SECOND DIVISION

[A.C. No. 11639, February 05, 2020]

ROSELYN S. PARKS, COMPLAINANT, VS. ATTY. JOAQUIN L. MISA, JR., RESPONDENT.

R E S O L U T I O N

DELOS SANTOS, J.:

Antecedents

In her Complaint,[1] Roselyn S. Parks (Roselyn) alleged the following: (1) that on September 12, 2013 at about 7:45 in the evening, respondent Atty. Joaquin L. Misa, Jr. (Atty. Misa), acting as legal authority, allowed his client, Anthony Ting, to commit criminal offense of demolishing a portion of the concrete wall of the house of her father, Rosendo T. Suniega (Rosendo); (2) that the foregoing act was without lawful order from the court; (3) that the said Anthony Ting inflicted bodily harm against Rosendo in the presence of Atty. Misa; (4) that by the reason of the same incident, Rosendo filed a case for Malicious Mischief and Less Serious Physical Injuries against Anthony Ting, Atty. Misa and several others; (5) that Atty. Misa executed a counter-affidavit containing defamatory and libelous statement against her, even if she was not a party to the complaint filed by her father, Rosendo; and (6) that the said derogatory statements were essentially made public by submitting the counter-affidavit to Asst. Prosecutor Melania E. Cardillo Jr., which reads as follows:

> 13. It was then that I noticed ROSELYN round the corner of Mindanao and Mindoro walking towards my direction, wildly clapping as if there was something to applaud about. I turned to her and said, "What do you think will happen if they (U.S. IMMIGRATION) find out about your fix marriage (in Las Vegas)." And THAT got her to join REYNOLD and the rest of them in yelling inanities, insults, hooting and taking pictures while I stood by quietly. Incidentally, copies of e-mail from ROSELYN's cousin Mary Jane "JING" SUNIEGA to the undersigned with attached wedding photos are hereto enclosed as ANNEX "A".
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> [x x x x]
>
> 16. To their credit the police thoroughly investigated the antecedents x x x[.]
>
> 17. They heard about the eviction of BEBOT x x x[.] They were told about ROSELYN's fixed marriage and how her money has made bigger monsters out of them.
>
> [x x x x]
>
> 20. Since the complaint affidavit was probably prepared by ROSELYN, a known DRUG ADDICT and a FRAUD x x x it thought not to be given any

credence whatsoever and fm1hwith dismissed.[2]

According to Roselyn, the defamatory remarks were not even relevant to the criminal case under investigation and apparently made to insult, dishonor, and humiliate her. She claimed that the remarks and conduct of Atty. Misa demonstrated lack of moral character, probity, and good behavior, in violation of his oath as a member of the bar and Section 20 (f), Rule 138 of the Rules of Court.[3]

In his Answer,[4] Atty. Misa denied that he acted as a legal authority during the time and place alleged by Roselyn. He admitted pendency of the criminal case filed against them, but denied that the said case was valid and/or makes out a *prima facie* case. Atty. Misa likewise admitted the filing of the counter-affidavit, but denied that it is a proof to show that he allowed any hostile acts.[5] As for his allegation that Roselyn was a drug addict and a fraud, Atty. Misa countered that it was Roselyn's irrational behavior, "acting out" on the night in question, dousing fuel to fire, which drew attention to questions about what sort of person she is.[6] He denied allegations that questioned his integrity and fitness as a member of the law profession, because he claimed that however insulting, dishonoring, and humiliating the questioned allegations might have been, they were privileged, relevant, material, and "required by the justice of the cause with which [he was] charged." Lastly, he averred that Section 20 (f), Rule 138 referred to by Roselyn should be read in its entirety and in conjunction with Section 51 (a) (3) of Rule 130 of the Rules of the Court.[7]

The Integrated Bar of the Philippines (IBP)
Report and Recommendation

Investigating Commissioner Suzette A. Mamon (Commissioner Mamon) agreed with Atty. Misa that the counter-affidavit and its contents can be categorized as a privileged communication. However, she ruled that the doctrine on privilege communication vis-a-vis the rule on libel or defamation is not absolute. She added that the pleading must yield to the rule on relevancy of the declarations or statements uttered or made relative to the subject matter or case in issue before the court or proceeding.[8] In this case, she found that the defamatory remarks stated in Atty. Joaquin's counter-affidavit was not even relevant and material to the criminal case of Malicious Mischief under investigation, but apparently made for the purpose of insulting, dishonoring, and humiliating Roselyn.[9] Thus, in her Report and Recommendation[10] dated October 21, 2014, Commissioner Mamon ruled that there was a reasonable ground to conclude that Atty. Misa committed transgressions of the rules and Canon of Professional Responsibility and recommended that Atty. Misa be reprimanded and/or admonished to refrain from employing language unbecoming of a member of the bar. [11]

In its Resolution No. XXI-2015-132[12] dated January 31, 2015, the IBP Board of Governors resolved to adopt and approve with modification the report and recommendation of Commissioner Mamon, such that Atty. Misa be suspended from the practice of law for one (1) month. Atty. Misa sought for reconsideration,[13] whereby the IBP Board of Governors resolved[14] to reduce the penalty back to reprimand as recommended by Commissioner Mamon.

Issue