



Republic of the Philippines
Supreme Court
Baguio

EN BANC

REV. FR. JOSE P. ZAFRA III,
Complainant,

A.C. No. 12457
(Formerly CBD Case No. 16-5128)

Present:

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

- versus -

Promulgated:

ATTY. RENATO B. PAGATPATAN,
Respondent.

April 2, 2019

X-----X

RESOLUTION

PER CURIAM:

This administrative complaint arose from a criminal suit for *estafa* filed by complainant Reverend Father Jose P. Zafra III (Fr. Zafra) against Jojo R. Buniel (Buniel) and Anna Liza M. Guirnalda (Guirnalda) docketed as Criminal Case No. 6538 with the Regional Trial Court (RTC) of Tandag City, Surigao Del Sur, Branch 40. Attorney Renato B. Pagatpatan (Atty. Pagatpatan) is the counsel on record of Buniel and Guirnalda.

* On official business.

** On official leave.

*** On leave.

While the criminal case was pending against Atty. Pagatpatan's clients, said lawyer wrote a letter to the Bishop of the Diocese of Tandag, Surigao Del Sur¹ requesting an investigation of Fr. Zafra for his activities, particularly, concocting stories against his clients, Buniel and Guirnalda, who were charged by Fr. Zafra of *estafa*; that such action "was not only a sin but a MORTAL SIN."

Fr. Zafra was embarrassed because of the "malicious" letter sent by Atty. Pagatpatan. He was eventually investigated by the Board of Consultors with the Bishop, where he was able to clear his name.

Thereafter, Fr. Zafra filed a complaint against Atty. Pagatpatan with the Integrated Bar of the Philippines (IBP). He posits that Atty. Pagatpatan's action is a clear violation of Rule 1.02 of the Code of Professional Responsibility, which provides that "(a) lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system." Fr. Zafra claims that instead of Atty. Pagatpatan defending his clients' case in court, the latter instigated them to stir controversies by making libelous and untruthful accusations. Fr. Zafra asserts that Atty. Pagatpatan's act of writing and sending out the letter to the Bishop of the Diocese of Tandag, Surigao Del Sur "was not from a sense of duty x x x but to certainly gratify the personal vendetta and animosity of his clients, who were arrested for the crime *Estafa* x x x" that Fr. Zafra filed with the RTC. Atty. Pagatpatan "failed to live up to the standard of his profession as a lawyer who should be a mediator for concord and a conciliator for compromise rather than an instigator of controversy x x x."

Fr. Zafra also argues that Atty. Pagatpatan is engaged in the unauthorized practice of law. He learned that, in 2005, Atty. Pagatpatan had been suspended by this Court from the practice of law for two (2) years in a decided case entitled *Daniel Mortera, et al. v. Atty. Renato B. Pagatpatan* with docket number A.C. No. 4562.² Upon further inquiry on said case from the Supreme Court-Public Information Office, he also learned that the order of suspension of Pagatpatan in the foregoing case had not yet been lifted by the Court.³ Notwithstanding the failure to lift the order of suspension, Pagatpatan continued to practice law by representing party litigants in other cases before four (4) branches of RTC Davao.⁴

¹ *Rollo*, p. 22.

² A.C. No. 4562, June 15, 2005.

³ *Rollo*, p. 48, Letter dated July 6, 2015, signed by the Deputy Clerk of Court & Bar Confidant, Atty. Ma. Cristina B. Layusa.

⁴ *Id.* at 49-52, Certification of the OIC Branch Clerk of Court, RTC Branch 14 dated July 20, 2016, Certification of the Officer-in-charge, RTC Branch 15, Davao City dated July 20, 2016, Certification of the Branch Clerk of Court, Branch 16, Davao City dated July 20, 2016 and Certification of the Clerk of Court, Branch 33, Davao City dated July 20, 2016.

Atty. Pagatpatan, for his part, asserts that there was nothing unethical in writing a letter for the investigation of Fr. Zafra. As the lawyer of Buniel and Guirnalda, he merely aided his clients in bringing to the attention of the Bishop the actuations of Fr. Zafra in filing the complaint for *estafa*. The letter was for purposes of convincing Fr. Zafra to settle “silently” and “not go to the extent of having the *estafa* charges ventilated in a full-blown trial x x x.”⁵ He reiterates that the letter was not intended to malign the reputation of Fr. Zafra.

Atty. Pagatpatan does not deny in engaging in the practice of law despite this Court’s order of suspension in 2005. He reasoned out that he needed to continue working in order to maintain and sustain the needs of his family, especially since his wife was ill and eventually passed away in December 12, 2010. Pagatpatan claims that he has no intention to defy the order of suspension, and manifests withdrawing his appearances in the cases that he is handling, including the *estafa* case against Buniel and Guirnalda.

Proceedings before the IBP ensued. In the Report and Recommendation dated June 13, 2018,⁶ the IBP, through the investigating commissioner, did not find Pagatpatan administratively liable in writing the letter-complaint against Fr. Zafra. The investigating commissioner held that there was no prohibition for lawyers to write a letter to the Bishop of the Diocese of Tandag, Surigao Del Sur concerning priests in its jurisdiction; and that lawyers are not precluded from writing a letter to the bishop on matters pending before the Office of the Provincial Prosecutors or the courts. The letter was merely requesting for an investigation on the conduct of Fr. Zafra. No malice or bad faith on the part of Atty. Pagatpatan could be attributed from writing the letter-complaint.

Anent Atty. Pagatpatan’s continuous practice of law despite his suspension, the IBP held that Atty. Pagatpatan “has no discretion, no option and can neither run or hide from the harsh effects of being suspended from the practice of law.” Section 27, Rule 138 of the Rules of Court provides that a member of the bar may be removed or suspended from his office as attorney for willful disobedience of any lawful order of a superior court. In this case, Atty. Pagatpatan was ordered suspended from the practice of law on June 15, 2005, and there is no order to lift the suspension of Atty. Pagatpatan. Yet despite this he has continued practicing law for over thirteen (13) years, which tantamounts to willful disobedience. Thus, the IBP recommended Atty. Pagatpatan’s suspension for three (3) years with a warning that a repetition of the same will warrant a more severe penalty.

⁵ Id. at 77, Verified Answer/Counter Affidavit of Atty. Renato B. Pagatpatan dated January 9, 2017.

⁶ Id. at 363-381.

In a resolution dated July 12, 2018,⁷ the Board of Governors of the IBP modified the recommended penalty to suspension from the practice of law for a period of three (3) years, after serving his previous suspension from the practice of law for two (2) years.

Ruling of the Court

This Court cannot subscribe to Atty. Pagatpatan's claims that he is merely espousing his clients' cause in writing the letter-request for investigation of Fr. Zafra. On record, We find that Atty. Pagatpatan admits to writing the letter to the Bishop of the Diocese of Tandag, Surigao Del Sur in order to resolve the *estafa* case since settlement proceedings with the regular courts proved to be futile.⁸ To Our mind, Atty. Pagatpatan's letter-request was not based on a sincere purpose to discipline Fr. Zafra for his actions, but mainly to bring threat to Fr. Zafra and force him to settle the *estafa* case filed against his clients. Atty. Pagatpatan did not want the *estafa* case to proceed to a full-blown trial. On many occasions, this Court has reminded that lawyers are duty-bound "to abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged."⁹ This is in keeping with the dignity of the legal profession. It is of no consequence that the letter of Atty. Pagatpatan is filed with the Bishop of Diocese of Tandag, Surigao Del Sur. Pagatpatan, as a member of the bar, is an "oath-bound servant of the law, whose first duty is not to his client but to the administration of justice and **whose conduct ought to be and must be scrupulously observant of law and ethics.**" This Court finds that Atty. Pagatpatan was motivated by malice in writing said letter. However, disbarment, as prayed for by Fr. Zafra, is a penalty too severe for said action considering the facts show that Atty. Pagatpatan is only guilty of simple misconduct.

The more pressing issue to be tackled in this case is the fact that Atty. Pagatpatan has been practicing law despite the issuance of a suspension order by this Court on June 15, 2005. There were no records showing that he served said suspension or moved to lift said order because Atty. Pagatpatan, himself, admits that he continued practicing the legal profession notwithstanding said order.

Section 27, Rule 138 of the Rules of Court provides that:

Sec. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefore. – **A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court** for any

⁷ Id. at 361-362.

⁸ Id. at 85.

⁹ Section 20(f), Rule 138 of the Rules of Court.

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 of any lawful order of a superior court** or for corruptly or **willfully 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 Ours)

On record,¹⁰ Atty. Pagatpatan had been representing party litigants in court from 2005 until the instant case was filed before the IBP in 2016. Atty. Pagatpatan has made a mockery of this Court's authority by defying this Court's suspension order for over eleven (11) years. If Fr. Zafra had not filed the instant case, Atty. Pagatpatan would have continued disregarding the suspension order of this Court. His actions clearly constitute gross misconduct as defined under Section 27, Rule 138 of the Rules of Court, which is a sufficient cause for suspension or disbarment.

This Court emphasizes that the practice of law is not a right but a mere privilege and, as such, must bow to the inherent regulatory power of the Supreme Court to exact compliance with the lawyer's public responsibilities.¹¹ Whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of his clients and of the public, it becomes not only the right but also the duty of the Supreme Court, which made him one of its officers and gave him the privilege of ministering within its Bar, to withdraw that privilege.¹²

The penalty of suspension or disbarment is meted out in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court. Atty. Pagatpatan's acts in wantonly disobeying his duties as an officer of the court show utter disrespect for the Court and the legal profession. Therefore, his disbarment is warranted.

WHEREFORE, premises considered, respondent Attorney Renato B. Pagatpatan is:

- 1) **GUILTY** of **SIMPLE MISCONDUCT** and **FINED** ₱5,000.00 for his unethical behavior in writing a letter to the Bishop of the Diocese of Tandag, Surigao Del Sur against complainant Reverend Father Jose P. Zafra III; and

¹⁰ Supra note 4.

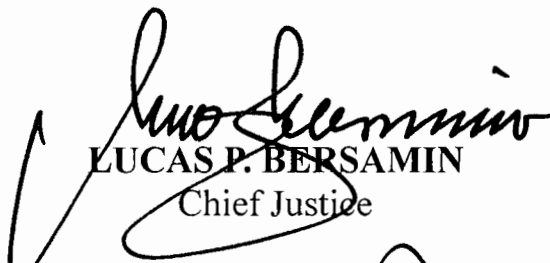
¹¹ See *Maniago v. Atty. De Dios*, A.C. No. 7472, March 30, 2010, 617 SCRA 142, 148 citing *Letter of Atty. Cecilio Y. Arevalo, Jr., Requesting Exemption from Payment of IBP Dues*, B.M. No. 1370, May 5, 2005, 458 SCRA 209, 216.

¹² *Maniago v. De Dios*, A.C. No. 7472, March 30, 2010, 617 SCRA 142, 148 citing *Hernandez v. Go*, A.C. No. 1526, January 31, 2005, 450 SCRA 1, 9.


2) **DISBARRED** from the practice of law effective immediately upon receipt of this Resolution.

Let a copy of this Resolution be entered in the personal records of respondent as a member of the Bar, and copies be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

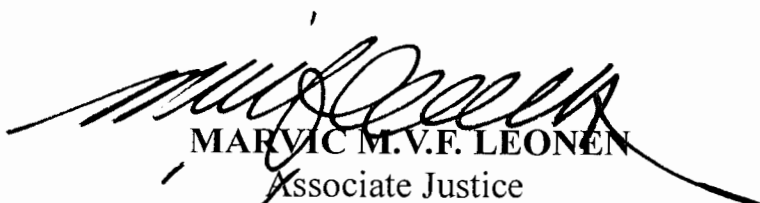

LUCAS P. BERSAMIN
Chief Justice


ANTONIO T. CARPIO
Associate Justice

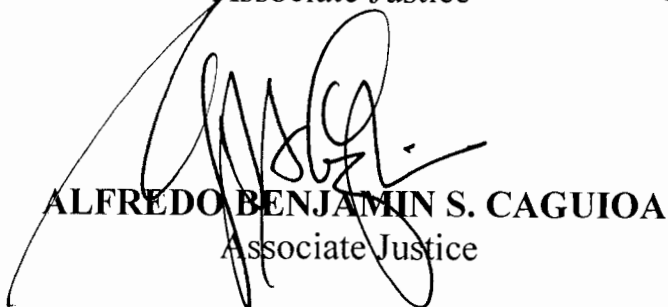

DIOSDADO M. PERALTA
Associate Justice

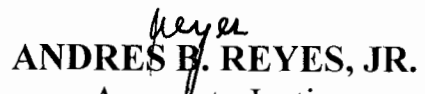

MARIANO C. DEL CASTILLO
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

(on official business)
FRANCIS H. JARDELEZA
Associate Justice

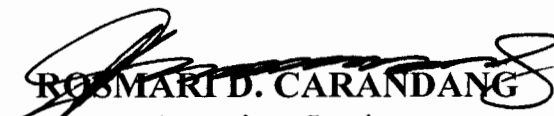

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

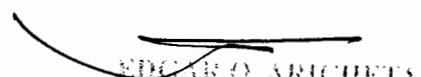
(on official leave)
JOSE C. REYES, JR.
Associate Justice

(on leave)
RAMON PAUL L. HERNANDO
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

CERTIFIED TRUE COPY


EDGARDO O. ARICHETA
Clerk of Court En Banc
Supreme Court