



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

FIRST DIVISION

EDUARDO L. ALCANTARA,
Complainant,

A.C. No. 3989

Present:

PERALTA, C.J., *Chairperson,*
CAGUIOA, *Working Chairperson,*
REYES, J. JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

- versus -

Promulgated:

ATTY. SAMUEL M. SALAS,
Respondent.

DEC 10 2019

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DECISION

REYES, J. JR., J.:

The Case

This is an administrative case against a lawyer for gross negligence in failing to file an appellant's brief and to update the Court of Appeals (CA) on his current mailing address.

The Facts

On March 16, 1993, complainant Eduardo L. Alcantara (Alcantara) filed an amended sworn letter-complaint for unethical, unprofessional, and corrupt practices against his counsel, respondent Atty. Samuel M. Salas (Atty. Salas). Alcantara alleged that he hired the services of Atty. Salas in filing a civil action for specific performance with damages on May 19, 1980.

Having lost in the trial court, Atty. Salas appealed to the CA on April 26, 1990. Allegedly, that was the last time Alcantara heard from Atty. Salas.¹

In July 1992, Alcantara received news that his appeal was dismissed. He went to the CA and discovered that the CA issued a Resolution dated March 11, 1991, dismissing his appeal due to non-filing of appellant's brief despite notice. The CA sent a notice to file brief twice and, in both instances, the notices were returned unclaimed because the addressee has moved.²

Alcantara informed Atty. Salas of the dismissal. However, Atty. Salas blamed Alcantara for not checking the status of the case and having lost communication with him. Alcantara denied Atty. Salas' allegation because on November 5, 1991, the latter sent a messenger to claim a check worth ₱5,000.00. Alcantara hired a new lawyer to continue his case to the Supreme Court, which rendered a final decision unfavourable to him. Alcantara attributed the loss to Atty. Salas. Disappointed with his previous counsel's actuations, Alcantara filed this complaint before the Court.³

For his defense, Atty. Salas averred that it should have been the duty of the CA to send the notices at his then current residential address as recorded in the two other cases that were consolidated with a third case. Admittedly, he did not notify the CA of the change of address in the third case.⁴

On August 25, 1993, the Court referred the matter to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.⁵

The IBP's Investigation, Report and Recommendation

On July 28, 1994, the IBP conducted a hearing wherein the parties presented their respective cause of actions and defenses. The parties agreed that the issue to be resolved is **whether or not Atty. Salas committed gross negligence in failing to file the appellant's brief in the CA.**⁶

On October 18, 2011, the IBP Investigating Commissioner, Oliver A. Cachapero, issued a Report and Recommendation⁷ finding Atty. Salas to have violated Rule 12.03⁸ of the Code of Professional Responsibility (CPR). The CPR mandates a lawyer to submit a brief or memoranda when required by the court. A lawyer must also inform the court, where he had appeared, of

¹ *Rollo*, Vol. I, pp. 8-9.

² *Id.* at 8, 10.

³ *Id.* at 8-9

⁴ *Records*, Vol. 1, p. 257.

⁵ *Rollo*, Vol. 1, p. 193.

⁶ *Records*, Vol. 1, p. 21.

⁷ *Records*, Vol. II, pp. 447-449.

⁸ 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. Approved June 21, 1988.

the change in his address in order to maintain the line of communication with the court.⁹

In this case, Atty. Salas had his first office address at 7th Floor, BF Topman Building, Ayala Avenue, Makati City. He transferred to 10th Floor, PBCom Building, Ayala Avenue, Makati City. Then, he moved to Eleuterio de Leon Street, BF Executive Village, Parañaque City. The records do not show that Atty. Salas informed the CA of the change in his address.¹⁰

Therefore, Atty. Salas failed in his duty under the CPR, and it was crucial to his client's cause. The Investigating Commissioner recommended a penalty of suspension from the practice of law for four months.¹¹

On February 13, 2013, the IBP Board of Governors issued Resolution No. XX-2013-175 adopting and approving with modification the Investigating Commissioner's Report and Recommendation. The IBP Board of Governors suspended Atty. Salas from the practice of law for two months, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.¹²

Atty. Salas moved for reconsideration, which the IBP Board of Governors denied on March 22, 2014 in its Resolution No. XXI-2014-160. In the same resolution, the IBP Board of Governors affirmed with modification its previous resolution, and suspended Atty. Salas for two years.¹³

The Sole Issue Presented

Whether or not Atty. Salas committed gross negligence in failing to file the appellant's brief in the CA.

The Court's Ruling

The Court affirms the IBP's ruling with modification as to penalty to conform with the jurisprudence.

