



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

SPOUSES MANOLO AND A.C. No. 8210
 MILINIA NUEZCA,

Complainants, Present:

- versus -

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

ATTY. ERNESTO V.
 VILLAGARCIA,

Respondent.

Promulgated:

AUG 08 2016

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RESOLUTION

PERLAS-BERNABE, J.:

The instant administrative case arose from a verified complaint¹ for disbarment filed by complainants Spouses Manolo and Milinia Nuezca (complainants) against respondent Atty. Ernesto V. Villagarcia (respondent) for grave misconduct, consisting of alleged unethical conduct in dealings with other persons.

The Facts

In their verified complaint, complainants averred that respondent sent them a demand letter² dated February 15, 2009, copy furnished to various offices and persons, which contained not only threatening but also libelous utterances. Allegedly, the demand letter seriously maligned and ridiculed complainants to its recipients. Complainants likewise posited that several

¹ *Rollo*, pp. 1-3.

² *Id.* at 5-10.

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news clippings³ that were attached to the demand letter were intended to sow fear in them, and claimed that the circulation thereof caused them sleepless nights, wounded feelings, and besmirched reputation.⁴ Thus, they maintained that respondent should be held administratively liable therefor.

In a Resolution⁵ dated July 22, 2009, the Court directed respondent to file his comment to the verified complaint. However, for failure to serve the aforesaid Resolution at respondent's address given by the Integrated Bar of the Philippines (IBP), the complainants were then ordered⁶ to furnish the Court the complete and correct address of respondent. Still, complainants failed to comply with the Court's directive; thus, the Court resolved,⁷ among others, to refer the case to the IBP for investigation, report, and recommendation, which set the case for a mandatory conference/hearing.⁸

Unfortunately, despite notices,⁹ complainants failed to appear for the scheduled mandatory hearings. Likewise, the notices sent to respondent were returned unserved with the notations "RTS Moved Out" and "RTS Unknown." Thus, in an Order¹⁰ dated October 24, 2014, the IBP directed the parties to submit their respective verified position papers together with documentary exhibits, if any.

The IBP's Report and Recommendation

In its Report and Recommendation¹¹ dated May 29, 2015, the IBP – Commission on Bar Discipline (CBD), through Commissioner Honesto A. Villamor, recommended that respondent be suspended from the practice of law for a period of three (3) months for violation of Rule 8.01 of the Code of Professional Responsibility (CPR). Likewise, for defying the lawful order of the IBP, the latter recommended that respondent be declared in contempt of court and fined the amount of ₱1,000.00, with a warning that repetition of the same or similar offense shall be dealt with more severely.¹²

The IBP found that respondent failed to rebut complainants' allegations in their verified complaint. Moreover, despite repeated notices and directives from the IBP to appear for the mandatory hearings, as well as to file his pleadings, respondent failed to do so, which was tantamount to defiance of the lawful orders of the IBP amounting to conduct unbecoming of a lawyer. Finding that respondent did not intend to file any comment and

³ Id. at 11-27.

⁴ Id. at 2.

⁵ Id. at 97.

⁶ See Resolution dated September 28, 2011; id. at 100.

⁷ Id. at 103-104.

⁸ Id. at 106.

⁹ See Order dated August 27, 2014 and Order dated October 24, 2014; id. at 107-108.

¹⁰ Id. at 108, including dorsal portion.

¹¹ Id. at 115-117.

¹² Id. at 117.

in the process, purposely delayed the resolution of the instant case, the IBP recommended that respondent be held in contempt of court.¹³

In a Resolution¹⁴ dated June 20, 2015, the IBP Board of Governors resolved to adopt and approve with modification the May 29, 2015 Report and Recommendation of the IBP – CBD by suspending respondent from the practice of law for a period of six (6) months and deleting the fine imposed on him.

The Issue Before the Court

The issue for the Court's resolution is whether or not respondent should be held administratively liable based on the allegations of the verified complaint.

The Court's Ruling

The Court has examined the records of this case and partially concurs with the findings and recommendations of the IBP Board of Governors.

The practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality. Any violation of these standards exposes the lawyer to administrative liability.¹⁵ Rule 8.01, Canon 8 of the CPR provides:

Rule 8.01. – A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

In this case, the demand letter that respondent sent to complainants contained not merely a demand for them to settle their monetary obligations to respondent's client, but also used words that maligned their character. It also imputed crimes against them, *i.e.*, that they were criminally liable for worthless or bum checks and *estafa*. The relevant portion of the demand letter states:

An early check on the records of some courts, credit-reporting agencies and law enforcement offices revealed that the names 'MANOLO NUEZCA' and/or 'MANUELO NUEZCA' and 'MILINIA NUEZCA' responded to our search being involved, then and now, in some 'credit-related' cases and litigations. Other record check outcomes and results use

¹³ Id. at 116-117.

¹⁴ See Notice of Resolution in Resolution No. XXI-2015-542 signed by IBP National Secretary Nasser A. Marohomsalic; *id.* at 114, including dorsal portion.

¹⁵ *Barandon, Jr. v. Ferrer, Sr.*, 630 Phil. 524, 530 (2010).

we however opt to defer disclosure in the meantime and shall be put in issue in the proper forum as the need for them arise. [sic]

§ All such accumulated derogatory records shall in due time be reported to all the appropriate entities, for the necessary disposition and “blacklisting” pursuant to the newly-enacted law known as the “Credit Information Systems Act of 2008.”

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II. Your several issued BDO checks in 2003 and thereabouts were all unencashed as they proved to be “worthless and unfounded.” By law, you are liable under BP 22 (Boun[c]ing Checks Law) and Art. 315, Par. 2 (d) SWINDLING/ESTAFA, RPC.

III. For all your deceit, fraud, schemes and other manipulations to defraud Mrs. Arcilla, taking advantage of her helplessness, age and handicaps to her grave and serious damage, you are also criminally liable under ART. 318, OTHER DECEITS, RPC.¹⁶

Indeed, respondent could have simply stated the ultimate facts relative to the alleged indebtedness of complainants to his client, made the demand for settlement thereof, and refrained from the imputation of criminal offenses against them, especially considering that there is a proper forum therefor and they have yet to be found criminally liable by a court of proper jurisdiction. Respondent’s use of demeaning and immoderate language put complainants in shame and disgrace. Moreover, it is important to consider that several other persons had been copy furnished with the demand letter. As such, respondent could have besmirched complainants’ reputation to its recipients.

At this juncture, it bears noting that respondent failed to answer the verified complaint and attend the mandatory hearings set by the IBP. Hence, the claims and allegations of the complainants remain uncontroverted. In *Ngayan v. Tugade*,¹⁷ the Court ruled that “[a lawyer’s] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138, Rules of Court.”¹⁸

Though a lawyer’s language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession. The use of intemperate language and unkind ascriptions has no place in the dignity of judicial forum.¹⁹ Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not

¹⁶ See Demand Letter dated February 15, 2009, *rollo*, pp. 7-9.

¹⁷ 271 Phil. 654 (1991).

¹⁸ *Id.* at 659.

¹⁹ *Barandon, Jr. v. Ferrer, Sr.*, *supra* note 15, at 532.

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derogatory, and illuminating but not offensive.²⁰ In this regard, all lawyers should take heed that they are licensed officers of the courts who are mandated to maintain the dignity of the legal profession, hence, they must conduct themselves honorably and fairly.²¹ Thus, respondent ought to temper his words in the performance of his duties as a lawyer and an officer of the court.

Anent the penalty to be imposed on respondent, the Court takes into consideration the case of *Ireneo L. Torres and Mrs. Natividad Celestino v. Jose Concepcion Javier*,²² where respondent-lawyer was suspended from the practice of law for a period of one (1) month for employing offensive and improper language in his pleadings. In light thereof, and considering that the IBP's recommended penalty is not commensurate to respondent's misdeed in this case, the Court finds that the penalty of suspension for one (1) month from the practice of law should be meted upon respondent.

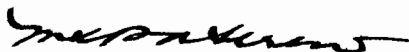
WHEREFORE, respondent Atty. Ernesto V. Villagarcia is found **GUILTY** of violation of Rule 8.01, Canon 8 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of one (1) month, effective upon his receipt of this Resolution, and is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

Let a copy of this Resolution be attached 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 on the Office of the Court Administrator for circulation to all courts in the country for their information and guidance.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

²⁰ *Gimeno v. Zaide*, A.C. No. 10303, April 22, 2015, 757 SCRA 11, 25.

²¹ *Reyes v. Chiong, Jr.*, 453 Phil. 99, 104 (2003).

²² 507 Phil. 397 (2005).

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice