the Pre-trial. Not only did the Respondent Lawyer fail to appear during the Pre-trial of the case, he also did not file the required Pre-Trial Brief that should have been filed earlier.

These are respondent's twin violations that cannot be so easily excused.

Thus, even if we actually excuse the absence of Respondent Lawyer in the scheduled Pre-trial, the failure to submit the brief within the reglementary period is an offense that entails disciplinary action. x x x

In his motion for reconsideration filed before the RTC-Branch 254, respondent admitted having failed to submit complainant's pre-trial brief due to "mere oversight caused by heavy pressure of work."²¹ Such greatly overused reason will not excuse respondent's omission. Pressure and large volume of legal work do not excuse a counsel for filing a pleading out of time. It is the counsel's duty to devote his/her full attention, diligence, skills, and competence to every case that he/she accepts.²²

Moreover, respondent ought to know that failure to file a pre-trial brief is fatal to his client's cause considering that complainant was the petitioner/plaintiff in the case for declaration of nullity of marriage. As earlier stated, failure to file a pre-trial brief has the same effect as failure to appear at pre-trial, which, in this case, is the dismissal of the case **with prejudice** inasmuch as the non-filing and non-appearance had been on the part of the plaintiff.

Worse, respondent re-filed complainant's petition with the RTC of Las Piñas instead of appealing the dismissal of the second case to the CA. Again, respondent is expected to know that a dismissal with prejudice constitutes a judgment on the merits; hence, appealable. A dismissal with prejudice is already deemed an adjudication of the case on the merits, and it disallows and bars the re-filing of the complaint. It is a final judgment and the case becomes *res judicata* on the claims that were or could have been brought in it.²³ Indubitably, respondent's act of re-filing the prejudicially dismissed second petition was an act of forum shopping.

From the foregoing, we agree with the findings of the IBP that

²¹ *Rollo*, p. 87.

²² *Garlet v. Garlet, et al.*, 815 Phil. 268, 289 (2017).

²³ *HGL Dev't. Corp. v. Judge Penuela, et al.*, 786 Phil. 329, 372-373 (2016).

respondent violated Canons 17 and 18 of the Code of Professional Responsibility, to wit:

CANON 17 — A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

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

x x x x

Rule 18.02 A lawyer shall not handle any legal matter without adequate preparation.

Rule 18.03 A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

In addition, We find that respondent violated Canon 12²⁴ of the aforesaid Code, specifically, Rule 12.02 which states that “[a] lawyer shall not file multiple actions arising from the same cause[,]” and Rule 12.04 which reads: “[a] lawyer shall not unduly delay a case, impede the execution of a Judgment or misuse Court processes.” Lawyers should not trifle with judicial processes and resort to forum shopping because they have the duty to assist the courts in the administration of justice. Filing multiple actions contravenes such duty because it does not only clog the court dockets, but also takes the courts' time and resources from other cases.²⁵

Anent the penalty to be imposed upon respondent, 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.²⁶ We agree with the IBP that the penalty of disbarment is too harsh in the present case in view of the fact that complainant was not entirely faultless in the dismissal of his cases. On the other hand, this Court, also, cannot turn a blind eye to respondent's infractions that are telling of his perilous unfamiliarity with basic procedural rules.

Accordingly, We hold that the imposition of the penalty of suspension from the practice of law is in order.

On a final note, respondent is reminded that every attorney owes fidelity to the causes and concerns of his client. He must be ever mindful of

²⁴ CANON 12 — A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

²⁵ *In Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 60, Barili, Cebu*, 788 Phil. 492, 508 (2016).

²⁶ *United Coconut Planters Bank v. Atty. Lauro G. Noel*, A.C. No. 3951, June 19, 2018.

the trust and confidence reposed in him by the client. His duty to safeguard the client's interests commences from his engagement as such, and lasts until his effective release by the client. In that time, he is expected to take every reasonable step and exercise ordinary care as his client's interests may require.²⁷

WHEREFORE, this Court finds respondent Atty. Napoleon C. De Quiroz **GUILTY** of violating Canon 12, Rules 12.02 and 12.04, Canon 17, and Canon 18 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of one (1) year. Respondent is further **WARNED** that a repetition of similar acts shall be dealt with more severely.

Respondent, upon receipt of this Resolution, shall immediately serve his suspension. He shall formally manifest to this Court that his suspension has started, and copy furnish all courts and quasi-judicial bodies where he has entered his appearance, within five (5) days upon receipt of this Resolution. Respondent shall also serve copies of his manifestation on all adverse parties in all the cases he entered his formal appearance.

Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be attached to the personal records of Atty. Napoleon C. De Quiroz. Copies of this Resolution should also be served on the Integrated Bar of the Philippines for its proper disposition, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.”

Very truly yours,

Mis-DCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

GER
11/4/20

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²⁷ *Fabie v. Atty. Real*, 795 Phil. 488, 499 (2016).

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