In addition to the IBP's finding of violation of Rule 12.03 of the CPR, the Court finds other violations, such as Canons 17 and 18, and Rule 18.03 on a lawyer's duty to his/her client.

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.

⁹ Records, Vol. II, p. 449.

¹⁰ Id. at 448-449.

¹¹ Id. at 449.

¹² Id. at 446.

¹³ Id. at 468.

CANON 18 — A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

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

Here, the transcript of stenographic notes dated July 28, 1994¹⁴ reveals that Atty. Salas admitted to not filing the appellant's brief in the CA and not updating the appellate court of his then current mailing address, thus:

COMR. BRIONES: What is your defense, Atty. Salas?

ATTY. SALAS: While the records will show that in one case no brief was filed because the notices were not received due to the transfer of address, the main cases were handled through the home address of the respondent and all the way up to the Supreme Court.

x x x x

COMR. BRIONES: x x x What is the case where you failed to file the appellant's brief?

ATTY. SALAS: I will refer to the reply. It is CA-G.R. CV 26538.

x x x x

COMR. BRIONES: Since you had admitted, Atty. Salas, that you failed to file the appellant's brief in that particular case before the Court of Appeals despite receipt of notice ...

ATTY. SALAS: No notice was received.

COMR. BRIONES: ... In your previous address.

ATTY. SALAS: Despite notice to the previous address but not received.

COMR. BRIONES: My question is did you file a notice of change of address before the Court of Appeals in that case?

ATTY. SALAS: We felt it unnecessary because this case was supposed to be officially consolidated with two other cases.

x x x x

COMR. BRIONES: Which is the case where you failed to file your appellant's brief, the third case?

ATTY. SALAS: It is the 21047.¹⁵

¹⁴ Id. at 301-304, 307.

¹⁵ Id. at 5-11.

Atty. Salas made a similar admission in his Respondent's Manifestation and Memorandum in Aid of Resolution.

iii. – While admittedly, Atty. Salas did not file a notice of change of address to the Court of Appeals in CA-GR SP No. 21047, CA-G.R. No. 26538, and CA-[G.R.] No. 21054, considering the status of the cases as of November, 1991 as matters before the Supreme Court already and not with the Court of Appeals anymore, the pleadings filed by Atty. Salas specifying his new address at No. 109 E. de Leon St., BF Executive Village, Parañaque, Metro Manila, is sufficient compliance. This and the fact that notices of resolutions were sent by the Court of Appeals also to Eduardo Alcantara at his address at No. 16 Bonifacio Street, Binan, Laguna but not received by Alcantara as the latter has moved without any forwarding address, must lodge upon Alcantara some blame on the failure to receive copy of the resolution in question.¹⁶

It is crystal clear that the root cause of non-filing of appellant's brief was Atty. Salas' failure to inform the CA of the change in his mailing address. Had he done so, he would have received the CA's notices requiring him to file the appellant's brief. Had he been diligent in his duty, Alcantara's appeal would not have been dismissed. There is no one to blame but Atty. Salas, because as a handling lawyer and officer of the court, he must be mindful of the trust and confidence reposed in him by his client.

In a similar case, *De Borja v. Atty. Mendez, Jr.*,¹⁷ the Court discussed lengthily the significance of a lawyer's duty to his/her client to file a pleading promptly. In the cited case, the Court suspended the lawyer from the practice of law for failing to fulfill the mandate of the canons.

Canon 18 of the Code of Professional Responsibility for Lawyers states that "*A lawyer shall serve his client with competence and diligence.*" Rule 18.03 thereof stresses:

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

In the instant case, Atty. Mendez' guilt as to his failure to do his duty to his client is undisputed. His conduct relative to the non-filing of the appellant's brief falls below the standards exacted upon lawyers on dedication and commitment to their client's cause. An attorney is bound to protect his clients' interest to the best of his ability and with utmost diligence. Failure to file the brief within the reglementary period despite notice certainly constitutes inexcusable negligence, more so if the failure resulted in the dismissal of the appeal, as in this case.

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¹⁶ Records, Vol. I, p. 257.

¹⁷ A.C. No. 11185, July 4, 2018.

Other than Atty. Mendez' allegation of non-receipt of the notice, he has failed to duly present any reasonable excuse for the non-filing of the appellant's brief despite notice, thus, the allegation of negligence on his part in filing the appellant's brief remains uncontroverted. As a lawyer, it is expected of him to make certain that the appeal brief was filed on time. Clearly, his failure to do so is tantamount to negligence which is contrary to the mandate prescribed in Rule 18.03, Canon 18 of the Code of Professional Responsibility enjoining lawyers not to neglect a legal matter entrusted to him.

