



Republic of the Philippines  
**Supreme Court**  
Baguio City

**THIRD DIVISION**

**MARY ANN B. CASTRO,**  
Complainant,

**A.C. No. 13601 [Formerly  
CBD Case No. 20-6315]**

Present:

- versus -

*CAGUIOA, Chairperson,*  
INTING,  
GAERLAN,  
DIMAAMPAO,  
SINGH, *JJ.*

**ATTY. ZELDANIA D.T.  
SORIANO,**  
Respondent.

Promulgated:

**April 17, 2023**

*MicPDCBaH*

**DECISION**

**DIMAAMPAO, J.:**

At the pith of the instant administrative case is a complaint for suspension and disbarment filed by Mary Ann B. Castro (complainant) against Atty. Zeldania D.T. Soriano for violation of the Lawyer’s Oath, as well as Canons 7 and 8 of the Code of Professional Responsibility (CPR).<sup>1</sup>

The controversy had its progenitor in the Legal Notice<sup>2</sup> dated September 2, 2019 prepared by respondent on behalf of her client, Alegria A. Castro (Alegria), wherein respondent apprised Spouses Ferdinand and Rowena Sendin (Spouses Sendin) that the parcels of land they purchased from Joselito S. Castro (Joselito), Alegria’s estranged husband, actually belonged to Alegria by virtue of a written instrument of sale. In the same document, respondent described complainant as the “mistress” of Joselito, averring that:

<sup>1</sup> Rollo, pp. 2-6.

<sup>2</sup> Id. at 8-10.

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6. By the “selling” price, clearly, you are also NOT an innocent purchaser of [sic] value. You bought the subject property for Eight Hundred Thousand Pesos (P800,000.00) while its market value at the time of “sale” is Ten Million Pesos (P10,000,000). Our client believes that you grabbed the cheap offer of Joselito and his mistress(,) Mary Ann B. Castro(,) despite the obvious notice of defects in the title, in the sale transaction, and in Joselito’s authority.<sup>3</sup>

Disgruntled by respondent’s remark, complainant filed a Complaint-Affidavit<sup>4</sup> before the Office of the Provincial Prosecutor of the Province of Isabela, inculpating respondent for the crime of Libel. Therewithal, complainant furnished<sup>5</sup> the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) of the same Complaint-Affidavit for purposes of instituting an administrative case against respondent for having violated the Lawyer’s Oath and the CPR.

Complainant bemoaned respondent’s purported use of inappropriate language, asseverating that she was legally married to Joselito. Respondent avowedly dragged her in a property dispute where she did not have any participation, thereby making it appear that she took advantage of another person and committed a crime or an illegal act.<sup>6</sup>

In compliance with the IBP-CBD’s directives,<sup>7</sup> respondent filed her Verified Answer<sup>8</sup> in which she proffered special and affirmative defenses. Respondent cashed in on the pertinency and relevance of the language she used in relation to the subject matter of the Legal Notice she sent to the Spouses Sendin. Respondent admitted to using the word “mistress,” but posited that the same was necessary to describe the extramarital nature of the relationship between Joselito and complainant. To bolster her defense, respondent avouched that her client, Alegria, presented pieces of evidence to establish the invalidity of Joselito and complainant’s marriage in 2016 as at that time, Alegria remained the legal wife of Joselito.

Respondent endeavored to justify her use of the word “mistress” by positing that Alegria instructed her to inform the Spouses Sendin of the whole truth and invite the latter to negotiate with the former. As respondent was representing the interest of Alegria, who claims ownership over the said parcels of land, it was inevitable to describe the extramarital nature of Joselito and complainant’s relationship if only to emphasize that they should have dealt with her as regards the purchase of the subject properties, rather than Joselito and herein complainant.<sup>9</sup>

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<sup>3</sup> Id. at 9.

<sup>4</sup> Id. at 4-7.

<sup>5</sup> Id. at 2.

<sup>6</sup> Id. at 5. Complaint Affidavit.

<sup>7</sup> Id. at 83. Order dated July 17, 2020 of the IBP-CBD.

<sup>8</sup> Id. at 87-98.

<sup>9</sup> Id. at 90-92.



Respondent likewise took issue with complainant's avowal that she did not participate in the sale of the contentious landholdings. Several sworn statements of persons who were present during the purchase thereof evinced that complainant herself transacted, received the payment, and even deposited the proceeds of the sale to her bank account.<sup>10</sup>

Still and all, complainant expostulated that the term "mistress" did not accurately describe her relationship with Joselito as they were, in actual fact, legally married. Respondent's use of such word was malicious and irrelevant to Alegria's claim of ownership, geared for the sole purpose of injuring her character.<sup>11</sup>

In light of the declaration of State of Public Health Emergency due to the COVID-19 pandemic, the IBP-CBD directed the parties to inform the Commission of their willingness to participate in a mandatory conference by video conferencing and/or proceed to the filing of position papers in lieu thereof.<sup>12</sup> Pursuant to the respective manifestations<sup>13</sup> of both parties, the IBP-CBD ordered the filing of their verified position papers and thenceforth, the submission of the case for decision.<sup>14</sup>

Complainant's Position Paper<sup>15</sup> was anchored on the following postulations: 1) respondent had no reason to drag her into the controversy as she had no participation in the sale of the disputed properties; 2) the use of the word "mistress" was uncalled for and unnecessary; 3) respondent should have exercised restraint in pursuing her client's cause; and 4) she had no control over the subject parcels of land as she was not the owner thereof.

Contrariwise, respondent reverberated her prior defenses, standing firm that she did not use any abusive, offensive, improper, or libelous language against complainant.<sup>16</sup>

In its Report and Recommendation,<sup>17</sup> the IBP-CBD recommended the dismissal of the case after finding that respondent was not driven by corrupt or malicious intent in using the descriptive word "mistress" in her Legal Notice to the Spouses Sendin. Respondent was merely pursuing her sworn duty to protect the interest of her client by warning the purchasers of the subject properties to deal only with the owner thereof, Alegria, who happened to be the legal wife of Joselito. The IBP-CBD declared that complainant fell

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<sup>10</sup> Id. at 92-94.

<sup>11</sup> Id. at 147-148. Reply to Verified Answer.

<sup>12</sup> Id. at 171. Order dated March 8, 2021 of the IBP-CBD.

<sup>13</sup> Id. at 172-173; 174-175. Respective Manifestations of the complainant and the respondent.

<sup>14</sup> Id. at 182. Order dated July 26, 2021 of the IBP-CBD.

<sup>15</sup> Id. at 183-194.

<sup>16</sup> Id. at 245-260. Respondent's Verified Position Paper.

<sup>17</sup> Id. at 268-272. The IBP-CBD Report and Recommendation dated February 8, 2022 was signed by Commissioner Roland B. Beltran.



short in discharging her burden of establishing by substantial evidence the existence of bad faith on the part of respondent.<sup>18</sup>

All the same, the IBP Board of Governors (IBP Board) reversed the IBP-CBD's recommendation, opining that respondent's use of the word "mistress" was deplorable. Respondent failed to observe caution, prudence, and careful discretion in writing the Legal Notice, thereby engaging in an unethical behavior for using 'improper, vulgar(,) and objectionable language against a person'. Consequently, the IBP Board recommended that respondent be meted with the penalty of fine of ₱2,000.00 with a stern warning that a repetition of the act will be dealt with more severely.<sup>19</sup>

### THE COURT'S RULING

***After a percipient analysis of the case at bench, the Court resolves to dismiss the instant complaint for disbarment and suspension for failure of complainant to establish by substantial evidence that respondent violated the Lawyers' Oath, as well as the CPR.***

The prohibition against the use of offensive and improper language among the members of the Bar finds legal mooring under Rule 8.01 of the CPR, which reads:

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

Complainant submits that respondent violated the foregoing edict, as well as the Lawyer's Oath, when the latter referred to her as the "mistress" of Joselito in the conduct of her duties as Alegria's counsel.

***The Court could not agree less.***

The doctrine of privileged communication is not a novel concept in the Philippine jurisdiction. A private communication made by any person to another shall not be considered defamatory or malicious regardless of its truth if it was expressed in the performance of any legal, moral, or social duty.<sup>20</sup> The statements are privileged; the communicator is generally free from liability. Nevertheless, for the statements to be covered by the protective mantle of the doctrine, it must stand the crucible of relevancy. The seminal case of *Tolentino v. Baylosis*<sup>21</sup> thus illuminates:

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<sup>18</sup> Id.

<sup>19</sup> Id. at 266. Notice of Resolution dated March 17, 2022. See also Extended Resolution dated July 1, 2022 of the IBP Board, Id. at 273-275.

<sup>20</sup> See Article 354 of the Revised Penal Code.

<sup>21</sup> 110 Phil. 1010 (1961).

x x x As to the degree of relevancy or pertinency necessary to make alleged defamatory matters privileged the courts favor a liberal rule. The matter to which the privilege does not extend must be so palpably wanting in relation to the subject matter of the controversy that no reasonable man can doubt its irrelevancy and impropriety. In order that matter alleged in pleading may be privileged, it need not be in every case material to the issues presented by the pleadings. It must, however, be legitimately related thereto, or so pertinent to the subject of the controversy that it may become the subject of inquiry in the course of the trial.... (Ruling Case Law, vol. 17, p. 336, quoted with approval in *Smith, Bell & Co. vs. Ellis*, 48 Phil. 475, 481-482).

In the earliest of the leading cases on the subject the words used in determining the extent of matter that may be absolutely privileged were "relevant" or "pertinent", but these words have in a measure a technical meaning, and perhaps they are not the best words that could be used. So some courts have preferred the use of the words "have in reference", "having relation to the cause or subject matter", or "made with reference"; and strict legal materiality or relevancy is not required to confer the privilege. There is difficulty in determining in some cases what is relevant or pertinent and in deciding the question the courts are liberal, and the privilege embraces anything that may possibly be pertinent, or which has enough appearance in connection with the case so that a reasonable man might think it relevant. All doubts should be resolved in favor of its relevancy or pertinency, and for the purposes of relevancy the court will assume the alleged slanderous charges to be true, however false they may have been in fact. (53 C.J.S., pp. 171-172).<sup>22</sup>

Viewing from the lens of the foregoing principle, it cannot be gainsaid that respondent's use of the word "mistress" in her Legal Notice to the Spouses Sendin was relevant and pertinent to the subject matter thereof, not to mention that it was made in the performance of her legal duty to her client, Alegria. To recapitulate, the ultimate purpose of the Legal Notice was to apprise the Spouses Sendin of Joselito and herein complainant's lack of authority to negotiate and transact the sale of the disputed parcels of land. Acting upon the instructions of her client, who claims ownership over the subject properties, respondent intended to invite the Spouses Sendin to negotiate only with Alegria regarding the purchase thereof.

The relevance of the purportedly offensive remark became more apparent as the witnesses during the transaction attested to the fact that complainant actively participated in bringing the sale to fruition. Rivetingly, complainant herself admitted that she was not the owner of the properties involved, and thus, had no right to dispose of the same. Quite palpably, this undisputed fact was precisely the thrust of respondent's use of the term "mistress." If only to emphasize the illegality of Joselito and complainant's relationship and give full warning as to the possible impediments to the title of the people they were transacting with, respondent's statement must be

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<sup>22</sup> Id. at 1013-1014.



considered to have been made in the context of a privileged communication. Moreover, it may not be amiss to point out that respondent relied on the numerous documents presented by Alegria to establish the extramarital nature of Joselito and complainant's relationship. Verily, she acted not without any basis and merely in pursuance of her client's interest.

Along this grain, the pronouncement of the Court in *Armovit v. Purisima*<sup>23</sup> is apropos, viz.:

x x x "For, as aptly observed in one case, 'while the doctrine of privileged communications is liable to be abused, and its abuse may lead to great hardships, yet to give legal sanction to such suits as the present would, we think, give rise to far greater hardships.'" The language of the then Justice, later Chief Justice, Bengzon in *Dorado v. Pilar* is *apropos*: "**Undoubtedly, lawyers should be allowed some latitude of remark or comment in the furtherance of causes they uphold. For the felicity of their clients they may be pardoned some infelicities of phrase.**" It bears mentioning that in *Deles*, such sentiment was paraphrased by Chief Justice Castro in this wise: "**Lawyers, most especially, should be allowed a great latitude of pertinent comment in the furtherance of the causes they uphold, and for felicity of their clients, they may be pardoned some infelicities of language.**"<sup>24</sup>

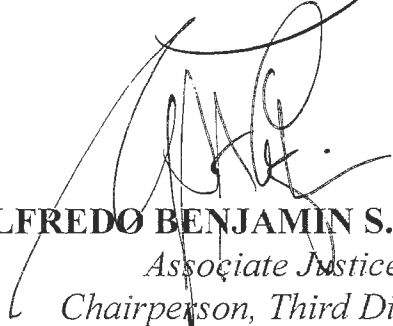
**WHEREFORE**, the Notice of Resolution dated March 17, 2022 and Extended Resolution dated July 1, 2022 of the Integrated Bar of the Philippines Board of Governors are hereby **NOTED**. The Court resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendations of Investigating Commissioner Roland B. Beltran in his Report and Recommendation dated February 8, 2022. Accordingly, the instant complaint for suspension and disbarment against respondent Atty. Zeldania D.T. Soriano is **DISMISSED**.

**SO ORDERED.**

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

**WE CONCUR:**


*See  
Concurring  
Opinion*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson, Third Division*

<sup>23</sup> 203 Phil. 625 (1982).

<sup>24</sup> Id. at 631-632. Emphasis Supplied.

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

*See Dissenting Opinion*  
  
**SAMUEL H. GAERLAN**  
*Associate Justice*

~~**MARIA FILOMENA D. SINGH**~~  
*Associate Justice*