



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

RECORDED  
SEP 05 2019

BY: YSG  
TIME: 9:26

EN BANC

VANTAGE LIGHTING A.C. No. 7389  
PHILIPPINES, INC., JOHN PAUL  
FAIRCLOUGH and MA.  
CECILIA G. ROQUE,  
Complainants,

- versus -

ATTY. JOSE A. DIÑO, JR.,  
Respondent.

X ----- X

ATTY. JOSE A. DIÑO, JR., A.C. No. 10596  
Complainant,

- versus -

ATTYS. PARIS G. REAL and  
SHERWIN G. REAL,  
Respondents.

Present:  
BERSAMIN, CJ.,  
CARPIO,  
PERALTA,  
DEL CASTILLO,  
PERLAS-BERNABE,  
LEONEN,  
JARDELEZA,  
CAGUIOA,  
A. REYES, JR.,  
GISMUNDO,\*  
J. REYES, JR.,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER, and  
INTING, JJ.

Promulgated:

July 2, 2019

X ----- X

\* On official leave.

**DECISION****JARDELEZA, J.:**

Before us are two disbarment complaints: one filed by Vantage Lighting Philippines Inc., (Vantage), its President John Paul Fairclough (Fairclough) and its Vice President for Finance and Administration Ma. Cecilia G. Roque (Roque) (collectively referred to as complainants) against Vantage's former counsel, Atty. Jose A. Diño, Jr. (Atty. Diño), docketed as A.C. No. 7389;<sup>1</sup> and the other one filed by Atty. Diño against Vantage's present lawyers, Attys. Paris G. Real and Sherwin G. Real (Reals), docketed as A.C. No. 10596.<sup>2</sup>

**A.C. No. 7389**

On January 2, 2007, complainants filed a verified disbarment complaint<sup>3</sup> against Atty. Diño, which we referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

Complainants alleged that, on August 15, 2006, Atty. Diño and Vantage executed a Retainer's Agreement for purposes of instituting a complaint against PHPC Co. (PHPC) and Hitachi Plant Engineering Co. Ltd. (Hitachi), subject to the payment of the following professional fees:

1. Acceptance Fee in the amount of One Hundred Fifty Thousand Pesos (P150,000.00 + 12% VAT), payable in the following manner:
  - a.) P75,000.00 upon the signing of this Agreement; and
  - b.) P75,000.00 upon the filing of the Complaint in court.
2. Per pleading professional fee of Five Thousand Pesos (P5,000.00 + 12% VAT) with reference to major pleadings filed, i.e., complaint, answer to counterclaim, reply, briefs or memorandum, etc.;
3. Per appearance fee of Two Thousand Five Hundred Pesos (P2,500.00 + 12% VAT) for each hearing or conference attended. For hearings or conferences outside of Metro Manila, the appearance fee shall be Three Thousand Five Hundred Pesos (P3,500.00, net of taxes), exclusive of transportation and lodging expenses if necessary;

<sup>1</sup> *Rollo*, Vol. I, pp. 1-62.

<sup>2</sup> *Rollo*, Vol. III, pp. 2-6.

<sup>3</sup> Complaint with urgent application for a temporary restraining order and/or writ of preliminary prohibitory and mandatory injunctions: (1) To prevent respondent Atty. Jose A. Diño, Jr., from incessantly filing contrived and groundless cases against his former clients, the complainants herein and/or their agents [which now total five]; and (2) To order the concerned courts and/or agencies to dismiss the malicious and baseless civil and criminal cases which respondent Atty. Jose A. Diño, Jr., capriciously filed against his former clients, the complainants herein and their officers and/or agents. (*Rollo*, Vol. I, pp. 1-62.)

4. Deposit for photocopying, t.s.n. and other incidental expenses and costs of litigation in the amount of Three Thousand Pesos (P3,000.00), subject to liquidation and replenishment; and
5. Success fee of One Hundred Fifty Thousand Pesos (P150,000.00 net of taxes) in the event of a favorable resolution before the lower court as a result of our legal efforts, whether by decision or compromise settlement.<sup>4</sup>

As per their agreement, Vantage paid Atty. Diño ₱75,000.00 upon signing of the retainer.<sup>5</sup>

The civil complaint<sup>6</sup> against PHPC and Hitachi was filed on September 5, 2006 before the Regional Trial Court (RTC) of Parañaque City. On September 11, 2006, Atty. Diño called Roque informing her that Vantage had to pay ₱150,000.00 to the judge to whom the civil complaint of Vantage would be raffled for the issuance of a temporary restraining order (TRO).<sup>7</sup>

Atty. Diño also texted Roque, saying that if Vantage is unable to give him the cash before 2:00 o'clock that same afternoon, Atty. Diño will just advance the ₱20,000.00 to the judge to whom the case would be raffled.<sup>8</sup>

