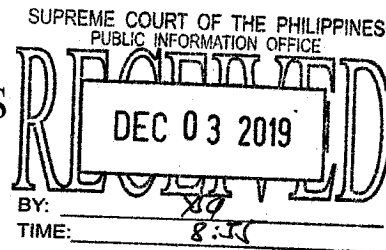




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila



SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:*

"A.C. No. 12119 – JESUS C. SORIANO v. ATTY. MARVIN C. YANG-ED

X-----X

Foreword

It is a fundamental rule of ethics that "an attorney who undertakes to conduct an action impliedly stipulates to carry it to its conclusion."¹

Antecedents

Complainant Jesus C. Soriano charged² respondent Atty. Marvin C. Yang-Ed with gross negligence in handling the case for illegal dismissal filed against his employer the Export and Industry Bank and some of its senior officers.

Complainant alleged that sometime during the last quarter of 2007, he engaged respondent's services to initiate and handle the aforesaid case. He and respondent agreed on the amount of P15,000.00 as acceptance fee, preparation and research fees for subsequent pleadings, and attorney's fees equivalent to fifteen percent (15%) of the amount actually recovered. He shall assume all other fees and charges.

At first, respondent diligently handled the case. Respondent promptly updated him and his wife about the case. Respondent even expressed his determination to prosecute the case up until the Supreme Court.

On March 31, 2008, Executive Labor Arbiter Vito C. Bose rendered a decision³ in his favor. Labor Arbiter Bose held that he did not commit willful breach of trust and confidence as to warrant his dismissal from employment.

Respondent's attitude toward him and the latter's case, however, changed when the case reached the National Labor and Relations

¹ *Rex Polinar Dagohoy v. Atty. Artemio V. San Juan*, 710 Phil. 1, 8 (2013).

² *Rollo*, pp. 2-8.

³ *Id.* at 28-41.

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Commission (NLRC) in Quezon City. From that time on, respondent no longer updated him about the case. He and his wife started having difficulty in touching base with respondent by phone. He was also often out of his office. During the few times he was able to touch base with respondent, the latter gave him a cold treatment.

Meantime, under Decision dated October 15, 2008⁴ and Resolution dated January 19, 2010,⁵ the NLRC reversed. It held that he was dismissed for just cause and consequently revoked his reinstatement and deleted all monetary awards in his favor.

For the preparation and filing of his petition to the Court of Appeals, respondent demanded from him P20,000.00. He paid this amount to respondent and gave him additional P10,000.00 for the filing fee. As in the past, respondent assured him and his wife that he would fight for the case up to the Supreme Court, if need be. He signed a verification and certification of non-forum shopping which respondent said would be attached to the petition.

Later on, during those few instances when he and his wife were able to talk with respondent, he would always tell them not to worry as he was still searching for legal provisions and jurisprudence to support his case. It turned out, however, that despite these assurances, he never really filed any petition before the Court of Appeals. He did not even inform him that the period to file the petition had already expired.

As a result, the NLRC's dispositions against him became final and executory.

Proceedings Before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD)

By Order dated January 10, 2010, the IBP-CBD directed respondent to submit his verified Answer to the complaint within fifteen (15) days from notice. Respondent failed to comply.⁶

In its Order dated October 14, 2011, the IBP-CBD directed the parties to attend the mandatory conference scheduled on December 6, 2011. But only complainant came.⁷

The IBP-CBD then ordered the parties to file their respective position papers. Respondent, once again, did not comply.⁸

⁴ Penned by Commissioner Nieves E. Vivar-De Castro and concurred in by Commissioners Benedicto R. Palacol and Isabel G. Panganiban-Ortiguerra, *rollo*, pp. 42-54.

⁵ *Rollo*, pp. 56-63.

⁶ *Id.* at 83.

⁷ *Id.* at 83-84.

⁸ *Id.* at 84.

Report and Recommendation of the IBP-CBD

Under its Report and Recommendation dated November 11, 2015,⁹ the IBP-CBD found that respondent was negligent in handling complainant's case, in failing to file his answer and position paper and to attend the mandatory conference before the IBP-CBD despite directives to do so. It concluded: "*the failure of the lawyer to answer the complaint for disbarment despite due notice on several occasions and to appear on the scheduled hearings set by the Commission, shows his flouting resistance to lawful orders of the court and illustrates his despicency for his oath of office as a lawyer, which deserves disciplinary sanction.*" It further recommended that Atty. Yang-Ed be suspended from the practice of law for two (2) years, viz:

PREMISES CONSIDERED, we respectfully recommend that respondent, **ATTY. MARVIN C. YANG-ED**, be **SUSPENDED** for a period of **TWO YEARS** from receipt hereof, from the practice of law and as a member of the Bar.

RESPECTFULLY SUBMITTED.¹⁰

Recommendation of the IBP Board of Governors

By Extended Resolution dated January 27, 2018,¹¹ the IBP Board of Governors adopted the foregoing factual findings and conclusions, but modified the penalty as follows:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner with modification of the imposable penalty by reducing the penalty to one (1) year suspension from the practice of law and removal of the phrase "as a member of the bar" in the penalty.¹²

x x x

x x x

x x x

It held that respondent violated Canon 18.03 of the Code of Professional Responsibility, which commands: "*a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.*"

As for the reduced penalty, the IBP Board of Governors took into consideration that respondent is a first time offender.

⁹ Penned by Commissioner Rebecca Villanueva-Maala, *rollo*, pp. 78-80.

¹⁰ *Id.* at 80.

¹¹ *Rollo*, pp. 76-77 and 81-87.

¹² *Id.* at 5-86.

Ruling

The Court adopts the factual findings, legal conclusions, and recommendation of the IBP Board of Governors.

A member of the legal profession owes his or her client entire devotion to the latter's genuine interest, warm zeal in the maintenance and defense of his or her rights, and exertion of his or her utmost learning and ability. Public interest demands that an attorney exert his or her best efforts and ability to preserve his or her client's cause, for the unwavering loyalty displayed to his or her client likewise serves the ends of justice.¹³

This duty is enshrined in Canons 17 and 18 of the Code of Professional Responsibility, *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.

x x x x

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

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.

In *Marcial L. Abiero v. Atty. Bernardo G. Juanino*,¹⁴ the Court emphasized that a lawyer is duty bound to see his client's case until the end or until his withdrawal as counsel and to always maintain an open line of communication with him or her, thus:

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.

x x x

x x x

x x x

¹³ See *Godofredo C. Pineda v. Atty. Teddy C. Macapagal*, 512 Phil. 668 (2005).

¹⁴ 492 Phil. 149, 157 (2005).

The failure to timely file a pleading is by itself a sin of omission on the part of the respondent. However, complainant's travails were further compounded by the failure of the respondent to maintain an open line of communication with his client in direct contravention of Canon 18, Rule 18.04 of the Code of Professional Responsibility which requires a lawyer to keep his client informed of the status of his case and respond within a reasonable time to the client's request for information.

In *Legarda v. Court of Appeals*, counsel's failure to exercise due diligence in protecting the interest of his client caused the latter material prejudice. **The moment counsel takes a client's cause, he covenants that he will exert all effort for its prosecution until its final resolution. A lawyer who fails to exercise due diligence or abandon's his client's cause makes him unworthy of the trust reposed on him by the latter; he owes fealty, not only to his client, but also to the Court of which he is an officer.**

We observed in *Pariñas v. Atty. Paguinto* that a lawyer should give adequate attention, care and time to his client's case. **Once he agrees to handle a case, he should undertake the task with dedication and care. If he fails in this duty, he is not true to his oath as a lawyer. x x x** Utmost fidelity is demanded once counsel agrees to take the cudgels for his client's cause.

x x x

x x x

x x x

We cannot overstate the duty of a lawyer to uphold the integrity and dignity of the legal profession at all times. He can do this by faithfully performing his duties to society, to the bar, to the courts and to his clients.

x x x By neglecting his duties to his client and to this Court, respondent transgressed the canons of legal ethics enshrined in the Code of Professional Responsibility. Such misconduct should not be countenanced. (Emphasis supplied)

In the recent case of *Sps. Vargas, et al. v. Atty. Ariel T. Oriño*,¹⁵ the Court reiterated that until a lawyer shall have properly withdrawn from the case, the lawyer is expected to do his or her best for the client's interest.

Here, respondent failed to comply with Canons 17 and 18, more specifically Rules 18.03 and 18.04. He did not pursue a petition for certiorari before the Court of Appeals despite his client's instruction and nor update his client about the case status before the NLRC. Respondent even repeatedly assured complainant and his wife of his so-called resolve to fight the case till the end. Respondent did not even return the P35,000.00 he received from complainant supposedly as his attorney's fees and filing fee before the Court of Appeals, albeit he never filed the petition for certiorari before it.

¹⁵ A.C. No. 8907, June 03, 2019.

Respondent's fatal omission in this regard perpetually deprived complainant of his chance to ever go back to his employment in the bank. For the NLRC dispositions against his reinstatement became final and executory.

In *Pineda v. Atty. Macapagal*,¹⁶ the Court imposed one (1) year suspension from the practice of law on the lawyer who had been found guilty of gross negligence in failing to file an appeal brief which led to the finality of the lower court's decision convicting his client of libel.

In *Rex Polinar Dagohoy v. Atty. Artemio V. San Juan*,¹⁷ the Court suspended Atty. San Juan from the practice of law for a period of one (1) year when he failed to secure copy of the case records despite information that the same were already complete and at his disposal for the purpose of drafting the appeal brief. As it was, he failed to file appeal the brief for his client, to inform his client of the progress of his appeal, and the real reason why the Court of Appeals dismissed said appeal.

In *Sps. Vargas, et al. v. Atty. Ariel T. Oriño*,¹⁸ Atty. Oriño was suspended from the practice of law for one (1) year when he failed to file his client's Position Paper before the Municipal Circuit Trial Court and his client's Memorandum of Appeal before the Regional Trial Court.

WHEREFORE, Atty. Marvin C. Yang-Ed is found **GUILTY** of violation of Canon 17 and Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility. Accordingly, he is **SUSPENDED** from the practice of law for **ONE (1) YEAR** effective immediately upon receipt of this Resolution with **STERN WARNING** that a repetition of the same or any similar act shall be dealt with more severely.

He is required to formally inform the Court within a non-extendible period of five (5) days from notice of the exact date of receipt of this Resolution.

Let copies of this Resolution be furnished the Office of the Bar Confidant, to be appended to Atty. Marvin C. Yang-Ed's personal record as an attorney. Likewise copies shall also be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts.

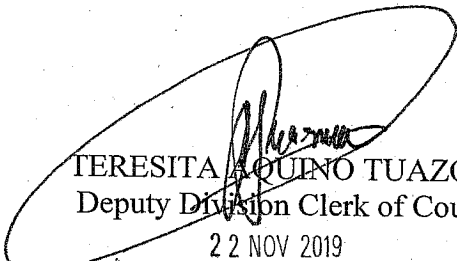
¹⁶ Supra note 13, at 671.

¹⁷ See Supra note 1, at 6-7.

¹⁸ A.C. No. 8907, June 03, 2019.

SO ORDERED.”

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
22 NOV 2019

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Office of the Court Administrator
Supreme Court, Manila

*Note: For Circularization to all Courts
Please notify the Court of any change in your address.
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