



Republic of the Philippines  
Supreme Court  
Manila

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JAN 29 2019  
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TIME: 11:25

ATTY. HERMINIO HARRY L.  
ROQUE, JR.,

Complainant,

- versus -

ATTY. RIZAL P. BALBIN,  
Respondent.

A.C. No. 7088

Present:

BERSAMIN, C.J.,  
CARPIO,  
PERALTA,  
DEL CASTILLO,  
PERLAS-BERNABE,  
LEONEN,  
JARDELEZA,  
CAGUIOA,  
TIJAM,  
A. REYES, JR.,  
GESMUNDO,  
J. REYES, JR.,  
HERNANDO, and  
CARANDANG,\* JJ.

Promulgated:

December 4, 2018

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**DECISION**

**PERLAS-BERNABE, J.:**

For the Court's resolution is a verified complaint/affidavit<sup>1</sup> dated March 1, 2006 filed before the Court by complainant Atty. Herminio Harry L. Roque, Jr. (complainant) against respondent Atty. Rizal P. Balbin (respondent) praying that the latter be subjected to disciplinary action for his alleged unprofessional conduct.

\* On leave.  
<sup>1</sup> Rollo, pp. 1-21.

*[Handwritten mark]*

### The Facts

Complainant alleged that he was the plaintiff's counsel in a case entitled *FELMAILEM, Inc. v. Felma Mailem*, docketed as Civil Case No. 2004-307 before the Metropolitan Trial Court of Parañaque City, Branch 77 (MeTC). Shortly after securing a favorable judgment for his client,<sup>2</sup> herein respondent—as counsel for the defendant, and on appeal—started intimidating, harassing, blackmailing, and maliciously threatening complainant into withdrawing the case filed by his client. According to complainant, respondent would make various telephone calls and send text messages and e-mails not just to him, but also to his friends and other clients, threatening to file disbarment and/or criminal suits against him. Further, and in view of complainant's "high profile" stature, respondent also threatened to publicize such suits in order to besmirch and/or destroy complainant's name and reputation.<sup>3</sup>

Initially, respondent moved for an extension of time to file his comment,<sup>4</sup> which was granted by the Court.<sup>5</sup> However, respondent failed to file his comment despite multiple notices, prompting the Court to repeatedly fine him and even order his arrest.<sup>6</sup> To date, the orders for respondent's arrest<sup>7</sup> remain unserved and are still standing.<sup>8</sup> Eventually, the Court dispensed with respondent's comment and forwarded the records to the Integrated Bar of the Philippines (IBP) for its investigation, report, and recommendation.<sup>9</sup>

### The IBP's Report and Recommendation

In a Report and Recommendation<sup>10</sup> dated August 3, 2016, the Investigating Commissioner found respondent administratively liable, and accordingly, recommended that he be suspended from the practice of law for a period of one (1) year, with a warning that a repetition of the same or similar infractions in the future shall merit more severe sanctions.<sup>11</sup>

The Investigating Commissioner found that instead of availing of the procedural remedies to assail the adverse MeTC ruling in order to further his client's cause, respondent resorted to crudely underhanded tactics directed at the opposing litigant's counsel, *i.e.*, herein complainant, by personally

<sup>2</sup> See Decision dated November 9, 2005 penned by Judge Donato H. De Castro; *id.* at 22-25.

<sup>3</sup> See *id.* at 476-477.

<sup>4</sup> See Motion for Extension to File Comment dated June 13, 2006; *id.* at 36.

<sup>5</sup> See Notice of Resolution dated December 4, 2006; *id.* at 37.

<sup>6</sup> See Notices of Resolution dated March 19, 2008 (*id.* at 41-42), August 10, 2009 (*id.* at 46-47), April 13, 2011 (*id.* at 51-52), and January 23, 2013 (*id.* at 130-131).

<sup>7</sup> See Warrant of Arrest dated April 13, 2011 (*id.* at 53-54) and Alias Order of Arrest and Commitment dated January 23, 2013 (*id.* at 132-133).

<sup>8</sup> See Resolution dated April 17, 2013; *id.* at 152-153.

<sup>9</sup> *Id.* at 152.

<sup>10</sup> *Id.* at 474-482. Signed by Commissioner Rico A. Limpingco.

<sup>11</sup> *Id.* at 481-482.

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attacking the latter through various modes of harassment and intimidation. According to the Investigating Commissioner, such acts constitute a gross violation of Canon 8 of the Code of Professional Responsibility (CPR), and the fact that respondent failed to cow complainant into submission cannot mitigate his liability as the same reveals respondent's distastefully disturbing moral character.<sup>12</sup>

In a Resolution<sup>13</sup> dated May 27, 2017, the IBP Board of Governors adopted the Investigating Commissioner's report and recommendation *in toto*.

