



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ROGER B. DAP-OG,
Complainant,

A.C. No. 12017

Present:

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

- versus -

ATTY. LUEL C. MENDEZ,
Respondent.

Promulgated:

17 4 OCT 2020

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DECISION

HERNANDO, J.:

This is a complaint for disbarment filed by Roger B. Dap-og (Roger) against respondent Atty. Luel C. Mendez (Atty. Mendez) for allegedly mauling Roger and hurling invectives at him.

The facts of the case are as follows.

On February 12, 2014, Roger was at the compound of the Community Environment and Natural Resources Office (CENRO), Department of Environment and Natural Resources (DENR) XI, Bangkal, Davao City, to accompany his brother Ruben B. Dap-og (Ruben) to attend a hearing/conference in a case entitled *Heirs of Betil Sigampong Rep. By Rodolfo Sigampong, Protestants versus Timotea Ninsnea, et al., Respondents*¹

* On leave.

¹ Rollo, p.169.

where Roger's wife, Gemma Dap-og (Gemma) was one of the respondents. Protestants therein were represented by Atty. Mendez² while Atty. Lilibeth O. Ladaga (Atty. Ladaga)³ was Gemma's counsel. During the hearing, the parties agreed, with the concurrence of the Acting Special Land Investigator, that some of the impleaded respondents therein, including Gemma, be dropped as parties to the case after establishing that they were not occupying the subject lot.⁴

After the hearing, Roger, together with Ruben and Atty. Ladaga, went to the CENRO canteen to photocopy some documents.⁵ The parties had conflicting versions as to what transpired next.

Complainant's version:

According to Roger, Atty. Mendez approached their table and asked for his name.⁶ Meanwhile, Rodolfo Sigampong (Rodolfo), one of the protestants in the CENRO case, verbally confirmed the latter's identity as Roger Dap-og.

Roger then shook hands with Atty. Mendez. However, he was surprised when Atty. Mendez suddenly called him a demon. He then demanded an explanation from Atty. Mendez. Instead of answering, Atty. Mendez, who was sitting then, stood up from where he was seated and tried to grab Roger from across the table. Roger managed to move back but Atty. Mendez still managed to scratch his neck. Atty. Mendez then slapped Roger's left cheek.

Roger tried to move away but respondent, together with Rodolfo and several others, pursued him and managed to land some punches on him.⁷ Roger's companion, Jimmy Dela Peña (Jimmy) eventually succeeded in disengaging Roger from Atty. Mendez but not before the latter hit Roger's right shoulder.⁸ During the commotion, the group of Atty. Mendez was hurling invectives and accusations at Roger.

Afterwards, Roger went to the Matina Police Station to have the incident recorded in their blotter.⁹ He also proceeded to the Southern Philippines Medical Center for a medical examination. The Medical Certificate¹⁰ dated February 12, 2014 issued by Dr. Joffrey S. Betanio (Dr. Betanio) revealed that Roger sustained several physical injuries, *viz.*:

SOFT TISSUE CONTUSION PARASTERNAL LINE AT LEVEL OF T2
CONTUSION HEMATOMA SHOULDER RIGHT

² Id. at 171.

³ Id.

⁴ Id. at 171-172

⁵ Id. at 169.

⁶ Id.

⁷ Id. at 170.

⁸ Id.

⁹ Id. at 171.

¹⁰ Id. at 9.

T/C FRACTURE CLAVICLE RIGHT
SECONDARY TO ALLEGED MAULING¹¹

Roger suffered bruises for several days and his right shoulder was fractured. He also felt humiliated and psychologically tormented after the incident. He averred that he is now constantly in fear and anxious for his personal safety due to the death threats hurled at him by respondent's group.¹²

Consequently, Roger filed a complaint for Less Serious Physical Injuries, Grave Slander and Grave Threat against Atty. Mendez before the Office of the City Prosecutor, Davao City.¹³

Respondent's version:

Atty. Mendez denied Roger's allegedly malicious accusations against him.¹⁴

Respondent alleged that he was at the CENRO canteen to discuss case-related matters with his clients, including Rodolfo, but the discussion was interrupted upon the arrival of Roger.¹⁵ Atty. Mendez invited Roger to their table which the former acquiesced. Atty. Mendez then asked Roger why he is siding with the other parties. Rodolfo then declared that Roger is without principles or scruples and that he swindled Rodolfo and his family. At this point, Roger stood up and told Rodolfo to stop. Roger shouted invectives at them and was later joined by Ruben.¹⁶

Respondent alleged that the tension between his client, on one hand, and Roger on the other, escalated into a shouting match. Atty. Mendez claimed that while there was an exchange of vindictive words and heated argument, Roger was never threatened or physically harmed.¹⁷

**Report and Recommendation of
the Integrated Bar of the
Philippines (IBP):**

On May 7, 2014, Roger filed the instant complaint with the IBP Commission on Bar Discipline (CBD).¹⁸ After due proceedings, the Investigating Commissioner¹⁹ issued a Report and Recommendation²⁰

¹¹ Id.

¹² Id. at 171.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 172.

¹⁶ Id.

¹⁷ Id. at 174.

¹⁸ Id. at 2.

¹⁹ Oscar Leo S. Billena.

²⁰ *Rollo*, pp. 169-177.

recommending that Atty. Mendez be suspended from the practice of law for a period of three (3) months.

The IBP Board of Governors (BOG), in Resolution No. XXII-2015-41²¹ dated October 3, 2015, modified the findings of facts and the recommended penalty of the Investigating Commissioner by increasing the penalty of suspension from the practice of law to one (1) year.

Aggrieved, Atty. Mendez filed a Motion for Reconsideration²² which was denied by the IBP BOG in Resolution No. XXII-2017-1090²³ dated May 27, 2017.²⁴

Hence, this case is now before Us for final action pursuant to Section 12(b), Rule 139-B of the Rules of Court.

Issue

Whether or not Atty. Mendez should be held administratively liable based on the allegations on the Complaint.

Our Ruling

We affirm the findings of the IBP and adopt the recommended penalty of suspension from the practice of law for one (1) year.

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

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 wilfully 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 supplied)

Relevantly, Rule 1.01, Canon 1, of the Code of Professional Responsibility (CPR) provides:

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

²¹ Id. at 167.

²² Id. at 111 – 116.

²³ Id. at 165.

²⁴ Id. at 165.

The records of this case show without a shadow of doubt that Atty. Mendez exhibited Gross Misconduct unbecoming of an officer of the court.

There is no dispute that an incident happened on February 12, 2014 at the CENRO Compound of the DENR in Bangkal, Davao City, involving the group of respondent on the one hand, and the group of Roger on the other. While the parties presented two different versions of the incident, we find Roger's version to be more credible as the same is supported by substantial evidence.

As aptly found by the IBP, the denial of Atty. Mendez, while attested by his own witnesses, could not overcome the positive declaration of Roger and his witnesses.²⁵ In particular, the affidavit of Atty. Ladaga deserves much weight there being no proof of personal interest or bias against respondent.²⁶ In her Affidavit,²⁷ Atty. Ladaga narrated the incident as follows:

6. I was so shocked by that outburst. I just did not expect it to come from him considering that a few short minutes before that, he was still asking Roger Dap-og his name. And then, Roger Dap-og said: "*Unsay Demonyo? Ikaw ang demonyo kay wa gani ka kaila nako, wa pud ko kaila nimo, pataka ka lang ug estorya.*" (What demon? You are the demon! You don't know me, I don't also know you yet you are talking nonsense!) Immediately after these words were uttered, Atty. Mendez suddenly stood up, reached across the table and looked as he wanted to grab Dap-og across the table. As I was seated practically between them, Atty. Mendez had to reach across the table with me in between. Thankfully in my surprise, I instinctively pushed back my chair away from the table, getting myself away from Atty. Mendez;

7. I immediately stood up and went near the door of the canteen. I saw Roger Dap-og immediately moved away from the table. However, Atty. Mendez followed him with Rodolfo Sigampong and five (5) other men plus one (1) woman. I thought at first that Rodolfo Sigampong and the others were trying to prevent Atty. Mendez from committing further violence upon Roger Dap-og but they however also joined the fray;

8. I saw Roger Dap-og kept backing away and tried to block the punches they were throwing at him. Some of them were even grabbing his shirt. I saw several people coming nearer to look at the commotion going on, including the security guard. I called to the security guard telling him to make the group stop. But the young security guard just kept on watching the commotion doing nothing about it;

9. All the while these people where also shouting invectives and accusations against Dap-og. Among them were: "*Lami ka patyon! Ipabarang ta ka! Mangingilad! Sindikato! Traydor!*" (It would be a pleasure to kill you! Swindler! Traitor!);

10. I heard Roger Dap-og shouted back at them: "*Kung totoo yan, kasuhan nyo ako! Ifile na sa court!*" (If that were true, then bring it to court, file

²⁵ Id. at 174.

²⁶ Id.

²⁷ Id. at 94-97.

your case against me!) At which point Atty. Mendez said: "*Paghulat lang. Kasuhan ta ra ka. Mangingilad ka!*" (Just wait. I will file a case against you. You swindler!) To which Roger Dap-og answered: "*Sige lang, Atty., ipa disbar ta pud ka!*" (Go ahead, Atty. I'll also have you disbarred!);

11. Twice during the commotion, when I saw Roger Dap-og able to extricate himself from the group, I approached Atty. Mendez asking him to stop by saying: "*Tama na na, sir*" (That's enough, sir.) To which he would only say: "*Pasensya ka na, panyera.*" (My apologies, panyera.) To my utter dismay, however, whenever the group of his clients again managed to surround Roger Dap-og, he went and joined the fray again;

12. The commotion finally stopped when Ruben Dap-og shouted at them to stop and was already visibly angry. He said "*Tama na! Undang na kung dili ninyo gusto nga mangil-ad ang padulungan nato niini.*" (Enough! Stop now if you do not want to get things end up badly for all of us!). The group of Atty. Mendez moved away from Roger Dap-og and went to the canteen. At that point, the photocopied documents we were waiting for arrived;
xxx²⁸

The foregoing narration corroborates Roger's account, and validates as well his claim that he suffered injuries as reflected in his Medical Certificate²⁹ and the fact too that he had the incident reported in a Police Blotter.³⁰ Both the said certificate and blotter were prepared by disinterested parties. Absent any evidence that these documents were prepared in bad faith or are otherwise defective in any manner, the presumption that these documents were independently prepared in good faith and should thus be given weight, stands.

To be more specific, the Medical Certificate dated February 12, 2014 by Dr. Betanio showed that Roger indeed sustained several physical injuries. The said Medical Certificate stated the following diagnosis:

SOFT TISSUE CONTUSION PARASTERNAL LINE AT LEVEL OF T2
CONTUSION HEMATOMA SHOULDER RIGHT
T/C FRACTURE CLAVICLE RIGHT
SECONDARY TO ALLEGED MAULING³¹

The foregoing pieces of evidence when taken as a whole would clearly exhibit that physical blows were indeed inflicted upon Roger's person by respondent and his group, contrary to respondent's denial.

Instead of procuring evidence to rebut Roger's evidence, such as the alleged Closed Circuit Television footage mentioned by respondent but never submitted,³² the latter merely enumerated his supposed achievements that he himself admitted to be irrelevant to the instant case.³³ We must remind

²⁸ Id. at 95-96.

²⁹ Id. at 9.

³⁰ Id. at 7-8.

³¹ Id. at 9.

³² Id. at 115.

³³ Id. at 114-115.

respondent that this Court applies the law based on the ultimate facts culled from the evidence presented by both parties, regardless of the parties' perceived achievements. In fact, a stricter and more rigid standard of conduct must be observed by lawyers, such as respondent, given that the legal profession is innately imbued with the duty to administer justice.

The case of *Soriano v. Dizon*³⁴ reiterates the purpose of disbarment proceedings in relation to the protection of administration of justice, to wit:

The purpose of a proceeding for disbarment is to protect the administration of justice by requiring that those who exercise this important function be competent, honorable and reliable — lawyers in whom courts and clients may repose confidence. x x x.³⁵

Moreover, we have ruled that "the Court may suspend or disbar a lawyer for any misconduct showing any fault or deficiency in his moral character, honesty, probity or good demeanor, whether in his profession or private life because good character is an essential qualification for the admission to the practice of law and for the continuance of such privilege."³⁶

As applied in this case, Atty. Mendez clearly did not meet the lofty standards reposed on lawyers. There is no excuse for respondent's unlawful and dishonorable behavior. Even assuming for the sake of argument that respondent's allegations against Roger were true, that the latter swindled the former's clients, no person should take the law into his own hands. In this regard, this Court must remind respondent that while he can represent his clients with zeal, he must do so within the bounds of the law.³⁷

The very point of having a justice system based on the rule of law is to avoid situations such as what happened in this case; every man is presumed innocent and deserves a day in court.

Thus, the Court cannot countenance respondent's pugilistic behavior and brand of vigilante "justice," as it is this Court's duty to uphold the rule of law and not the rule of men. Respondent, being a lawyer and an officer of the court, should know this basic principle and should have acted accordingly. Canon 1 of the CPR provides:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Disappointingly, Roger, who is not a lawyer, appears to have more respect for the law and legal processes than respondent.

³⁴ 515 Phil. 635 (2006).

³⁵ Id. at 646.

³⁶ *Bautista v. Ferrer*, A.C. No. 9057, July 3, 2019.

³⁷ Canon 19, Code of Professional Responsibility.

In imposing the penalty of suspension on Atty. Mendez, we take note of the fact that respondent's mauling of Roger, coupled with the use of verbal insults and threats, happened in broad daylight and in front of other people, including respondent's fellow lawyer Atty. Ladaga. Moreover, respondent appears to have shown no remorse in what he did to Roger and would instead prefer to showboat his supposed achievements in a futile attempt to undermine his despicable acts.

In *Bautista v. Ferrer*, which involved a lawyer who not only used offensive language but practically took matters into her own hands, we held:

In *Canlapan v. Atty. Balayo*, *Sangalang v. Intermediate Appellate Court*, *Atty. Torres v. Atty. Javier*, and *Re: Complaints of Mrs. Milagros Lee and Samantha Lee against Atty. Gil Luisito R. Capito*, the Court suspended erring lawyers for periods ranging from one (1) month to three (3) months for their insulting, offensive, and improper language. In the present case, however, Ferrer not only exclaimed foul words and expletives directed at Bautista, she practically took matters into her own hands in detaining and confronting Bautista in the police station as well as in depriving her of her belongings without due process of law. This vindictive behavior must be met with suspension from the practice of law for a period of one (1) year in line with *Spouses Saburnido v. Madroño*, *Gonzalez v. Atty. Alcaraz*, and *Co v. Atty. Bernardino*.³⁸ (Citations omitted)

Similar to the above, respondent in this case not only hurled offensive language, accusations, and threats at Roger, Atty. Mendez also “took matters into his own hands” when he physically assaulted the latter in a humiliating fashion. Thus, we agree with the IBP’s recommendation to suspend Atty. Mendez from the practice of law for a period of one (1) year.

WHEREFORE, the Court finds Atty. Luel C. Mendez **GUILTY** of violating the Lawyer's Oath and Canon 1, Rule 1.01 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of one (1) year effective immediately. Atty. Mendez is **WARNED** that a repetition of the same or similar acts will be dealt with more severely.

Respondent is **DIRECTED** to file a Manifestation to this Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.³⁹

Let a copy of this Decision be furnished to the Office of the Bar Confidant, to be appended to the personal record of Atty. Luel C. Mendez as a member of the Bar; the Integrated Bar of the Philippines; and the Office of the Court Administrator for dissemination to all trial courts for their information and guidance.

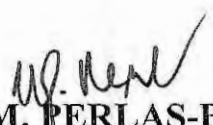
³⁸ *Bautista v. Ferrer*, *supra* note 36.


³⁹ *Heir of Unite v. Guzman*, A.C. No. 12061, October 16, 2016.


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

On leave.
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice