



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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EN BANC

NAPOLEON S. QUITAZOL,
Complainant,

A.C. No. 12072

Present:

PERALTA, C.J.,
 PERLAS-BERNABE, S.A.J.,
 LEONEN,
 CAGUIOA,
 GESMUNDO,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ,
 DE LOS SANTOS,
 GAERLAN,
 ROSARIO, JJ.

-versus-

ATTY. HENRY S. CAPELA,
Respondent.

Promulgated: *Henry S. Capela*
 December 9, 2020

x-----x

RESOLUTION

LOPEZ, J.:

A lawyer should never leave his client groping in the dark, for to do so would destroy the trust, faith, and confidence reposed not only in the lawyer so retained, but also in the legal profession as a whole.¹ What is more, when faced with an administrative complaint, a lawyer's misconduct is aggravated by his unjustified refusal to heed the order of the Integrated Bar of the Philippines (IBP).²

¹ *Katipunan Jr. v. Carrera*, A.C. No. 12661, February 19, 2020, citing *Uy v. Atty. Tansinsin*, 610 Phil. 709, 716 (2009).

² *PO1 Caspe v. Atty. Mejica*, 755 Phil. 312, 321-322 (2015), citing *Cabauatan v. Atty. Venida*, 721 Phil. 733, 738 (2013); *Heenan v. Atty. Espejo*, 722 Phil. 528, 535 (2013); and *Almendarez, Jr. v. Atty. Langit*, 528 Phil. 814, 820-821 (2006).

J

ANTECEDENTS

Napoleon S. Quitazol (Napoleon) engaged the services of Atty. Henry S. Capela (Atty. Capela) in a civil case for breach of contract and damages before the Regional Trial Court (RTC) of Alaminos City, Pangasinan.³ In the retainer agreement, Atty. Capela indicated his office address at Unit 1411, 14th Floor, Tower One & Exchange Plaza, Ayala Triangle 1, Ayala Avenue, Makati City. As acceptance fee, Napoleon agreed to deliver to Atty. Capela the possession of his Toyota Corolla GLI model, as well as its official receipt and certificate of registration.⁴ Atty. Capela entered his appearance⁵ and filed an answer before the RTC.⁶ On February 12, 2014, a preliminary conference was held and the opposing counsel manifested the possibility of a compromise agreement, however, Atty. Capela was not present.⁷ The agreement was then set to be heard on March 26,⁸ May 7,⁹ and August 6, 2014,¹⁰ but Atty. Capela failed to appear. Left without a lawyer, Napoleon was constrained to agree to the Compromise Agreement,¹¹ which was approved by the RTC on August 19, 2014.¹² Napoleon felt shortchanged with Atty. Capela's non-appearance, thus, he demanded the return of the motor vehicle and ₱38,000.00,¹³ but Atty. Capela did not yield.

Consequently, Napoleon instituted a Complaint¹⁴ before the IBP Commission on Bar Discipline (IBP-CBD) against Atty. Capela for violation of Rule 18.03, Canon 18 of the Code of Professional Responsibility (CPR). Napoleon alleged that Atty. Capela's continued absence during the hearings constitutes neglect of his duty to represent his client. Left without counsel, he was forced to enter into an amicable settlement to his damage and prejudice.

The IBP-CBD required Atty. Capela to submit his answer with a warning that failure to do so would render him in default, and the case shall be heard *ex-parte*. Atty. Capela did not file an answer. Later, the parties were notified to appear for a mandatory conference on March 26, 2015. The notice stated that non-appearance by any of the parties shall be deemed a waiver of their right to participate in further proceedings.¹⁵ At the mandatory

³ *Rollo*, pp. 97-99.

⁴ *Id.* at 6-7.

⁵ *Id.* at 8-11. In his entry of appearance, Atty. Capela's address of record was also at Unit 1411, 14th Floor, Tower One & Exchange Plaza, Ayala Triangle 1, Ayala Avenue, Makati City.

⁶ *Id.* at 138-143.

⁷ *Id.* at 151.

⁸ *Id.* at 152.

⁹ *Id.* at 153.

¹⁰ *Id.* at 154.

¹¹ *Id.* at 158-159.

¹² *Id.* at 160-161.

¹³ *Id.* at 12-13.

¹⁴ *Id.* at 2-5.

¹⁵ *Id.* at 15 and 16.



conference, only Napoleon appeared.¹⁶ Thus, the IBP issued an Order¹⁷ noting Atty. Capela's failure to file an answer, and his absence during the mandatory conference. He was declared in default and considered to have waived his right to participate in further proceedings. Meantime, on April 30, 2015, Napoleon died and was substituted by his brother Frank S. Quitazol.¹⁸

In a Report and Recommendation dated May 29, 2015,¹⁹ Investigating Commissioner Honesto A. Villamor found Atty. Capela administratively liable and ruled that he failed to contradict the allegations in the complaint. Atty. Capela's unjustified refusal to heed the directives of the IBP – to file an answer, to appear at the mandatory conference, and to file a position paper – constituted blatant disrespect amounting to conduct unbecoming a lawyer. The Commissioner recommended that Atty. Capela be meted the penalty of suspension from the practice of law for six months, thus:

WHEREFORE, premises considered, finding Respondent Atty. Henry S. Capela guilty of Violating Canon 18, 18.03, Canon 7, and Canon 11 x x x of the Code of Professional Responsibility and he is hereby recommended to be suspended for a period of six (6) months and to order him to return the amount of Two Hundred Thousand Pesos (P200,000.00) the value of the car which was given to him by the complainant within thirty (30) days and with a warning that repetition of the same or similar offense shall be dealt with more severely.

RESPECTFULLY SUBMITTED[.]²⁰

On June 20, 2015, the IBP Board of Governors issued a Resolution that adopted and approved the findings of administrative liability, but modified the recommended penalty of suspension, from six months, to three years.²¹

Atty. Capela then filed an omnibus motion for reconsideration, denying that he served as counsel to Napoleon. Atty. Capela admitted that a retainer agreement, with Napoleon was drafted, but claimed that he did not receive a signed copy of the agreement nor any motor vehicle as payment for his legal

¹⁶ *Id.* at 27. N.B. Napoleon was then represented by a new counsel, Atty. Ma. Tilde Titina T. Wacquisan-Azurin.

¹⁷ *Id.* at 28.

¹⁸ *Id.* at 49-50.

¹⁹ *Id.* at 54-56.

²⁰ *Id.* at 56.

²¹ *Id.* at 53. The IBP Board of Governors resolved as follows:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex 'A', considering Respondent's violation of Canon 18, Rule 18.03, Canon 7 and Canon 11 of the Code of Professional Responsibility aggravated by his blatant disrespect for IBP demonstrated by his failure to file Answer despite numerous notices sent and unjustified refusal to heed the directives of the Commission to appear at the scheduled mandatory conference. Hence, Respondent Atty. Henry S. Capela is hereby SUSPENDED from the practice of law for three (3) years without prejudice to file a proper action for recovery of the value of the car in the proper Court.



services. Moreover, the complaint has no longer a leg to stand on, since Napoleon, through his substitute, issued an affidavit withdrawing the administrative case.²² Anent the finding that he was guilty of conduct unbecoming a lawyer, Atty. Capela claimed that he was unaware of the complaint against him because he was no longer holding office at Makati City, where all the notices were sent. He was only apprised of the complaint when one Pacita Cala informed him of the assailed IBP Resolution.²³ The IBP Board of Governors denied Atty. Capela's motion for reconsideration.²⁴

RULING OF THE COURT

We adopt the conclusion and findings of the IBP, but modify the penalty imposed.

There is an attorney-client relationship between Napoleon and Atty. Capela.

It cannot be overemphasized that the practice of law is a profession. It is a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character.²⁵ When a lawyer agrees to act as a counsel, he guarantees that he will exercise that reasonable degree of care and skill demanded by the character of the business he undertakes to do, to protect the client's interests, and take all steps, or do all acts necessary.²⁶ Thus, lawyers are required to maintain, at all times, a high standard of legal proficiency, and to devote their full attention, skill and competence to their cases, regardless of their importance, and whether they accept them for a fee, or for free.²⁷

In this case, the legal service of Atty. Capela was engaged by Napoleon to handle a civil case before the RTC of Alaminos City, Pangasinan. Atty. Capela entered his appearance as Napoleon's counsel, moved for extension of time, and filed an answer. Atty. Capela's contention, that he did not receive a copy of the signed retainer agreement to prove an attorney-client relationship, is not credible. He would not have undertaken to enter his appearance, as well as, move for extension and file a pleading if he was not representing Napoleon.

²² *Id.* at 105-107.

²³ *Id.* at 57-81.

²⁴ *Id.* at 168; Resolution dated June 17, 2017. The IBP Board of Governors resolved as follows:
RESOLVED to DENY the Motion for Reconsideration there being no new reason and/or new argument adduced to reverse the previous findings and decision of the Board of Governors.

²⁵ *Caballero v. Atty. Pilapil*, A.C. No. 7075, January 21, 2020.

²⁶ *Sps. Gimena v. Atty. Vijiga*, 821 Phil 185, 190 (2017).

²⁷ *Caranza Vda. de Saldivar v. Atty. Cabanes, Jr.*, 713 Phil. 530, 537-538 (2013), citing *Villaflores v. Atty. Limos*, 563 Phil. 453, 461 (2007).



Moreover, a written contract or retainer agreement, is not an essential element in the employment of an attorney; a contract may be express or implied. To establish a lawyer-client relationship, it is sufficient that the advice and assistance of an attorney is sought and received in any matter pertinent to his profession,²⁸ as in this case. Neither is the claim that no payment was received, defeat the existence of the relationship. It is not necessary that any retainer should have been paid, promised, or charged for, to constitute professional employment.²⁹

Atty. Capela's failure to attend hearings constitutes negligence.

A lawyer's neglect of a legal matter entrusted to him constitutes inexcusable negligence for which he must be held administratively liable.³⁰ From the perspective of ethics in the legal profession, a lawyer's lethargy in carrying out his duties, is both unprofessional and unethical.³¹ Rule 18.03, Canon 18 of the CPR embody this principle:

CANON 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

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

Whenever lawyers take on their client's causes, they pledge to exercise due diligence in protecting the client's rights. Their failure to exercise that degree of vigilance and attention expected of a good father of a family makes them unworthy of the trust reposed in them by their client and make them answerable to their client, the courts and society.³² Here, Atty. Capela failed to exercise the required diligence in handling his client's cause. His failure to attend, despite notice, the four scheduled hearings on February 12, March 26, May 7, and August 6, 2014, constitutes inexcusable negligence. As the complainant's counsel of record, Atty. Capela is responsible for the conduct of the case in all its stages. His duty of competence and diligence includes not merely reviewing the case, and giving the client sound legal advice, but also properly representing the client in court, attending scheduled hearings, preparing and filing required pleadings, and prosecuting the case with reasonable dispatch, without waiting for the client, or the court to prod him to do so. A lawyer should not sit idly by, and leave the rights of his client in a

²⁸ *Spouses Rabanal v. Atty. Tugade*, 432 Phil. 1064, 1068 (2002), citing *Dee v. Court of Appeals*, 257 Phil. 661, 668 (1989).

²⁹ *Junio v. Atty. Grupo*, 423 Phil. 808, 818 (2001).

³⁰ *Francia v. Sagario*, A.C. No. 10938, October 8, 2019.

³¹ *Belleza v. atty. Macasa*, 611 Phil. 179, 188 (2009).

³² *Santos v. Atty. Lazaro*, 445 Phil. 1, 5 (2003).



state of uncertainty.³³ Clearly, Atty. Capela was unjustifiably remiss in his duty as legal counsel to Napoleon.

The affidavit of withdrawal, executed by Napoleon's substitute does not excuse Atty. Capela's negligence.

An affidavit of withdrawal or desistance does not terminate the disciplinary proceedings against an errant lawyer. Section 5, Rule 139-B of the Rules of Court state that “[n]o investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same, unless the Supreme Court *motu proprio* or upon recommendation of the IBP Board of Governors, determines that there is no compelling reason to continue with the disbarment or suspension proceedings against the respondent.”³⁴ A case of suspension or disbarment may proceed regardless of the interest or lack of interest of the complainant. What matters is whether, on the basis of the facts borne out by the record, the charge of negligence has been duly proved.³⁵ This rule is premised on the nature of disciplinary proceedings,³⁶ to wit:

[D]isciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, it also involves neither a plaintiff nor a prosecutor. It may be initiated by the Court *motu proprio*. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who, by their misconduct, have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.³⁷

Jurisprudence is replete with cases holding that an affidavit of desistance is immaterial in administrative proceedings. In *Spouses Soriano v. Atty. Reyes*,³⁸ we suspended the lawyer for his failure to file a pre-trial brief,

³³ *Conlu v. Atty. Aredonia, Jr.*, 673 Phil. 1, 7 (2011), citing *Overgaard v. Atty. Valdez*, 601 Phil. 558, 567 (2009).

³⁴ Bar Matter No. 1645, Re: Amendment of Rule 139-B, October 13, 2015.

³⁵ *Spouses Soriano v. Atty. Reyes*, 523 Phil. 1, 12 (2006).

³⁶ *Id.*

³⁷ *BSA Tower Condominium Corporation v. Atty. Reyes*, 833 Phil. 588, 595 (201), citing *Reyes v. Atty. Nieva*, 794 Phil. 360, 379-380 (2016).

³⁸ 523 Phil. 1 (2006).

notwithstanding an affidavit of withdrawal. Likewise, the respondent lawyer in *Angalan v. Atty. Delante*,³⁹ was disbarred, despite an affidavit of desistance, for taking advantage of his clients and transferring the title of their property to his name. In *Ylaya v. Atty. Gacott*,⁴⁰ the disciplinary case continued against the negligent lawyer although the complainant moved to withdraw the complaint. Applying these precepts, Napoleon's affidavit of withdrawal neither exonerates Atty. Capela nor puts an end to the administrative proceedings. The disciplinary case against Atty. Capela thus proceeds.

Proper penalty imposed.

A member of the Bar may be penalized, even disbarred, or suspended from his office as an attorney for violation of the lawyer's oath and/or for breach of the ethics of the legal profession as embodied in the CPR.⁴¹ The appropriate penalty for a negligent lawyer depends on the exercise of sound judicial discretion based on the surrounding facts. In several instances, the Court imposed upon negligent lawyers a penalty of suspension of six months from the practice of law. In *Caranza Vda. de Saldivar*,⁴² a lawyer was suspended for six months for his failure to file a pre-trial brief and attend the scheduled preliminary conference. In *Spouses Aranda v. Atty. Elayda*,⁴³ a six-month suspension was also imposed when the respondent lawyer failed to appear in a scheduled hearing despite due notice, which resulted in the submission of the case for decision. Likewise, in *Penilla v. Atty. Alcid, Jr.*,⁴⁴ the respondent lawyer's explanation that he failed to update his client of the status of the case because their time did not always coincide was considered too flimsy an excuse, and the Court accordingly suspended the lawyer for six months. We further held in *Spouses Adecer v. Atty. Akut*,⁴⁵ that an attorney's failure to timely file a motion for reconsideration, or an appeal, renders him liable for negligence, which is penalized with suspension for six months. In *Spouses Rabanal v. Atty. Tugade*,⁴⁶ the lawyer who failed to file an appellant's brief before the CA despite being granted extensions of time, was also suspended for six months. Following these precedents, we deem it just and proper to suspend Atty. Capela from the practice of law for a period of six months.

In addition, Atty. Capela shall pay a fine of ₱5,000.00 for his repeated refusal to obey the orders of the IBP directing him to file an answer to the complaint, to appear at the scheduled mandatory conference, and to file a

³⁹ 597 Phil. 690 (2009).

⁴⁰ 702 Phil. 390 (2013).

⁴¹ *Caballero v. Atty. Pilapil*, *supra* note 25.

⁴² *Supra* note 27, at 537.

⁴³ 653 Phil. 1 (2010).

⁴⁴ 717 Phil. 210 (2013).

⁴⁵ 522 Phil. 542 (2006).

⁴⁶ 432 Phil. 1064 (2002).



position paper.⁴⁷ We cannot countenance Atty. Capela's reason that he was improperly furnished of the complaint against him because the notices were sent to his former office address in Makati City. An attorney owes it to himself to adopt an orderly system of receiving mail matters,⁴⁸ especially in this case when the lawyer changed his office address. Atty. Capela should have instructed his former office to notify him of mail matters addressed to him or, at least, to simply decline their receipt. Similarly, in *Cabauatan v. Atty. Venida*,⁴⁹ the respondent lawyer was declared guilty of disregarding the IBP's notices and orders when he did not file his answer and position paper despite notice. He also disregarded the IBP's directives for him to attend the mandatory conference. We held that:

Respondent's refusal to obey the orders of the IBP "is not only irresponsible, but also constitutes utter disrespect for the judiciary and his fellow lawyers. His conduct is unbecoming of a lawyer, for lawyers are particularly called upon to obey court orders and processes and are expected to stand foremost in complying with court directives being themselves officers of the court." Respondent should be reminded that —

As an officer of the court, [he] is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP as the investigating arm of the Court in administrative cases against lawyers.

Respondent should strive harder to live up to his duties of observing and maintaining the respect due to the courts, respect for law and for legal processes, and of upholding the integrity and dignity of the legal profession in order to perform his responsibilities as a lawyer effectively.⁵⁰ [Citations omitted.]

FOR THE STATED REASONS, Atty. Henry S. Capela is found administratively liable for violation of Rule 18.03, Canon 18 of the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for a period of six (6) months, effective immediately upon respondent's receipt of this Resolution, with a **STERN WARNING** that a repetition of the same, or similar acts will be dealt with more severely.

Atty. Henry S. Capela is also meted a **FINE** in the amount of ₱5,000.00 for disobedience to the orders of the Integrated Bar of the Philippines. This payment shall be made within ten (10) days from notice of this Resolution.

⁴⁷ See *Domingo v. Atty. Sacdalan*, A.C. No. 12475, March 26, 2019, citing *Ojales v. Atty. Villahermosa*, 819 Phil. 1, 7 (2017).

⁴⁸ See *Gonzales v. Court of Appeals*, 450 Phil. 296, 302 (2003).

⁴⁹ 721 Phil. 733 (2013).

⁵⁰ *Id.* at 738-739.

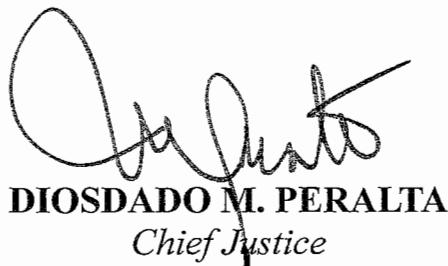
Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be entered into Atty. Henry S. Capela's records. Copies shall likewise be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts throughout the country for their information and guidance.

SO ORDERED.



MARIO V. LOPEZ
Associate Justice

WE CONCUR:



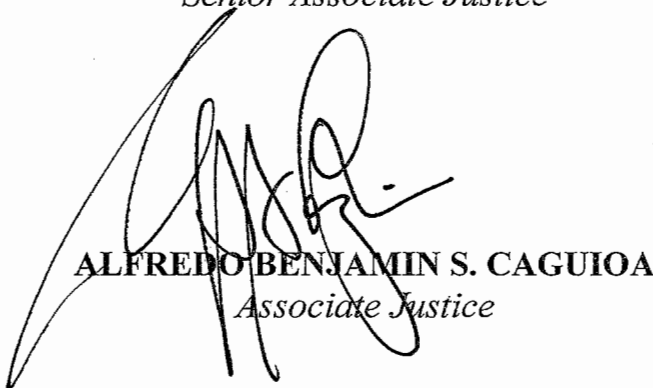
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Chief Justice



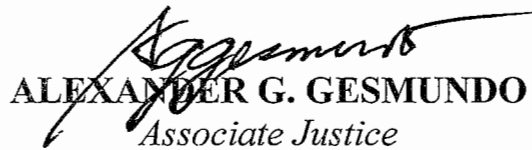
ESTELA M. PERALAS-BERNABE
Senior Associate Justice



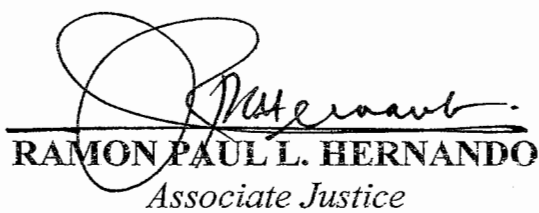
MARVIC M.V.F. LEONEN
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice




ALEXANDER G. GESMUNDO
Associate Justice




RAMON PAUL L. HERNANDO
Associate Justice



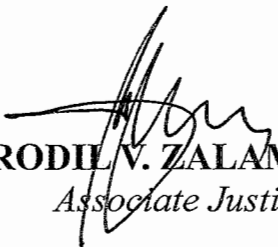
ROSMARIE B. CARANDANG
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice



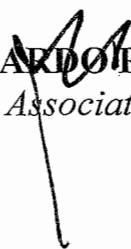
RODIL V. ZALAMEDA
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



RICARDO R. ROSARIO
Associate Justice