



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**CALIXTRO P. CALISAY,**  
Complainant,

**A.C. No. 10709**

Present:

- versus -

**CAGUIOA, J.**  
Chairperson,  
**INTING,**  
**GAERLAN,**  
**DIMAAMPAO,** and  
**SINGH, JJ.**

**ATTY. TORADIO R. ESPLANA**  
and **ATTY. MARY GRACE A.**  
**CHECA-HINOJOSA,**  
Respondents.

Promulgated:  
**August 23, 2022**

*Miguel B. Bautista*

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DECISION

**GAERLAN, J.:**

This resolves the verified complaint<sup>1</sup> dated December 9, 2014 filed before the Court by Calixtro P. Calisay (complainant) under Rule 139-B of the Rules of Court, against respondents Atty. Toradio R. Esplana (respondent Esplana) and Atty. Mary Grace A. Checa-Hinojosa (respondent Checa-Hinojosa).

Complainant alleged that he engaged the services of respondent Esplana to represent him in a Complaint for Unlawful Detainer with damages filed against him by Teresa Yap before the Municipal Trial Court (MTC) of Sta. Cruz, Laguna.<sup>2</sup> The complainant became respondent Esplana's client on April 23, 2012.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 1-4.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 265.

Respondent Esplana filed an Answer with Entry of Appearance in the said case on May 7, 2012, eight (8) days beyond the reglementary period to file an Answer.<sup>4</sup> Thus, on May 25, 2012, the MTC issued an order expunging the Answer from the records for having been filed out of time.<sup>5</sup>

On May 30, 2012, the MTC issued a decision finding merit on the complaint for unlawful detainer and ordering complainant among others, to vacate the subject premises.<sup>6</sup> Unaware of the same, respondent Esplana moved to reconsider the MTC's Order dated May 25, 2012.<sup>7</sup>

On appeal to the Regional Trial Court (RTC), complainant engaged the services of respondent Checa-Hinojosa, who then entered her appearance on July 31, 2012.<sup>8</sup>

On November 23, 2012, the RTC rendered its Decision affirming the decision of the MTC.<sup>9</sup> Thus, complainant, through respondent Checa-Hinojosa, elevated the matter via petition for review before the Court of Appeals (CA).<sup>10</sup>

On June 5, 2013, the CA denied the petition for review. Complainant filed a Motion for Reconsideration but it was also denied by the CA in its Resolution dated August 29, 2013.<sup>11</sup>

Complainant alleged that respondent Checa-Hinojosa received a copy of the CA resolution on September 12, 2013, but he was informed of the same only on November 12, 2013, when the period to file an appeal before the Court had already lapsed. As a result, the CA ruling already attained finality and the complainant lost an opportunity to ventilate his case.<sup>12</sup>

On February 2, 2015, the Court issued a Resolution<sup>13</sup> requiring respondents to comment on the verified complaint. Respondent Esplana filed his Comment on June 26, 2015, whereas, respondent Checa-Hinojosa filed her

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<sup>4</sup> Id. at 1, 21-28.

<sup>5</sup> Id. at 1, 30-31.

<sup>6</sup> Id. at 2, 38-41.

<sup>7</sup> Id. at 2, 32-35.

<sup>8</sup> Id. at 2, 282.

<sup>9</sup> Id. at 2-3, 42-45.

<sup>10</sup> Id. at 2-3, 46-49.

<sup>11</sup> Id. at 3, 51-52.

<sup>12</sup> Id. at 3.

<sup>13</sup> Id. at 53.

Comment on September 22, 2015, to which the complainant filed a Reply on October 6, 2015.<sup>14</sup>

In a Resolution dated November 10, 2015, the Court resolved to refer the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.<sup>15</sup>

On February 20, 2017, IBP Commissioner Gina H. Mirano-Jesena issued her Report and Recommendation<sup>16</sup> finding respondent Esplana guilty of negligence in handling his client's case, under Rule 18.03 of the Code of Professional Responsibility (CPR), and respondent Checa-Hinojosa guilty of violating Rule 18.04 of the CPR for failing to inform her client of the CA Resolution. Commissioner Mirano-Jesena then recommended that respondents be suspended from the practice of law for six (6) months.<sup>17</sup>

The findings of fact and recommendation of Commissioner Mirano-Jesena were adopted by the IBP Board of Governors through a Resolution dated August 31, 2017.<sup>18</sup>

Respondents separately sought to reconsider the IBP Resolution. In a Resolution<sup>19</sup> dated August 29, 2018, the IBP partially granted respondents' motion for reconsideration, in that in lieu of suspension for a period of six (6) months, it recommended that "the respondents be reprimanded, considering that – i) this is their first offense, and ii) they appear to be in good faith and have no knowledge of the denial of the motion for reconsideration, and continued to represent complainant in his case."<sup>20</sup>

Complainant filed a motion for reconsideration of the IBP Resolution dated August 29, 2018, but the same was denied by the IBP in its Resolution dated June 17, 2019.<sup>21</sup>

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<sup>14</sup> Id. at 546.

<sup>15</sup> Id. at 547.

<sup>16</sup> Id. at 546-550.

<sup>17</sup> Id. at 548-560.

<sup>18</sup> Id. at 545.

<sup>19</sup> Id. at 674.

<sup>20</sup> Id. at 669.

<sup>21</sup> Id. at 669; 686-687.

On January 28, 2020, IBP Director for Bar Discipline Randall C. Tabayoyong transmitted to the Court the IBP Resolution and the records of the subject administrative case.<sup>22</sup>

On January 7, 2021, the complainant filed a Manifestation<sup>23</sup> praying that the findings and recommendations of the IBP in its Resolution dated August 31, 2017, be adopted.

Respondent Checa-Hinojosa filed a Comment to the Manifestation on January 12, 2021, in which she argued that the failure by the complainant to file a Petition for Review before the Court to assail the IBP's Resolution, rendered the latter's finding imposing upon respondents the penalty of reprimand, final, executory, and unappealable.<sup>24</sup>

### **The Court's Ruling**

Significantly, it must be stated that no petition for review has been filed with the Court. Under the old rule, enunciated under Section 12(c) of Rule 139-B of the Rules of Court, the case shall be terminated if complainant does not file a petition with this Court within fifteen (15) days from notice of the IBP resolution imposing a penalty less than suspension.

Rule 139-B was later amended by B.M. No. 1645 dated October 13, 2015. Section 12 thereof now reads:

Sec. 12. Review and recommendation by the Board of Governors.

a) Every case heard by an investigator shall be reviewed by the IBP Board of Governors upon the record and evidence transmitted to it by the Investigator with his report.

b) After its review, the Board, by the vote of a majority of its total membership, shall recommend to the Supreme Court the dismissal of the complaint or the imposition of disciplinary action against the respondent. The Board shall issue a resolution setting forth its findings and recommendations, clearly and distinctly stating the facts and the reasons on which it is based. The resolution shall be issued within a period not exceeding thirty (30) days from the next meeting of the Board following the submission of the Investigator's report.

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<sup>22</sup> Id. at 670.

<sup>23</sup> Id. at 690-697.

<sup>24</sup> Id. at 700-706.

c) The Board's resolution, together with the entire records and all evidence presented and submitted, shall be transmitted to the Supreme Court for final action within ten (10) days from issuance of the resolution.

d) Notice of the resolution shall be given to all parties through their counsel, if any.

With this amendment, it is highlighted that it is only the Court which has the power to impose disciplinary action on the members of the Bar. The factual findings and recommendations of the Commission on Bar Discipline and the Board of Governors of the IBP are only recommendatory, and are subject to review by the Court.<sup>25</sup> Thus, the Court, in faithful observance of its duty, shall not refuse to review the IBP's recommendation even if a petition has been prematurely filed or in the absence of a petition altogether.<sup>26</sup>

After reviewing the facts of the case, the Court adopts the findings of the IBP except as to its recommendation of penalty for respondent Checa-Hinojosa.

As found by the IBP Investigating Commissioner, respondents do not deny having committed the acts charged by complainant; they only submit their respective justification for their lapses.

Respondent Esplana submitted that he had prepared the Answer and Entry of Appearance prior to the deadline or on April 27, 2012, but was unable to file the same within the deadline because complainant was in Bicol and did not return on time to sign the same. It was only on May 5, 2012, Saturday, that complainant returned and signed the pleading. Hence, respondent Esplana filed the Answer on May 7, 2012, the next working day.<sup>27</sup> Respondent Esplana claimed that the filing of the instant administrative complaint is a mere afterthought after complainant lost his appeal.<sup>28</sup>

For her part, respondent Checa-Hinojosa also admitted having informed complainant belatedly of the CA Resolution on September 12, 2013, which resulted in the foreclosure of the remedy of appeal. Nevertheless, she asserted that the same was not willful nor intentional. She insisted having acted in good faith; that it was her clerk/mother who received the Resolution as at that time she was attending a seminar; that the following day her mother left for Hong Kong and failed to inform her of the CA resolution. In support of her claim of good

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<sup>25</sup> *Vasco-Tamaray v. Atty. Daquis*, 779 Phil. 191, 213 (2016).

<sup>26</sup> *Torres, et al v. Atty. Dalangin*, 822 Phil. 80, 96-97(2017).

<sup>27</sup> *Rollo*, pp. 609-611.

<sup>28</sup> *Id.* at 548.

faith, respondent Checa-Hinojosa averred that she remained active and diligent in representing complainant not only in the subject ejection case but, as well, in his all other cases, and that her actions show that she had no knowledge of the CA Resolution prior to her withdrawal of appearance. Consequently, respondent Checa-Hinojosa submitted that no gross misconduct had been committed.<sup>29</sup>

The relationship between a lawyer and his client is fiduciary in nature. A lawyer engaged to represent a client bears the responsibility of protecting the latter's interest with utmost diligence. A lawyer has the duty to serve his client with competence and diligence and, within the bounds of law, exert all efforts to protect and advance the client's interest. This engagement encompasses not only a demonstration of competence in the knowledge of the law but also in the management of the cases.<sup>30</sup>

In view of the nature of lawyer-client relationship, the Court held that the lawyer cannot shift the blame to his client for failing to follow up on the case. The main responsibility remains with the lawyer to inform the client of the status of the case.<sup>31</sup>

The Court adopts the recommended penalty by the IBP for respondent Esplana.

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

While, admittedly, respondent Esplana failed to file the Answer and Entry of Appearance on time, the Court however takes due consideration of the efforts undertaken by respondent Esplana to avert such delay by continuously communicating with the complainant and making arrangements for the signing of the pleading. However, the physical unavailability of complainant to do so, as substantiated by respondent Esplana, rendered the timely filing of the pleading not possible. The Court also takes notice of the fact that respondent Esplana immediately filed the pleading on the working day after the same had been signed by the complainant.<sup>32</sup> Under these circumstances, while it can still be said that respondent Esplana could have exerted more diligence to ensure the filing of the Answer on time, the Court finds the penalty of suspension too harsh when

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<sup>29</sup> Id. at 549, 633-637.

<sup>30</sup> *Atty. Solidon v. Atty. Macalalad*, 627 Phil. 284, 291 (2010).

<sup>31</sup> Id.

<sup>32</sup> *Rollo*, p. 356, 548.

viewed in relation to the efforts he has undertaken, and as found by the IBP, the fact that this is respondent Esplana's first administrative case.<sup>33</sup> More appropriately, therefore, we affirm the recommendation of the IBP to reprimand him for the infraction with a warning that the commission of the same or similar acts would be dealt with more severely.

In so far as respondent Checa-Hinojosa, we find her excuse insufficient to justify the imposition of the lesser penalty of reprimand; her acts establish a clear violation of Rule 18.03, above stated, and 18.04, viz.:

Rule 18.04—A lawyer shall keep his client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

Respondent Checa-Hinojosa cannot pass the blame on her clerk for her failure to obtain knowledge that the CA has already resolved the complainant's motion for reconsideration. Her services having been engaged by complainant, and as the lawyer and head of office, it is her duty to apprise herself of the developments of the case she handles. She cannot merely rely upon her staff to inform her of case updates and developments. Her failure in this case to inform the complainant of the CA Resolution on the motion for reconsideration which foreclosed the remedy of appeal for the latter is a violation of the CPR which warrants disciplinary action.<sup>34</sup>

Anent the penalty, the Court, in the exercise of its plenary power to discipline lawyers, has a wide latitude of discretion to impose a penalty different from the IBP recommendation if such penalty would achieve the desired end of reforming the errant lawyer. In making such a determination, the surrounding circumstances of the case and the relationship between the lawyer and the client, among others, are taken into consideration.<sup>35</sup> In here, similar to respondent Esplana, We note that this is also respondent Checa-Hinojosa's first offense. The Court also takes due consideration of the fact that she continued to represent the complainant in other cases despite the instant complaint. Hence, we find, that similar to the cases of *Toquib v. Tomol, Jr.*<sup>36</sup> and *Figueras v. Jimenez*,<sup>37</sup> cited and adopted in the recent case of *Katipunan, Jr. v. Carrera*,<sup>38</sup> the imposition of the penalty of one (1) month suspension on respondent Checa-Hinojosa for her

<sup>33</sup> See *Sison v. Atty. Valdez*, 814 Phil. 1007, 1017 (2017).

<sup>34</sup> *Ramirez v. Atty. Buhayang-Margallo*, 752 Phil. 473, 482 (2015).

<sup>35</sup> *Supra* note 33 at 1017-1018.

<sup>36</sup> 136 Phil. 1-6 (1969).

<sup>37</sup> 729 Phil. 101, 106-107 (2014).

<sup>38</sup> A.C. No. 12661, February 19, 2020.

negligent failure to apprise the complainant of the CA's denial of the motion for reconsideration causing it to lapse into finality, is sufficient under the premises.

**WHEREFORE**, premises considered, judgment is hereby rendered as follows:

1. Atty. Toradio R. Esplana is hereby found **GUILTY** of violating Rule 18.03 of the Code of Professional Responsibility and is **REPRIMANDED with STERN WARNING** that a repetition of the same or similar offense in the future shall be dealt with severely.

Let a copy of this Decision be furnished the Office of the Bar Confidant to be attached to Atty. Toradio R. Esplana's personal records.

2. Atty. Mary Grace A. Checa-Hinojosa is hereby found **GUILTY** of violating Rules 18.03 and 18.04 of the Code of Professional Responsibility and is **SUSPENDED** from the practice of law for a period of one (1) month with **STERN WARNING** that a repetition of similar acts shall be dealt with more severely.

Atty. Mary Grace A. Checa-Hinojosa, upon receipt of this Decision, shall immediately serve her suspension. She shall formally manifest to this Court that her suspension has started, and copies have been furnished all courts and quasi-judicial bodies where she had entered her appearance, within five (5) days upon receipt of this Decision. Atty. Checa-Hinojosa shall also serve copies of her manifestation on all adverse parties in all cases she entered her formal appearance.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be attached to Atty. Mary Grace A. Checa-Hinojosa's personal records. Copies of this Decision shall also be served to 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.**

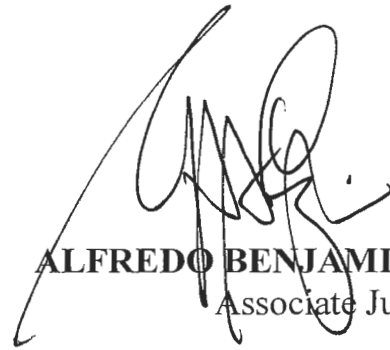


**SAMUEL H. GAERLAN**


Associate Justice



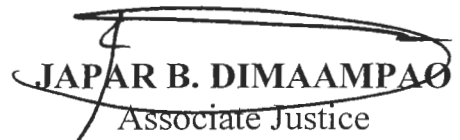
WE CONCUR:




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice



**JAPAR B. DIMAAMPAO**  
Associate Justice



**MARIA FILOMENA D. SINGH**  
Associate Justice