



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

**OCA CIRCULAR NO. 76-2005**

**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 SIX (6) MONTHS OF ATTY. JEREMIAS R. VITAN**

For the information and guidance of all concerned, quoted hereunder is the Decision of the Third Division dated April 15, 2005 in Administrative Case No. 5835, entitled "Carlos B. Reyes vs. Atty. Jeremias R. Vitán", to wit:

"A lawyer shall serve his client with competence and diligence<sup>1</sup> and never neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable. Indeed, it is his sworn duty not to delay no man for money or malice; and to conduct himself in a proper manner not only to his client, but also to the court, the legal profession and society at large.<sup>2</sup>

This is an administrative complaint for disbarment filed by Carlos Reyes against Atty. Jeremias Vitán for gross negligence.

The complaint alleges that sometime in June 2001, complainant Carlos Reyes hired the services of respondent Atty. Jeremias Vitán for the purpose of filing the appropriate complaint or charge against his sister-in-law, Estelita Reyes, and the latter's niece, Julieta P. Alegonza; that both women refused to abide with the Decision of Judge Juan C. Nabong, Jr., of the Regional Trial Court, Branch 32, Manila, in Civil Case No. 99-92657 ordering the partition of the properties left by complainant's brother

<sup>1</sup> Canon 18, Code of Professional Responsibility.

<sup>2</sup> Rule 18.03, *Id.*

Damaso B. Reyes; and that respondent, after receiving the amount of ₱17,000.00, did not take any action on complainant's case.

We referred the complaint to the Integrated Bar of the Philippines for investigation, report and recommendation. IBP Commissioner Lydia A. Navarro issued several orders to respondent directing him to file his answer to the complaint, but he failed to do so. He only sent his secretary to represent him during the proceedings.

On April 18, 2001,<sup>3</sup> IBP Commissioner Navarro submitted to the IBP Board of Governors her Report and Recommendation quoted as follows:

"x x x. After going over the evidence on record, the undersigned noted that respondent ignored all the Orders issued by this Commission and neither did he comply with any of those Orders. Respondent even failed to submit the responsive pleadings he himself requested in his motion and only sent his assistant secretary to represent him in the scheduled hearings of this case. Up to and until the present, no pleadings was submitted despite respondent's allegations that he was collating evidence to prove his side of the case.

It was complainant who submitted the supposed letters of the respondent Estelita Reyes and Juliet Alegonza but there were no proofs when they sent and when the same were received by the addressee.

Likewise, the complaint submitted by the complainant was only a format in the sense that it was not signed by the respondent; the RTC Branch No. was left blank; there was no Civil Case No. and there was no proof that said pleading was filed which amounts only to a mere scrap of paper and not a pleading or authenticated document in the legal parlance.

As it is, nothing had been done by the respondent for the complainant as his client for the legal fees he collected which was paid by the complainant as reflected in the receipts issued by the respondent in handwritten forms and signed by him.

Respondent not only violated Rule 18.03 and 18.04 of Canon 18 of the Code of Professional Responsibility for having neglected a legal matter entrusted to him and did not inform complainant the status of his case but also disregarded the orders of the Commission without reasons which amounted to utter disrespect of authority and unethical conduct in the practice of his profession, thus, should be sanctioned.

---

<sup>3</sup> Rollo at 54-57.

Wherefore, in view of the foregoing, the undersigned respectfully recommends that the respondent be suspended from the practice of his profession for a period of two (2) years from receipt hereof; and refund to the complainant the amount of ₱17,000.00 paid to him for not having extended his legal services to the complainant on a lawyer-client relationship within six (6) months from receipt hereof."

On August 3, 2002, the IBP Board of Governors passed Resolution No. XV-2002-406 adopting and approving the above Report and Recommendation of IBP Commissioner Navarro.

When respondent accepted the amount of ₱17,000.00 from complainant, it was understood that he agreed to take up the latter's case and that an attorney-client relationship between them was established. From then on, it was expected of him to serve his client, herein complainant, with competence and attend to his cause with fidelity, care and devotion.

The act of receiving money as acceptance fee for legal services in handling complainant's case and subsequently failing to render such services is a clear violation of Canon 18 of the Code of Professional Responsibility which provides that a lawyer shall serve his client with competence and diligence. More specifically, Rule 18.03 states:

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

A member of the legal profession owes his client entire devotion to his genuine interest, warm zeal in the maintenance and defense of his rights.<sup>4</sup> An attorney is expected to exert his best efforts and ability to preserve his client's cause, for the unwavering loyalty displayed to his client likewise serves the ends of justice. Verily, the entrusted privilege to practice law carries with it the corresponding duties, not only to the client, but also to the court, to the bar and to the public.

In *Santos vs. Lazaro*,<sup>5</sup> we held that Rule 18.03 of the *Code of Professional Responsibility*, above-quoted, is a basic postulate in legal ethics. Indeed, when a lawyer takes a client's cause, he covenants that he will exercise due diligence in protecting his rights. The failure to exercise that degree of vigilance and attention expected of a good father of a family makes such lawyer unworthy of the trust reposed in him by his client and

---

<sup>4</sup> Agpalo, R., *Legal Ethics* at 157 (4<sup>th</sup> ed., 1989).

<sup>5</sup> Adm. Case No. 5085, February 6, 2003.

makes him answerable not just to his client but also to the legal profession, the courts and society.<sup>6</sup>

Significantly, respondent also violated his oath as a lawyer, which declares in part, that he will not delay any man for money or malice and will conduct himself as a lawyer according to the best of his knowledge and discretion, with all good fidelity as well to the courts as to his client.

However, the recommended penalty by the IBP is too harsh. Jurisprudence shows that lighter sanctions have been imposed for violations of this nature, taking into consideration the gravity of the offense and the necessity of preserving the integrity of the legal profession.

The facts of *Sencio vs. Calvadores*<sup>7</sup> bear a striking similarity to the present case. Respondent lawyer in *Sencio* did not return the money to complainant despite demand following his failure to file the case. During the proceedings before the IBP, respondent did not file his answer to the complaint nor appeared during the hearing notwithstanding his receipt of notices. We found him guilty of violation of the lawyer's oath, malpractice and gross misconduct and suspended him for six (6) months, and ordered to return to his client the amount of ₱12,000.00 with interest at 12% per annum from the date of the promulgation of our Resolution until the return of the amount.

In *Garcia vs. Manuel*,<sup>8</sup> we suspended respondent lawyer from the practice of law for six (6) months and ordered him to render an accounting of all monies he received from the complainant. We found him guilty of gross misconduct.

**WHEREFORE**, respondent Atty. Jeremias R. Viton is hereby declared guilty of violation of Canon 18 of the *Code of Professional Responsibility* and is **SUSPENDED** from the practice of law for a period of six (6) months effective upon notice of this Decision. He is ordered to return to complainant within five (5) days from notice the sum of ₱17,000.00 with interest of 12% per annum from the date of the promulgation of this Decision until the full amount shall have been returned.

Let a copy of this Decision be furnished the Court Administrator for distribution to all courts of the land, the IBP, the Office of the Bar Confidant, and entered into respondent's personal records as an attorney and as a member of the Philippine Bar.

<sup>6</sup> *Id.*

<sup>7</sup> Adm. Case No. 5841, February 20, 2003

<sup>8</sup> Adm. Case No. 5811, January 20, 2003.

**SO ORDERED.”**

Copy of the Decision was received by the respondent on May 13, 2005  
as shown by Registry Return Receipt No. 7013.

27 July 2005.

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