We cannot overstress the duty of a lawyer to uphold the integrity and dignity of the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients.

Every member of the Bar should always bear in mind that every case that a lawyer accepts deserves his full attention, diligence, skill and competence, regardless of its importance and whether he accepts it for a fee or for free. A lawyer's fidelity to the cause of his client requires him to be ever mindful of the responsibilities that should be expected of him. The legal profession dictates that it is not a mere duty, but an obligation, of a lawyer to accord the highest degree of fidelity, zeal and fervor in the protection of the client's interest. The most thorough groundwork and study must be undertaken in order to safeguard the interest of the client. The honor bestowed on his person to carry the title of a lawyer does not end upon taking the Lawyer's Oath and signing the Roll of Attorneys. Rather, such honor attaches to him for the entire duration of his practice of law and carries with it the consequent responsibility of not only satisfying the basic requirements but also going the extra mile in the protection of the interests of the client and the pursuit of justice.

x x x x

Time and again, We have reminded lawyers that the practice of law is a privilege bestowed only to those who possess and continue to possess the legal qualifications for the profession. As such, lawyers are duty-bound to maintain at all times a high standard of legal proficiency, morality, honesty, integrity, and fair dealing. If the lawyer falls short of this standard, the Court will not hesitate to discipline the lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion.

The Code of Professional Responsibility demands the utmost degree of fidelity and good faith in dealing with the moneys entrusted to lawyers because of their fiduciary relationship. Any lawyer who does not live up to this duty must be prepared to take the consequences of his waywardness.

A member of the Bar may be penalized, even disbarred or suspended from his office as an attorney, for violation of the lawyer's oath and/or for breach of the ethics of the legal profession as embodied in the CPR. For the practice of law is "a profession, a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character." The appropriate penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.

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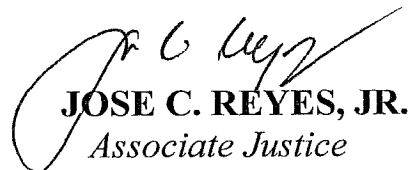
In another case, *Abiero v. Juanino*,¹⁸ the Court imposed the penalty of six month suspension after finding the respondent lawyer guilty of negligence and for violating Canons 17 and 18 of the CPR.

Failure to appeal to the Court of Appeals despite instructions by the client to do so constitutes inexcusable negligence on the part of counsel. Once a lawyer consents to defend the cause of his client, he owes fidelity to such cause and must at all times be mindful of the trust and confidence reposed in him. He is bound to protect his client's interest to the best of his ability and perform his duties to his client with utmost diligence. Nothing less can be expected from a member of the Philippine Bar. For having neglected a legal matter entrusted to him by his client, respondent did not serve his client with diligence and competence. His inexcusable negligence on such matter renders him liable for violation of Canons 17 and 18 of the Code of Professional Responsibility. (Citation omitted)

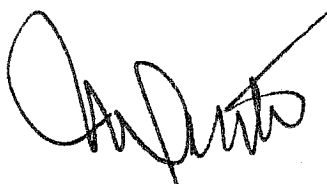
WHEREFORE, respondent Atty. Samuel M. Salas is found **GUILTY** of violating Rule 12.03 of Canon 12, Canon 17, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for six (6) months, effective upon the receipt of this decision. He is **STERNLY WARNED** that a repetition of the same or similar act will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant to be entered in respondent's personal records as member of the Philippine Bar, the Integrated Bar of the Philippines for distribution to all its chapters, and the Office of the Court Administrator for circulation to all courts.

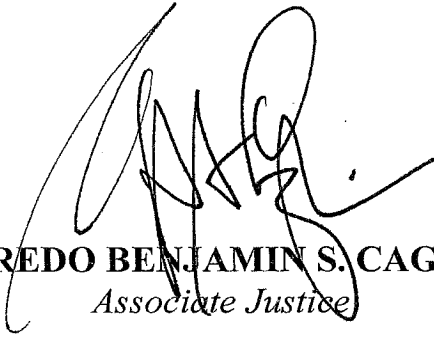
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

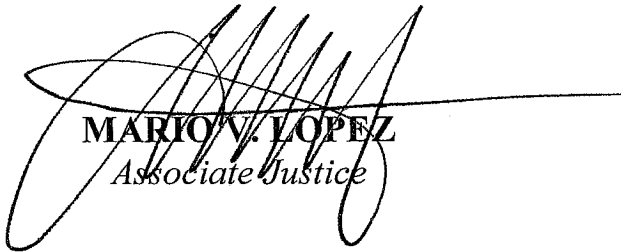
¹⁸ 492 Phil. 149-159, 157 (2005).



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice