



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated November 4, 2020, which reads as follows:*

**“A.C. No. 12413 [Formerly CBD Case No. 15-4854] (*Gerardo B. Kaimo v. Atty. Nadine Faye C. Miralles*). — Before the Court is an Administrative Complaint<sup>1</sup> filed against Atty. Nadine Faye C. Miralles (respondent) for Disbarment, Suspension or Discipline of Attorney.**

**Antecedent Facts**

The following are the significant matters as alleged in the complaint:

Gerardo B. Kaimo (complainant) is the administrator of Kaimo Condominium Building Corporation (Kaimo CBC) located at No. 101 Quezon Avenue corner Sto. Domingo Blvd., Quezon City. The building stands on a parcel of land which belonged to complainant’s father and sister. In December 2006, the City Treasurer’s Office of Quezon City auctioned the property for failure to pay taxes. The buyer at the auction was Laverne Realty and Development Corporation (Laverne) and in 2008, it filed a case for confirmation of a final bill of sale and for the cancellation of the title. The case, docketed as LRC Case No. 26035(08), was raffled to the Regional Trial Court (RTC) of Quezon City, Branch 220. The RTC ordered the cancellation of title and the issuance of a new one in the name of Laverne. Complainant and his co-heirs were purportedly not aware of the case. On February 4, 2013, the RTC issued a writ of possession and a notice to vacate which was thereafter served upon complainant and the tenants of Kaimo CBC. Complainant filed a motion to quash the writ of possession which the RTC granted. Laverne then filed a Petition for *Certiorari* before the Court of Appeals (CA).<sup>2</sup>

Sometime in October 2015, Laverne started sending notices to the Kaimo CBC’s tenants, telling them to pay their rent to Laverne instead of the Kaimo CBC. Complainant and his family own a majority of the units

<sup>1</sup> *Rollo*, pp. 2-6. Docketed as CBD Case No. 15-4854.

<sup>2</sup> *Id.* at 525-526.

and he, along with the rest of the tenants refused to comply with Laverne's demand because the writ of possession had been quashed.<sup>3</sup>

On October 22, 2015, at around 4:30 in the afternoon, Alexander and Elizabeth Catolos (Mr. and Mrs. Catolos) of Laverne, along with around 10 guards armed with shotguns, respondent and her two paralegals proceeded to forcibly enter the Kaimo CBC despite the fact that the building's own guards, Jason Malle (Jason) and Simeon Eleccion (Simeon), were trying to prevent their unauthorized entry. Respondent shouted at Jason: "*Putang ina mo. Umalis ka diyam kang ayaw mong madamay.*" Respondent also used a sheaf of papers she had in her hands to hit Jason on the head, while Mrs. Catolos slapped him. When the office manager of Kaimo CBC Diveca Camu (Camu) arrived, she and Mrs. Catolos engaged in a shouting match. The Laverne group completed their entry to the building, padlocked the gate and refused entry into and egress from the building, and changed the locks thereof. They also disabled the CCTV cameras. Although complainant called the police, the latter refused to do anything, saying that they were just there for peace and order. All that time respondent was present and did nothing. At some point, respondent talked to the police officers and presented to them the cancelled certificate and the new title in the name of Laverne, as well as the writ of possession which had been quashed as early as February 25, 2013. The Laverne group refused to allow anybody to give food to the employees and refused to allow the employees to use the restrooms. Sometime during the detention, the group dragged Camu because she tried to go to the second floor. She suffered hypertension the following day, but Laverne group refused to release her and did not allow her to go to the hospital. The detained employees were told that they would be released if they would state that they were not detained against their will, nor hurt; the employees refused.<sup>4</sup>

The Laverne group detained complainant's employees until the following day, October 23, 2015, and released them late in the afternoon when media representatives arrived with a camera crew. Upon having been released, the employees were brought to the hospital because they were dehydrated and starved.<sup>5</sup>

Respondent stood by and let all those things happen, never lifting a finger to prevent any wrongdoing. She deliberately used a quashed writ of possession to deceive the police officers into believing the order to be regular and allowing the Laverne group to do as they pleased. Using her knowledge of the law, respondent knew that the police would take a court order and a transfer certificate of title at face value and not look beyond it. By her client's acts of illegally taking possession of Kaimo CBC, complainant is now unable to enter the building and his tenants are being

<sup>3</sup> Id. at 526.

<sup>4</sup> Id.

<sup>5</sup> Id. at 527.

harassed on a daily basis. Complainant and his employees filed cases against the Laverne group to regain possession of the said property.<sup>6</sup>

On December 18, 2015, complainant filed before the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) the present administrative case praying for appropriate disciplinary sanctions to be imposed against respondent for committing acts unbecoming of a member of the bar, in total violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).

In defense, respondent, in her Answer<sup>7</sup> to the complaint, averred:

Respondent was a retained counsel of Laverne. As retained counsel, her services were only part-time and on-call. When Laverne requested respondent to seek police and *barangay* assistance with respect to Kaimo CBC in Quezon City, she studied the files. She discovered that Laverne was the new registered owner of the property through a public auction in a delinquency sale and upon the complainant's failure to exercise his right of redemption. The title of Laverne has not been questioned and there is no pending case to that effect.<sup>8</sup>

On October 22, 2015, she accompanied Mrs. Catolos, one of the officers of Laverne, to the *barangay* and police precinct to seek assistance. Mrs. Catolos wanted to talk to the tenants of the Kaimo CBC to assert Laverne's ownership of the building and its right to the rental income from the time of the auction sale. After having coordinated with the concerned *barangay* officials, Mrs. Catolos went ahead of respondent. Mrs. Catolos parked at the Sto. Domingo Church and she alone decided to go into the Kaimo CBC. While waiting outside, *Barangay Tanod* Jocelyn E. Atendido approached respondent and asked for copies of the titles. Accordingly, respondent went inside the building to get the copies from Mrs. Catolos. She then accompanied Mrs. Catolos to talk to the tenants of the building.<sup>9</sup>

Complainant's allegations are hearsay as he was not even present to personally know what happened inside the building. The complaint is an exaggerated and embellished story to make it appear that respondent had directly participated in the alleged criminal acts imputed to Laverne and its officers before the Quezon City Prosecutor's Office.<sup>10</sup>

Respondent was captured in the CCTV footage talking with complainant and the latter's lawyer, Atty. Albern Ferrer (Atty. Ferrer). Before Atty. Ferrer arrived, respondent had already been planning to leave because the officers of Laverne had already talked to the tenants of the

<sup>6</sup> Id.

<sup>7</sup> Id. at 39-47.

<sup>8</sup> Id. at 527.

<sup>9</sup> Id. at 527-528.

<sup>10</sup> Id. at 528.

building. Respondent was already out of the building when Atty. Ferrer and complainant approached her. Respondent asked them if there was any possibility that they could talk with Mrs. Catolos. Atty. Ferrer requested for her identification and in good faith, she showed her IBP card.<sup>11</sup>

Thereafter, several police officers arrived. The latter asked Jason, Simeon and Camu to go out with them, but they refused and opted to stay inside the premises. The CCTV footage shows that respondent mediated between complainant and Mrs. Catolos. Respondent left the premises at around 11 o'clock in the evening. Mrs. Catolos was still inside the building and respondent no longer had knowledge of the events that transpired thereafter. The following day, or on October 23, 2015, respondent resigned from Laverne due to health concerns and her pregnancy.<sup>12</sup>

Respondent argued that the administrative complaint, as well as the criminal complaint<sup>13</sup> before the Quezon City Prosecutor's Office, was intended to harass her. The complaint-affidavits and investigation forms presented by the complainant did not indicate or even mention respondent's participation in the acts complained of. Respondent reiterated that she was left outside when Mrs. Catolos went ahead of her. Hence, it would be impossible for a lady counsel (who is pregnant) to employ force in entering the premises. She only went inside when she was asked to retrieve some documents from Mrs. Catolos who was already inside the building. Respondent talked to complainant's lawyer and offered if she could be of help.<sup>14</sup>

Respondent likewise contended that the allegations in the complaint are false. She recalled that Emmanuel Boncales (Emmanuel) and Simeon were not yet at the ground floor when she entered. It was only Jason who was present at the security guard post when she arrived. Camu's declarations in her affidavit were contrary to complainant's allegations as to respondent's participation. She was not even mentioned in Camu's affidavit.

Respondent further maintained that she did not utter bad words nor slap the face and throw paper to the security guard. She was at her early pregnancy at that time and it was not within her strength and means as a woman to use force against anyone.

Respondent noted that the *Sinumpaang Salaysay* of Emmanuel, Simeon, Jason, and Camu were not even notarized, and, thus, failed to satisfy the requirements of the rules.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Docketed as XV03INV15I-11824. For: Serious Illegal Detention, Grave Coercion, Usurpation of Real Property, Robbery, Physical Injuries, Maltreatment, and Illegal Possession of Firearms.

<sup>14</sup> *Rollo*, p. 528.

Lastly, respondent explained that in performing her duty as a counsel, she acted in good faith and only solicited the assistance of the police and *barangay* officials. As a lawyer, she is bound by ethical obligations to the profession, and is more than aware of the duties and obligations of a counsel. First, her duties to her client and second, her obligation to carry out the same in a professional manner without ill will or malice to any party in any dispute where her services have been retained. Respondent, thus, prayed that the case be dismissed for lack of merit.

### **Report and Recommendation of the IBP-CBD**

After the conduct of the mandatory conference/hearing and the filing of the parties' respective position papers, the IBP-CBD, through Commissioner Juan Orendain P. Buted, issued its Report and Recommendation<sup>15</sup> dated September 12, 2016. It found the evidence adduced by the complainant as patently insufficient to hold respondent liable for violations of the CPR. The IBP-CBD recommended, thus:

Here, complainant has failed to substantiate his charges with competent and independent evidence. The fact that the criminal cases he filed against respondent were dismissed underscores his motive to simply exact vengeance for respondent's presence in the confrontation between him and Laverne representatives. On the other hand, respondent had adduced such evidence which clearly preponderates in her favor. Accordingly, the undersigned recommends that the Complaint be DISMISSED.

Respectfully submitted.<sup>16</sup>

### **Resolutions of the IBP Board of Governors**

On January 26, 2017, the IBP Board of Governors issued Resolution No. XXII-2017-710,<sup>17</sup> which adopted the IBP-CBD Commissioner's Report and Recommendation. The Resolution reads:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner dismissing the complaint.

Complainant filed a motion for reconsideration, but the same was denied by the IBP Board of Governors in a Resolution<sup>18</sup> dated June 29, 2018, which reads:

RESOLVED to DENY the Complainant's Motion for Reconsideration there being no new reason and/or new argument adduced to reverse the previous decision of the Board of Governors.

<sup>15</sup> Id. at 525-535.

<sup>16</sup> Id. at 534-535.

<sup>17</sup> Id. at 524.

<sup>18</sup> Id. at 545.

On December 17, 2018, Marlou B. Ubano, Director for Bar Discipline, IBP-CBD, transmitted the records of the case to the Court pursuant to Rule 139-B of the Rules of Court.<sup>19</sup>

In a Resolution<sup>20</sup> dated February 24, 2020, the Court noted the aforementioned IBP Board of Governors' Notices of Resolution dated January 26, 2017 and June 29, 2018.

### **The Issue**

The issue for the Court's resolution is whether respondent is administratively liable for violating the CPR.

### **The Court's Ruling**

The Court adopts the findings and recommendation of the IBP to dismiss the administrative complaint against respondent.

Complainant, in his Position Paper<sup>21</sup> before the IBP-CBD, reiterated respondent's alleged violation of her oath and the CPR, specifically Canon 1, Rules 1.01, 1.02, 7.03, 18.02, and 19.01, which provide, thus:

Canon 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

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

Rule 1.02 – A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

Rule 7.03 – A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Rule 18.02 – A lawyer shall not handle any legal matter without adequate preparation.

Rule 19.01 – A lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

Disbarment is the most severe form of disciplinary sanction and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons, and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and

<sup>19</sup> Id. at 544.

<sup>20</sup> Id. at 560.

<sup>21</sup> Id. at 253-263.

member of the bar. As a rule, an attorney enjoys the legal presumption that he or she is innocent of the charges proffered against him or her until the contrary is proved, and that, as an officer of the court, she has performed her duties in accordance with her oath.<sup>22</sup>

After a careful review of the records of this case, the Court finds no sufficient basis to suspend, much less disbar respondent. Undoubtedly, respondent merely performed her duty as a lawyer within the bounds of the oath she swore. As a retained counsel of Laverne, it was part of her duty to accompany her client to seek assistance with the police and *barangay* officials and talk with the tenants of Kaimo CBC. Neither could respondent be administratively disciplined based on any of the above-enumerated provisions of the CPR.

It should be emphasized that in administrative proceedings, the burden of proof rests on the complainant, and he or she must establish the case against the respondent by clear, convincing, and satisfactory proof, disclosing a case that is free from doubt as to compel the exercise by the Court of its disciplinary power. Thus, the adage that he or she who asserts not he or she who denies, must prove.<sup>23</sup>

In this case, complainant miserably failed to prove his charges with clear and convincing evidence to hold respondent liable for violation of the CPR. Basically, the administrative complaint is anchored mainly on the allegations that respondent: 1) did nothing to prevent or stop the actions of Laverne group when the latter forcibly took over the Kaimo CBC and detained employees; 2) hit a security guard with a sheaf of papers and cursed him; and 3) took advantage of her knowledge of law in taking over the Kaimo CBC. As properly found by the IBP, the supposed statements of complainant's witnesses, through their *Sinumpaang Salaysay*<sup>24</sup> attached to the Complaint, have no probative value at all because these statements were undated and were not even notarized. Moreover, the purported conduct of respondent for which she was supposed to have breached her duty as a member of the bar had not been shown at all.

As to the other documentary evidence of complainant, the Court quotes with approval the following findings of the IBP, *viz.*:

The other documents submitted by Complainant are either wholly immaterial to this case or in fact controvert Complainant's assertions. Consider the following:

<sup>22</sup> *Yagong v. City Prosecutor Magno*, 820 Phil. 291, 294 (2017).

<sup>23</sup> *Torres v. Atty. Dalangin*, 822 Phil. 80, 100 (2017), citing *Advincula v. Atty. Macabata*, 546 Phil. 431, 445-446 (2007).

<sup>24</sup> *Pinagsamang Sinumpaang Salaysay* executed by Jason Mallc and Simeon Floccion (Annex "D"), *Sinumpaang Salaysay* executed by Ma. Diveca Camu (Annex "E"), and *Sinumpaang Salaysay* executed by Emanuel Boncales (Annex "F"); *rollo*, pp. 26-32.

- a) The February 25, 2013 Order of the [RTC] of Quezon City, Branch 220, in LRC Case No. Q-26035 (08) entitled "*In Re: Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title, Laverne Realty and Development Corporation represented by Alexander Catolos*" (Annex A, Complaint), which quashed the writ of possession did not favor Kaimo Condominium Corporation but only insofar as Philippine Trust Company is concerned. The Court ruled –

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In any event, respondent was not duty bound to ascertain the case status to its logical conclusion. It was sufficient that on the basis of a title registered in the name of her client she had accompanied Laverne's representatives to oversee the discussions with the tenants of the building.

- b) Resolution dated October 23, 2015 of Rogelio Velasco, 2<sup>nd</sup> Assistant City Prosecutor, Office of the City Prosecutor of Quezon City in Inquest No. XV-03-INV filed by complainant against Ronie Hibo y Hibo (Annex B, Complaint), does not indicate any participation of the respondent. Moreover, the action taken was that the case was "for further investigation".
- c) October 23, 2015 referral of Feliciano Reyes Almojuela, Jr. to the City Prosecutor of Quezon City accusing Ronie Hibo of Attempted Homicide, Grave Threats and Illegal Possession of Firearm; Complaint-Affidavit of the Complainant narrating the incident where Ronie Hibo purportedly pointed a shotgun at him; Sworn Affidavit of Arrest dated October 23, 2015 executed by PO3 Ronald Vinas declaring that an unidentified security guard of Phitrust Security turned over to him a 12 gauge shot gun likewise do not even involve or mention respondent.
- d) Pictures of CCTV footages (Annex C, Complaint), do not show any violent conduct or the acts complained of as in fact the persons therein appear sedate and composed.

On the other hand, respondent's evidence supports her allegations. The affidavits of her witnesses clearly indicate that she was not in a position to slap anyone or otherwise curse Jason Malle. The presence of barangay officials and the police readily controverts complainant's narration that his employees were subject to violence or otherwise illegally detained. Indeed, complainant does not even appear to have had personal knowledge of the supposed acts of respondent upon his employees because he was not present during the time the incident was supposed to have happened.<sup>25</sup>

Finally, the Court takes note of the fact that the criminal complaint for Serious Illegal Detention, Grave Coercion, *etc.* docketed as XV03INV15I-11824 filed against respondent, Laverne, and its officers has been dismissed

<sup>25</sup> *Id.* at 532-534.



for insufficiency of evidence by the Office of the Prosecutor, Quezon City in its Resolution<sup>26</sup> dated March 31, 2016.

**IN VIEW OF THE FOREGOING**, the Court **DISMISSES** the Complaint against Atty. Nadine Faye C. Miralles for utter lack of merit.

**SO ORDERED.**"

By authority of the Court:

*Mis-RDCBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
4/10/20

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<sup>26</sup> *Id.* at 424-430.