



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
JAN 30 2023

BY: YCA
TIME: 10:48

Republic of the Philippines
Supreme Court
Manila

EN BANC

JACKIYA A. LAO,
Complainant,

A.C. No. 13453
(Formerly CBD Case No. 19-5956)

Present:

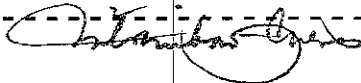
- versus -

GESMUNDO, C.J.,
LEONEN,
CAGUIOA
HERNANDO,
LAZARO-JAVIER,
INTING,*
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,*
DIMAAMPAO,
MARQUEZ,
KHO, JR.*
SINGH,* JJ.

ATTY. BERTENI C. CAUSING,
Respondent.

Promulgated:

October 4, 2022

X -----
-----X

DECISION

PER CURIAM:

Before Us is a Complaint¹ dated February 11, 2019 filed by Jackiya A. Lao (Lao) charging Atty. Berteni C. Causing (Atty. Causing) with

* On official business.
¹ Rollo, pp. 2-6.

violation of the Lawyer's Oath as well as Rules 1.01 and 7.03 of the Code of Professional Responsibility (CPR).

The Antecedents

In the complaint, Lao alleged that on January 18, 2019, Atty. Causing published in his Facebook account a draft and yet to be filed copy of his Complaint-Affidavit for Plunder,² accusing Lao and other persons of the crime of Plunder.³

Atty. Causing allegedly resorted to the use of social media to make his sister, Lyndale Causing, one of the candidates for Representative of the 2nd District of South Cotabato, known to the public. Atty. Causing's publication in his Facebook account of such defamatory accusation of Plunder subjected Lao to public hate, contempt and ridicule. The publication besmirched Lao's good name and reputation in the eyes of Facebook users at the time that no such complaint was filed or pending before the Office of the Ombudsman.⁴

Atty. Causing named and referred to Lao as the "Chairperson of the Bids and Awards Committee (BAC) of the DSWD Regional Office No. XII and the one that handled the bidding that ended up in the awarding of these food packs to Tacurong Fit Mart, Inc.,"⁵ which allegation, per Lao's submission in her complaint, is completely and absolutely wrong.⁶

Atty. Causing allegedly repeated his false imputation against Lao and other individuals on January 31, 2019, when he again published his complaint-affidavit in his social media account.⁷ On that occasion, he announced on social media that he already filed his complaint for Plunder before the Office of the Ombudsman. In her complaint, Lao insisted that Atty. Causing made false imputations against her in the final copy of the complaint-affidavit he filed before the Office of the Ombudsman.⁸

In his Answer-Affidavit,⁹ dated June 10, 2019, Atty. Causing did not deny that he is the author of the questioned Facebook posts. He admitted that his main basis in filing the Plunder case was the investigative reports from the Philippine Center for Investigative Journalism (PCIJ). The fact that the instant complaint for Plunder is supported by evidence, as cited in his Answer-Affidavit, was already a sufficient justification to dismiss the administrative complaint. He submitted that the Facebook posts are an exercise of the freedom of the press and freedom of expression.¹⁰

² Id. at 7-19.

³ Id. at 2-3.

⁴ Id. at 239-240.

⁵ Id. at 8.

⁶ Id. at 3.

⁷ Id. at 3.

⁸ Id. at 3-4.

⁹ Id. at 50-66.

¹⁰ Id. at 64.

Ordo

A mandatory conference was held on December 11, 2019. Atty. Michael Vargas entered his appearance for the complainant. Atty. Causing failed to appear but a certain Helen Consulta appeared on his behalf.¹¹

The Report and Recommendation of the Integrated Bar of the Philippines

In a Report and Recommendation¹² dated June 15, 2020, the Integrated Bar of the Philippines (IBP) Investigating Commissioner Gilbert L. Macatangay (Commissioner Macatangay) recommended that Atty. Causing be suspended from the practice of law for a period of six (6) months. The recommendation reads:

In view of the foregoing premises, respondent Atty. Berteni C. Causing violated his Lawyer's Oath and pertinent provisions of the Code of Professional [R]esponsibility and the undersigned Commissioner respectfully recommends that a penalty of **SUSPENSION** from the practice of law for a period of **SIX (6) MONTHS**, with a **STERN WARNING** that a repetition of the same or similar conduct in the future will warrant a more severe penalty be imposed.

RESPECTFULLY SUBMITTED.¹³

In a Resolution¹⁴ dated October 16, 2021, the IBP Board of Governors resolved to modify the Report and Recommendation dated June 15, 2020, and instead, imposed the penalty of reprimand, to wit:

*RESOLVED, to MODIFY, as it is hereby MODIFIED, the Report and Recommendation of the Investigating Commissioner in the instant case, and to recommend instead the imposition upon Respondent Atty. Berteni C. Causing of the penalty of **REPRIMAND**.*

*RESOLVED, FURTHER, to direct the Commission of Bar Discipline to prepare an Extended Resolution explaining the recommendation of the Board of Governors in this case, which shall be appended to this resolution.*¹⁵

In an Extended Resolution¹⁶ dated January 21, 2022, the IBP Board of Governors offered the following explanation for the modification of the penalty imposed:

¹¹ Id. at 141.

¹² Id. at 238-243.

¹³ Id. at 243.

¹⁴ Id. at 236-237.

¹⁵ Id. at 236.

¹⁶ Id. at 244-246.

WHEREFORE, premises considered, the Board of Governors **RESOLVED** to **MODIFY** the Report and Recommendation of the Investigating Commissioner, and to recommend instead the imposition of the penalty of **REPRIMAND** considering that the Complaint that was posted on Facebook was ultimately filed by respondent towards the proper legal authorities.

SO ORDERED.¹⁷ (Underscoring supplied)

The Issue

The issue before the Court is whether Atty. Causing violated the CPR and the Lawyer's Oath when he posted his Complaint for Plunder on his Facebook account to the detriment of herein complainant.

The Court's Ruling

After a judicious perusal of the records of the case, the Court adopts the findings of the IBP, but modifies the penalty to be imposed upon Atty. Causing.

Lao charged Atty. Causing with violation of Rules 1.01 and 7.03 of the CPR, which provide:

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

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.

As a rule, only substantial evidence is required to warrant disciplinary sanctions in administrative proceedings.¹⁸ Substantial evidence is defined as that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.¹⁹

In this case, both Commissioner Macatangay and the IBP Board of Governors found that Lao was able to establish her allegations through substantial evidence and that Atty. Causing had indeed violated the CPR. However, they diverged on the penalty to be imposed. Commissioner Macatangay imposed the penalty of suspension from the practice of law for a period of six (6) months, which was subsequently modified by the Board

¹⁷ Id. at 246.

¹⁸ See *Reyes vs. Nieva*, 794 Phil. 360, 379 (2016).

¹⁹ RULES OF COURT, Rule 133, Section 5.

of Governors to the penalty of reprimand. In the Extended Resolution issued by the Commission of Bar Discipline, the Board of Governors ratiocinated that the penalty of reprimand was in order because the complaint for Plunder posted on Facebook by Atty. Causing was ultimately filed before the Office of the Ombudsman.

Atty. Causing admitted in his Answer-Affidavit that he posted the complaint for Plunder on his Facebook account. In his defense, he invokes his rights to freedom of expression and of the press.

However, We find that such defenses are untenable.

Atty. Causing cannot justify his infractions by hiding behind the rights to freedom of the press and freedom of expression under the Constitution as such are not absolute.

In *Belo-Henares vs. Atty. Guevarra*,²⁰ We ruled that:

Time and again, it has been held that the freedom of speech and of expression, like all constitutional freedoms, is not absolute. While the freedom of expression and the right of speech and of the press are among the most zealously protected rights in the Constitution, every person exercising them, as the Civil Code stresses, is obliged to act with justice, give everyone his due, and observe honesty and good faith. **As such, the constitutional right of freedom of expression may not be availed of to broadcast lies or half-truths, insult others, destroy their name or reputation or bring them into disrepute.**²¹ (Emphases supplied)

As a member of the Bar, Atty. Causing *ought* to know that Facebook—or any other social medium, for that matter—is not the proper forum to air out his grievances, for a lawyer who uses extra-legal fora is a lawyer who weakens the rule of law. In this case, Atty. Causing knew that the proper forum for his complaint is the Office of the Ombudsman.

Atty. Causing's posting of the complaint for Plunder on his Facebook account was motivated by the desire to damage the reputation of the respondents therein. In fact, it was posted precisely to elicit negative reactions, comments and public opinions against Lao and her fellow respondents.

The fact that Atty. Causing subsequently filed the complaint for Plunder before the Office of the Ombudsman is of no moment as the damage to the reputation of therein respondents had already been done. The documentary evidence presented by Lao, which consists of screenshots of Atty. Causing's post,²² show that she was subjected to public hate, contempt

²⁰ 801 Phil. 570 (2016).

²¹ Id. at 586-587.

²² *Rollo*, pp. 196-205.

and ridicule, as several people have commented on the said post. The respondents in the complaint for Plunder, including Lao, were called several names including “*nangungurakot*” and “*corrupt na official*.”²³

Based on the foregoing, Atty. Causing also violated Rule 8.01 of the CPR when he accused Lao and the other respondents of stealing around ₱226 Million intended for evacuees.²⁴ Rule 8.01 provides:

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

In addition, the Lawyer’s Oath provides that—

I, do solemnly swear that I will maintain allegiance to the Republic of the Philippines, I will support the 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 the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, or 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 these voluntary obligations without any mental reservation or purpose of evasion. So help me God.

Such oath mandates lawyers to conduct themselves in a manner which would keep the integrity of the legal profession intact. In *Ong vs. Atty. Unto*,²⁵ the Court enjoined lawyers to conduct themselves in a manner that would promote public confidence in the legal profession, to wit:

The ethics of the legal profession rightly enjoin lawyers to act with the highest standards of truthfulness, fair play and nobility in the course of his practice of law. A lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity. Public confidence in law and lawyers may be eroded by the irresponsible and improper conduct of a member of the Bar. Thus, every lawyer should act and comport himself in such a manner that would promote public confidence in the integrity of the legal profession.²⁶

Lastly, We note that this is not the first time that Atty. Causing has been sanctioned by the Court.

²³ Id. at 202.

²⁴ Id. at 188-190.

²⁵ 426 Phil. 531 (2002).

²⁶ Id. at 540-541.

In *Velasco vs. Atty. Causing*,²⁷ the Supreme Court *en banc*, voting unanimously, suspended Atty. Causing from the practice of law for a period of one (1) year for violating the confidentiality of an ongoing family court proceeding. The relevant portions of the decision are quoted below:

The records show that Atty. Causing had already admitted that he indeed published the subject post with photographs of complainant's petition in the nullity case in Facebook and thereafter sent a link of the post to complainant's son. In his defense, Atty. Causing invokes his rights to freedom of expression and of the press and argues that he was merely acting as a "spokesman-lawyer" and a "journalist-blogger" when he published the subject post.

The defense, however, is untenable.

First, a lawyer is not allowed to divide his personality as an attorney at one time and a mere citizen at another. Regardless of whether a lawyer is representing his client in court, acting as a supposed spokesperson outside of it, or is merely practicing his right to press freedom as a "journalist-blogger," his duties to the society and his ethical obligations as a member of the bar remain unchanged.

x x x x

In addition, Atty. Causing likewise violated Rule 8.01 of the CPR when he used the words "polygamous," "criminal," "dishonest," "arrogance," "disgusting," and "cheater" in the subject post and in his pleadings in direct reference to complainant. Indeed, a lawyer's language, though forceful and emphatic, must always be dignified and respectful, befitting the dignity of the legal profession. "The use of intemperate language and unkind ascriptions has no place in the dignity of judicial forum. Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, and illuminating but not offensive."

Though it is true that Atty. Causing is, by all means, given the liberty to defend his client's cause with utmost zeal, this is not without reasonable limitations. In this case, it appears that Atty. Causing's post in Facebook was so designed to elicit, at the very least, a negative public opinion against complainant. Such act, however, is proscribed under Rule 19.01 of the CPR which, among others, mandates lawyers to "employ only fair and honest means to attain the lawful objectives of his client."

And *second*, it is settled that the freedom of speech, of expression, and of the press, like all constitutional freedoms, are not absolute.²⁸

The aforesaid case and the case at hand show that Atty. Causing has the propensity to divulge sensitive information in online platforms, such as Facebook, to the detriment of the people involved in the said cases. Thus, considering that Atty. Causing was already suspended for one (1) year with a

²⁷ A.C. No. 12883, March 2, 2021.

²⁸ *Id.*

stern warning that a repetition of the same or similar acts will be dealt with more severely, We believe that the appropriate penalty to be imposed herein is the ultimate penalty of disbarment.

In *Francisco vs. Atty. Real*,²⁹ We did not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender, to wit:

In imposing the appropriate penalty in administrative cases, it is the duty of the Court to exercise its sound judicial discretion based on the surrounding facts of the case. Well-settled is the rule in our jurisdiction that disbarment ought to be meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court and that the Court will not disbar a lawyer where a lesser penalty will suffice to accomplish the desired end. **The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender.** Thus, the Court in *Flores vs. Mayor, Jr.*, after finding respondent therein guilty of clear neglect of duty and gross ignorance of the law, considered his previous suspension by the Court in meting out the extreme penalty of disbarment. The Court concluded in this wise:

The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender.

In *Maligsa vs. Cabanting*, the respondent lawyer was disbarred after the Court found out that he had notarized a forged deed of quitclaim. The penalty of disbarment was imposed after considering that he was previously suspended from the practice of law for six months on the ground that he had purchased his client's property while it was still the subject of a pending certiorari proceeding.

In *Flores vs. Chua*, the respondent lawyer was disbarred after he was found guilty of notarizing a forged deed of sale. The penalty of disbarment was imposed because in a previous administrative case, respondent was found guilty of violating Rule 1.01[16] of the Code of Professional Responsibility. He was also sternly warned that a repetition of a similar act or violation in the future would be dealt with more severely.

Herein respondent was already suspended from the practice of law for a period of six (6) months in another case, *Lahm III vs. Mayor, Jr.*, in which he was found guilty of gross ignorance of the law in violation of the Lawyer's Oath and the Code of Professional Responsibility. For that offense, he was warned that the commission of the same or a similar offense in the future would result in the imposition of a more severe penalty. In light of respondent's previous suspension from the practice of law in an earlier administrative case as above[-]mentioned, the recommendation of the IBP Board to disbar respondent is only proper.³⁰ (Citations omitted and emphasis supplied)

²⁹ A.C. No. 12689, September 1, 2020.

³⁰ *Id.*

Here, the Court takes note of the fact that Atty. Causing had just recently served his one-year suspension pursuant to the ruling in the *Velasco* case, which was promulgated on March 2, 2021. We likewise note that the acts complained of therein occurred in April 2016 and the corresponding disbarment complaint was filed thereafter. The filing of the disbarment complaint against Atty. Causing in the *Velasco* case should have served as a deterrent. However, it appears that the same had no effect. Thus, the penalty of disbarment is warranted.

As a final note, while freedom of expression is guaranteed by the Constitution, the lawyer's oath and his duties and responsibilities ultimately serve as a limit thereto. We caution lawyers to be circumspect in their postings online. They are reminded to always practice restraint in their conduct, be it in real life or online. Otherwise, the rule of law may very well be completely circumvented and rendered nugatory by blatantly seeking public trial on social media.

WHEREFORE, the Court finds Atty. Berteni C. Causing **GUILTY** of violating the Lawyer's Oath and the Code of Professional Responsibility. He is hereby **DISBARRED** from the practice of law. The Office of the Bar Confidant is **DIRECTED** to remove the name of Berteni C. Causing from the Roll of Attorneys.

This Decision is without prejudice to any pending or contemplated proceedings to be initiated against respondent.

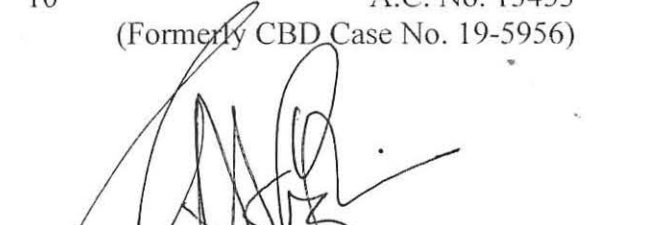
Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as a member of the Bar; the Integrated Bar of the Philippines; the Office of the Court Administrator, for dissemination to all courts throughout the country for their information and guidance; and the Department of Justice.

This Decision is immediately executory.

SO ORDERED.


ALEXANDER G. GESMUNDO
Chief Justice



MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice

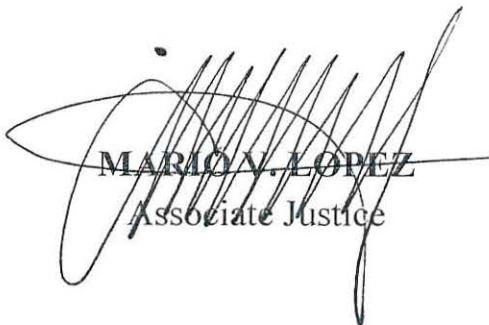

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

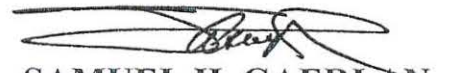

RAMON PAUL L. HERNANDO
Associate Justice

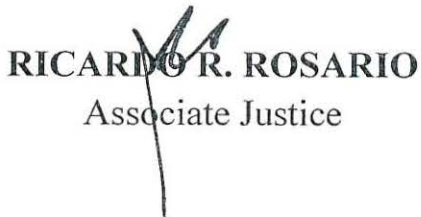

AMY C. LAZARO-JAVIER
Associate Justice

ON OFFICIAL BUSINESS
HENRI JEAN PAUL B. INTING
Associate Justice

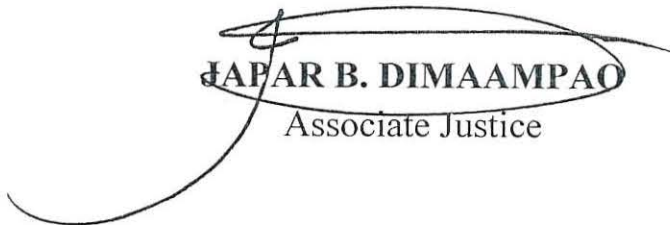

RODIL V. ZALAMEDA
Associate Justice


MARION V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

ON OFFICIAL BUSINESS
JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

ON OFFICIAL BUSINESS
ANTONIO T. KHO, JR.
Associate Justice

ON OFFICIAL BUSINESS
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court