



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 September 2020** which reads as follows:*

“A.C. No. 11916 – Jimmy Mantabote Perdigon v. Atty. Jesus Y. Bautista, Jr.) - Complainant Jimmy Mantabote Perdigon (Perdigon), then a member of the police force, filed a Complaint-Affidavit¹ before the Commission on Bar Discipline (CBD) of the Integrated Bar of Philippines (IBP) docketed as CBD Case No. 15-4575 against Atty. Jesus Y. Bautista, Jr. (Atty. Bautista) for allegedly violating the Lawyer’s Oath and for conduct unbecoming of a lawyer.²

Perdigon averred that Atty. Bautista, together with other personalities, were responsible for the false report that caused his work reassignment. Atty. Bautista also allegedly employed several harassment tactics against him and his family and caused disturbances in his own home.³

Perdigon recalled that in the evening of November 22, 2013, a group of people attempted to enter their house through the back door. He was alerted by the attempted break-in and noticed that the windows of their rooms were broken. He heard another breakage and pursued the perpetrators as they were attempting to escape. With the aid of his handheld torchlight, he saw Junny Damalerio (Damalerio) and recognized the voice of Senior Inspector Quirino Geolagon (Gealagon).⁴

While pursuing Damalerio, he also chanced upon Barangay Kagawad Felipe Tabanera (Tabanera). An armed struggle ensued between him and Tabanera wherein he sustained knife wounds. During the brawl, another person hit him with a wooden pole and when he turned around, he saw Atty. Bautista

¹ *Rollo*, pp. 2-5.

² *Id.* at 2.

³ *Id.* at 2-3.

⁴ *Id.* at 4.

from a distance. Perdigon threw a stone at Atty. Bautista. When he was about to lose consciousness, he tried to go back to his house but he was suddenly assaulted by a group of armed policemen in civilian clothes and Cesar Ligaspe (Ligaspe)⁵ who was armed with a *bolo*. He immediately escaped and rode a multi-cab to the hospital to seek medical treatment. He was subsequently confined due to the injuries that he sustained from the encounter.⁶

Due to the direct involvement of Atty. Bautista in the criminal incident that happened to him on November 22, 2013, he prayed that Atty. Bautista be meted out with the appropriate disciplinary action.⁷

In his Answer/Counter-Affidavit,⁸ Atty. Bautista denied all the accusations of Perdigon. He maintained that he actually represented Perdigon in the various cases he faced when he was still a member of the police force including an administrative case for grave misconduct filed by the Regional Internal Affairs Service 7 and another grave misconduct case in the Province of Siquijor for being present in the cockpit vicinity while in uniform.⁹

Atty. Bautista countered that in the morning of November 22, 2013, Perdigon went to his house asking him to draft a "Last Will and Testament" to disinherit his wife. Atty. Bautista refused because he will not be able to accomplish it since there was an on-going electrical black-out brought about by the recent earthquake in their province. Perdigon, nonetheless, returned five times demanding that he give him what he wants. Atty. Bautista repeatedly refused and observed that Perdigon's actions were no longer normal. When Perdigon left, he just went on with his day and spent his time with his family and had an uneventful evening.¹⁰

In the early morning of November 23, 2013, Atty. Bautista learned that Perdigon hacked Tabanera the night before. He was informed that Perdigon was detained in the city jail while Tabanera was in critical condition.¹¹ In the same morning, Benigna Tabanera Pandan, sister of Tabanera, approached him to represent Tabanera in filing a case against Perdigon. Atty. Bautista instantly refused since he was Perdigon's former legal counsel.¹²

Eventually, Atty. Bautista learned that Tabanera filed cases of Frustrated Murder and violation of the COMELEC Ban docketed as NPS VII-14-INQ-

⁵ Also referred to as "Legaspi" in the records, id. at 43-44.

⁶ Id at 5.

⁷ Id. at 2.

⁸ Id. at 26-32.

⁹ Id. at 26-27.

¹⁰ Id. at 27.

¹¹ Id. at 27-28.

¹² Id. at 28.

13K-0232 and NPS VII-14-INV-13K-0233,¹³ respectively, against Perdigon.¹⁴ Relatives of Perdigon pleaded that he represent Perdigon but he refused their pleas to avoid any conflict of interest, considering that he is a distant relative of Tabanera.¹⁵

Soon after, Atty. Bautista also learned that cases for Frustrated Murder were filed by Perdigon before the Office of the Prosecutor of Tagbilaran City involving the same November 22, 2013 incident. In fact, Perdigon filed duplicate complaints for Frustrated Murder docketed as NPS VII-14-INV-13L 0476-A¹⁶ against Tabanera, Damalerio and John Does and another complaint for the same cause of action docketed as NPS No. VII-14-INV-14F-0336¹⁷ but this time implicating Ligaspe, Tabanera, Damalerio, Geologon, PO2 Arnold Pilayre and himself.¹⁸

Both cases filed by Perdigon alleged that he was attacked and that the assailants intended to kill him. The cases, however, were dismissed for lack of probable cause and forum shopping.¹⁹

Atty. Bautista posited that the administrative complaint was an off-shoot of the November 22, 2013 incident and a mere retaliatory act of Perdigon. He maintained that all charges were fabricated by Perdigon to harass him as he even received text messages from Perdigon warning him that he will fabricate more cases against him.²⁰

Moreover, in the cases filed by Tabanera against Perdigon, it was already established that Perdigon was the assailant and that Atty. Bautista was not present during the incident nor was he involved in the alleged crime.²¹

Report and Recommendation of the IBP:

The CBD scheduled a Mandatory Conference but the parties failed to attend.²² Meanwhile, Atty. Bautista filed an Urgent Motion to Dismiss²³ reiterating that the complaint was anchored on concocted stories and on false accusations. He also reported that Perdigon already died and the case for Frustrated Murder was already dismissed.²⁴

¹³ Id. at 50-54.

¹⁴ Id. at 28.

¹⁵ Id.

¹⁶ Id. at 56-61

¹⁷ Id. at 42.

¹⁸ Id. at 28-29.

¹⁹ Id. at 28-30.

²⁰ Id. at 29-30.

²¹ Id. at 29, 50-54.

²² Id. at 68-69.

²³ Id. at 88-89.

²⁴ Id. at 88-91.

In the Report and Recommendation²⁵ of Investigating Commissioner Gilbert L. Macatangay, he recommended the dismissal of the administrative complaint against Atty. Bautista. The Investigating Commissioner ratiocinated that the lawyer enjoys the presumption of innocence and the burden of proof rests upon the complainant since the Court will exercise its disciplinary power only if the complainant was able to establish his case by substantial evidence. In the case before him, Perdigon failed to discharge his burden. Hence, the case should be dismissed.²⁶

In its Resolution No. XXII-2017-712 dated January 26, 2017, the IBP Board of Governors affirmed the findings and the recommendation of the Investigating Commissioner to dismiss the complaint against Atty. Bautista.²⁷

Our Ruling

We adopt the findings of the IBP and approve its recommendation to dismiss the complaint for lack of merit.

Preliminarily, this Court addresses the Ex Parte Motion to Set the Case for Further Proceedings with Prayer for Dismissal²⁸ filed by Atty. Bautista before this Court. He insists that it was only when he tried to secure a clearance from the Office of the Bar Confidant for the renewal of his notarial commission that he learned about the present case before Us. He strongly invokes the recommendation of the IBP to dismiss the complaint since the case is a duplication of Perdigon's complaint in CBD Case No. 15-4575 and is a clear violation of the Anti-Forum Shopping Law.²⁹

Under Sec. 5, Rule 139-B of the Rules of Court, this Court has the power to review the findings and recommendation of the IBP, to *wit*:

Section 5. Service or dismissal. — If the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant **and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complainant.**

²⁵ Id. at 99-101.

²⁶ Id. at 100-101.

²⁷ Id. at 97-98.

²⁸ Id. at 104-106.

²⁹ Id. at 105.

No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same, unless the Supreme Court motu proprio or upon recommendation of the IBP Board of Governors, determines that there is no compelling reason to continue with the disbarment or suspension proceedings against the respondent. (Amendment pursuant to Supreme Court Resolution dated May 27, 1993 re Bar Matter 356). [Emphasis Ours]

Moreover, Section 12, Rule 139-B of the Rules of Court provides that the finding of the IBP is merely recommendatory and the final action rests with this Court.

In the case at bar, CBD Case No. 15-4575 was merely elevated to this Court for review and is presently docketed as A.C. No. 11916. Accordingly, Atty. Bautista was duly notified of the present case and his motion to dismiss on the ground of forum shopping is misplaced considering that A.C. No. 11916 and CBD Case No. 15-4575 are one and the same.

We also note the supervening death of Perdigon during the pendency of this case. The death of the complainant does not at all affect the investigation and the outcome of the case. Jurisprudence holds that the death of the complainant does not warrant the withdrawal of the charges against the respondent nor does this development render the complaint moot; the complainant is treated only as a witness in this type of proceedings.³⁰

Since the death of Perdigon has no material effect in the investigation and in the resolution of the case, this Court retains its jurisdiction.

On to the merits of the case, it is well to remember that in disbarment proceedings, the burden of proof rests upon the complainant. For the Court to exercise its disciplinary powers, the case against the respondent must be established by substantial evidence.³¹ Considering the serious consequences of the disbarment or suspension of a member of the Bar, the Court has consistently held that substantial evidence is necessary to justify the imposition of administrative penalty on a member of the Bar.

In the instant case, apart from the bare allegations and self-serving statements of the complainant, he failed to adduce competent evidence to bring forward his case against Atty. Bautista thereby warranting the dismissal of the instant case. This Court thus finds no reason not to adopt and approve the findings and conclusion of the IBP.


³⁰ See *Mercado v. Salcedo*, 619 Phil. 3 (2009).

³¹ *Francia v. Atty. Abdon*, 739 Phil. 308 (2014).

WHEREFORE, the Court **ADOPTS** the findings of fact and **APPROVES** the recommendation of the Integrated Bar of the Philippines. Accordingly, the complaint against Atty. Jesus Y. Bautista, Jr. is hereby **DISMISSED** for lack of merit. This case is considered **CLOSED** and **TERMINATED**.

SO ORDERED." (Baltazar-Padilla, J., on leave.)

By authority of the Court:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
16 SEP 2020 j 9/16

JIMMY M. PERDIGON (reg)
Complainant
Purok 1, Manga-Tiptip Rd., Manga District
Tagbilaran City, Bohol

ATTY. JESUS Y. BAUTISTA, JR. (reg)
Respondent
Purok 1, Manga-Tiptip Rd., Manga District
Tagbilaran City, Bohol

INTEGRATED BAR OF THE PHILIPPINES (reg)
Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

THE BAR CONFIDANT (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
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OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

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