



REPUBLIC OF THE PHILIPPINES
 SUPREME COURT
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:

"A.C. No. 9933 — DR. ORLANDO B. MOLINA, petitioner, versus ATTY. MERITO LOVENSKY R. FERNANDEZ, respondent.

x-----x

Dr. Orlando B. Molina (Dr. Molina) filed before the Court a disbarment Complaint¹ dated May 29, 2013 against respondent Atty. Merito Lovensky R. Fernandez (Atty. Fernandez) for violation of the Lawyer's Oath, Rule 1.01 of Canon 1, Rule 7.03 of Canon 7, Rule 8.01 of Canon 8 and Rule 10.01 of Canon 10 of the Code of Professional Responsibility (CPR).² Dr. Molina is the former President of the University of Caloocan City and the Trinity University of Asia, while Atty. Fernandez is the counsel of the President of the Polytechnic University of the Philippines (PUP), Dr. Emanuel De Guzman (Dr. De Guzman).³

Dr. Molina alleged that he filed a Complaint/Petition⁴ dated December 12, 2012 before the Civil Service Commission (CSC) for the nullification of Dr. De Guzman's selection as PUP President. Moreover, Dr. Molina filed a Complaint⁵ dated October 11, 2012 before the Regional Trial Court (RTC) to forestall Dr. De Guzman's formal investiture. Furthermore, Dr. Molina submitted a letter⁶ dated September 10, 2012 before the CSC, stating that he is one of those who vied for the PUP Presidency and that he would like to verify Dr. De Guzman's date of college graduation.

In compliance with CSC's order for comment on Dr. Molina's letter, Dr. De Guzman, through Atty. Fernandez, submitted a Comment⁷ dated October 18, 2012 before the CSC. In the present complaint, Dr. Molina quoted parts of Dr. De Guzman's Comment, to wit:

c. Original CERTIFICATION dated June 8, 2012 issued by Atty. Julito D. Vitriolo, CESO III, Executive Director of the Commission on Higher Education certifying and evaluating and authenticating the Doctorate Degree obtained from Manchester University of the good President x x x[.]

x x x x

10. Complainant Molina is merely a disgruntled sore loser who is apparently on a hopeless fishing expedition and crazy witch hunt made

¹ Rollo, pp. 1-9.

² Id. at 87.

³ Id. at 1.

⁴ Id. at 10-20.

⁵ Id. at 48-58.

⁶ Id. at 75.

⁷ Id. at 76-86.

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solely for the purpose of harassing and blackmailing the President. Molina is nothing but a faultfinder who is desperately vying a vice presidency post which was not alluded by the President. This desperate act of Molina in filing this frivolous and flimsy complaint is merely intended to pressure the good President to give in to his full demands.

x x x x

12. And even granting for the sake of argument, the President consciously made an entry as to his year of graduation as 1990 or 1991 as the case may, the said entry is not material as to cause irreparable damage or injury to anyone even to the government, for indeed and in fact he graduated and is a holder of a college degree.

x x x x

15. Complainants San Juan and Molina were even using the name of UGPUP for their sinister and illegal acts. These two stooges had long retired from the service and yet they still claim membership in the union.⁸

In view of above paragraphs c and 12, Dr. Molina alleged that Atty. Fernandez "consciously, maliciously and intentionally" lied, committed deceit and misled the CSC for the above Certification was not signed by Atty. Vitriolo, but by an unidentified person who signed "for" Atty. Vitriolo.⁹ Dr. Molina also alleged that Atty. Fernandez "consciously, maliciously and intentionally made it appear" that Atty. Vitriolo signed the same, even though he knew otherwise, "all for the purpose of MISLEADING THE CIVIL SERVICE COMMISSION AND ADVANCING THE INTEREST OF HIS CLIENT, DR. DE GUZMAN."¹⁰

Dr. Molina posited that Atty. Fernandez violated the lawyer's oath, warranting his disbarment.¹¹ Dr. Molina added that Atty. Fernandez also violated the CPR, specifically Rule 1.01 of Canon 1, and Rule 10.01 of Canon 10.¹² Moreover, Dr. Molina claimed that Atty. Fernandez's statements in the above paragraphs 10 and 15 (*i.e.*, "stooges" and "sore loser who is apparently on a hopeless fishing expedition and crazy witch hunt") violates Rule 7.03 of Canon 7, and Rule 8.01 of Canon 8 of the CPR.¹³

In a Resolution¹⁴ dated August 5, 2013, the Court required Atty. Fernandez to comment within 10 days from notice. In his Comment¹⁵ dated October 30, 2013, Atty. Fernandez denied Dr. Molina's allegations and prayed for the dismissal of the present complaint. Atty. Fernandez alleged that the Certification, which was issued by the Commission on Higher Education (CHED) with its official seal, enjoys the presumption of regularity, even if it

⁸ Id. at 3-4 and 79, 81-83.

⁹ Id. at 4.

¹⁰ Id.

¹¹ Id. at 5.

¹² Id.

¹³ Id. at 6-7.

¹⁴ Id. at 87.

¹⁵ Id. at 91-112.

appears that someone signed “for” and in behalf of Atty. Vitriolo.¹⁶ Regarding the words “stooge” and “sore loser,” Atty. Fernandez contended that, while these may be a little bit strong, they are not offensive.¹⁷ Atty. Fernandez maintained that the term “sore loser” was used since Dr. Molina could not accept defeat,¹⁸ while “stooge” was used to show that Dr. Molina is part of a group aiming to destabilize the administration of PUP President De Guzman.¹⁹ Citing *In re: Dorado*,²⁰ Atty. Fernandez asserted that “lawyers should be allowed some latitude of remark” and “they may be pardoned some infelicities of phrase.”²¹

In a Resolution²² dated January 22, 2014, the Court referred the present administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision within 90 days from receipt of the records. In a Notice of Mandatory Conference²³ dated June 16, 2014, the Investigating Commissioner of the IBP Commission on Bar Discipline (CBD) directed the parties to appear on July 25, 2014 and to submit their respective briefs at least three days prior thereto. Both parties filed the same. In an Order²⁴ dated July 25, 2014, the Investigating Commissioner noted that both parties appeared during the mandatory conference and then directed them to submit their respective verified position papers, together with the affidavit/s of their witness/es, if any, within 10 days from receipt hereof. Both parties complied.

In a Report and Recommendation²⁵ dated December 5, 2014, the Investigating Commissioner recommended that Atty. Fernandez be found guilty of simple misconduct for using intemperate language and fined in the amount of Two Thousand Pesos (P2,000.00) in view of *Saberon v. Larong*²⁶ (*Saberon*). The Investigating Commissioner ratiocinated thus:

The Supreme Court has stated that lawyers, most specially, should be allowed great latitude of pertinent remark or comment in the furtherance of the causes they uphold, and for the felicity of their clients, they may be pardoned some infelicities of phrase. However, such remarks or comments should not trench beyond the bounds of relevancy and propriety.²⁷

Atty. Fernandez’s statements in the Comment to be considered are “Molina is merely a disgruntled sore loser who is apparently on a hopeless fishing expedition and crazy witch hunt made solely for the purpose of harassing and blackmailing the President” and “[t]hese two stooges had long retired from the service and yet they still claim membership in the union.” In determining whether such statements should be considered

¹⁶ Id. at 93-95.

¹⁷ Id. at 97.

¹⁸ Id. at 99-100.

¹⁹ Id. at 104.

²⁰ Also cited as *Dorado v. Pilar*, 104 Phil. 743 (1958).

²¹ *Rollo*, pp. 97-98.

²² Id. at 135.

²³ Id. at 233.

²⁴ Id. at 305.

²⁵ Id. at 484-495.

²⁶ 574 Phil. 510 (2008).

²⁷ Citing *Uy v. Depasucat*, 455 Phil. 9 (2003).

infelicitous language, based on existing standards, the Investigating Commission finds no need to look further than the case of *Saberon v. Larong*.

In the *Saberon* case, the Supreme Court found the respondent guilty of using infelicitous language for the following statement made in an Answer with Affirmative Defenses to a Petition filed before the *Bangko Sentral ng Pilipinas (BSP)*, and repeated in a Rejoinder to complainant's Reply:

5. That this is another in the series of **blackmail** suits filed by [complainant Jose C. Saberon] and his wife to coerce the Bank and Mr. Bonpin for financial gain x x x.

The Supreme Court held that the ascription of the word "blackmail" in the Answer and Rejoinder filed by respondent was not legitimately related or pertinent to the subject matters of inquiry before the *BSP*. The relevant issues were amply discussed without need of the further allegation that the Petition was another blackmail suit. Hence, such allegation was unnecessary and uncalled for.

A similar statement can be found in Atty. Fernandez's Comment wherein it was stated that Dr. Molina has filed the letter "for the purpose of harassing and blackmailing the President." Atty. Fernandez had sufficiently commented on the education qualifications of his client, Dr. De Guzman[,] that it was not necessary to ascribe "blackmail" on Dr. Molina. Thus, applying the same standard used in the *Saberon* case, the Investigating Commissioner finds sufficient ground to state that Atty. Vicerra violated x x x Canon 8, Rule 8.01, of the CPR.

A similar finding is made with respect to the description of Dr. Molina as a "stooge" since, again, it is also not legitimately related or pertinent to the subject matters of inquiry before the CSC.²⁸ (Notations ours; footnotes omitted)

In Resolution No. XXI-2015-181²⁹ dated February 21, 2015, the IBP Board of Governors (Board) adopted and approved with modification the Investigating Commissioner's findings of fact and recommendation by merely admonishing Atty. Fernandez to be more circumspect in his language in his pleadings, instead of imposing the penalty of fine.

Dr. Molina filed a Motion for Reconsideration³⁰ dated October 26, 2015, wherein he reiterated his arguments and prayer for disbarment against Atty. Fernandez for committing deceit, falsehood, immoral conduct and/or violation of the Lawyer's Oath. In an Order³¹ dated November 3, 2015, the Assistant Director for Bar Discipline required Atty. Fernandez to comment on Dr. Molina's Motion for Reconsideration.

²⁸ *Rollo*, pp. 492-494.

²⁹ *Id.* at 483.

³⁰ *Id.* at 496-501.

³¹ *Id.* at 502.

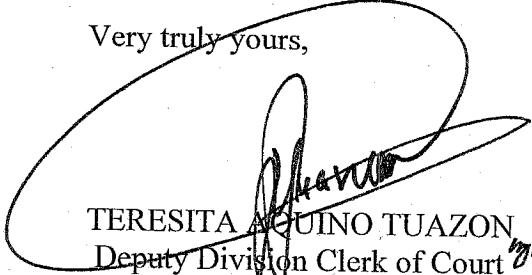
Atty. Fernandez submitted his Comment³² dated December 8, 2015, wherein he reiterated his arguments and prayed that the present complaint be dismissed. Moreover, he filed a Partial Motion for Reconsideration³³ dated October 26, 2015, wherein he avowed that his statements were made in good faith to uphold his client's interest and these were not made to deliberately malign Dr. Molina.³⁴ In an Order, the Director for Bar Discipline required Dr. Molina to comment on Atty. Fernandez's Partial Motion for Reconsideration. However, there is no record that Dr. Molina submitted a comment thereto.

In Resolution No. XXII-2016-427³⁵ dated August 26, 2016, the IBP Board denied the Motion for Reconsideration and affirmed the penalty of admonition. The Court adopts and approves IBP's findings and recommendation. Similar to the *Saberon* case, while Atty. Fernandez used infelicitous language, such is not of grave character and thus, admonition is proper in this case.

WHEREFORE, the Court **ADOPTS** and **APPROVES** Resolution No. XXI-2015-181 dated February 21, 2015 and Resolution No. XXII-2016-427 dated August 26, 2016 of the Board of Governors of the Integrated Bar of the Philippines in CBD Case No. 14-4242. Atty. Merito Lovensky R. Fernandez is **GUILTY** of simple misconduct, and is hereby **ADMONISHED**.

SO ORDERED. "

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court 12/3

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³² Id. at 516-529.

³³ Id. at 503-513.

³⁴ Id. at 512.

³⁵ Id. at 535-536.

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*With copy of the IBP Resolutions dated 21 February 2015 &
26 August 2016.

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