### **The Issue Before the Court**

The essential issue in this case is whether or not respondent should be administratively sanctioned for the acts complained of.

### **The Court's Ruling**

Lawyers are licensed officers of the courts who are empowered to appear, prosecute, and defend; and upon whom peculiar duties, responsibilities, and liabilities are devolved by law as a consequence. Membership in the Bar imposes upon them certain obligations. Mandated to maintain the dignity of the legal profession, they must conduct themselves honorably and fairly.<sup>14</sup> To this end, Canon 8 of the CPR commands, to wit:

CANON 8 – A lawyer shall conduct himself with courtesy, fairness and candor towards his professional colleagues, and shall avoid harassing tactics against opposing counsel.

Case law instructs that “[l]awyers should treat their opposing counsels and other lawyers with courtesy, dignity[,] and civility. A great part of their comfort, as well as of their success at the bar, depends upon their relations with their professional brethren. Since they deal constantly with each other, they must treat one another with trust and respect. Any undue ill feeling between clients should not influence counsels in their conduct and demeanor toward each other. Mutual bickering, unjustified recriminations[,] and offensive behavior among lawyers not only detract from the dignity of the legal profession, but also constitute highly unprofessional conduct subject to disciplinary action.”<sup>15</sup>

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<sup>12</sup> See *id.* at 480-481.

<sup>13</sup> See Notice of Resolution in Resolution No. XXII-2017-1106 signed by National Secretary Patricia-Ann T. Prodigalidad; *id.* at 472-473.

<sup>14</sup> *Reyes v. Chiong, Jr.*, 453 Phil. 99, 104 (2003), citing *Cui v. Cui*, 120 Phil. 725, 729 (1964).

<sup>15</sup> *Id.* at 106, citing *Narido v. Linsangan*, 157 Phil. 87, 91 (1974).

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In this case, respondent's underhanded tactics against complainant were in violation of Canon 8 of the CPR. As aptly pointed out by the Investigating Commissioner, instead of availing of remedies to contest the ruling adverse to his client, respondent resorted to personal attacks against the opposing litigant's counsel, herein complainant. Thus, it appears that respondent's acts of repeatedly intimidating, harassing, and blackmailing complainant with purported administrative and criminal cases and prejudicial media exposures were performed as a tool to return the inconvenience suffered by his client. His actions demonstrated a misuse of the legal processes available to him and his client, especially considering that the aim of every lawsuit should be to render justice to the parties according to law, not to harass them.<sup>16</sup> More significantly, the foregoing showed respondent's lack of respect and despicable behavior towards a colleague in the legal profession, and constituted conduct unbecoming of a member thereof.

Furthermore, respondent's aforesaid acts of threatening complainant with the filing of baseless administrative and criminal complaints in an effort to strong-arm the latter and his client into submission not only contravened the Lawyer's Oath, which exhorts that a lawyer shall "not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same," but also violated Canon 19 and Rule 19.01 of the CPR. In *Aguilar-Dyquiango v. Arellano*,<sup>17</sup> the Court held:

Canon 19 of the Code of Professional Responsibility states that "a lawyer shall represent his client with zeal within the bounds of the law," reminding legal practitioners that a lawyer's duty is not to his client but to the administration of justice; to that end, his client's success is wholly subordinate; and his conduct ought to and must always be scrupulously observant of law and ethics. In particular, Rule 19.01 commands that a "lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding." Under this Rule, **a lawyer should not file or threaten to file any unfounded or baseless criminal case or cases against the adversaries of his client designed to secure a leverage to compel the adversaries to yield or withdraw their own cases against the lawyer's client.**<sup>18</sup> (Emphasis and underscoring supplied)

To aggravate further respondent's administrative liability, the Court notes that respondent initially moved for an extension of time to file comment but did not file the same, prompting the Court to repeatedly fine him and order his arrest. Such audacity on the part of respondent – which caused undue delay in the resolution of this administrative case – is a violation of Canon 11, Canon 12, Rule 12.03, and Rule 12.04 of the CPR, which respectively read:

<sup>16</sup> See *id.*, citing *Aguinaldo v. Aguinaldo*, 146 Phil. 726, 731 (1970).

<sup>17</sup> 789 Phil. 600 (2016).

<sup>18</sup> *Id.* at 616, citing *Pena v. Aparicio*, 552 Phil. 512, 523 (2007).

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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.

X X X X

CANON 12 – A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

X X X X

Rule 12.03 – A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

Verily, respondent's acts of seeking for extension of time to file a comment, and thereafter, failing to file the same and ignoring the numerous directives not only indicated a high degree of irresponsibility, but also constituted utter disrespect to the judicial institution. The orders of the Court are not to be construed as a mere request, nor should they be complied with partially, inadequately, or selectively; and the obstinate refusal or failure to comply therewith not only betrays a recalcitrant flaw in the lawyer's character, but also underscores his disrespect to the lawful orders of the Court which is only too deserving of reproof.<sup>19</sup> Undoubtedly, the Court's patience has been tested to the limit by what in hindsight amounts to a lawyer's impudence and disrespectful bent. At the minimum, members of the legal fraternity owe courts of justice respect, courtesy, and such other becoming conduct essential in the promotion of orderly, impartial, and speedy justice. What respondent has done was the exact opposite; hence, he must be disciplined accordingly.<sup>20</sup>

Having established respondent's administrative liability, the Court now determines the proper penalty to be imposed on him.

Case law provides that in similar instances where lawyers made personal attacks against an opposing counsel in order to gain leverage in a case they were involved in, the Court has consistently imposed upon them the penalty of suspension from the practice of law. In *Reyes v. Chiong, Jr.*,<sup>21</sup> the lawyer who filed a baseless civil suit against an opposing counsel just to obtain leverage against an *estafa* case being handled by such lawyer was suspended from the practice of law for a period of two (2) years. Similarly, in *Vaflor-Fabroa v. Paguinto*,<sup>22</sup> the erring lawyer was suspended for the

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<sup>19</sup> See *Vaflor-Fabroa v. Paguinto*, 629 Phil. 230, 236 (2010), citing *Sebastian v. Bajar*, 559 Phil. 211, 224 (2007).

<sup>20</sup> See *Spouses Lopez v. Limos*, 780 Phil. 113, 123 (2016).

<sup>21</sup> *Supra* note 14.

<sup>22</sup> *Supra* note 19.


same period for not only causing the filing of baseless complaints against the opposing counsel, but also in failing/refusing to file a comment in the administrative case against her despite obtaining an extension to file the same. In view of the foregoing, the Court finds it appropriate to increase the penalty to be meted out to respondent to suspension from the practice of law for a period of two (2) years.

**WHEREFORE**, respondent Atty. Rizal P. Balbin is found guilty of violating Canon 8, Canon 11, Canon 12, Rule 12.03, Rule 12.04, Canon 19, and Rule 19.01 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of two (2) years, effective immediately upon his receipt of this Decision. He is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

Further, he is **DIRECTED** to report to this Court the date of his receipt of this Decision to enable it to determine when his suspension from the practice of law shall take effect.

Let copies of this Decision be furnished to: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.


**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice


**WE CONCUR:**

  
**LUCAS P. BERSAMIN**  
Chief Justice

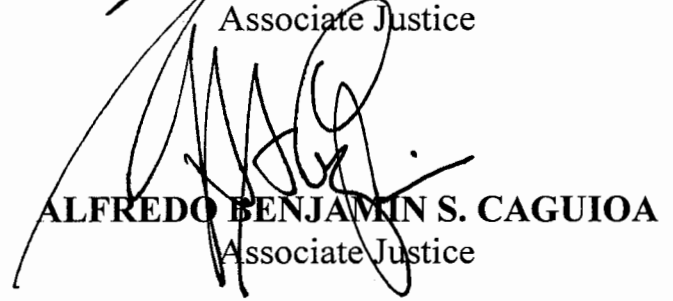
  
**ANTONIO T. CARPIO**  
Senior Associate Justice

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

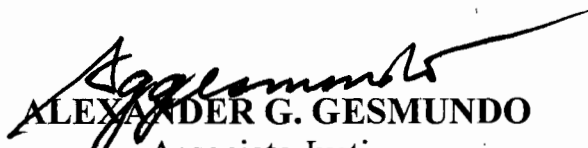
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

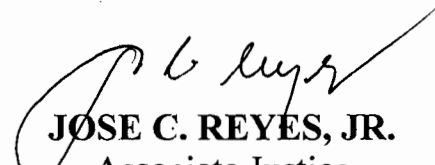
  
**FRANCIS H. JARDELEZA**  
Associate Justice


  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**NOEL GIMENEZ TIJAM**  
Associate Justice

  
**ANDRES B. REYES, JR.**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**On leave**  
**ROSMARI D. CARANDANG**  
Associate Justice