



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ATTY. FERNANDO P. PERITO,
Complainant,

A.C. No. 12631

Present:

- versus -

PERLAS-BERNABE, J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
GAERLAN,* JJ.

ATTY. BERTRAND A.
BATERINA, ATTY. RYAN R.
BESID, ATTY. RICHIE L.
TIBLANI, and ATTY. MARI
KHRIS R. PAMMIT,
Respondents.

Promulgated:

08 JUL 2020

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DECISION

HERNANDO, J.:

This is a Petition for Disbarment¹ filed by Atty. Fernando P. Perito (Atty. Perito) before the Integrated Bar of the Philippines (IBP) against respondents Atty. Bertrand A. Bateria (Atty. Bateria), Atty. Ryan R. Besid (Atty. Besid), Atty. Richie L. Tiblani (Atty. Tiblani), and Atty. Mari Khris R. Pammit (Atty. Pammit).

The Facts

Atty. Perito was the lawyer for the accused in a kidnapping case entitled *People v. Josephine and Jason Bracamonte* which was filed before Branch 169 of the Regional Trial Court (RTC) of Malabon. The case was initially filed by Antonio Galian (Galian) but he was later substituted by Geri

* Designated as additional member of the Second Division per Special Order No. 2780 dated May 11, 2020.

¹ *Rollo*, pp. 1-21.

Villa. Respondents Attys. Baterina and Besid² were the private prosecutors.³

During the reinvestigation of the kidnapping case, the Investigating Panel of the Department of Justice (DOJ) issued a Resolution dated August 1, 2007 dismissing the charge against the Bracamontes. Attys. Baterina and Besid, as Galian's counsels, filed a Motion for Reconsideration which the DOJ dismissed in a Resolution dated September 27, 2007. Atty. Besid then filed a Petition for Review⁴ before the Secretary of Justice.⁵

Meanwhile, in view of the DOJ's August 1, 2007 Resolution and the repeated failure of the private complainant to appear despite due notice, the RTC issued an Order on September 17, 2007, provisionally dismissing⁶ the case against the Bracamontes, but without prejudice to any motion for reconsideration which may have been filed by the private prosecutors. Consequently, Attys. Baterina and Besid filed a motion for reconsideration⁷ which the RTC denied in an Order dated December 17, 2007⁸ for lack of conformity of the public prosecutor. Afterwards, Attys. Baterina and Besid filed a Petition for *Certiorari*⁹ with the Court of Appeals (CA) with Dulce Hernandez (Dulce) (mother of the alleged kidnap victim) as petitioner.¹⁰

On August 29, 2008, Attys. Baterina and Besid learned that the Bracamontes had filed a disbarment case against them before the Court which was docketed as A.C. No. 7929. Suspecting that Atty. Perito was behind the filing of said complaint, Atty. Baterina filed a countersuit for disbarment¹¹ against Atty. Perito which was docketed as CBD Case No. 09-2468.¹²

Relevantly, though, A.C. No. 7929 (*Josephine Bracamonte, et al. v. Attys. Bertrand A. Baterina and Ryan R. Besid*) was dismissed, and thereafter declared as closed and terminated.¹³ Also, CBD Case No. 09-2468 (*Atty. Bertrand A. Baterina v. Atty. Ferdinand P. Perito*) was dismissed by the IBP-Board of Governors (BOG) for lack of merit.¹⁴

Nonetheless, in the case at bench, Atty. Perito charged herein respondents with pursuing a losing and dismissed case or endlessly persecuting the Bracamontes in the kidnapping case, and for filing a baseless disbarment complaint against him (Atty. Perito) grounded on suspicion.

² *Id.* at 67; After they replaced the previous private prosecutor, Atty. Roberto Ferrer, who withdrew from the case.

³ *Id.* at 605.

⁴ *Id.* at 349-359.

⁵ *Id.* at 605-606.

⁶ *Id.* at 361.

⁷ *Id.* at 362-369.

⁸ *Id.* at 386.

⁹ *Id.* at 391-415.

¹⁰ *Id.* at 606.

¹¹ *Id.* at 59-89.

¹² *Id.* at 47.

¹³ *Id.* at 477, 519-520.

¹⁴ *Id.* at 521.

Atty. Perito likewise charged respondents Attys. Baterina and Besid with misrepresentation because Dulce was never an original complainant in the proceedings before the Office of the Prosecutor of Malabon, the DOJ and the RTC of Malabon, nor can she represent the then alleged minor victim who already reached the age of majority at that time.¹⁵

Moreover, Atty. Perito charged Attys. Baterina and Besid of demeanor unbecoming of members of the Bar for purportedly accusing him of “‘being the cause of the prolonged detention of accused Josephine Bracamonte,’ ‘delaying the proceedings of the case and obtaining undue advantage by not attending the hearing scheduled by the Court,’ ‘adopting a scheme where counsel will go to court and making a manifestation in open court even if the case is not scheduled on that day,’ [and] ‘depriving private complainant of his day in court, fair play and right to be heard’.”¹⁶

In addition, Atty. Perito asserted that respondents failed to uphold the dignity and authority of the court for imputing upon the Presiding Judge of the RTC with grave abuse of discretion “amounting to excess of jurisdiction by succumbing to the pressure employed by counsel (complainant Perito) who uses dirty and coercive tactics to obtain a favorable judgment by any and all means possible and completely [disregarding and compromising] its supposed integrity.”¹⁷

Atty. Perito impleaded Attys. Tiblani and Pammit as respondents in the instant complaint since they allegedly conspired with Attys. Baterina and Besid in filing a disbarment case against him.¹⁸

Conversely, herein respondents argued that the petition for review and petition for *certiorari* which they filed in the kidnapping case were remedies which can be availed of as a matter of law in behalf of their client and that resorting to such remedies cannot be a ground for disbarment.¹⁹ They added that contrary to Atty. Perito’s allegation, Dulce can properly file the petition since the complainant was a minor when the alleged felony was committed. They further stated that a petition for *certiorari* is an entirely different remedy with a new cause of action and that the criminal case should not be affected even if Dulce was a stranger to the proceedings before the DOJ and the RTC.²⁰ Similarly, they averred that the imputation of grave abuse of discretion upon the RTC was necessary for a *certiorari* petition under Rule 65 and cannot be a ground for disbarment if the said imputation was supported by facts and logic.²¹

¹⁵ *Id.* at 606.

¹⁶ *Id.*

¹⁷ *Id.* at 606-607.

¹⁸ *Id.* at 607.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Moreover, the respondents explained that the act of Attys. Tiblani and Pammit in filing a disbarment case in behalf of Atty. Baterina against Atty. Perito is not a ground for disbarment.²²

The Report and Recommendation of the IBP

In a Report and Recommendation²³ dated March 9, 2018, the Investigating Commissioner²⁴ of the IBP-Commission on Bar Discipline (IBP-CBD) found that the respondents did not violate the Code of Professional Responsibility (CPR) and recommended the dismissal of the complaint.

The Investigating Commissioner stated that the burden of proof rests upon Atty. Perito to prove his allegations with [substantial] evidence.²⁵ In light of this, the Investigating Commissioner found that Attys. Baterina and Besid did not violate Rule 1.03, Canon 1 and Rule 10.03, Canon 10 of the CPR since the pleadings which they filed in the criminal proceedings were proper remedies under DOJ Circular No. 70 (2000 NPS Rule on Appeal) and the Rules of Court. Also, if Attys. Baterina and Besid did not pursue the said remedies, they would have been remiss in their duties to their client.²⁶

Moreover, the Investigating Commissioner found that Attys. Baterina and Besid did not violate Rule 11.04, Canon 11 of the CPR. Their imputation of grave abuse of discretion on the Presiding Judge of the RTC was necessary to substantiate their *certiorari* petition before the CA, especially when they questioned the orders of the RTC which provisionally dismissed the case and denied the motion for reconsideration thereof.²⁷

As for Attys. Tiblani and Pammit, the Investigating Commissioner found that they did not violate Rule 1.03 and Canon 8 of the CPR since there was no proof that they were motivated by ill will in representing Atty. Baterina in the disbarment case that he (Atty. Baterina) filed against Atty. Perito and in the other disbarment case filed by the Bracamontes against Attys. Baterina and Besid.²⁸

Noting that this is the third disbarment case involving Attys. Perito, Baterina and Besid whether as parties or counsels, which all stemmed from the kidnapping case involving the Bracamontes, the Investigating Commissioner reminded the lawyers to focus on the merits of their claims, exercise mutual respect and courtesy with each other, and not to

²² *Id.* at 607-608.

²³ *Id.* at 603-613.

²⁴ Nelly Annegret R. Puno-Yambot.

²⁵ *Rollo*, p. 608.

²⁶ *Id.* at 609-610.

²⁷ *Id.* at 610-611.

²⁸ *Id.* at 611-612.

indiscriminately file disbarment suits against each other.²⁹

In a Resolution³⁰ dated November 8, 2018, the IBP-BOG resolved to adopt the findings of fact and recommendation of the Investigating Commissioner and to dismiss the petition.

The Ruling of the Court

The Court adopts the findings and approves the recommendation of the IBP to dismiss the instant petition for disbarment against the respondents.

After assessment of the attendant circumstances, the Court is convinced that the present disbarment case stemmed from the kidnapping case, which unfortunately affected the professional relationship of the lawyers of the therein parties. Upon perusal of the records, We note that Atty. Perito somehow initiated the conflict with the respondents by using intemperate language and strong allegations in a number of pleadings which he filed. Hence, it would be apt to remind the lawyer-parties of the import of the following provisions of the CPR:

CANON 8 – A LAWYER SHALL CONDUCT HIMSELF WITH COURTESY, FAIRNESS AND CANDOR TOWARDS HIS PROFESSIONAL COLLEAGUES, AND SHALL AVOID HARASSING TACTICS AGAINST OPPOSING COUNSEL.

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

We agree with the Investigating Commissioner's finding that the remedies which Attys. Baterina and Besid pursued and exhausted were sanctioned by the applicable rules and were intended solely to advance their clients' interest in the kidnapping case. Furthermore, they did not violate Canon 11, Rule 11.03³¹ when they filed a *certiorari* petition before the CA in order to assail the issuances of the RTC. In fact, their actions are supported by Canons 17 and 19 of the CPR, as follows:

CANON 17 – A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.

²⁹ *Id.* at 612.

³⁰ *Id.* at 601-602.

³¹ CANON 11 – A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

Rule 11.03 – A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

CANON 19 – A LAWYER SHALL REPRESENT HIS CLIENT
WITH ZEAL WITHIN THE BOUNDS OF THE LAW.

Similarly, Attys. Tiblani and Pammit who were representing Atty. Baterina in the latter's disbarment cases were merely protecting Atty. Baterina's interests. Indeed, "[a] lawyer owes entire devotion to the interest of his client, warmth and zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability, to the end that nothing can be taken or withheld from his client except in accordance with the law. He should present every remedy or defense authorized by the law in support of his client's cause, regardless of his own personal views. In the full discharge of his duties to his client, the lawyer should not be afraid of the possibility that he may displease the judge or the general public."³²

To Our mind, the respondents' acts did not constitute as gross misconduct or a violation of the Lawyer's Oath or the CPR. Additionally, the respondents committed none of the grounds for disbarment enumerated in Section 27, Rule 138³³ of the Rules of Court.³⁴

Besides, "[a]s a rule, this Court exercises the power to disbar with great caution. Being the most severe form of disciplinary sanction, it is imposed 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 a member of the bar. x x x"³⁵

In view of the foregoing, the Court finds that Atty. Perito did not present substantial evidence to show that herein respondents violated the CPR. In fact, the instant petition is simply evidence of the parties' frustration against each other and of their refusal to resolve their issues as lawyers in a more dignified and less adversarial manner. Withal, the parties are reminded to act and be guided by the Lawyer's Oath and the CPR, and to faithfully conduct themselves in a manner expected from members of the Bar.

WHEREFORE, the Petition for Disbarment against Atty. Bertrand A. Baterina, Atty. Ryan R. Besid, Atty. Riche L. Tiblani, and Atty. Mari Khris R. Pammit is hereby **DISMISSED**.

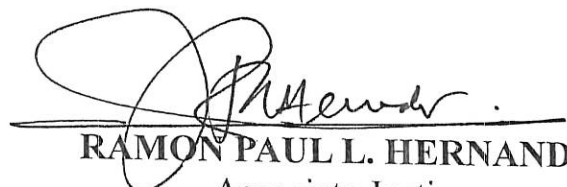
³² *Legarda v. Court of Appeals*, 272-A Phil. 394, 403-404 (1991) citing Canon of Professional Ethics 15.

³³ **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 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 to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.


³⁴ *Re: SC Decision dated May 20, 2008 in G.R. No. 161455 Under Rule 139-B of the Rules of Court v. Atty. Pactolin*, 686 Phil. 351, 355 (2012).

³⁵ *Id.*

SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice