

SECOND DIVISION

[A.C. No. 8959, October 07, 2020]

RISIE G. BAYGAR, COMPLAINANT, VS. ATTY. CLARO MANUEL M. RIVERA, RESPONDENT.

D E C I S I O N

HERNANDO, J.:

This administrative case arose from a Petition for Disbarment^[1] filed by complainant Risie G. Baygar (**Risie**) against respondent Atty. Claro Manuel M. Rivera (**Atty. Rivera**) before the Office of the Bar Confidant of this Court. The case was referred to the Commission on Bar Discipline (**CBD**) of the Integrated Bar of the Philippines (**IBP**), and docketed as CBD Case No. 12-3391.

The Factual Antecedents

In her Petition, Risie alleges that Atty. Rivera committed acts constitutive of a Violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).^[2] At the time of the commission of the acts complained of, Atty. Rivera was the Municipal Administrator^[3] of Binangonan, Rizal.

In her Complaint, Risie alleged that in the morning of March 9, 2010, officers from the Business Permit and Licensing Office (**BPLO**) of Binangonan went to the *sari-sari* store of her father, Rodolfo Baygar (**Rodolfo**)^[4] and informed them that they need to secure a business permit for their billiard table^[5] and sari-sari store.^[6] They handed Risie a *No Permit Notice* dated March 9, 2010 for the billiard table and a videoke machine.^[7]

In the evening of March 17, 2010, Atty. Rivera, together with BPLO officers, health office, and members of the Binangonan Police and Special Action Unit, returned to the store to implement a Closure Order (**Closure Order**).^[8] However, Risie noticed that the Closure Order was dated March 18, 2010.^[9] When she returned the Closure Order back to them, the enforcers changed the date and added the phrase "w/ BILLIARD".^[10] Thereafter, Atty. Rivera ordered the seizure of billiard accessories^[11] to which Risie protested since the Closure Order did not include the seizure of the said items.^[12] However, Atty. Rivera allegedly threatened^[13] Risie with imprisonment instead of just seizing the items.^[14] Meanwhile, an altercation ensued between Rodolfo and R. Collantes, a member of Atty. Rivera's team, as Rodolfo did not want to give up the items that were being seized.^[15]

On March 22, 2010, Risie and her father secured the necessary business permits for the *sari-sari* store, videoke machine, and billiard table.^[16] Risie then asked the Municipal Treasurer where to claim the previously seized items^[17] who, in turn, referred Risie to Atty. Rivera.^[18] Risie then proceeded to Atty. Rivera's office and

asked for the release of the seized items.^[19] However, Atty. Rivera did not release the seized items and instead asked her to pay additional fines for their release.^[20]

Meanwhile, on May 18, 2010, the Municipal Treasurer issued another *Closure Order* (**Second Closure Order**) against Risie's father for failure to pay the fines and penalties in relation to the March 17, 2010 operation.^[21] Attached to the Second Closure Order is a computation of the fines and penalties prepared by Atty. Rivera.^[22] Rodolfo protested the Second Closure Order.^[23] Then, Risie and her father were surprised when they learned that Atty. Rivera filed a criminal complaint against them for Violation of Municipal Ordinance No. 2006-006 for operating a business without securing a business permit.^[24]

This prompted Risie and her father to file various cases against Atty. Rivera. Aside from this complaint for disbarment, Rodolfo also instituted an administrative case against Atty. Rivera before the Civil Service Commission (CSC)^[25] and criminal complaints for Falsification of Public Documents^[26] and Robbery^[27] before the Provincial Prosecutor of Rizal.

Risie claims that the officers should have merely locked the establishment without seizing the items as the closure order did not give them authority to do so.^[28] Moreover, the billiard table was not initially included in the scope of the closure order and was added only during the operation.^[29] And, the additional amounts demanded by Atty. Rivera were not included in the original assessment, hence, it must have been extortion.^[30]

In his Comment,^[31] Atty. Rivera claims that Risie has distorted the truth to suit her purpose of continuously harassing him when she felt aggrieved by the processes of the municipality in implementing the local tax ordinance.^[32] He claims that on March 17, 2010, the Municipal Mayor ordered him to assemble a team to carry out the closure of the businesses owned and operated by the Baygar family on the night of the same day^[33] since the Office of the Mayor received several complaints that the businesses operated by the Baygar family caused disturbance to the area at night.^[34]

Atty. Rivera then organized a team and proceeded to the store in the evening of the same day.^[35] Atty. Rivera claims that it was Risie who started arguing with Carina Biazon (**Carina**), a BPLO Inspector, in a loud voice.^[36] Atty. Rivera alleges that it was Carina who changed the date and added the phrase "w/ BILLIARD" in the Closure Order.^[37] He did not question the corrections because he believed that he and the team had the authority from the Municipal Mayor to conduct the operation; besides, the billiard table indeed did not have a business permit at that time.^[38] He admitted having given the order to seize the billiard accessories and bottles of beer.^[39] A Special Action Unit member, R. Collantes, complied with his order to seize the items.^[40] However, an altercation ensued between Rodolfo and R. Collantes.^[41]

Atty. Rivera avers that he was never in possession of the seized items and that these were kept in the BPLO.^[42]

On March 22, 2010, Risie went to his office asking for the release of the seized items. He advised Risie that she may either pay the fine or she can write the Mayor

a letter-request for the release of seized items.^[43]

Instead of heeding his advice, Risie and her father Rodolfo filed various criminal and administrative cases against him, including this Petition for Disbarment.^[44]

Atty. Rivera claims that he was merely performing his job of implementing the local tax ordinance.^[45] As the Municipal Administrator, he is tasked to enforce the local tax ordinance that was allegedly violated by the Baygar family.^[46] He explains that the error in the date of the closure order was a mere inadvertence, as their original plan was to conduct the operation on the night of March 17, 2010.^[47] As to the addition of the phrase "w/ BILLIARD," he believed that the correction was proper since the billiard table had no business permit at that time.^[48] He insists that the seizure of the items was for a legitimate purpose.^[49] He denied acting in an arrogant manner towards Risie and her father.^[50] On the contrary, he addressed them in a subtle and low voice.^[51] He also explains that the original assessment given to Risie did not include the fine imposed in connection to the seized items because at that time, the assessment of penalties was not yet included in the computerization program of the municipality.^[52] Atty. Rivera further explains that the criminal case for Violation of Municipal Ordinance No. 2006-006 was filed against both Risie and Rodolfo as they were in violation of the ordinance in operating businesses without the required business permits.^[53]

In her Reply, Risie attached a video recording of the events that transpired in the evening of March 17, 2010.^[54] Atty. Rivera challenged the authenticity and accuracy of the video recording.^[55]

Report and Recommendation of the IBP:

In his Report and Recommendation dated June 25, 2013, Investigating Commissioner Michael G. Fabunan noted that (a) there was no reason for Atty. Rivera to criminally charge Risie for violating Municipal Ordinance No. 2006-006 because she is not the owner of the business subject of the closure order; (b) the closure order did not authorize seizure of the items; (c) Atty. Rivera and the team improperly implemented the closure order a day before the stated date.^[56] The Investigating Commissioner recommended that Atty. Rivera be suspended from the practice of law for a period of six months.^[57]

In its Resolution No. XXI-2014-474^[58] dated August 9, 2014, the IBP Board of Governors (BOG) adopted with modification the Report and Recommendation of the Investigating Commissioner by increasing the period of suspension to one year, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A," and finding the recommendation fully supported by the evidence on record and the applicable laws, and for gross violation of Rule 6.02 of the Code of Professional Responsibility, Atty. Claro Manuel M. Rivera is hereby **SUSPENDED from the practice of law for one (1) year.**