Later that same day, Atty. Diño informed Roque through a text message that the case was raffled to Judge Rolando How (Judge How). Thinking that the payment for the TRO is just a regular legal expense, Vantage agreed to reimburse the ₱20,000.00 to Atty. Diño. As it was then already past banking hours, Roque texted Atty. Diño that he will be reimbursed the ₱20,000.00 on the date of the hearing scheduled the following day. In reply, Atty. Diño told Roque that Vantage will have to prepare another ₱65,000.00 because the TRO might be issued after the hearing.<sup>9</sup>

The September 12, 2006 hearing was ultimately reset to the following day. Vantage, thru a Mr. Mannix Franco, nevertheless gave Atty. Diño the amount of ₱20,000.00. Atty. Diño was silent as regards the ₱65,000.00.<sup>10</sup>

On September 14, 2006, Roque texted Atty. Diño to ask about the status of the case and whether the TRO was going to be issued. She also told Atty. Diño that Vantage had already prepared the additional ₱65,000.00 that he asked for. In response, Atty. Diño texted Roque, "Yes awaiting it now I

---

<sup>4</sup> *Rollo*, Vol. I, pp. 65-66.

<sup>5</sup> *Id.* at 7.

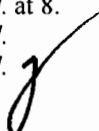
<sup>6</sup> Civil Case No. 06-0258, entitled *Vantage Lighting Phils., Inc. v. PHPC Co., Ltd. Inc. and Hitachi Plant Engineering Co. Ltd.*, *id.* at 196-198.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.* at 8.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*



already paid 130k but that's my own lookout." Thereafter, at 2:16 in the afternoon of the same day, Atty. Diño texted Roque "pls ask ur messenger to stand by and be ready to personally pick up the tro at the RTC [*sic*]." After a few minutes, he again texted Roque "tro will be issued tom anyway that's my commitment. No expense on ur part without tro on hand."<sup>11</sup>

On September 15, 2006, Atty. Diño texted Roque that if the TRO will not be issued on Monday, the deal with the judge is no longer valid and the ₱20,000.00 will be returned to Vantage.<sup>12</sup> Three days later, he texted Roque again to say that "Fixer said judge will release order on Wednesday (September 20) I said no. Your 20k will be returned tomorrow. For your information."<sup>13</sup>

In the morning of September 19, 2006 and not having received any news from Atty. Diño, Vantage re-deposited the ₱65,000.00 with the bank and sent its messenger to pick up the ₱20,000.00 which Atty. Diño promised to return. Atty. Diño, however, refused to return the same and declared that he would just apply the amount to his legal fees.<sup>14</sup>

It appears that Atty. Diño continued to send more text messages to Roque, which the latter only got to read the following day, or on September 20, 2006. These messages read as follows:

1. "bring the 65k tom. 8:30 am tro already issued (sent at around 4:52 in the afternoon.);"
2. "exchange will be at brewsters café where we had coffee the other day 8:30 am (sent at around 5:05 in the afternoon);" and
3. "I will appreciate it if we start acting like professionals and honor our commitment. If your company does not want to pay the 65k, a simple yes or no will be fine. Thank you. (sent at around 6:21 in the evening)."<sup>15</sup>

Roque replied to Atty. Diño, apologizing for not being able to promptly respond to his text messages the previous day. She also informed Atty. Diño that she will ask Vantage's personnel about the ₱65,000.00.<sup>16</sup> At Roque's instructions, Vantage's accounting officer called Atty. Diño to inform him that the ₱65,000.00 he asked for was re-deposited after he intimated that no TRO would be issued. Atty. Diño thereafter called Roque in anger, threatening that they (Vantage) will be sorry if they fail to pay his fees and reimburse him the amount of ₱130,000.00 which he allegedly gave to the fixers as payment to Judge How for the issuance of the TRO. When

---

<sup>11</sup> *Rollo*, Vol. I, pp. 8-9.

<sup>12</sup> *Id.* at 9.

<sup>13</sup> *Id.* at 10.

<sup>14</sup> *Id.*

<sup>15</sup> *Rollo*, Vol. I, pp. 10-11.

<sup>16</sup> *Id.* at 11.

Roque told Atty. Diño that she will have to clear the matter first with Vantage management, Atty. Diño reportedly went berserk.<sup>17</sup>

Because of their misunderstanding, Atty. Diño withdrew as counsel for Vantage on September 21, 2006.<sup>18</sup> The next day, he sent Vantage the following Billing Statement:

1. Balance of Acceptance Fee (Due last 05 Sept. 2006)	₱75,000.00
2. Reimbursement of Mobilization and Representation Expenses (Due last 19 Sept. 2006)	130,000.00
3. Per Pleading Fee (₱5,000.00 per pleading) Complaint, Sept. 5; Urgent Motion Sept. 18 Motion Sept. 20	15,000.00
4. Appearances (₱2,500 per) Sept. 5, 12, 13, 18 & 20	12,500.00
5. Reimbursement of incidental expenses (under item 4 of the Contract) Sheriff's and Process Server's Fee	2,500.00
6. Success fee (under item 5 of the Contract) Considering the issuance of the TRO, this item will be billed separately upon the issuance of the Preliminary Injunction.	
TOTAL	<b><u>₱235,000.00</u></b> <sup>19</sup>

It also appears that Atty. Diño filed a number of cases against complainants in a span of two months from the date he sent the Billing Statement to Vantage, as follows:

1. On October 4, 2006, Atty. Diño filed a criminal complaint for *estafa* against Roque and Fairclough before the Office of the City Prosecutor in Parañaque City. In his complaint affidavit,<sup>20</sup> Atty. Diño alleged:

3. Said respondents falsely pretended to the Complainant that he will be paid ₱150,000.00 as professional fee and ₱150,000.00 as success fee, plus per pleading and appearance fees, **PROVIDED**, that the Complainant first

<sup>17</sup> *Id.* at 12-13.

<sup>18</sup> *Id.* at 13.

<sup>19</sup> *Id.* at 13, 70.

<sup>20</sup> *Id.* at 79-81.

advance the amount of ₱150,000.00 as mobilization and representation expenses for the purpose of securing the TRO and Writ of Preliminary Injunction;<sup>21</sup>

2. On October 20, 2006, Atty. Diño filed a collection suit for sum of money and damages<sup>22</sup> against Roque in Civil Case No. 6175 in the amount of ₱50,000.00 before Branch 80 of the RTC in Muntinlupa City. The amount allegedly represented Atty. Diño's unpaid acceptance fees, billable hours, actual expenses incurred and success fee on the collection of accounts from the two debtors of Vantage and/or Roque;
3. On October 25, 2006, Atty. Diño filed a criminal complaint for grave oral defamation<sup>23</sup> against Roque before the Office of the City Prosecutor in Muntinlupa City. Roque allegedly hurled defamatory language against Atty. Diño over the telephone while it was on speaker mode. This was allegedly heard by Atty. Diño's client;
4. On November 21, 2006, Atty. Diño filed a criminal complaint for libel<sup>24</sup> against Roque before the Prosecutor's Office in Muntinlupa City. Atty. Diño alleged that Roque signed a letter dated October 13, 2006 containing a statement that Atty. Diño bribed Judge How. The unsealed letter was allegedly read by the office building security guard;
5. On November 28, 2006, Atty. Diño filed a criminal complaint for falsification of private document and use of falsified document<sup>25</sup> against Roque and the Reals before the Prosecutor's Office in Muntinlupa City. Atty. Diño averred that Roque and the Reals introduced as evidence in court the letter<sup>26</sup> dated November 15, 2006 addressed to the Bureau of Immigration (BI) with a purported signature of Atty. Diño. The letter sent to the BI requested for hold departure order/watch list against Fairclough and contained statements that Fairclough has a pending *estafa* case and had molested a child.<sup>27</sup>

Complainants here assert that: (1) the suits and actions filed by Atty. Diño against them are clearly groundless and these acts of harassment are sufficient cause to disbar him from the legal profession for gross misconduct;<sup>28</sup> (2) Atty. Diño violated Rule 20.04<sup>29</sup> of the Code of

---

<sup>21</sup> *Id.* at 17, 79.

<sup>22</sup> *Id.* at 18, 105-109.

<sup>23</sup> *Rollo*, Vol. I, pp. 18, 96-98.

<sup>24</sup> *Id.* at 21, 138-139.

<sup>25</sup> *Id.* at 21, 125-127.

<sup>26</sup> *Id.* at 118.

<sup>27</sup> *Id.* at 19, 118.

<sup>28</sup> *Id.* at 23-29.

<sup>29</sup> Rule 20.04 - A lawyer shall avoid controversies with clients concerning his compensation and shall resort to judicial action only to prevent imposition, injustice or fraud.

Professional Responsibility when he filed several cases against complainants instead of settling his financial concerns with them;<sup>30</sup> and (3) Atty. Diño committed serious fraud, gross dishonesty, and gross misrepresentation when he accused the Reals of claiming that he (Diño) sent a letter to the BI claiming that Fairclough is the subject of an *estafa* case and a child molester.<sup>31</sup> Complainants also claim damages on account of Atty. Diño's harassment suits.<sup>32</sup>

Atty. Diño, in his verified comment,<sup>33</sup> dismissed complainants' allegations as false and incredible.<sup>34</sup> He denied bribing Judge How to secure the TRO<sup>35</sup> claiming:

4. **Considering the high stakes involved necessitating an exceptionally urgent prayer for preliminary reliefs,** the Respondent meticulously informed and explained to both Roque and Vantage's Chief Officer John Fairclough (Fairclough) **the additional fees, expenses and costs of litigation that were necessary, i.e., mobilization expenses, filing fees, payment of sheriff's fees, representation expenses for collaborating lawyers who will be tasked to devote laborious man-hours in personally monitoring the progress of the Complaint, payment for additional staff, among others:**
5. The provision for additional fees, expenses and costs of litigation is explicit in Item No. 4 of the LSA;
6. Both Roque and Fairclough gave their solemn word of honor to the Respondent that, immediately upon the release of the TRO, he will be reimbursed for the additional fees, expenses and costs of litigation that would be incurred, capped at P150,000.00.<sup>36</sup> (Emphasis supplied.)

Atty. Diño thereafter itemized the following receivables from Vantage:

64. In this complaint, the complainants furtively hid the fact that despite demand, they have not paid to the Respondent's Law Firm the balance of the Acceptance Fee (P75,000.00 due last September 05, 2006), per pleading fees (total of P15,000.00) for pleadings actually filed and which pleadings the complainants were furnished copies of, per appearance fees (total of P12,500.00) for hearings/conferences at which the complainants and/or

---

<sup>30</sup> *Rollo*, Vol. 1, pp. 29-34.

<sup>31</sup> *Id.* at 34-47.

<sup>32</sup> *Id.* at 60-61.

<sup>33</sup> *Id.* at 152-195.

<sup>34</sup> *Id.* at 166-170.

<sup>35</sup> *Id.* at 169, 178-180.

<sup>36</sup> *Id.* at 154.

their agents were always present at, and **for additional expenses and costs of litigation (total of P130,000.00), for the following:**

- mobilization expenses;
- filing fees;
- representation expenses and professional fees for collaborating lawyers who devote laborious man-hours from September 05 up to 19, 2006 in personally monitoring the progress of the Complaint;
- payment for additional staff;
- photocopying and mailing expenses, among others.<sup>37</sup>  
(Emphasis supplied.)

Atty. Diño also argued that complainants' allegations are affirmative defenses which should be brought in the fora where the cases against them are pending.<sup>38</sup> He added that the cases he filed were not baseless as in fact the respective adjudicating bodies found reasonable grounds to continue with the proceedings therein.<sup>39</sup>

On September 4, 2007, Investigating Commissioner Maria Editha Go-Biñas (Investigating Commissioner Go-Biñas) issued a Notice of Mandatory Conference<sup>40</sup> directing the parties to appear on October 18, 2007 to take up the parties' admissions, stipulations of facts, and definition of issues. The mandatory conference, however, was reset to December 6, 2007 upon Atty. Diño's motion.<sup>41</sup> The parties were also directed to submit their respective mandatory conference briefs three days before the scheduled hearing.<sup>42</sup>

On December 6, 2007, Atty. Diño, Fairclough, Roque and the Reals appeared at the scheduled hearing although the latter failed to file their mandatory conference brief. With the acquiescence of Atty. Diño, they were allowed to file their mandatory conference brief within three days. Investigating Commissioner Go-Biñas stated in her Order<sup>43</sup> dated December 6, 2007 that after the submission of the brief, the parties will be notified when to file their respective position papers and thereafter, the case will be submitted for decision unless there is a need to answer clarificatory questions.<sup>44</sup> Both parties submitted their respective mandatory conference briefs as directed.<sup>45</sup>

---

<sup>37</sup> *Id.* at 168-169.

<sup>38</sup> *Id.* at 170-171.

<sup>39</sup> *Id.* at 172-173.

<sup>40</sup> *Id.* at 215.

<sup>41</sup> *Id.* at 236.

<sup>42</sup> *Id.*

<sup>43</sup> *Rollo*, Vol. I, pp. 239-240.

<sup>44</sup> *Id.* at 240.

<sup>45</sup> *Id.* at 252-267.



**A.C. No. 10596**

In his verified complaint<sup>46</sup> dated January 16, 2007 before the IBP Commission on Bar Discipline (CBD), instituted as CBD Case No. 071913, Atty. Diño alleged that the Reals erroneously attributed to him a one-page letter dated November 15, 2006 addressed to the BI, which letter they also used as an attachment in Roque's answer to the collection suit for sum of money and damages<sup>47</sup> he filed against the complainants.<sup>48</sup> Atty. Diño stated that the Reals knew full well that the letter did not come from him since they are familiar with his signature, his office letterhead, logo and fax number.<sup>49</sup>

According to Atty. Diño, he gave the Reals a chance to rectify their error. However, instead of apologizing, the Reals persisted and maintained their illegal act by using anew the letter on November 28, 2006 when they attached it to the counter-affidavit they submitted before the Office of the City Prosecutor of Muntinlupa City in the *estafa* case.<sup>50</sup>

Atty. Diño thus asserts that the Reals violated the following provisions of the Code of Professional Responsibility:<sup>51</sup>

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

Rule 7.03 – A lawyer shall not engage in conduct that adversely affects on his fitness to practice law, x x x.

x x x x

Rule 10.01 – A lawyer shall not do any falsehood, nor consent to the doing of any in court; x x x.

x x x x

Rule 19.01 – A lawyer shall employ only fair and honest means to attain the lawful objectives of his client x x x.

