

before the Office of the Deputy Ombudsman (Ombudsman) against former Mayor Josemarie L. Diaz (Mr. Diaz) and the members of the *Sangguniang Panlungsod* of the City of Ilagan, Isabela for their alleged violation of Republic Act No. (RA) 3019 or the Anti-Graft and Corrupt Practices Act; RA 6713 or the Code of Conduct and Ethical Standards for Public Officials; Grave Abuse of Authority; and Grave Misconduct, docketed as OMB-L-C-15-0056 and OMB-L-A-15-0075.

In the complaint filed with the Ombudsman, Atty. Mandagan alleged the following: Mr. Diaz, as the former Mayor of the City of Ilagan, Isabela, approved the resolution of the *Sangguniang Panlungsod* for the construction, rehabilitation, and repair of the *barangay* health center at Brgy. Alibagu, Ilagan, Isabela. The construction caused her inconvenience and violated her property rights as its structures encroached upon her property without her consent. Mr. Diaz awarded the project to SMT Construction⁴ and caused the direct release of public funds to the construction firm.⁵ Atty. Mandagan further alleged that Mr. Diaz pocketed the funds intended for the purchase of property where the *barangay* hall and health center should be constructed; and that aside from violating her property rights, Mr. Diaz and the members of the *Sangguniang Panlungsod* committed irregularities in the construction of the project by misappropriating public funds and by giving unwarranted benefits to SMT Construction.⁶

In his defense, Mr. Diaz averred that the land upon which the questioned *barangay* health center was constructed is a public land as it is part of the old municipal road as certified by the City Assessor of Ilagan, Isabela.⁷ Mr. Diaz denied having any involvement in the construction and rehabilitation of the *barangay* health center and explained that the project was an undertaking of the Department of Health (DOH), not by the City of Ilagan, Isabela.⁸

In the Joint Resolution⁹ dated June 4, 2015, the Ombudsman

⁴ See Notice of Award dated September 3, 2014, *id.* at 16; see also Contract Agreement dated September 22, 2014, *id.* at 17-18.

⁵ *Id.* at 11-13.

⁶ *Id.* at 12-13.

⁷ See Certification dated March 10, 2015 signed by City Assessor Norma C. Gañgan, *id.* at 31.

⁸ *Id.* at 36.

⁹ *Id.* at 33-41; signed by Graft Investigation and Prosecution Officer (GIPO) III, Christine Carol A. Casela-Doctor; reviewed by Reviewing GIPO III and Head of Zero Backlog Unit, Margie G. Fernandez-Calpatura, Evaluation and Investigation Office; and approved by Ombudsman Conchita

dismissed Atty. Mandagan's complaint for lack of merit. It held that since the case is about the encroachment of the questioned *barangay* health center in the portion of her purported property, Atty. Mandagan should have just filed the appropriate civil case against the alleged intruder instead of initiating a meritless action against Mr. Diaz and the members of the *Sangguniang Panlungsod*. The Ombudsman further held that for Atty. Mandagan's failure to substantiate her allegations that Mr. Diaz and the members of the *Sangguniang Panlungsod* conspired and confederated in grabbing her property through the construction of the *barangay* health center, she failed to prove that Mr. Diaz and the members of the *Sangguniang Panlungsod* gravely abused their authority, committed Grave Misconduct, and violated RA 3019 and RA 6713.¹⁰

For initiating a frivolous and meritless Ombudsman case against him, Mr. Diaz filed with the IBP Commission on Bar Discipline (CBD) the instant administrative case against Atty. Mandagan on December 21, 2015, arguing that she violated Section 27,¹¹ Rule 138 of the Rules of Court and the Code of Professional Responsibility (CPR).¹²

The IBP-CBD Report and Recommendation

In the Report and Recommendation¹³ dated June 27, 2017, the IBP-CBD found that Atty. Mandagan violated the CPR. It held that “[Atty. Mandagan] perjured herself by recklessly, whimsically[,] and capriciously filing unsubstantiated and false charges against [Mr.

Carpio Morales.

¹⁰ *Id.* at 38-40.

¹¹ Section 27, Rule 138 of the Rules of Court, as amended by the Court Resolution dated February 13, 1992, provides:

Section 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 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.

The disbarment or suspension of a member of the Philippine Bar by a competent court or other disciplinary agency in a foreign jurisdiction where he has also been admitted as an attorney is a ground for his disbarment or suspension if the basis of such action includes any of the acts hereinabove enumerated.

The judgment, resolution or order of the foreign court or disciplinary agency shall be *prima facie* evidence of the ground for disbarment or suspension.

¹² See Complaint dated December 10, 2015, *rollo*, pp. 1-9.

¹³ *Id.* at 209-218.

Diaz].”¹⁴ The IBP-CBD opined that Atty. Mandagan's concern about the alleged land grabbing of her property should have been addressed in an appropriate civil case to determine her right over the disputed portion of her property. It further held that in filing a frivolous complaint against Mr. Diaz, Atty. Mandagan made a mockery of the legal process in violation of Canon 1¹⁵ of the CPR and Rules 1.01,¹⁶ 10.01,¹⁷ and 10.03¹⁸ of the Code. As such, the IBP-CBD recommended that Atty. Mandagan be suspended from the practice of law for a period of two (2) years.¹⁹

Resolution of the IBP Board of Governors

On May 19, 2018, the IBP Board of Governors passed a Resolution²⁰ which resolved to adopt the findings of fact and recommendation of the IBP Investigating Commissioner, suspending Atty. Mandagan from the practice of law for two (2) years.

Atty. Mandagan filed a Motion for Reconsideration (with Reservation to File Supplement)²¹ of the Resolution of the IBP-CBD, as adopted by the IBP Board of Governors.

On November 22, 2018, Atty. Mandagan then filed an Appearance with Motion for Leave to File Instant Supplemental Motion for Reconsideration.²²

¹⁴ *Id.* at 217.

¹⁵ Canon 1 of the Code of Professional Responsibility (CPR) provides:

Canon 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

¹⁶ Rule 1.01 of the CPR provides:

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

¹⁷ Rule 10.01 of the CPR provides:

Rule 10.01 — A lawyer shall not do any falsehood; nor consent to the doing of any in Court, nor shall he mislead or allow the Court to be misled by any artifice.

¹⁸ Rule 10.03 of the CPR provides:

Rule 10.03 — A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

¹⁹ *Rollo*, pp. 217-218.

²⁰ *Id.* at 208, 272.

²¹ *Id.* at 219-221.

²² *Id.* at 242-251.

In the Resolution²³ dated February 16, 2019, the IBP Board of Governors partially granted the motion and reduced the penalty to suspension from the practice of law for one (1) year.

Aggrieved, Atty. Mandagan filed a Verified Petition for Review²⁴ contesting her suspension for one (1) year.

Issue

Whether Atty. Mandagan violated the CPR when she filed before the Ombudsman her unsubstantiated and meritless complaint against Mr. Diaz.

The Court's Ruling

The Court agrees with the IBP Board of Governor's findings.

In determining whether Atty. Mandagan should be liable for transgressing the pertinent provisions of the CPR, the Court first examines the soundness and reasonableness of the complaint filed by Atty. Mandagan against Mr. Diaz for the latter's alleged violation of RA 3019, RA 6713, Grave Abuse of Authority, and Grave Misconduct.

Notably, the dispute arose from the construction, rehabilitation, and repair of the *barangay* health center which allegedly encroached upon Atty. Mandagan's property without her consent. Atty. Mandagan accused Mr. Diaz to have authored the construction. According to her, it was Mr. Diaz who approved the resolution of the *Sangguniang Panlungsod* for the construction and rehabilitation of the project, and that Mr. Diaz and the members of the *Sangguniang Panlungsod* committed irregularities in the construction of the *barangay* health center by misappropriating public funds and by giving unwarranted benefits to SMT Construction.²⁵

²³ *Id.* at 273.

²⁴ *Id.* at 256-261.

²⁵ *Id.* at 12-14.

Notwithstanding the seriousness of her accusations against Mr. Diaz, Atty. Mandagan curiously adduced no evidence to support her allegations. As aptly observed by the IBP, the documents attached by Atty. Mandagan to her complaint merely pertained to her purported ownership of the portion encroached upon by the newly constructed and upgraded *barangay* health center. Atty. Mandagan could have at least presented proof that Mr. Diaz caused the construction and rehabilitation of the *barangay* health center, but she did not.

On the contrary, Mr. Diaz adduced several pieces of relevant evidence to refute the unsubstantiated accusations of Atty. Mandagan. In clarifying that the questioned construction and rehabilitation of the *barangay* health center was an undertaking of the DOH (not by the City of Ilagan, Province of Isabela) and that the structures were built on the property declared in the name of the Government of Ilagan, Isabela, Mr. Diaz presented the following pieces of evidence:

1. Notice of Award²⁶ dated September 3, 2014 issued by the DOH to SMT Construction awarding the construction/rehabilitation/upgrading of Local Government Unit (LGU)-Health Facilities at Alibagu and Osmeña after a competitive bidding;
2. Contract Agreement²⁷ dated September 22, 2014 between the DOH and SMT Construction for the construction/rehabilitation/upgrading of LGU-Health Facilities at Alibagu and Osmeña;
3. Notice to Proceed²⁸ dated September 22, 2014 addressed to SMT Construction;
4. Letter²⁹ dated September 26, 2014 of Samuel M. Toribio (Toribio), who is the owner/proprietor of SMT Construction, addressed to Rio L. Magpantay (Magpantay), Director IV of the DOH requesting for a pre-construction conference;

²⁶ *Id.* at 16.

²⁷ *Id.* at 17-18.

²⁸ *Id.* at 19; signed by Director IV and Head of Procuring Entity, Rio L. Magpantay, MD, PHSAE, CESO III, of the Center for Health Development Cagayan Valley, Department of Health.

²⁹ *Id.* at 20.

5. Letter³⁰ dated November 19, 2014 of Toribio addressed to Magpantay of the DOH, advising the latter that the project had been fully completed and requesting for the first and final billing;
6. Certificate of Completion³¹ issued by the Regional Office II of the DOH;
7. Obligation Request Form³² of the DOH Regional Office II indicating payment to SMT Construction of the amount of ₱482,993.47;
8. Disbursement Voucher³³ issued by the DOH approving payment to SMT Construction of ₱428,656.70;
9. Certification³⁴ dated March 9, 2015 issued by Myrna V. Isidro, City Council Secretary of the Office of the *Sangguniang Panlungsod*, City of Ilagan, Province of Isabela, certifying that there was no Resolution or Appropriation Ordinance passed and approved by the *Sangguniang Panlungsod* approving any amount for the construction/rehabilitation/repair of the *barangay* health center in Brgy. Alibagu, City of Ilagan, Province of Isabela in 2014.
10. Certification³⁵ dated March 9, 2015 issued by Ramelo M. Macutay, City Accountant, certifying that there was no transaction/disbursement of funds for the construction/rehabilitation/repair of the *barangay* health center in Brgy. Alibagu, City of Ilagan, Province of Isabela in 2014;
11. Certification³⁶ dated March 9, 2015 issued by Engr. Romeo C. Garcia of the office of the City Planning and Development

³⁰ *Id.* at 21.

³¹ *Id.* at 23.

³² *Id.* at 24.

³³ *Id.* at 25.

³⁴ *Id.* at 26.

³⁵ *Id.* at 27.

³⁶ *Id.* at 28.

Coordinator, certifying that the construction/rehabilitation/repair of the *barangay* health center in Brgy. Alibagu, City of Ilagan, Province of Isabela is not included in the 2014 Annual Investment Plan funded under the city's 2% Economic Development Fund;

12. Certification³⁷ dated March 9, 2015 issued by Mercedes P. Yadao, City Budget Officer, certifying that no existing appropriation and allotment of obligation were made by her office for the payment of the construction/rehabilitation/repair of the *barangay* health center in Alibagu, Ilagan, Isabela in 2014;
13. Certification³⁸ dated March 9, 2015 issued by Delia A. Pararuan, City Treasurer, certifying that there was no payment made by her office for the cost of the construction/rehabilitation/repair of the *barangay* health center in Alibagu, Ilagan, Isabela in 2014;
14. Certification³⁹ dated March 10, 2015 issued by Norma C. Gañgan, City Assessor, certifying that based on the tax mapping conducted by her office and records available, the buildings, structures and edifices introduced by the *Barangay* Government of Alibagu were erected in the property declared in the name of the Municipal Government of Ilagan, Isabela;
15. Certification⁴⁰ dated March 17, 2015 by Carlos S. Rosales, State Auditor IV of the Commission on Audit, stating that the City Government of Ilagan made no appropriation or disbursement of funds for the construction/rehabilitation/repair of the *barangay* health center in Alibagu, Ilagan, Isabela in 2014;

From the foregoing undisputed pieces of evidence presented by Mr. Diaz, the structures of the questioned *barangay* health center were erected in the property declared in the name of the Government of Ilagan, Isabela, not in the purported property of Atty. Mandagan. Moreover, the project was indeed an undertaking of the DOH, not by the City of Ilagan, Isabela. Apparently, the serious accusations hurled by

³⁷ *Id.* at 29.

