

FIRST DIVISION

[A.C. No. 8789, March 11, 2020]

**ATTY. HONESTO ANCHETA CABARROGUIS, COMPLAINANT, V.
ATTY. DANILO A. BASA, RESPONDENT.**

DECISION

CAGUIOA, J:

This instant administrative case arose from a verified Complaint^[1] for disbarment filed by complainant Atty. Honesto Ancheta Cabarroguis (Atty. Cabarroguis) against respondent Atty. Danilo A. Basa (Atty. Basa) before this Court. Atty. Cabarroguis accuses Atty. Basa of violations of Canon 1, Rules 1.01 and 1.03;^[2] Canon 8, Rule 8.01;^[3] Canon 10;^[4] Rules 12.02 and 12.04;^[5] Rule 15.05;^[6] and Rule 19.01^[7] of the Code of Professional Responsibility (CPR).

The Case

Atty. Cabarroguis alleged in his complaint that he was the retained legal counsel of his friend, Godofredo V. Cirineo, Jr. (Godofredo), who filed an *estafa* case against his sister-in-law, Erlinda Basa-Cirineo (Erlinda) before the Regional Trial Court (RTC) of Davao City, Branch 11. Erlinda was represented by her brother, Atty. Basa.^[8] Atty. Cabarroguis accused Atty. Basa of dilatory tactics when, after eight years of court trial, Atty. Basa asked for the inhibition of the presiding judge, Hon. Renato Fuentes (Judge Fuentes). After Judge Fuentes inhibited himself, all the other presiding judges of the other regular RTCs to whom the case was raffled, also inhibited themselves one after the other and for one reason or another.^[9]

Atty. Cabarroguis further alleged that Atty. Basa exhibited his immaturity on two occasions. First was through an omnibus motion filed by Atty. Basa in a civil case on behalf of his clients, Raul and Evelyn Molabola (collectively, the Molabolas), where he repeatedly spelled Atty. Cabarroguis' first name, Honesto, as "HONESTo." Second was through a demand letter involving the same case in which Atty. Basa purportedly misspelled the first name of Atty. Cabarroguis as "Honest."^[10]

Atty. Cabarroguis also alleged that in retaliation against him for being the private prosecutor in the *estafa* case against Atty. Basa's sister, Erlinda, Atty. Basa filed numerous administrative, civil, and criminal cases against him which were all malicious and unfounded. Atty. Cabarroguis enumerated these cases, to wit:

1. CBD-ADM Case No. 6629 *Danilo Basa v. Atty. Honesto A. Cabarroguis* for Falsification
2. CBD-ADM Case No. 07-2110 *Raul Molabola and Evelyn Molabola v. Atty. Honesto A. Cabarroguis* for Falsification and Perjury
3. CBD-ADM Case No. 08-2223 *Atty. Danilo A. Basa v. Atty. Honesto A. Cabarroguis* for Falsification and Perjury

4. I.S. No. 03-E-3753 *Danilo A. Basa v. Atty. Honesto A. Cabarroguis* for Falsification
5. I.S. No. 2006-D-2748 *Danilo A. Basa v. Atty. Honesto A. Cabarroguis* for Falsification
6. I.S. No. 2006-E-3378 *Atty. Danilo A. Basa v. Atty. H. A. Cabarroguis and Godofredo Cirineo* for Falsification
7. I.S. No. 08-E-4146 *Atty. Danilo A. Basa v. Atty. H. A. Cabarroguis* for Falsification (2 counts)
8. I.S. No. 2008-G-5045 *Erlinda B. Cirineo v. Atty. Honesto A. Cabarroguis and Atty. Dante C. Sandiego* for Falsification
9. I.S. No. 2008-[G]-5045-A *Danilo A. Basa v. Atty. H. A. Cabarroguis* for Falsification
10. I.S. No. 07-F-4093 *Raul Molabola, et al. v. H. A. Cabarroguis* for Falsification and Perjury (2 counts)
11. I.S. No. 07-F-4094 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification and Perjury
12. I.S. No. 07-F-4095 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification and Perjury
13. I.S. No. 07-F-4096 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification and Perjury
14. I.S. No. 07-F-4097 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification and Perjury
15. I.S. No. 07-[F]-4098 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification and Perjury
16. I.S. No. 07-F-4099 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification and Perjury
17. I.S. No. 07-G-4682 *Raul Molabola, et al. v. Honesto A. Cabarroguis* for Falsification
18. A-RSPO XI No. 2004-004 *Atty. Danilo A. Basa v. Atty. H. A. Cabarroguis* for Falsification
19. A-RSPO XI No. 2006-062 *Danilo A. Basa v. Atty. H. A. Cabarroguis* for Falsification
20. A-[ORSPXI No. 2009-K-080 to 2009-K-081] *Erlinda Basa-Cirineo v. Atty. H. A. Cabarroguis and Atty. Dante C. Sandiego* for Falsification
21. A-[ORSP] XI No. 2008-G-025 to 2008-G-[031] *Raul Molabola, et al. v. Atty. H. A. Cabarroguis* for Falsification and Perjury
22. Criminal Case Nos. 134-394 to 400-C-2009 *People of the Philippines v. Atty. Honesto A. Cabarroguis* for Falsification and Perjury
23. Civil Case No. 35041 *Raul Molabola, et al. v. Atty. Honesto A. Cabarroguis* for damages and attorney's fees with preliminary attachment pending trial^[11]

Atty. Cabarroguis also pointed out that in a complaint for malicious prosecution he filed against Atty. Basa, the latter offered in evidence different court records in several cases where Atty. Cabarroguis was counsel or party-litigant to prove that he was engaging in patently dishonest and deceitful conduct.^[12] Atty. Cabarroguis prayed that the Court orders Atty. Basa to suppress or destroy this extensive database gathered about him in violation of the Writ of Habeas Data.^[13]

In his Comment to the Complaint,^[14] Atty. Basa attempted to set the record straight about the alleged numerous cases he filed against Atty. Cabarroguis. In CBD-ADM Case No. 6629, contrary to Atty. Cabarroguis' assertion that it was dismissed, the Integrated Bar of the Philippines-Board of Governors (IBP-BOG)

found him guilty of ethical misconduct and admonished him for preparing the affidavit-complaint for *estafa* against Erlinda, signing it and swearing it before an administering officer despite having no personal knowledge of the facts recited therein.

Atty. Cabarroguis was also being untrue when he said in his complaint that CBD-ADM Case No. 07-2110 was awaiting the outcome of the eight criminal complaints filed with the City Prosecution Office of Davao City against him. Atty. Basa countered that there was nothing in the record of CBD-ADM Case No. 07-2110 which showed this status. On the contrary, before the filing of the administrative complaint, the City Prosecution Office of Davao City had already filed against Atty. Cabarroguis two Informations for Perjury and five Informations for Falsification in the Municipal Trial Courts in Cities in Davao City.

Atty. Basa also cleared up that CBD-ADM Case No. 08-2223 was already decided by the IBP-BOG, finding Atty. Cabarroguis guilty of violating Canon 10 of the CPR and meting him with the penalty of suspension from the practice of law for one (1) year.

Atty. Basa clarified further that it was not he who personally filed or instituted several of the criminal cases adverted to by Atty. Cabarroguis, but his clients. Specifically, I.S. Nos. 07-F-4093, 07-F-4094, 07-F-4095, 07-F-4096, 07-F-4097, 07-F-4098, 07-F-4099 and 07-G-4682 were supported with affidavit-complaints of the Molabolas, while I.S. Nos. 2008-G-5045 and 2008-G-5045-A were supported with the affidavit-complaints of Erlinda.

Moreover, A-RSPO XI No. 2004-004, A-RSPO XI No. 2006-062, A RSPO XI, A-ORSP XI No. 2008-G-025 to 2008-G-031 were appealed cases of the Resolutions of the City Prosecution Office before the Regional State Prosecutor, specifically, of I.S. Nos. 03-E-3753, 2006-D-2748, 2008-G- 5045, 2008-G-5045-A, 07-F-4093-99, and 07-G-4682.

Thus, according to Atty. Basa, Atty. Cabarroguis was then facing in court two counts of Perjury and five counts of Falsification, together with administrative sanctions recommended by the IBP-BOG in three separate administrative cases.^[15] He stressed that the instant complaint against him was only filed by Atty. Cabarroguis after all the other cases against the latter were filed. The truth then was that Atty. Cabarroguis was the one motivated by vengeance in filing the instant disbarment suit against Atty. Basa.

Lastly, as to the voluminous evidence he offered in the complaint for malicious prosecution that Atty. Cabarroguis filed against him, Atty. Basa maintained it was done in the exercise of his right to defend himself and to disprove the several self-laudatory allegations contained in the complaint.

After the Court referred the Complaint and the Comment to the IBP for investigation, report and recommendation, Atty. Cabarroguis filed three more supplemental complaints. In his first Supplemental Complaint and Reply to the Comment to the Complaint,^[16] Atty. Cabarroguis alleged that Atty. Basa filed another retaliatory complaint for falsification against him, which was dismissed by the Office of the City Prosecutor of Davao City for lack of probable cause. He also insisted how obvious it was that all the other complaints against him were commenced after he filed an *estafa* case against Erlinda.

In his Second Supplemental Complaint,^[17] Atty. Cabarroguis narrated the various motions and pleadings filed by the parties in said falsification case adverted to in the first supplemental complaint to underscore the further retaliatory acts of Atty. Basa against him.

In his Third Supplemental Complaint,^[18] Atty. Cabarroguis alleged that Atty. Basa filed two new retaliatory complaints for disbarment against him in the form of: (1) a manifestation and motion (in the malicious prosecution case filed by Atty. Cabarroguis against Atty. Basa) to take judicial notice of a complaint Atty. Cabarroguis filed against a certain Dario Tangcay for collection of unpaid attorney's fees; and (2) a supplement to the motion for reconsideration Atty. Basa filed in CBD-ADM Case No. 08-2223.

The IBP Proceedings

After the mandatory conference and the submission of the parties' position papers, the Investigating Commissioner issued a Report and Recommendation^[19] to suspend Atty. Basa from the practice of law for one (1) year. The Investigating Commissioner found Atty. Basa to have clearly breached his ethical duty towards his fellow lawyer under Canon 8 of the CPR when he showed extraordinary zeal in representing his sister in the *estafa* case filed by Atty. Cabarroguis' client, Godofredo. He employed harassing and annoying tactics while the case was being tried, evidenced by the several cases Atty. Basa filed against Atty. Cabarroguis. These cases had been clearly triggered by the *estafa* case against Erlinda as all had been instituted after the filing of the *estafa* case.

The Investigating Commissioner also held that Atty. Basa had shown abuse of processes when he filed the multiple suits against Atty. Cabarroguis and when he moved for the inhibition of the judges handling the *estafa* case. He clearly prostituted the judicial processes manifestly for delay and did not advance the cause of law or his client by commencing such unmeritorious cases.

Also, by poking fun at the name of Atty. Cabarroguis in his letter and his omnibus motion, Atty. Basa denied the esteem his fellow lawyer deserved and instead, denigrated and belittled him.

The IBP-BOG, in Resolution No. XXI-2014-484^[20] dated August 10, 2014, resolved to adopt the findings of fact and recommendation of the Investigating Commissioner.

Both parties filed their respective motions for reconsideration. Atty. Basa argued that Atty. Cabarroguis was guilty of forum shopping, particularly insofar as CBD-ADM Case Nos. 6629, 07-2110, and 2223 were concerned.^[21] Atty. Cabarroguis, on the other hand, argued that Atty. Basa's actions merited a disbarment and not just a suspension.^[22]

On June 17, 2017, the IBP-BOG issued Resolution No. XXII-2017-1238^[23] granting the Motion for Reconsideration of Atty. Basa, and reversing its earlier decision on the ground that there is no showing that he acted with bad faith in filing the cases against Atty. Cabarroguis.

In the Extended Resolution^[24] dated June 18, 2018 penned by Deputy Director Franklin B. Calpito for the Board, the IBP-BOG found that although several cases

against Atty. Cabarroguis were dismissed, some were subsequently found to be substantiated. For instance, in CBD-ADM Case Nos. 07-2110 and 08-2223, Atty. Cabarroguis was meted with a penalty of one-year suspension in each case for violating Canon 10, Rule 10.01 of the CPR. In CBD-ADM Case No. 6629, Atty. Cabarroguis was also admonished.

The IBP-BOG held further that there is no standard definition of bad faith and its presence cannot be automatically inferred from the sheer number of cases filed by Atty. Basa against Atty. Cabarroguis. The Board noted that in falsification cases, one act of falsification is tantamount to one cause of action and as such, Atty. Basa can have as many causes of action as he may have against Atty. Cabarroguis.

The IBP-BOG likewise pointed out that there were only six cases which Atty. Basa filed in his name against Atty. Cabarroguis. In all the other cases he filed as counsel, it cannot be immediately inferred that Atty. Basa instigated the parties in filing them.

Atty. Cabarroguis thereafter filed the instant petition for review before the Court where he maintained that Atty. Basa's act of filing and/or instigating the filing of multiple cases against him clearly constitutes bad faith.

The Issue Before the Court

The sole issue here is whether the IBP correctly dismissed the complaint against Atty. Basa.

Ruling of the Court

The Court reverses the findings of the IBP-BOG in Resolution No. XXII-2017-1238 and reinstates the previous Resolution No. XXI-2014-484 dated August 10, 2014. The Court finds that Atty. Basa violated the Lawyer's Oath, Canon 1, Rule 1.03,^[25] Canon 8, Rule 8.01,^[26] Canon 12, Rules 12.02 and 12.04,^[27] and Canon 19, Rule 19.01^[28] of the CPR when he: (1) filed baseless criminal suits against Atty. Cabarroguis; (2) poked fun at Atty. Cabarroguis by deliberately misspelling his name in an omnibus motion; and (3) caused delay in the *estafa* case after moving for the inhibition of the presiding judge after eight years in trial. The Court agrees with the original findings of the IBP that Atty. Basa employed harassing tactics against Atty. Cabarroguis after he, on behalf of his client, filed an *estafa* case against Atty. Basa's sister in 2002.

Firstly, the Court does not wholly agree with the more recent findings of the IBP in its Resolution No. XXII-2017-1238 that Atty. Basa did not act with malice or bad faith in filing all of the 17 complaints against Atty. Cabarroguis. True, the administrative cases were proved to be substantiated as Atty. Cabarroguis was eventually disciplined in all three. Also, the eight counts for falsification and perjury initiated by Atty. Basa's clients, the Molabolas, were later filed in court. However, there are criminal complaints relative to, or were offshoots of, the *estafa* case filed against Erlinda which were dismissed for lack of merit, and which the Court believes were frivolous and had no other apparent purpose to serve but to vex Atty. Cabarroguis.

In **I.S. No. 03-E-3753** filed by Atty. Basa against Atty. Cabarroguis for falsification under Article 172, paragraph 1 or 2 of the Revised Penal Code (RPC), the cause of action was founded on the complaint-affidavit executed by Godofredo through his