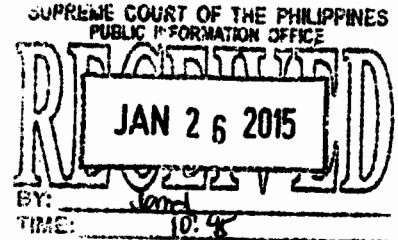




Republic of the Philippines  
**Supreme Court**  
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated December 10, 2014, which reads as follows:*

**“A.C. No. 7094 (Alfredo C. Raffinan, Jr. vs. Atty. Rolindo A. Navarro). – The Court resolves to NOTE:**

- (1) the Notice of Resolution No. XX-2013-281 dated March 20, 2013 of the Integrated Bar of the Philippines (IBP) Board of Governors adopting and approving the report and recommendation of the investigating commissioner, suspending respondent from the practice of law for one year with a stern warning that a repetition of the same or similar acts or conduct shall be dealt with more severely and ordering that he return the amount of Three Thousand Pesos (₱3,000.00) to complainant for violation of Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility;
- (2) the Notice of Resolution No. XXI-2014-156 dated March 22, 2014 of the IBP Board of Governors denying both the respondent’s and the complainant’s respective motion for reconsideration, thus affirming Resolution No. XX-2013-281 dated March 20, 2013; and
- (3) the letter dated July 15, 2014 of the IBP transmitting the documents pertaining to this case.

This case involves an administrative complaint for disbarment filed by complainant Alfredo C. Raffinan, Jr. (Raffinan) against respondent Atty. Rolindo A. Navarro (Atty. Navarro) for violation of lawyer’s oath and Canons 15, 17, 18, and 19 of the Code of Professional Responsibility for failure of the latter to protect the interest of Raffinan and to comply with his duty and obligation as Raffinan’s lawyer.

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On March 6, 2006, complainant Raffinan filed a verified Affidavit-Complaint<sup>1</sup> before the Court. He alleged that, sometime in September 1997, he availed of the legal services of Atty. Navarro for the filing of a civil complaint for Sum of Money and Damages with Writ of Preliminary Attachment<sup>2</sup> against the National Power Corporation (NAPOCOR). The case was filed with the Regional Trial Court (RTC) of Cebu City, Branch 13 and docketed as Civil Case No. CEB-20906. In turn, Raffinan paid Atty. Navarro the total amount of ₱60,000.00, which included, among others, the acceptance fees, filing fees and other expenses with the understanding that Atty. Navarro will assist him even if the case would have to reach the Court. Raffinan claimed, however, that Atty. Navarro did not issue any official receipt for the foregoing payment.<sup>3</sup>

After trial, the RTC rendered a Decision<sup>4</sup> dated December 17, 1999 in favor of Raffinan. The RTC ordered NAPOCOR to pay Raffinan the total amount of ₱446,170.00 as actual, moral, and exemplary damages, attorney's fees, and litigation expenses. Unsatisfied, a motion for reconsideration was filed by Raffinan arguing that the RTC failed to award consequential damages for loss of income. The motion also sought to correct the amount of litigation expenses from ₱20,000.00 to ₱50,000.00. Thereafter, the RTC resolved the motion by awarding Raffinan the amount of ₱500,000.00 as compensatory damages, and corrected the amount of litigation expenses from ₱20,000.00 to ₱50,000.00, increasing Raffinan's total award to ₱976,170.00. Undaunted, both parties appealed the case to the Court of Appeals (CA) and was docketed as CA-G.R. CV No. 69876.<sup>5</sup>

Determined to prosecute his case, Raffinan made several follow-ups with Atty. Navarro in connection with the appeal. In reply, Atty. Navarro assured him that he has nothing to worry about his appeal.<sup>6</sup>

On May 22, 2001, Atty. Navarro received a Notice to File Brief from the CA. He, however, failed to file such brief and as a consequence, the CA issued a Resolution<sup>7</sup> dated November 28, 2001 considering the appeal of Raffinan abandoned and dismissed for failure to file the required brief within the reglementary period. To make things worst, Raffinan alleged that he was notified of the said dismissal only a few months later and only after personally confronting Atty. Navarro regarding the said incident.<sup>8</sup>

<sup>1</sup> Rollo, pp. 2-7.

<sup>2</sup> Id. at 10-18.

<sup>3</sup> Id. at 2.

<sup>4</sup> Issued by Judge Meinrado P. Paredes; id. at 65-85.

<sup>5</sup> Id. at 3-4.

<sup>6</sup> Id. at 4.

<sup>7</sup> Id. at 41.

<sup>8</sup> Id. at 4.

Moreover, Atty. Navarro also failed to file an appellee's brief on time with respect to the appeal of NAPOCOR. Atty. Navarro was able to file the appellee's brief only after 120 days from the expiration of the reglementary period. Consequently, the CA issued a Resolution<sup>9</sup> dated April 1, 2002, which denied the admission of the appellee's brief and was ordered expunged from the records of the case.<sup>10</sup>

In a Decision<sup>11</sup> dated November 6, 2003, the CA reversed and set aside the decision of the RTC and deleted the award of moral damages, exemplary damages, attorney's fees and litigation expenses awarded to Raffinan. A motion for reconsideration<sup>12</sup> was filed but the same was denied by the CA in a Resolution dated January 12, 2004 for being filed out of time. A Motion for Reconsideration to Resolution Denying the Motion For Reconsideration dated December 3, 2003<sup>13</sup> was filed by Atty. Navarro arguing that the late filing was merely due to excusable negligence because his messenger was caught in traffic while on his way to the Philippine Postal Office for mailing. Finding the same to be without merit, the CA denied the motion in a Resolution dated April 5, 2004.

Aggrieved, Raffinan instructed Atty. Navarro to file a petition for review on *certiorari* before this Court. However, contrary to what was previously agreed upon, Raffinan paid Atty. Navarro an additional sum of ₱18,000.00 for his services of filing the petition.<sup>14</sup>

Again, Raffinan was dismayed when he later learned that the petition was denied by the Court in a Resolution<sup>15</sup> dated August 25, 2004 on three (3) grounds, namely: (i) late filing of petition; (ii) failure to pay on time the docket and other fees and deposit for costs; and (iii) failure to indicate in the petition the counsel's roll number. A motion for reconsideration was filed both by Atty. Navarro, as counsel, and Raffinan himself, but the same were denied with finality in a Resolution<sup>16</sup> dated September 29, 2004.<sup>17</sup>

In a Resolution<sup>18</sup> dated April 5, 2006, the Court noted the complaint and required Atty. Navarro to comment within ten (10) days from receipt of the resolution. Claiming that the case folders of the case he was handling for Raffinan were unavailable, Atty. Navarro requested for an extension of twenty (20) days to file his Comment.<sup>19</sup> On June 30, 2006, before the lapse

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<sup>9</sup> Id. at 43.  
<sup>10</sup> Id. at 5.  
<sup>11</sup> Id. at 113-133.  
<sup>12</sup> Id. at 134-137.  
<sup>13</sup> Id. at 138-141.  
<sup>14</sup> Id. at 5.  
<sup>15</sup> Id. at 44.  
<sup>16</sup> Id. at 45.  
<sup>17</sup> Id. at 5.  
<sup>18</sup> Id. at 91.  
<sup>19</sup> Id. at 92-93.

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of the reglementary period for filing the Comment, Atty. Navarro filed a Motion for Last Extension of Time to File Comment<sup>20</sup> for another fifteen (15) days. Accordingly, on July 26, 2006, the Office of the Bar Confidant (OBC) received Atty. Navarro's Comment.<sup>21</sup>

For his defense, Atty. Navarro denied the allegations of Raffinan and argued that it is not true that Raffinan paid him the amount of ₱60,000.00 for his legal services. He maintained that since Raffinan was referred to him by his friend Judge Leonardo B. Cañares, Raffinan merely paid him the minimum appearance fee every hearing. Moreover, since Raffinan personally prepared the complaint in Civil Case No. CEB-20906, Atty. Navarro merely signed as counsel for Raffinan.<sup>22</sup> He likewise denied that he received the amount of ₱18,000.00 from Raffinan in connection with the petition for review filed before the Court. He argued that he billed Raffinan for his services in filing the petition for only ₱15,000.00 but the latter merely advanced to him the amount of ₱3,000.00.<sup>23</sup>

Atty. Navarro further argued that when Raffinan instructed him to file an appeal before the CA, he intimated to Raffinan that he would need his assistance in the preparation of the appeal brief since he was the one who prepared the complaint and he was well-versed of his transactions with NAPOCOR. When the notice to file the appellant's brief, however, was received by Atty. Navarro's law office, he allegedly instructed her secretary to contact Raffinan for assistance in the preparation of the brief, but for one reason or another, the secretary failed to establish contact with Raffinan until the notice had escaped his attention due to heavy work load. With respect to the appeal interposed by NAPOCOR, Atty. Navarro argued that he managed to file the appellee's brief though beyond the reglementary period.<sup>24</sup>

To bolster his defense, Atty. Navarro alleged that the non-filing of the appellant's brief in Raffinan's appeal and the belated filing of the appellee's brief in the appeal filed by NAPOCOR did not prejudice the interest of Raffinan as the CA had the opportunity to traverse on the evidence and arguments of Raffinan as discussed by the trial court in its judgment, which would have been the same evidence and arguments to be re-stated in the appellant's brief in his appeal and in fact reiterated in the appellee's brief which was disallowed in the NAPOCOR appeal.<sup>25</sup>

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<sup>20</sup> Id. at 95-96.

<sup>21</sup> Id. at 98-111.

<sup>22</sup> Id. at 102-103.

<sup>23</sup> Id. at 104-105.

<sup>24</sup> Id. at 104.

<sup>25</sup> Id. at 105.

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Further, Atty. Navarro averred that although he may have committed a lapse in the non-filing and late filing of the briefs, it was neither deliberate nor a specie of gross negligence; and it did not prejudice the interest of Raffinan on a contingent claim for damages which under our jurisprudence, must be based on a legal injury or wrong done by Atty. Navarro.<sup>26</sup>

On June 6, 2012, the Investigating Commissioner of the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) issued a Report<sup>27</sup> finding Atty. Navarro liable for violation of the Code of Professional Responsibility, particularly Rules 18.03 and 18.04 of Canon 18. On March 20, 2013, the Board of Governors of the IBP issued Resolution No. XX-2013-281<sup>28</sup> adopting and approving the Report and Recommendation of the Investigating Commissioner, viz:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that Respondent violated Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility, Atty. Rolindo A. Navarro is hereby SUSPENDED from the practice of law for one (1) year and ORDERED to RETURN to complainant the amount of Three Thousand (P3,000.00) Pesos within 30 days from receipt of notice.*<sup>29</sup>

After careful consideration of the records of the case, the Court finds that the suspension of Atty. Navarro from the practice of law is proper.

Once a lawyer agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him.<sup>30</sup> In failing to file the appellant's brief on behalf of his client, Atty. Navarro had fallen short of his duties as counsel. His workload does not justify neglect in handling one's case because it is settled that a lawyer must only accept cases as much as he can efficiently handle.<sup>31</sup>

Indeed, when a lawyer takes a client's cause, he covenants that he will exercise due diligence in protecting the latter's rights. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed on him by his client and

<sup>26</sup> Id. at 106.

<sup>27</sup> Rollo (Vol. V), pp. 4-16.

<sup>28</sup> Id. at 3.

<sup>29</sup> Id.

<sup>30</sup> *Aranda v. Elayda*, A.C. No. 7907, December 15, 2010, 638 SCRA 336, 344, citing *Santiago v. Fojas*, Adm. Case No. 4103, September 7, 1995, 248 SCRA 68, 73.

<sup>31</sup> *Pariñas v. Atty. Paguinto*, 478 Phil. 239, 245 (2004).

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makes him answerable not just to his client but also to the legal profession, the courts and society.<sup>32</sup>

In *In Re: Atty. Santiago F. Marcos*,<sup>33</sup> the Court considered a lawyer's failure to file brief for his client as amounting to inexcusable negligence. This Court held:

An attorney is bound to protect his client's interest to the best of his ability and with the utmost diligence. x x x A failure to file brief for his client certainly constitutes inexcusable negligence on his part. x x x The respondent has indeed committed a serious lapse in the duty owed by him to his client as well as to the Court not to delay litigation and to aid in the speedy administration of justice. x x x<sup>34</sup> (Citations omitted)

Moreover, records of the case reveals that Atty. Navarro failed not only to file an appellant's brief but also failed to file an appellee's brief to the CA and a petition before this Court within the reglementary period. Atty. Navarro's excuse that the late filing was due to his employee's negligence is bereft of merit. It bears stressing that it is the duty of counsel to adopt and strictly maintain a system that insures that all pleadings should be filed and duly served within the period therefore; and if he fails to do so, the negligence of his secretary or clerk to file such pleadings is imputable to the said counsel.<sup>35</sup>

Further, the Court agrees with the findings of the Investigating Commissioner when it states that:

[Atty. Navarro] appears to have a penchant for blaming others for his own negligence and even rationalizes the lapses of his staff as "not uncommon experience among practicing lawyers". Such excuses do not hold any water. Making the law office secretary, clerk or messenger the scapegoat or patsy for the delay in the filing of pleadings, motions and other papers and for the lawyer's dereliction of duty is common alibi of practicing lawyers. Like the alibi of the accused in criminal cases, counsel's shifting of the blame to his office employee is usually a concoction utilized to cover up his own negligence, incompetence, indolence and ineptitude.<sup>36</sup>

The Court, as guardian of the legal profession, has ultimate disciplinary power over attorneys. This authority to discipline its members is not only a right, but a moral and legal obligation as well. The Court will not tolerate such action from a member of the legal profession who deliberately and maliciously did not protect his client's interests.<sup>37</sup>

<sup>32</sup> *Dalisay v. Atty. Mauricio, Jr.*, 496 Phil. 393, 399-400 (2005).

<sup>33</sup> 240 Phil. 769 (1987).

<sup>34</sup> Id. at 771-772.

<sup>35</sup> *Baring v. Cabahug*, 127 Phil. 84, 87 (1967).

<sup>36</sup> *Rollo* (Vol. V), p. 13.

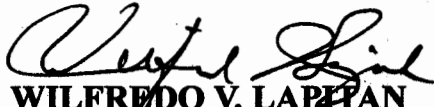
<sup>37</sup> *Floran v. Ediza*, A.C. No. 5325, October 19, 2011, 659 SCRA 386, 394.

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In view of the foregoing, the Court finds that suspension from the practice of law for one (1) year is warranted. Also, on the basis that Atty. Navarro did not render efficient service to his client, the Court likewise affirms the order of the Board of Governors in directing Atty. Navarro to refund the ₱3,000.00 given to him in connection with the collection case, plus interest of six percent (6%) *per annum*, reckoned from the finality of this Resolution until full payment.

**WHEREFORE**, the Court finds and holds Atty. Rolindo A. Navarro guilty of violating Canon 18; Rules 18.03 and 18.04 of the Code of Professional Responsibility and hereby **SUSPENDS** him from the practice of law for a period of **ONE (1) YEAR** effective from notice, with the **STERN WARNING** that any similar infraction in the future will be dealt with more severely. The Court further **ORDERS** Atty. Navarro to return to complainant Alfredo C. Raffinan, Jr., within **TEN (10) DAYS** from notice the sum of ₱3,000.00 plus legal interest of six percent (6%) *per annum* reckoned from the finality of this Resolution until full payment and **DIRECTS** him to promptly submit to the Court written proof of his compliance within **THIRTY (30) DAYS** from notice of this Resolution.” (Jardeleza, J., on official leave; Mendoza, J., designated as acting member per Special Order No. 1896 dated November 28, 2014.)

Very truly yours,

  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 12/15/14

Mr. Alfredo C. Raffinan, Jr.  
 Complainant  
 No. 15 Simoun Street  
 6000 Cebu City

Atty. Rosalindo A. Navarro  
 Respondent  
 Unit 507, Cebu Holdings Center  
 Cardinal Rosales Avenue  
 Cebu Business Park, Ayala  
 6000 Cebu City

JUDICIAL AND BAR COUNCIL  
 Supreme Court, Manila

Atty. Ma. Cristina B. Layusa  
 Deputy Clerk of Court and Bar Confidant  
 OFFICE OF THE BAR CONFIDANT  
 Supreme Court, Manila

INTEGRATED BAR OF THE PHILIPPINES  
 Dofia Julia Vargas Avenue  
 Ortigas Center, 1600 Pasig City

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