



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 24, 2020**, which reads as follows:

“A.C. No. 9016 (*Aurelia A. Andres v. Atty. Evelyn T. Lucero*). – Before the Court is a Complaint<sup>1</sup> filed by Aurelia A. Andres (*complainant*) against Atty. Evelyn T. Lucero (*respondent*) for violation of the Code of Professional Responsibility (*CPR*).

**The Antecedents**

Complainant alleged that a criminal case for frustrated murder was filed against her brother Domingo T. Angco (*Domingo*) before the Regional Trial Court, Cauayan, Isabela, Branch 19 (*RTC*); that on August 24, 2010, the RTC rendered judgment finding Domingo guilty as charged; and that since Atty. Carlos P. Simangan (*Atty. Simangan*) withdrew as counsel for her brother, their family engaged the services of respondent to continue the case. Complainant asserted that on August 28, 2010, they met respondent at Dalin Liner Restaurant in order to talk about the appeal and the necessary Appellant’s Brief to be filed for her brother’s case and paid respondent her acceptance fee amounting to Forty-Five Thousand Pesos (₱45,000.00); that respondent asked for an additional Ten Thousand Pesos (₱10,000.00) purportedly for the filing fee before the Court of Appeals (*CA*) which was sent to her on October 4, 2010 through M-Lhuiller, Cauayan City branch; and that, after receiving all the money, respondent did not file the Appellant’s Brief for her brother before the CA.<sup>2</sup>

In a Resolution<sup>3</sup> dated September 12, 2011, respondent was required to comment on the complaint. Despite receipt of the Resolution, respondent failed to comment.

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

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

<sup>3</sup> *Id.* at 208.

In a Resolution<sup>4</sup> dated June 1, 2016, the Court resolved, among others, to deem as waived the right of respondent to file a Comment, and refer this case to the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation.

The IBP Commission on Bar Discipline (*IBP-CBD*) set the case for Mandatory Conference and notified the parties.<sup>5</sup> Despite several resettings of the Mandatory Conference, however, both parties failed to appear.<sup>6</sup> For the complainant, she received the notices but failed to appear. For respondent, the IBP-CBD exerted efforts to locate her whereabouts but to no avail. Hence, the IBP-CBD submitted its report and recommendation based on the available records.

#### *Report and Recommendation*

In its December 20, 2017 Report and Recommendation,<sup>7</sup> the IBP-CBD recommended that respondent be admonished for her failure to exercise due diligence in handling the case of complainant's brother. The IBP-CBD found that there was a lawyer-client relationship between respondent and complainant's brother since respondent orally entered her appearance as *counsel de parte* for complainant's brother on September 13, 2010 during the hearing of the Motion Application for Bail Pending Appeal, when she filed in writing her Entry of Appearance with the RTC, and again when she filed a Motion for Reconsideration after the Motion Application for Bail was denied by the RTC. Hence, even if there is no substantial proof/evidence that she received the amount of ₱45,000.00 acceptance fee, she may still be held liable when she failed to file the Appellant's Brief pursuant to Canon 17 and Rules 18.03 and 18.04 of Canon 18 of the CPR.<sup>8</sup>

In its June 28, 2018 Resolution,<sup>9</sup> the IBP Board of Governors (*IBP Board*) adopted with modification the findings of fact and recommendation of the IBP-CBD, and recommended that respondent be suspended from the practice of law for a period of one (1) month since her client was prejudiced by her failure to file an appeal from the decision rendered in the case.

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

This Court agrees with the recommendation of the IBP Board.

The facts show that there was, indeed, a lawyer-client relationship between respondent and complainant's brother. As correctly observed by the IBP-CBD, respondent appeared as *counsel de parte* for complainant's brother

<sup>4</sup> Id. at 218-219.

<sup>5</sup> Id. at 222.

<sup>6</sup> Id. at 223-227.

<sup>7</sup> Id. at 238-247; penned by Commissioner Simplicio M. Virtudazo, Jr.

<sup>8</sup> Id. at 245-247.

<sup>9</sup> Id. at 236-237.

on September 13, 2010 during the hearing on the Motion Application for Bail Pending Appeal. Thereafter, in the Entry of Appearance and Reply<sup>10</sup> she filed with the RTC, respondent reiterated her appearance as *counsel de parte* and prayed that she be furnished copies of all pleadings and court processes in the case. On September 24, 2010, she filed a Motion for Reconsideration when the application for bail was denied. By her own declaration therein, she received from Atty. Simangan the case file of complainant's brother which included the Notice of Appeal filed by Atty. Simangan on August 25, 2010.

An attorney-client relationship is imbued with utmost trust and confidence.<sup>11</sup> Once a lawyer takes up the cause of his/her client, he/she is duty bound to serve the client with competence, and to attend to the client's cause with diligence, care and devotion regardless of whether he/she accepts it for a fee or for free.<sup>12</sup> Canon 17 and Rules 18.03 and 18.04 of Canon 18 of the CPR specifically mandate that:

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.

Evidently, respondent was utterly remiss in her duty when she failed to file the Appellant's Brief for complainant's brother within the reglementary period. Her failure to undertake the necessary measure of submitting the required brief certainly caused material prejudice to her client. By failing to do so, respondent showed her lack of professionalism and incompetence in handling her client's cause.

In the case of *Pineda v. Atty. Macapagal*,<sup>13</sup> the Court held that the failure of a lawyer to file an appeal brief certainly constitutes inexcusable negligence, and suspended the lawyer therein for a period of one (1) year.

In the present case, considering that there is no evidence to prove that respondent indeed received and misappropriated the amounts of ₱45,000.00 and ₱10,000.00 purportedly for the acceptance and filing fees, respectively,

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<sup>10</sup> Id. at 172-175.

<sup>11</sup> *Caranza vda. de Saldivar v. Atty. Cabanes, Jr.*, 713 Phil. 530, 537 (2013).

<sup>12</sup> *Vda. de Dominguez v. Atty. Agleron, Sr.*, 728 Phil. 541, 544 (2014).

<sup>13</sup> 512 Phil. 668 (2005).

the Court finds the recommended penalty of one (1) month suspension sufficient.

**WHEREFORE**, respondent Atty. Evelyn T. Lucero is found **GUILTY** of violating Canon 17 and Rules 18.03 and 18.04 of Canon 18 of the Code of Professional Responsibility. She is **SUSPENDED** from the practice of law for a period of one (1) month, with a **WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be appended to respondent's personal record as a member of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

**SO ORDERED.**

Very truly yours,

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

Ms. Aurelia A. Andres  
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