



Republic of the Philippines  
Supreme Court  
Office of the Court Administrator  
Manila

**OCA CIRCULAR NO. 58-2005**

**TO : THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES**

**SUBJECT : SUSPENSION FROM THE PRACTICE OF LAW FOR THREE (3) MONTHS OF ATTY. CRISANTO E. ALPON, JR.**

For the information and guidance of all concerned, quoted hereunder is the Resolution of the Third Division dated March 4, 2005 in Administrative Case No. 5525, entitled "Consolidated Farms, Inc., acting thru its President Antonio C. Oppen vs. Atty. Crisanto E. Alpon, Jr.", to wit:

"Before the Court is this complaint for disbarment filed by complainant Consolidated Farms, Inc., thru its President Antonio C. Oppen, against respondent **Atty. Crisanto E. Alpon, Jr.** for gross negligence, incompetence, dereliction of duty and violation of his oath as counsel to protect the interest of his client.

Record reveals that complainant hired the services of respondent as counsel in its case before the Social Security Commission, docketed as SSC Case No. 3-13961-93, entitled "Agapita Padohinog vs. Margarita C. Vda De Oppen et al. and the Social Security System".

Complainant alleged that respondent, as its counsel in said case, did not submit the position paper despite being required by the Social Security Commission, and that he likewise failed to attend the scheduled hearings of the case despite due notice. On account thereof, complainant was considered to have waived the right to present evidence and to cross examine those of the other party. As a consequence, the Social Security Commission, in its resolution dated February 7, 1996, held complainant liable in SSC Case No. 3-13961-93 and ordered it to remit to the Social

Security System the amount of ₱27,117.09, representing the other party's claim for retirement benefits.

Complainant thus pray that respondent be disbarred; dismissed from the service as municipal judge of Castellana, Negros Occidental; and required to reimburse the amount of ₱27,117.09 it paid to the Social Security System.

In his COMMENT, respondent denied that he is the presiding judge of the Municipal Trial Court of La Castellana, Negros Occidental. He manifested willingness to reimburse complainant the amount of the judgment decreed in the February 7, 1996 resolution in SSC Case No. 3-1361-93.

Respondent explains that he stopped reporting to the *Octaviano, Pelayo and Associates Law Office* where he was previously connected as he was hounded by marital problems, adding that the notices issued by the Social Security Commission were not sent to him by the said law office. He asserts that he is not habitually negligent of his cases, albeit admitting that SSC Case No. 3-13961-93 was an oversight on his part. He also stresses that he did not represent any client before the courts except close friends and relatives on a *pro-bono* basis during the period 1995 to 1999. According to him, he limited his practice to being a consultant to local government leaders in the field of administration and development planning.

Upon verification with the Office of the Court Administrator, it was confirmed that respondent is not a municipal judge of Castellana, Negros Occidental, hence not a member of the Judiciary.

In a resolution dated March 10, 2003, the Court referred the case to the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. In time, the Commission designated Atty. Milagros V. San Juan as Investigating Commissioner.

On October 25, 2003, the IBP Board of Governors passed Resolution No. XVI-2003-229, adopting and approving the report and recommendation of the Investigating Commissioner, to wit:

*RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision 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 Rule 18.03, Canon 18 of the Code of Professional Responsibility,*

Atty. Crisanto E. Alpon, Jr. is hereby **SUSPENDED** from the practice of law for three (3) months with a stern **Warning** that a similar offense in the future will be dealt with more severely.

We agree with the aforestated recommendation.

Records show that respondent admitted under oath the acts imputed against him and even offered to make amends by reimbursing the amount of ₱27,117.09 to the complainant.

In *People vs. Sevillano*,<sup>1</sup> we ruled:

“Canon 18 of the Code of Professional Responsibility requires every lawyer to serve his client with utmost dedication, competence and diligence. He must not neglect a legal matter entrusted to him, and his negligence in this regard renders him administratively liable.”

As complainant’s counsel in SSC Case No. 3-13961-93, respondent is duty bound to monitor the progress of the case he is handling. He should have put himself on guard on all the processes issued by the hearing body relative thereto and should have, thus, anticipated a resolution thereof. So it is that in *Re: Vicente Y. Bayani*,<sup>2</sup> we have made it clear that “[A] lawyer owes his client the exercise of utmost prudence and capability in that representation”.

Respondent, through gross negligence and incompetence, failed to perform what is required of him. As it were, he fell short of the demands required of him as a lawyer and as a member of the bar. His offer to pay the amount of ₱27,117.09 would not exonerate him from liability.

This Court has always reminded the members of the legal profession that every case they handle deserves full and undivided attention, diligence, skill and competence, regardless of its importance and whether they accept it for a fee or for free, and to constantly keep in mind that not only the property but also the life of their clients may be at stake.

Verily, in *Del Rosario vs. Court of Appeals*,<sup>3</sup> as reiterated in *Rosita Tan vs. Atty. Jose L. Lapak*,<sup>4</sup> we ruled:

“An Attorney is bound to protect his client’s interest to the best of his ability and with utmost diligence.”

<sup>1</sup> 365 Phil. 63 [1999].

<sup>2</sup> 392 Phil. 229 [2000].

<sup>3</sup> 199 Phil. 367 [1982].

<sup>4</sup> 350 SCRA 74 [2001].

Respondent placed much emphasis on the fact that during the time complainant engaged his services as counsel in the case in question, he was still connected with the *Octaviano, Pelayo and Associates Law Office*, thereby suggesting that the blame should lay at the doorstep of said law firm for not sending him all the notices relative to the subject SSC case.

Evidently, respondent would want us to view his situation in the light of our ruling in *Rilloraza, Africa, De Ocampo and Africa vs. Eastern Telecommunications Phils., Inc.*,<sup>5</sup> where this Court ruled that when a client employs the services of a law firm, he does not employ the services of the lawyer who is assigned to personally handle the case, as well as that in *Five Star Bus Company, Inc. vs. Court of Appeals*,<sup>6</sup> where we declared that if a party is represented by a law firm, it means that any of the firm's members could lawfully act as his counsel during trial.

Regrettably, respondent's attempt to "pass the buck", so to speak, falls flat on its face considering that the evidence on record point to his own gross negligence.

For one, in his Entry of Appearance and Motion to Reset Case for Hearing, bearing date November 19, 1993,<sup>7</sup> respondent affixed his signature under the representation of the *Antonio de Luzuriaga and Crisanto E. Alpon, Jr. Law Office* as counsel for complainant. This clearly shows that respondent was personally hired as counsel to the subject SSC case even before he became an associate of the *Octaviano, Pelayo and Associates Law Office*. Clearly, complainant did not hire the services of the latter law firm to represent it in that case.

For another, the following processes were issued in the said SSC case during the period 1994 when respondent was still very much connected with the *Octaviano, Pelayo and Associates Law Office*: Order dated March 27, 1994, requiring the submission of the parties' respective position papers and resetting the case for hearing<sup>8</sup>; Order dated August 15, 1994, granting last chance to respondent's client to submit verified position paper and resetting the case for clarificatory questions<sup>9</sup>; and Order dated November 15, 1994, granting one last chance to the client to submit the required verified position paper, with a clear warning that failure to do so would amount to a waiver.<sup>10</sup> Respondent, therefore, could not use the excuse that he was not notified of the processes issued by the hearing officer. At the

<sup>5</sup> 369 Phil. 1 [1999].

<sup>6</sup> 372 Phil. 249 [1999].

<sup>7</sup> Rollo, p. 4, Annex "A".

<sup>8</sup> Rollo, p. 10, Annex "C".

<sup>9</sup> Rollo, p. 12, Annex "D".

<sup>10</sup> Rollo, p. 14, Annex "E".

very least, respondent should have inquired from the same hearing officer the status of his client's case. Unfortunately, through manifest gross negligence, respondent failed to attend to the case.

On the issue of reimbursement of the amount of ₱27,119.09 which complainant was ordered to pay the Social Security System in the same case, it appears that on May 26, 2003, complainant filed a *Compliance*, therein stating that respondent's proposal for settlement of the instant administrative case has been accepted by it and that it was just waiting for the payment to be made by respondent. On September 3, 2003, respondent filed a *Manifestation of Settlement of Case*, whereunder he stated that complainant has accepted his proposal for reimbursement and had in fact paid complainant the amount of ₱27,117.00.

Not being a municipal judge of Castellana, Negros Occidental per verification from the records of the Office of the Court Administrator, complainant's additional prayer for respondent's dismissal from the Judiciary is not possible.

All told, we rule and so hold that on account of his failure to file the required Position Paper for his client, as well as attend the scheduled hearings in SSC Case No. 3-13961-93, respondent indeed violated Rule 18.03, Canon 18 of the Code of Professional Responsibility, stating that "[A] lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable".

**WHEREFORE**, the resolution of the IBP Board of Governors approving and adopting the report and recommendation of the Investigating Commissioner is hereby **AFFIRMED**. Accordingly, ATTY. CRISANTO E. ALPON, JR. is hereby **SUSPENDED** from the practice of law for a period of **THREE (3) MONTHS**, with a stern warning that a repetition of the same or similar wrongdoing will be dealt with more severely.

**SO ORDERED."**

Copy of the Resolution was received by the respondent on April 7, 2005 as shown by Registry Return Receipt No. 34438.

13 May 2005.

**PRESBITERO J. VELASCO, JR.**  
Court Administrator