³⁸ *Id.* at 30.

³⁹ *Id.* at 31.

⁴⁰ *Id.* at 32.

Atty. Mandagan against Mr. Diaz were baseless. With these groundless averments, it appears that Atty. Mandagan instituted the criminal action against Mr. Diaz without due and proper investigation of the case and without due regard to his rights. The Ombudsman, thus, correctly dismissed her complaint for lack of merit. In filing the meritless Ombudsman complaint against Mr. Diaz, the Court agrees with the IBP that Atty. Mandagan violated the following pertinent provisions of the CPR:

Canon 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

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

X X X X

Canon 10 — A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 — A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead or allow the Court to be misled by any artifice.

X X X X

Rule 10.03 — A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

As a member of the bar, Atty. Mandagan should have employed only such means as are consistent with laws, legal processes, truth and honor. Owing candor, fairness and good faith to the court, she should have not prosecuted her patently frivolous and meritless complaint, or instituted a clearly groundless action before the Ombudsman. Being a member of the bar, Atty. Mandagan should have known better not to misuse legal processes to defeat the ends of justice. As correctly opined by both the Ombudsman and the IBP Investigating Commissioner, Atty. Mandagan could have merely filed the appropriate case to remove any encroachment on her purported property. There was no need to concoct accusations against Mr. Diaz to gain improper advantage over him. Indubitably, Atty. Mandagan violated the CPR.

Based on the foregoing, the Court concludes that Atty. Mandagan committed an act of professional misconduct and thereby failed to live up to the exacting ethical standards imposed on members of the bar. Given her present violation and her past record of already having been suspended for one (1) year and sternly warned by the Court for being guilty of violating Canon 16,⁴¹ Rule 16.01,⁴² and Rule 16.03⁴³ of the CPR in A.C. No. 11128,⁴⁴ Atty. Mandagan exhibits her inclination to disregard court rules and set aside her responsibility in maintaining orderly administration of justice. As such, the Court finds proper her suspension from the practice of law for two (2) years as recommended by the IBP-CBD.

WHEREFORE, Atty. Maria Nympha C. Mandagan is found **GUILTY** of violating Rule 1.01, Canon 1, and Rules 10.01 and 10.03, Canon 10 of the Code of Professional Responsibility. Accordingly, she is **SUSPENDED** from the practice of law for a period of two (2) years effective upon her receipt of this Decision, with a **STERN WARNING** that a repetition of the similar acts will be dealt with more severely.

The suspension in the practice of law shall take immediately upon receipt of this Decision by respondent Atty. Maria Nympha C. Mandagan. She is **DIRECTED** to immediately file a Manifestation to the Court that her suspension has started, copy furnish all courts and quasi-judicial bodies where she has entered her appearance as counsel.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to respondent Atty. Maria Nympha C. Mandagan's personal record, and the Office of the Court Administrator and the Integrated Bar of the Philippines for their information and guidance.

⁴¹ Canon 16 of the CPR provides:

Canon 16 — A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.

⁴² Rule 16.01 of the CPR provides:

Rule 16.01 — A lawyer shall account for all money or property collected or received for or from the client.

⁴³ Rule 16.03 of the CPR provides:

Rule 16.03 — A lawyer shall deliver the funds and property of his client when due or upon demand.

However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

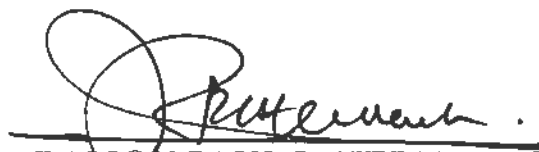
⁴⁴ *Ramos v. Atty. Mandagan*, 784 Phil. 14 (2016).

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice