



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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LARRY C. SEVILLA,
Complainant,

A.C. No. 10697

- versus -

Present:

ATTY. MARCELO C. MILLO,
Respondent.

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

Promulgated:

25 MAR 2019

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an administrative complaint¹ filed on November 14, 2014 by complainant Larry C. Sevilla (complainant), before the Office of the Bar Confidant,² against respondent Atty. Marcelo C. Millo (respondent), charging the latter of harassment, misconduct, obstruction of justice and ignorance of the law.

The Facts

Complainant alleged that he is the publisher of Pampango Footprints (Pampango), a provincial newspaper circulated in Tarlac Province.³

¹ Dated November 12, 2014. *Rollo*, pp. 2-4.

² Initially, the same complaint was filed before the Office of the Court Administrator on October 24, 2014, which was forwarded to and received by the Office of the Bar Confidant on October 28, 2014 (see *id.* at 7-9).

³ See *id.* at 1-2.

Sometime in April 2014, he issued a statement of account⁴ in the amount of ₱33,120.00 to Spouses Avelino and Melendrina Manalo (Sps. Manalo) as fee for the publication of the notice of auction sale relative to Sps. Manalo's petition for foreclosure of mortgage, which was published in three (3) consecutive issues of Pampango.⁵ Claiming that the publication fee was "exorbitant and shocking," respondent, as Sps. Manalo's counsel, refused to settle the account, threatened complainant that he would petition for the disqualification of Pampango, and thereafter, wrote an undated letter⁶ to the Executive Judge of the Regional Trial Court of Tarlac City in furtherance of such threat.⁷ Consequently, complainant filed this administrative complaint against respondent.

During the pendency of this complaint, Sps. Manalo negotiated for a discount of fifty percent (50%), to which complainant agreed. Yet, respondent intervened and forbade his clients to pay. For this reason, complainant called respondent, but instead of explaining his side, respondent shouted, "I am busy I don't want to talk to you!" and banged his cellphone.⁸

For his part,⁹ respondent denied administrative liability, averring that he merely acted on behalf of his clients, who found the fee "exorbitant and shocking."¹⁰ He also claimed that after the Executive Judge advised them to just settle the matter with complainant, he withdrew as Sps. Manalo's counsel to give way to the said settlement.¹¹ Finally, he maintained that complainant's non-issuance of an affidavit of publication and non-submission of copies of the issues where the notice of auction sale was printed caused the non-completion of the foreclosure proceedings.¹²

In a Resolution¹³ dated July 4, 2016, the Court referred the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

The IBP's Report and Recommendation

In a Report¹⁴ dated May 4, 2017, the Investigating Commissioner found respondent administratively liable for violation of Rule 1.04,¹⁵ Canon

⁴ Id. at 28.

⁵ See id. at 3 and 64.

⁶ Id. at 5.

⁷ See id. at 2-3 and 64.

⁸ Id. at 64. See also complainant's Verified Position Paper dated April 5, 2017; id. at 48-49.

⁹ See respondent's comment dated May 27, 2015 (id. at 15-18); and Position Paper for the Respondent dated March 6, 2017 (id. at 45-47).

¹⁰ See id. at 16 and 45.

¹¹ See id. at 17 and 45.

¹² See id. at 17.

¹³ Id. at 36. Signed by the Division Clerk of Court (now Clerk of Court *En Banc*) Edgar O. Aricheta.

¹⁴ Id. at 64-66. Signed by Commissioner Narciso A. Tadeo.

¹⁵ Rule 1.04 – A lawyer shall encourage his clients to avoid, end or settle a controversy if it will admit of a fair settlement.

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1 of the Code of Professional Responsibility (CPR), and accordingly, recommended the penalty of reprimand or one (1)-month suspension.¹⁶

The Investigating Commissioner found that the matter simply involves a misunderstanding in the collection of publication fee which could have easily been settled if respondent did not prevent the settlement. In this relation, the Investigating Commissioner pointed out that Sps. Manalo had already successfully negotiated for a settlement, but the same did not push through because of respondent.¹⁷ Further, the Investigating Commissioner noted that the respondent's claim of withdrawal as Sps. Manalo's counsel was belied by complainant's allegation that respondent intervened and forbade his clients to pay, which respondent did not deny.¹⁸

In a Resolution¹⁹ dated February 22, 2018, the IBP Board of Governors adopted the Investigating Commissioner's Report, with modification lowering the recommended penalty of suspension from the practice of law for a period of one (1) month to mere reprimand.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

The Court concurs and affirms the findings of the IBP Board of Governors with modification as to the penalty.

It is well to stress that lawyers owe fidelity to the cause of their clients and are expected to serve the latter with competence and diligence. Consequently, lawyers are entitled to employ every honorable means to defend the cause of their clients and secure what is due them.²⁰ However, professional rules set limits on a lawyer's zeal and hedge it with necessary restrictions and qualifications.²¹ In this regard, Canon 1 of the CPR provides that lawyers "shall uphold the Constitution, obey the laws of the land and promote respect for law and of legal processes." In furtherance thereto, Rule 1.04 of the CPR mandates lawyers to "encourage [their] clients to avoid, end, or settle a controversy if it will admit of a fair settlement."

¹⁶ *Rollo*, p. 66.

¹⁷ See *id.* at 65.

¹⁸ See *id.*

¹⁹ See Notice of Resolution in CBD Case No. 16-5191 issued by Assistant National Secretary Doroteo B. Aguila; *id.* at 70-71.

²⁰ See *Avida Land Corporation v. Argosino*, 793 Phil 210, 222 (2016).

²¹ *Id.*

Guided by the foregoing, the Court agrees with the findings of the Investigating Commissioner, as affirmed by the IBP Board of Governors, that respondent indeed fell short of what is expected of him, despite his avowed duties as officer of the court. Records reveal that respondent did not endeavor to initiate the settlement of the publication fee being charged by complainant. Disagreeing with the statement of account, respondent chose not to pay and immediately referred the matter to the Executive Judge, instead of negotiating and discussing the matter with complainant. Remarkably, respondent's obstinate refusal to settle culminated in forbidding his clients, Sps. Manalo, to pay the reduced publication fee, which the latter secured for themselves. He even shouted at and ignored complainant when the latter called him up in an effort to finally settle. Ultimately, respondent's acts, which are violative of Rule 1.04, Canon 1 of the CPR, prejudiced his clients as they resulted in the non-completion of the foreclosure proceedings, since complainant did not issue the affidavit of publication nor provide copies of the issues where the notice of auction sale was actually printed.

Anent the proper penalty to be imposed on respondent, under the circumstances and considering that this is his first offense, the Court finds it appropriate to impose on respondent the penalty of suspension from the practice of law for a period of one (1) month. This is in line with the Court's ruling in *Caspe v. Mejica*,²² where respondent therein was suspended for violating Rule 1.04, Canon 1 of the CPR, among others. Similarly, the Court has held that suspension is appropriate when a lawyer knows that he is violating a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding,²³ as in this case.

As a final note, it must be emphasized that membership in the legal profession is a privilege burdened with conditions. A lawyer is required to observe the law and be mindful of his or her actions whether acting in a public or private capacity. Any transgression of this duty on his part would not only diminish his reputation as a lawyer but would also erode the public's faith in the legal profession as a whole.²⁴ As such, the Court will not hesitate to impose the necessary penalty to a lawyer whose conduct falls short of the exacting standards expected of him as a member of the Bar.²⁵

WHEREFORE, respondent Atty. Marcelo C. Millo (respondent) is hereby **SUSPENDED** from the practice of law for a period of one (1) month, with a **STERN WARNING** that a repetition of the same or similar act will be dealt with more severely.

²² See 755 Phil. 312 (2015).

²³ See *Avida Land Corporation v. Argosino*, supra note 20, at 225-226.

²⁴ See *Nulada v. Paulma*, 784 Phil. 309, 317 (2016).


²⁵ See id. at 317-318.

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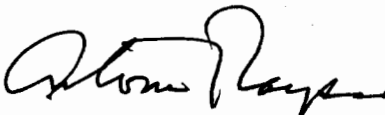
The suspension in the practice of law shall take effect immediately upon receipt of this Decision by respondent. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

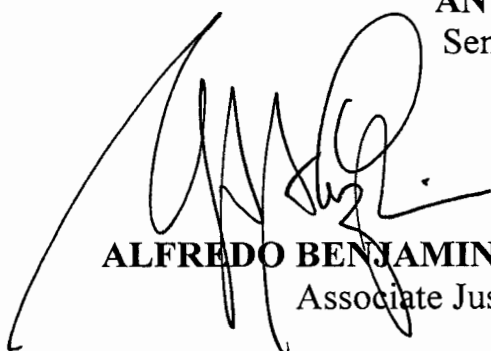
Let copies of this Decision be furnished the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for circulation to all courts in the country.

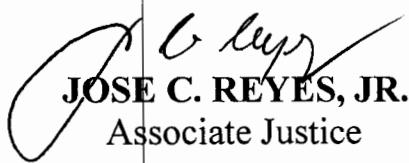
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice