



SUPREME COURT OF THE PHILIPPINES  
PUBLIC OFFICE  
**RECORDED**  
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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**EDGARDO M. MORALES,**  
Complainant,

**A.C. No. 12476**

**Present:**

-versus-

**CARPIO, J.**  
Chairperson  
**PERLAS-BERNABE,**  
**CAGUIOA,**  
**J. REYES, JR.\*** and  
**LAZARO-JAVIER, JJ.**

**ATTY. RAMIRO B. BORRES, JR.,**  
Respondent.

Promulgated:

10 JUN 2019

X-----*LAZARO-JAVIER*-----X

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case and The Proceedings Below**

Respondent Atty. Ramiro B. Borres, Jr. is charged with violations of Canons 17<sup>1</sup> and 18<sup>2</sup> of the Code of Professional Responsibility (CPR).

\* On Leave.

<sup>1</sup> 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.

<sup>2</sup> Canon 18 - A lawyer shall serve his client with competence and diligence.

**Complainant essentially alleged:**<sup>3</sup> Respondent agreed to assist him in filing complaints for trespass to property and malicious mischief against Perla Borja, Spouses Edmundo and Marilyn Bonto, and Erlinda Brines. He paid respondent P25,000 as acceptance fee. Respondent only prepared three complaints for malicious mischief which were all filed before the Office of the City Prosecutor-Tabaco City (OCP-Tabaco City).

In the Investigation Data Forms submitted to the OCP-Tabaco City, he indicated the residence of his brother-in-law in Tabaco City as his postal address although he was actually residing in Quezon City.

Subsequently, respondent informed him that the cases were dismissed. He asked for copies of the resolutions of dismissal, but the latter did not give him any. He and respondent then went together to the OCP-Tabaco City to obtain copies of these resolutions. There, they were informed that the notices sent to his brother-in-law's residence in Tabaco City were returned unserved.

The OCP-Tabaco City, nonetheless, directed him to submit the necessary information on the ages of the parties sought to be charged, the date of case referral for barangay conciliation, and copies of police/barangay blotters of the purported acts of malicious mischief on his property.

For the purpose of filing his motion for reconsideration, he gave respondent copy of his title to the subject property. It turned out, however, that respondent did not attach this title to the motion for reconsideration eventually filed before the OCP-Tabaco City.

His motion for reconsideration was denied on the ground that he allegedly failed to sufficiently prove his ownership of the property.


**In his defense, respondent countered, in the main:**<sup>4</sup> Although he moved his law office from Tabaco City to Makati City, he still managed to follow-up the status of the cases with the OCP-Tabaco City whenever he had a hearing in the area. It was unfortunate, however, that the personnel assigned to the cases were always not around each time he went there to inquire.

He did not know that complainant indicated as the latter's postal address the Tabaco City residence of his brother-in-law in the records of the OCP-Tabaco City. He never suppressed any information from complainant regarding the status of the cases. In fact, as soon as he learned that the cases got dismissed, he wasted no time and called complainant for the required information on the ages of the parties sought to be charged. He even

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<sup>3</sup> As stated in the Complaint-Affidavit dated March 31, 2016; *rollo*, pp. 2-6.

<sup>4</sup> As stated in the Answer dated May 2, 2016; *rollo*, pp. 29-33.



accompanied complainant to the OCP-Tabaco City to secure copies of its orders and resolutions.

He did not prepare the motion for reconsideration with haste. It bore the required ages of the parties sought to be charged. As for the police and barangay blotters pertaining to the acts of malicious mischief complained of, he was unable to submit them to the OCP-Tabaco City as the same got destroyed when Albay was hit by typhoons and other calamities. Regarding complainant's title to the property, there was no need to attach the same to the motion for reconsideration since the parties themselves had already acknowledged in their Kasunduan executed before the barangay that complainant did own the property.

When he learned that the motion for reconsideration was denied, he promptly advised complainant to file a petition for review with the Office of the Regional State Prosecutor. Complainant, however, did not heed his advice.

In compliance with the directive of the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD), both parties attended the mandatory conference<sup>5</sup> and thereafter filed their position papers.<sup>6</sup>

### **IBP-CBD's Report and Recommendation**

In its Report and Recommendation dated October 5, 2016,<sup>7</sup> the IBP-CBD found respondent guilty of violations of Canons 17 and 18 of the CPR and recommended his suspension from the practice of law for three months.

### **IBP Board of Governors' Resolution and Extended Resolution**

By Resolution dated March 1, 2017,<sup>8</sup> the IBP Board of Governors reversed. An exhaustive discussion of its findings and recommendation is contained in its Extended Resolution dated February 2, 2018,<sup>9</sup> viz:

#### **The Board's Findings**

The Board agrees with and rules for the respondent.

As to complainant's address, it must be emphasized that respondent had no personal knowledge that complainant used the address

<sup>5</sup> Notice of Mandatory Conference/Hearing dated May 27, 2016; *rollo*, p. 42.

<sup>6</sup> *Rollo*, pp. 51-63.

<sup>7</sup> Penned by Investigating Commissioner Juan Orendain P. Buted; *rollo*, pp. 99-108.

<sup>8</sup> As stated in the Notice of Resolution; *rollo*, pp. 97-98.

<sup>9</sup> Penned by Assistant Director for Bar Discipline Leo B. Malagar; *rollo*, pp. 109-113.

of his brother-in-law at Tabaco City as his postal address for purposes of receiving notices from the Office of the City Prosecutor of Tabaco City. Furthermore, when respondent visited the Office the City Prosecutor of Tabaco City every time he went to the said city, he was not advised by the personnel in the said office of the situation of the case because according to them, the assigned employee over the case was absent. Every time he visited the said office, he would text or call the complainant and the latter even invited him to Hotel Fina to eat and drink or to have coffee at Graceland, Tabaco City.

It was the respondent who voluntarily went to the city prosecutor's office to inquire about the status of the cases. Respondent found out the dismissal of the cases only on 04 February 2016 when he attended the hearing of one of his cases before the Regional Trial Court. He then called complainant and asked him to go to Tabaco City to secure documents showing the age of the respondents in these cases as required by the prosecutor. Moreover, while complainant wanted respondent to submit titles to the land and subdivision plan as evidence of ownership, respondent was of the opinion that there was no need to present said documents considering that the other parties had already acknowledged complainant's ownership in the Kasunduan (Annex "4", Answer). Clearly, respondent's decision not to present the titles were grounded on reason and evidence already on file before the city prosecutor's office. As to the motion for reconsideration, the Board finds that the same was not hastily prepared by respondent because there was a statement of the approximate age of the persons sued by the complainant. It must be stressed that the copies in the barangay were no longer available due to the calamities in the province. Finally, the situation could have been remedied by filing a petition for review as suggested by respondent. Unfortunately, complainant never made known his intentions to respondent.

### **The Recommendation of the Board**

**WHEREFORE**, premises considered, the Board resolves to reverse and set aside the Report and Recommendation dated 05 October 2016 and to dismiss the complaint.

**SO ORDERED.**<sup>10</sup>

### **Issue**

Did respondent violate Canons 17 and 18 of the CPR?

### **Ruling**

We affirm both Resolution dated March 1, 2017<sup>11</sup> and Extended Resolution dated February 2, 2018<sup>12</sup> of the IBP Board of Governors.

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<sup>10</sup> *Rollo*, pp. 112-113.

<sup>11</sup> *Supra* note 8.

<sup>12</sup> *Supra* note 9.

Complainant charged respondent with violations of Canons 17 and 18 of the CPR, *viz.*:

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.

Canons 17 and 18 impose an exacting standard and require lawyers to serve their clients with competence, fidelity, and diligence.<sup>13</sup>

On this score, complainant faults respondent for the latter's alleged lack of zeal in protecting his interest in the cases which respondent handled on his behalf. Complainant points out that respondent was not even aware of the developments in these cases; deliberately withheld from him copies of the orders and resolutions of the OCP-Tabaco City therein; failed to furnish the OCP-Tabaco City with the police and barangay blotters of the acts of malicious mischief complained of; and failed to attach his title to the motion for reconsideration.

We are not persuaded.

For one, respondent does not appear to have been engaged as complainant's counsel of record in subject cases. This precisely was the reason why respondent himself did not receive copies of the orders or resolutions issued in said cases. It was, therefore, unfair for complainant to even suspect that respondent withheld these orders or resolutions from him.

For another, complainant admitted that copies of the orders or resolutions supposedly intended for him were returned unserved because he indicated in the records of OCP-Tabaco City not his correct address but the residence of his brother-in-law in Tabaco City.

Still another, complainant did not refute respondent's assertion that the latter did follow-up the cases whenever he had a hearing in Tabaco City, Albay. Each time he was there though the personnel assigned to the cases were not around.

Neither did complainant deny respondent's two other averments: **ONE**, there was no need to attach complainant's title to the motion for reconsideration since the parties themselves in their "Kasunduan" before the barangay had already agreed that complainant, indeed, owned the property; and **TWO**, the police and barangay blotters pertaining to the incidents complained of could no longer be produced as the same got destroyed during the typhoons and other calamities which struck Albay.

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<sup>13</sup> *Angeles v. Atty. Lina-ac*, A.C. No. 12063, January 8, 2019.



Nor did complainant contradict that following the denial of his motion for reconsideration, respondent promptly advised him to elevate the matter to the Office of the Regional State Prosecutor. But complainant did not heed respondent's advice. For complainant's own failure to avail of this appropriate remedy, he cannot resort to a disbarment suit against respondent as an alternative remedy.

Indeed, a disbarment complaint is not an appropriate remedy to be brought against a lawyer simply because he lost a case he handled for his client. A lawyer's acceptance of a client or case is not a guarantee of victory. When a lawyer agrees to act as counsel, what is guaranteed is the observance and exercise of reasonable degree of care and skill to protect the client's interests and to do all acts necessary therefor.<sup>14</sup>

But once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. Thus, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable.<sup>15</sup>

As stated, respondent here was not shown to have neglected his duty to complainant in the cases for which he was engaged as counsel. Respondent may not have won these cases, but to reiterate, this fact alone does not equate to neglect of duty as counsel.

In disbarment proceedings, complainant bears the burden of proof by substantial evidence.<sup>16</sup> This means complainant must satisfactorily establish the facts upon which the charges against respondent are based.<sup>17</sup> To repeat, complainant failed to discharge this burden. Consequently, respondent's right to be presumed innocent and to have regularly performed his duty as officer of the court must remain in place.

As the Court has invariably pronounced, it will not hesitate to mete out proper disciplinary punishment upon a lawyer who is shown to have failed to live up to his or her sworn duties.<sup>18</sup> But the Court will not hesitate either to extend its protective arm to a lawyer unjustly accused by a dissatisfied litigant relative to a case lost without any fault on the part of the lawyer.

**ACCORDINGLY**, the Complaint against Atty. Ramiro B. Borres, Jr. is **DISMISSED**.

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<sup>14</sup> *Spouses Gimena v. Atty. Vijiga*, A.C. No. 11828, November 22, 2017.

<sup>15</sup> *Go v. Atty. Buri*, A.C. No. 12296, December 4, 2018.

<sup>16</sup> *Arsenio v. Atty. Tabuzo*, 809 Phil. 206, 210 (2017).

<sup>17</sup> *Alag v. Atty. Sanupe, Jr.*, A.C. No. 12115, October 15, 2018.

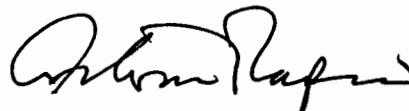
<sup>18</sup> *Guanzon v. Dojillo*, A.C. No. 9850, August 6, 2018.




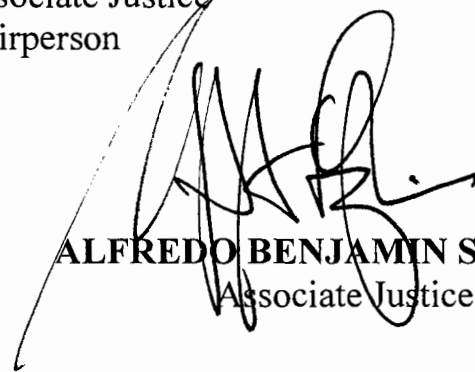
**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

(On Leave)  
**JOSE C. REYES, JR.**  
Associate Justice