



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 24, 2016 which reads as follows:*

**“A.C. No. 7726 (*Heirs of the late Flor & Leonila Tungpalan v. Atty. Ruben V. Abarquez*). – The Report dated September 18, 2015 of the Office of the Bar Confidant in compliance with the Resolution dated June 18, 2014 requiring said office to report whether a motion for reconsideration or a petition for review was filed by either party on the instant case is **NOTED**.**

This administrative complaint was filed by the heirs of the late Flor and Leonila Tungpalan (complainants) against Atty. Ruben V. Abarquez (respondent) for gross negligence in handling their case.

FACTUAL ANTECEDENTS

This case stemmed from a Complaint<sup>1</sup> for reformation, reconveyance and nullification of title, etc. filed before Branch 14 of the Regional Trial Court (RTC) of Davao City and docketed as Civil Case No. 21345-92.<sup>2</sup> Complainants hired respondent as their legal counsel.

On 1 September 1992, the RTC issued an Order<sup>3</sup> setting the case for pretrial conference on 6 October of the same year. Upon motion of respondent, this date was later reset to 3 November, and notices<sup>4</sup> were sent to both parties. According to complainants, respondent failed to notify them of their required attendance.

- over - five (5) pages .....

117

<sup>1</sup> *Rollo*, pp. 10-24.

<sup>2</sup> The case is entitled, *Heirs of the Late Flor Tungpalan etc., v. Spouses Navarro R. Eustaquio etc.*

<sup>3</sup> *Rollo*, p. 64. The Order dated 1 September 1992, issued by the Regional Trial Court Branch 14, in Davao City, was penned by Judge Jesus V. Quitain

<sup>4</sup> *Id.*, at. 66.

On the date of the pretrial conference, complainant and respondent were absent from the hearing. The RTC reset the pre-trial conference to 18 December 1992. The hearing was once again rescheduled for the succeeding year, on 12 February 1993, but an Urgent Motion for Postponement was filed and subsequently granted by the trial court.<sup>5</sup> On 15 January 1993, the RTC issued an Order<sup>6</sup> resetting the case for “the last time” to 8 March, but complainants and respondent were again absent. Complainants allege that respondent failed to forward to them the notices of the new pretrial conference date.

As a result, the RTC declared complainants non-suited and dismissed their complaint. In its Order<sup>7</sup> dated 8 March 1993, it observed that complainants and their counsel had failed to appear, “despite the fact that they were duly notified of the notice of the pre-trial as shown by the return indicating that they received copy of said notice as early as February 12, 1993.”

According to complainants, they made several follow-ups with respondent but he failed to update them on the status of the case. When they heard that the defendants in the civil case were reportedly selling the subject property, complainants insisted upon annotating *lis pendens* on the title. Only then did the latter discover the order of dismissal issued more than a year ago.

On 1 October 1994, respondent counsel filed a Motion for Reconsideration<sup>8</sup> explaining his absence on 8 March 1993, and requesting the trial court to reinstate Civil Case No. 21345-92. He said that he was present on the date of the pretrial conference, but that he had been scheduled to appear first as a witness in a separate criminal case. He asked permission from one of the court personnel, but during the course of his testimony, the hearings in Branch 14 had already adjourned. Nevertheless, the RTC denied his motion in its Order,<sup>9</sup> dated 22 December 1994.

On appeal, the Court of Appeals affirmed the RTCs Order declaring complainants non-suited and likewise dismissed their Complaint.<sup>10</sup> The CA held that the assailed Order was final and had the effect of adjudication upon the merits.<sup>11</sup> Their Motion for Reconsideration was also denied.<sup>12</sup>

#### IBP'S REPORT AND RECOMMENDATION

- over -

//?

---

<sup>5</sup> Id. at 29.

<sup>6</sup> Id. at 67. Penned by Judge William M. Layague.

<sup>7</sup> Id. at 25.

<sup>8</sup> Id. at 26-27.

<sup>9</sup> Id. at 72-75.

<sup>10</sup> Id. at 76-83. The Decision dated 16 July 1998, issued by the Court of Appeals Third Division in CA-G.R. CV No. 50477, was penned by Associate Justice Jorge S. Imperial and concurred in by Associate Justices Ramon A. Barcelona and Demetrio G. Demetria.

<sup>11</sup> Id. at 80. The Resolution denying the Motion for Reconsideration is dated 4 October 1998.

<sup>12</sup> Id. at 84-85.

Aggrieved, complainants filed the present Complaint before the IBP Commission on Bar Discipline (IBP-CBD). They prayed that respondent be held administratively liable<sup>13</sup> for repeatedly failing to (1) appear during the scheduled pretrial conferences, and (2) inform complainants of the status of their case, both in violation of Rules 18.03<sup>14</sup> and 18.04<sup>15</sup> of the Code of Professional Responsibility.

Respondent was given several opportunities to file an Answer<sup>16</sup> and a Position Paper<sup>17</sup> with the IBP-CBD, but he failed to do so. Despite notice,<sup>18</sup> he was also absent during the second mandatory conference held on 7 December 2006. Upon motion of the complainants, respondent was declared to be in default and the case was deemed submitted for report and recommendation.<sup>19</sup>

The IBP's Investigating Commissioner, in his Report and Recommendation<sup>20</sup> dated 24 May 2007, recommended respondent's suspension for six (6) months. The gist of the report reads:

Indeed, the respondent is guilty of not meeting the diligence required of him and of not fulfilling his duty to his clients. His failure to appear at the pre-trial (which led to the dismissal of the case) and the inexplicable delay in seeking relief from the said dismissal cannot be countenanced. As the aforementioned ruling has declared, a lawyer's inexcusable negligence is punishable with suspension from the practice of law. And this is precisely the case here.

Worse, respondent's failure to file his Answer does not allow any mitigation, much less exculpation, of the charges against him. Respondent has wasted the numerous opportunities granted to him for him to explain his side. Thus, he leaves this Office no choice but to penalize him to the full extent possible.<sup>21</sup>

In a Resolution<sup>22</sup> dated 26 June 2007 in CBD Case No. 06-1668, *Heirs of Late Flor & Leonila Tungpalan v. Atty. Ruben v. Abarquez*, the Board of Governors of the Integrated Bar of the Philippines adopted and approved the Report and Recommendation<sup>23</sup> of the Investigating Commissioner finding respondent guilty of inexcusable negligence and suspending him from the practice of law for six (6) months.

- over - 117

<sup>13</sup> Id. at 6.

<sup>14</sup> Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

<sup>15</sup> 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.

<sup>16</sup> *Rollo*, pp. 35, 94.

<sup>17</sup> Id. at 41.

<sup>18</sup> Id. at 95.

<sup>19</sup> Id. at p. 102.

<sup>20</sup> Id. at 105-114.

<sup>21</sup> Id. at 113-114.

<sup>22</sup> Id. at 104.

<sup>23</sup> Id. at 105-114.

**RULING**

The Court adopts the factual findings of the IBP and affirms the penalty imposed on respondent.

An attorney-client relationship is imbued with utmost trust and confidence, such that clients are led to expect that their lawyer would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs.<sup>24</sup> Hence, Canon 18 of the Code of Professional Responsibility mandates that lawyers shall serve their clients with competence and diligence.

At the outset, the facts show that respondent was utterly remiss in his duties to his clients. *First*, he failed to justify his absence during the scheduled pretrial conference hearings, despite several notices and postponements granted in his favour. Hence, the RTC dismissed the case on the merits, which prevented complainants from presenting their case before the trial court. *Second*, instead of immediately taking action, respondent waited for nearly *one year and a half* before filing a Motion for Reconsideration, thereby barring any further relief for complainants

Lawyers should remember that their duty extends beyond reviewing the cases entrusted to a counsel's care or giving sound legal advice. It also consists of properly representing the client before any court or tribunal, attending scheduled hearings or conferences, preparing and filing the required pleadings, prosecuting the handled cases with reasonable dispatch, and urging the termination of those cases without waiting for the client or the court to prod them to do so.<sup>25</sup> Aside from delivering efficient and effective legal services, lawyers must also timely and adequately inform the clients about the status of the case. The lawyer's duty to keep his clients constantly updated on the developments of his case is crucial in maintaining the latter's confidence. Lawyers should not leave the client in the dark on how they are protecting the latter's interests.<sup>26</sup>

Had respondent promptly notified his clients about the scheduled hearings and the status of the case, the adverse consequences would have been averted. His actions exhibited inexcusable negligence and effectively betrayed his clients' confidence and trust.

- over -

117

<sup>24</sup> *Caranza vda. de Saldivar v. Cabanes, Jr.*, A.C. No. 7749, 8 July 2013, 700 SCRA 7340

<sup>25</sup> *Id.*

<sup>26</sup> *Vda. de Robosa v. Mendoza*, A.C. No. 6056, 9 September 2015, citing *Mejares v. Romana*, 469 Phil. 619, 629 (2004).

**WHEREFORE**, we find respondent **ATTY. RUBEN V. ABARQUEZ** guilty of gross neglect in violation of Rules 18.03 and 18.04 of Canon 18 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for six (6) months, effective upon his receipt of this Resolution, and **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

**SO ORDERED.”**

Very truly yours,

~~\_\_\_\_\_~~  
**EDGAR O. ARICHETA**  
Division Clerk of Court *pk/els*  
**117**

Atty. Rodolfo B. Ta-asan, Jr.  
Counsel for Complainants  
Chavez-Monteverde Sts.  
8000 Davao City

Atty. Ruben V. Abarquez  
Respondent  
Rm. 206, Lee Bldg.  
J. Luna St. 8000 Davao City

The Bar Confidant (x)  
Supreme Court

Integrated Bar of the Philippines  
Pasig City

Office of the Court Administrator (x)  
Supreme Court

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

SR

9

*file*