The Reals, for their part, claim that this is a retaliatory complaint and they did not author the subject letter.<sup>52</sup>

A mandatory conference in this case was held on July 20, 2007. Only the Reals and Fairclough however were present; Atty. Diño did not appear at the hearing despite being duly notified by the Order<sup>53</sup> issued on June 25, 2007. Thus, on even date, the assigned Investigating Commissioner Randall C. Tabayoyong (Investigating Commissioner Tabayoyong) issued an Order<sup>54</sup> dated July 20, 2007 terminating the mandatory conference. He ruled that

<sup>46</sup> *Rollo*, Vol. III, pp. 2-6.

<sup>47</sup> *Supra* note 22.

<sup>48</sup> *Rollo*, Vol. III, p. 2.

<sup>49</sup> *Id.* at 3.

<sup>50</sup> *Id.*

<sup>51</sup> *Rollo*, Vol. III, p. 5.

<sup>52</sup> *Id.* at 47-60.

<sup>53</sup> *Id.* at 172.

<sup>54</sup> *Id.* at 174-175.

Atty. Diño had waived his right to participate in the proceedings. The parties were thereafter directed to file their respective verified position papers.<sup>55</sup>

Upon Atty. Diño's motion,<sup>56</sup> Investigating Commissioner Tabayoyong directed the consolidation of A.C. No. 10596 with A.C. No. 7389 in an Order<sup>57</sup> dated October 5, 2007.

Acting on the consolidated cases,<sup>58</sup> Investigating Commissioner Go-Biñas found, at the outset, that Atty. Diño gave the Judiciary a bad name by representing to his clients that the amounts he asked for were payment for the issuance of the TRO.<sup>59</sup> She also held that Atty. Diño should not have gone around filing several cases against the complainants, who were his former clients, purportedly to collect his fees; he should have instead observed the proceeding specifically provided under the law for such purpose.<sup>60</sup> For this infraction, she recommended that Atty. Diño be suspended from the practice of law for three months.<sup>61</sup>

On the other hand, Investigating Commissioner Go-Biñas did not find Atty. Diño's allegation against the Reals worthy of credence. According to her, the Reals, being the complainants' current counsel, would not utilize a letter which not only contains damaging statements against Fairclough, but also a prayer for the issuance of a hold departure order against him.<sup>62</sup>

The IBP Board of Governors, through Resolution No. XX-2013-277<sup>63</sup> dated March 20, 2013, unanimously adopted and approved the report and recommendation of Investigating Commissioner Go-Biñas, with the modification that Atty. Diño be suspended from the practice of law for one year (instead of three months). The Board of Governors also affirmed the dismissal of Atty. Diño's complaint against the Reals.<sup>64</sup>

Atty. Diño filed a motion for reconsideration but this was denied by the IBP Board of Governors through its Notice of Resolution No. XXI-2014-157<sup>65</sup> dated March 22, 2014.

On August 20, 2014, Atty. Diño filed before the IBP Board of Governors a motion for leave to file and admit motion for reconsideration<sup>66</sup> and motion to reconsider, reverse and set aside resolution and/or to remand

---

<sup>55</sup> *Id.* at 175.

<sup>56</sup> *Id.* at 177-178.

<sup>57</sup> *Id.* at 218-225.

<sup>58</sup> Upon Atty. Diño's omnibus motion to consolidate and to suspend proceedings pending consolidation dated July 16, 2007 (*Rollo*, Vol. III, pp. 177-178), the IBP CBD consolidated CBD Case No. 07-1913 (A.C. No. 10596) with A.C. No. 7389 through its Order dated October 5, 2007 (*Id.* at 218-225).

<sup>59</sup> *Rollo*, Vol. V, p. 8.

<sup>60</sup> *Id.* at 11.

<sup>61</sup> *Id.* at 14.

<sup>62</sup> *Id.* at 12-13.

<sup>63</sup> *Id.* at 2-3.

<sup>64</sup> *Id.* at 2.

<sup>65</sup> *Rollo*, Vol. IV, p. 304.

<sup>66</sup> *Rollo*, Vol. I, pp. 294-297.

the complaint to the CBD for proper investigation<sup>67</sup> both dated August 20, 2014.

On October 14, 2014, Atty. Diño filed before this Court a motion to remand the consolidated complaints to the IBP Board of Governors for proper investigation.<sup>68</sup> In a Resolution<sup>69</sup> dated February 11, 2015, we noted Atty. Diño's motion to remand the consolidated complaints and treated his motion for reconsideration of Resolution No. XXI-2014-157 as a petition for review.<sup>70</sup>

Atty. Diño mainly argues that: (1) there was no accusatory affidavit against him that was submitted before the IBP-CBD; (2) Vantage did not present any witness against him; and (3) the documents attached to the complaint were mere photocopies.<sup>71</sup>

At the outset, we note that there is nothing in the records to show that subsequent hearings transpired after the submission of the conference briefs by the parties before Investigating Commissioner Go-Biñas and prior to the latter's Report and Recommendation<sup>72</sup> dated June 20, 2012. We find, however, that this is not a sufficient ground for us to remand the consolidated cases. Investigating Commissioner Tabayoyong already held a mandatory conference in A.C. No. 10596 where the Reals stipulated on the exhibits submitted by Atty. Diño. These included: (a) the letter to the BI; (b) Roque's answer in the collection suit for sum of money and damages; (c) Atty. Diño's demand letter dated November 24, 2006 asking for an apology from the Reals for alleging in the collection suit for sum of money and damages that he sent the letter to the BI; and (d) Roque's counter-affidavit in the criminal complaint for grave oral defamation. The Reals also verified, under oath, all the documents that they attached in their answer to Atty. Diño's complaint.<sup>73</sup> Moreover, in Atty. Diño's conference brief<sup>74</sup> filed after the consolidation of the cases, he admitted having filed criminal complaints against his clients and the Reals. We find these allegations and admissions contained in these exhibits and documents sufficient for us to adjudicate on the merits.<sup>75</sup>

#### I.

We find Atty. Diño guilty of gross misconduct and violation of the Lawyer's Oath and the Code of Professional Responsibility.

---

<sup>67</sup> *Id.* at 298-320.

<sup>68</sup> *Rollo*, Vol. IV, pp. 319-327.

<sup>69</sup> *Id.* at 317-318.

<sup>70</sup> *Id.* at 318.

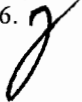
<sup>71</sup> *Rollo*, Vol. I, pp. 300-302.

<sup>72</sup> *Rollo*, Vol. IV, pp. 305-315.

<sup>73</sup> *Rollo*, Vol. III, pp. 266-271.

<sup>74</sup> *Rollo*, Vol. I, pp. 252-257.

<sup>75</sup> *Id.* at 255-256.



Section 27, Rule 138 of the Rules of Court provides the grounds for the disbarment or suspension of a lawyer, thus:

*Sec. 27. Disbarment or suspension of attorneys by Supreme Court, grounds therefor.* – A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other **gross misconduct in such office**, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis supplied.)

Gross misconduct is defined as any inexcusable, shameful or flagrant unlawful conduct on the part of a person concerned with the administration of justice; *i.e.*, conduct prejudicial to the rights of the parties or to the right determination of the cause.<sup>76</sup> Generally, such conduct is motivated by a premeditated, obstinate or intentional purpose.<sup>77</sup>

We agree with and find as persuasive the finding of the IBP Investigating Commissioner that Atty. Diño tainted the image of the Judiciary by claiming that the ₱150,000.00 to be collected from Vantage will be used to facilitate the issuance of the TRO.<sup>78</sup> Although Atty. Diño now denies bribing the judge to secure the issuance of the TRO, explaining that the amount of ₱150,000.00 was for the payment of the additional fees, expenses and costs of litigation which he euphemistically called “mobilization expenses” and, for alleged professional fees for collaborating lawyers who devoted laborious man-hours in personally monitoring the progress of the complaint,<sup>79</sup> we find his explanation not worthy of credence.

First, Atty. Diño himself admitted in his complaint-affidavit for *estafa*<sup>80</sup> that the ₱150,000.00 which he described as mobilization and representation expenses was for the purpose of securing the TRO. This statement negates his assertion in the verified complaint that the ₱150,000.00 was for other expenses.<sup>81</sup> Atty. Diño did not even explain in the Billing Statement what he needed to mobilize. Second, the Retainer’s Agreement<sup>82</sup> and the Billing Statement<sup>83</sup> did not authorize the hiring of collaborating lawyers. Third, the reimbursement of incidental expenses such as sheriff’s and process server’s fees were billed under Item No. 5, *i.e.*,

<sup>76</sup> *Flores v. Mayor, Jr.*, A.C. No. 7314, August 25, 2015, 768 SCRA 161, 168, citing *Lahm III v. Mayor, Jr.*, A.C. No. 7430, February 15, 2012, 666 SCRA 1, 9.

<sup>77</sup> *Spouses Donato v. Asuncion, Sr.*, A.C. No. 4914, March 3, 2004, 424 SCRA 199, 204.

<sup>78</sup> *Rollo*, Vol. V, p. 8.

<sup>79</sup> *Rollo*, Vol. I, pp. 168-169.

<sup>80</sup> *Id.* at 79-81.

<sup>81</sup> *Id.* at 80.

<sup>82</sup> *Id.* at 65-66.

<sup>83</sup> *Id.* at 70.

“Reimbursement of incidental expenses” in the Billing Statement. This is different from Item No. 2, *i.e.*, “Reimbursement of Mobilization and Representation Expenses” of the same Billing Statement. Plainly, and contrary to Atty. Diño’s claim, the ₱130,000.00 could not have included the sheriff’s and process server’s fees.

By representing to his clients that he can secure the issuance of a TRO by bribing the judge ₱150,000.00, Atty. Diño violated Canon 13 of the Code of Professional Responsibility which provides:

Canon 13 – A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

In *Dongga-as v. Cruz-Angeles*,<sup>84</sup> we suspended respondents-lawyers from the practice of law for three years because they represented to their client that they could find a “friendly” court, judge, and public prosecutor to ensure a favorable ruling in the client’s annulment case. Their representation undermined and/or denigrated the integrity of the national prosecution service and the courts, in violation of the Code of Professional Responsibility.

As an officer of the Court, Atty. Diño has a paramount duty to protect the court’s integrity and assist it in the administration of justice according to law. He should not espouse a belief that the judicial system can be bought, much less contribute to the perpetuation of such belief. Unfortunately, instead of relying on the merits of his clients’ cause, Atty. Diño represented to his clients that the judicial system can be bribed. This inexcusable, shameful and unlawful act of Atty. Diño, by itself, constitutes gross misconduct. In fact, we find that it is conduct so condemnable that it merits the harshest of penalties.

Worse, after failing to get the reimbursement/payment for his fees and other amounts he advanced for such illegal purposes, Atty. Diño threatened complainants that they would not like the succeeding events if they fail to pay him. Indeed, he made true to his threats to institute retaliatory acts against complainants and the Reals as he in fact filed five actions against Vantage and its officers within a span of two months.

Atty. Diño claims that he was merely trying to collect his professional fees and other advances that he made in complainants’ behalf. Under Rule 16.03 of the Code of Professional Responsibility, however, a claim for attorney’s fees may be asserted either in the very action in which a lawyer rendered his services or in a separate action,<sup>85</sup> to wit:

<sup>84</sup> A.C. No. 11113, August 9, 2016, 799 SCRA 624.

<sup>85</sup> *Heirs and/or Estates of Atty. Rolando P. Siapias v. Intestate Estate of Late Eufrocina G. Mackay*, G.R. No. 184799, September 1, 2010, 629 SCRA 753.

Rule 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. **He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.** (Emphasis supplied.)

The existence of this appropriate recourse notwithstanding, Atty. Diño still opted to file criminal and civil complaints against his former clients. This supports the view that his acts were ill-intentioned, and in violation of: (1) the Lawyer's Oath,<sup>86</sup> which provides that he shall not wittingly or willingly promote or sue any groundless, false or unlawful suit; and (2) Rule 20.04<sup>87</sup> of the Code of Professional Responsibility, which imposes upon him the duty to avoid unnecessary lawsuits against his client to collect his fees and to resort to judicial action only to prevent imposition, injustice or fraud.

We also find that Atty. Diño violated Canon 8<sup>88</sup> of the Code of Professional Responsibility when he filed a disbarment case to harass the Reals, his former clients' new counsel. By resorting to such harassment tactics against the opposing counsel, he failed to conduct himself with courtesy, fairness and candor towards his professional colleagues.<sup>89</sup>

In *Reyes v. Chiong*,<sup>90</sup> we suspended a lawyer from the practice of law for two years for failing to treat his opposing counsel and other lawyer with courtesy, dignity and civility, and for wittingly and willingly promoting a groundless suit. There, the respondent lawyer impleaded his opposing counsel and the prosecutor handling the *estafa* case of his client as parties-respondents in a civil complaint for the collection of sum of money. We found that respondent lawyer misused the legal processes when he unjustly impleaded the two lawyers despite knowing that they had no participation in the civil complaint.

In view of Atty. Diño's above-enumerated acts of professional malpractice and gross misconduct, and considering further the gravity of his

---

<sup>86</sup> I, ..... , do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to its commission; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion.


SO HELP ME GOD.

<sup>87</sup> Rule 20.04 - A lawyer shall avoid controversies with clients concerning his compensation and shall resort to judicial action only to prevent imposition, injustice or fraud.

<sup>88</sup> Canon 8 - A lawyer shall conduct himself with courtesy, fairness and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel.

<sup>89</sup> The Reals represented the complainants who were respondents in the complaint for sum of money and damages filed by Diño.

<sup>90</sup> A.C. No. 5148, July 1, 2003, 405 SCRA 212.



acts, **we find that Atty. Diño's conduct warrants disbarment from the practice of law.** A three-year suspension from the practice of law is too light a penalty for a lawyer who, instead of protecting the integrity and independence of the Court, besmirched its reputation by claiming that a member of the Judiciary is for sale. Atty. Diño is clearly unfit to discharge the duties of an officer of the Court; hence, he deserves the ultimate penalty of disbarment.

## II.

We, however, deny complainants' claim for damages. As we have reiterated in *Dagala v. Quesada*,<sup>91</sup> disciplinary proceedings against lawyers are only confined to the issue of whether or not the respondent-lawyer is still fit to be allowed to continue as a member of the Bar. In other words, the main concern in disbarment proceedings is a lawyer's administrative liability. Matters which have no intrinsic link to the lawyer's professional engagement, such as the liabilities of the parties which are purely civil in nature, should be threshed out in a proper proceeding of such nature, not during administrative-disciplinary proceedings.

Here, we find that complainants' claims for damages have no intrinsic link to Atty. Diño's professional engagement. Their claims, in fact, refer to expenses they allegedly incurred to defend themselves from the vexatious cases filed by Atty. Diño after the termination of their professional engagement, and injury to the goodwill of Vantage and the resulting psychological trauma on Fairclough and Roque.<sup>92</sup>

## III.

Finally, we affirm the dismissal of Atty. Diño's disbarment complaint against the Reals.

In *Cabas v. Sususco*,<sup>93</sup> we ruled that the quantum of proof necessary for a finding of guilt in a disbarment case is substantial evidence or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. The complainant has the burden of proving his allegations against respondents.<sup>94</sup>

A review of the records shows that Atty. Diño failed to discharge his burden to prove that the Reals falsified a letter bearing his signature and addressed to the BI. In his complaint,<sup>95</sup> he based his charge of falsification on the fact that the Reals are familiar with his signature, letterhead, fax logo

<sup>91</sup> A.C. No. 5044, December 2, 2013, 711 SCRA 206, 217, citing *Tria-Samonte v. Obias*, A.C. No. 4945, October 8, 2013, 707 SCRA 1.

<sup>92</sup> *Rollo*, Vol. I, pp. 60-61.

<sup>93</sup> A.C. No. 8677, June 15, 2016, 793 SCRA 309, as cited in *Reyes v. Nieva*, A.C. No. 8560, September 6, 2016, 802 SCRA 196, 219.

<sup>94</sup> *Rollo*, Vol. I, p. 240.

<sup>95</sup> *Rollo*, Vol. III, pp. 2-6.

and fax number.<sup>96</sup> There was no concrete evidence, however, to prove that the Reals authored such letter.

On the contrary, the Reals' defense should be given more weight for being in line with logic and reasons. As correctly ruled by the Investigating Commissioner, the Reals could not have been the authors of the letter since they have no motive to damage the character and image of Fairclough, their client.<sup>97</sup> In fact, as complainants' present counsel, it is highly improbable that they would fabricate a letter containing a prayer for the issuance of a hold departure order against Fairclough and statements damaging to the latter's person and thereafter use it to their client's detriment.

**WHEREFORE**, premises considered, Atty. Jose A. Diño, Jr. is hereby **DISBARRED FROM THE PRACTICE OF LAW EFFECTIVE IMMEDIATELY** upon his receipt of this Decision. Let his name be stricken off the Roll of Attorneys.

On the other hand, the administrative complaint against Attys. Paris G. Real and Sherwin G. Real is **DISMISSED** for failure of Atty. Jose A. Diño, Jr. to prove his case against them.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to Atty. Jose A. Diño, Jr.'s personal record as an attorney, to the Integrated Bar of the Philippines, and to all courts in the country for their information and guidance. May this Decision serve as a warning to all lawyers that this Court takes seriously any imputation that would harm the integrity of our courts and the judicial system.

**SO ORDERED.**

  
FRANCIS H. JARDELEZA  
*Associate Justice*

WE CONCUR:

  
LUCAS P. BERSAMIN  
*Chief Justice*

---

<sup>96</sup> *Id.* at 2-3.

<sup>97</sup> *Rollo*, Vol. V, pp. 12-13.





**ANTONIO T. CARPIO**  
*Associate Justice*



**DIOSDADO M. PERALTA**  
*Associate Justice*



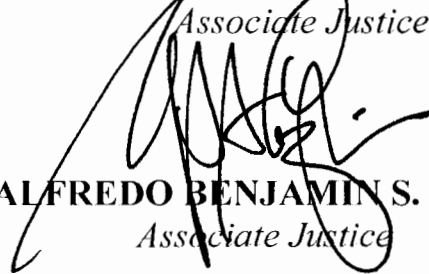
**MARIANO C. DEL CASTILLO**  
*Associate Justice*



**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*



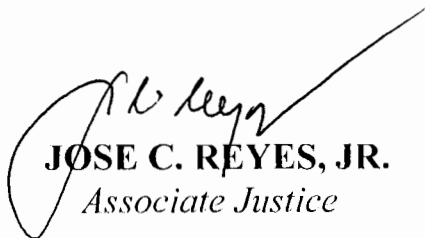
**MARVIC M. V. F. LEONEN**  
*Associate Justice*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

*Reyes*  
**ANDRES B. REYES, JR.**  
*Associate Justice*

*(On Official Leave)*  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*



**JOSE C. REYES, JR.**  
*Associate Justice*



**RAMON PAUL L. HERNANDO**  
*Associate Justice*

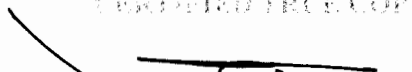


**ROSMARID D. CARANDANG**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

CERTIFIED TRUE COPY

  
**EDNA O. ARICHETA**  
Clerk of Court for the  
Supreme Court