

EN BANC

[A.C. No. 12883 (Formerly CBD Case No. 16-5016), March 02, 2021]

ENRICO R. VELASCO, COMPLAINANT, VS. ATTY. BERTENI C. CAUSING, RESPONDENT.

DECISION

INTING, J.:

This administrative case is rooted on the Complaint-Affidavit^[1] for disbarment filed by Enrico Velasco (complainant) against Atty. Berteni C. Causing (Atty. Causing) before the integrated Bar of the Philippines (IBP) for alleged violation of the Code of Professional Responsibility (CPR).

The Antecedents

Complainant is the petitioner in Civil Case No. 10536 for the declaration of nullity of his marriage with Nina Ricci Narvaez Laudato (Laudato) pending before Branch 3, Regional Trial Court, Balanga City, Bataan (nullity case).^[2]

Atty. Causing is the counsel of Laudato in the nullity case.^[3]

On April 7, 2016, Atty. Causing sent a direct message to complainant's son, Jomel A. Velasco, through Facebook, a social networking site,^[4] stating as follows: "[p]akitignan mo ang iyong ama, iho at huwag mo syang gayahin ha."^[5] The message was accompanied by a link to a post dated March 19, 2016 (subject post) published by Atty. Causing on Facebook with the caption "Wise Polygamous Husband?", to wit:

"WISE POLYGAMOUS HUSBAND?"

"After marrying a girl as his second wife while his first wife was still alive, when there was no doubt it was bigamous and a crime of bigamy, this man still has the gall to file a petition to declare his second marriage null and void.

"In his petition, he asked the RTC of Balanga to declare his marriage void because of lack of marriage license and not because of marriage being bigamous.

"If you want to read his petition, a copy is attached here. His intention in filing the petition was to prevent the second wife's criminal case of bigamy from succeeding by reason of prejudicial question."^[6] (Italics supplied.)

Notably, Atty. Causing also attached photographs of the complete copy of complainant's petition in the nullity case to the subject post on Facebook.

Thereafter, he "shared" the subject post to his other Facebook account under the name "Bertení 'Toto' Cataluña Causing" and to a Facebook group likewise under the same name which is a public group with more or less 3,500 members. The subject post was also "shared" by the other persons onto their respective Facebook accounts. Resultantly, the subject post generated negative reactions and comments against complainant.^[7]

In his Verified Answer,^[8] Atty. Causing admitted that he published the subject post in his Facebook account and sent the link thereof to complainant's son.^[9] However, he denied harassing complainant and insisted that he was only performing his duties as the "spokesman-lawyer" of his client. He asserted that he was not tarnishing the reputation of complainant when he published the post in Facebook, and that his actuations did not constitute libel as he was only telling the truth, viz.:^[10]

4.3 There can never be libel statements in expressing truth, especially when said truth is admitted by complainant;

4.4 In this case, it is true that [complainant] filed a complaint or petition for declaration of nullity of marriage and *in fact he does not even deny the existence and genuineness of the complaint for declaration of nullity that I posted and that I sent to his son*;

4.5 In the Holy Bible, John 8:32, it is said: "'x x x *the truth shall make you free.*" (Emphasis omitted; italics supplied.)^[11]

Moreover, Atty. Causing averred that as a "journalist-blogger," he merely exercised his constitutional right to press freedom when he published the subject post in Facebook.^[12] further asserted that being a lawyer did not make his right to press freedom an inch less. Hence, he should not be denied of his constitutional right to express his ideas.^[13]

The IBP's Report and Recommendation

In his Report and Recommendation^[14] dated January 23, 2017, Investigating Commissioner Jose Alfonso M. Gomos (Investigating Commissioner) found that Atty. Causing breached the rule on the privacy and confidentiality of Family Court proceedings^[15] and recommended that he be suspended from the practice of law for a period of one (1) year. The Investigating Commissioner held that Atty. Causing's contentions that he was only acting in his capacity as the "spokesman-lawyer" of his client, or that he was merely exercising his right to press freedom as a "journalist-blogger" did not justify his violation of the CPR.^[16]

In the Resolution^[17] dated November 28, 2017, the IBP Board of Governors adopted the Investigating Commissioner's findings of fact, but *modified* the recommended penalty to suspension from the practice of law for a period of two (2) years.

Aggrieved, Atty. Causing moved for reconsideration,^[18] but the IBP Board of Governors denied the motion in a Resolution^[19] dated June 18, 2019.

Issue

Whether Atty. Causing should be held administratively liable for publishing the subject post and photographs of complainant's petition in the nullity case in his Facebook accounts.

The Court's Ruling

The Court adopts the findings of the IBP, but *modifies* the penalty to be imposed upon Atty. Causing.

The records show that Atty. Causing had already admitted that he indeed published the subject post with photographs of complainant's petition in the nullity case in Facebook and thereafter sent a link of the post to complainant's son. In his defense, Atty. Causing invokes his rights to freedom of expression and of the press and argues that he was merely acting as a "spokesman-lawyer" and a "journalist-blogger" when he published the subject post.

The defense, however, is untenable.

First, a lawyer is not allowed to divide his personality as an attorney at one time and a mere citizen at another.^[20] Regardless of whether a lawyer is representing his client in court, acting as a supposed spokesperson outside of it, or is merely practicing his right to press freedom as a "journalist-blogger," his duties to the society and his ethical obligations as a member of the bar remain *unchanged*.

In particular, the CPR provides:

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

x x x x

Rule 8.01 — A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

x x x x

CANON 13 — A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

Rule 13.02 — A lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party.

x x x x

CANON 19 — A lawyer shall represent his client with zeal within the bounds of the law.

Rule 19.01 — 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.