

## FIRST DIVISION

[ A.C. No. 12137, July 09, 2018 ]

**PHENINAH[\*] D.F. WASHINGTON, COMPLAINANT, V. ATTY.  
SAMUEL D. DICEN, RESPONDENT.**

### R E S O L U T I O N

**DEL CASTILLO, J.:**

This administrative case is rooted on a Letter-Complaint<sup>[1]</sup> dated September 21, 2015 filed by Pheninah D.F. Washington (complainant) against respondent Atty. Samuel D. Dicen (Atty. Dicen) for "unethical practice of law, [and] abuse of [the] privilege and power vested upon him as a lawyer."<sup>[2]</sup>

#### ***The Antecedent Facts***

In her Letter-Complaint, complainant alleged that on August 14, 2015, she went to her house in Dumaguete City, then occupied by the family of her niece, Roselyn R. Toralde (Roselyn), in order to perform necessary repairs thereon after discovering that said house was in a dilapidated state and badly infested by termites.<sup>[3]</sup> The repairs, however, did not push through as planned because the police arrived in the premises and arrested complainant and her companions.<sup>[4]</sup> Complainant claimed that it was Atty. Dicen, Roselyn's uncle and her first cousin, who had ordered her to be arrested for trespassing even though she was the lawful owner of the property in question.<sup>[5]</sup>

In his defense, Atty. Dicen strongly denied that he had given the police officers an order to arrest complainant, as he had no power or authority to do so.<sup>[6]</sup> He argued that complainant was arrested after she was caught in *flagrante delicto* committing acts of coercion by removing the G.I. sheet roofing of Roselyn's house to force the latter and her family to move out.<sup>[7]</sup>

#### ***The IBP's Report and Recommendation***

In its Report and Recommendation<sup>[8]</sup> dated January 20, 2017, the Integrated Bar of the Philippines (IBP) – Commission on Bar Discipline (CBD), through Commissioner Jose Alfonso M. Gomos, found no merit in the allegations of unethical practice of law against Atty. Dicen. Nevertheless, it recommended that Atty. Dicen be **admonished** "to be gracious, courteous, dignified, civil and temperate (*even if forceful*) in his language."<sup>[9]</sup>

The IBP pointed to: (a) Atty. Dicen's Manifestation<sup>[10]</sup> dated October 19, 2016 where he described complainant's actions as having "no sane purpose,"<sup>[11]</sup> and meant only to "satisfy her crazy quest for revenge,"<sup>[12]</sup> and even characterized

complainant as a "lunatic;"<sup>[13]</sup> and (b) Atty. Dicen's Position Paper<sup>[14]</sup> dated November 28, 2016 where he stated:

It is the observation of the respondent that complainant is no longer thinking on her own but has become fixated on her illicit and immoral, if not adulterous relationship with her ex-husband, Martin Vince, (while current husband is in the [United States] reportedly recuperating from a surgery), a foreigner who by the latter's manipulation caused her to be estranged from the entire Flores-Dicen clan.<sup>[15]</sup>

The IBP thus concluded that Atty. Dicen had failed to adhere to the duty imposed upon lawyers not to use language "which is abusive, offensive or otherwise improper."<sup>[16]</sup> It noted that Atty. Dicen's use of offensive language "and his resort to gossip to prove a point, fell short of the gracious, gentlemanly, courteous, dignified, civil and temperate (*even if forceful*) language required of him as a lawyer."<sup>[17]</sup>

The IBP Board of Governors, in its Resolution No. XXII-2017-1185<sup>[18]</sup> dated June 17, 2017, resolved to adopt and approve the January 20, 2017 Report and Recommendation of the IBP-CBD to admonish Atty. Dicen.

### **The Issue**

The issue for the Court's resolution is whether Atty. Dicen should be held administratively liable for violating Rule 8.01, Canon 8 of the Code of Professional Responsibility (CPR) for his use of intemperate language in his pleadings.

### **The Court's Ruling**

The Court has examined the records of this case and concurs with the findings and recommendations of the IBP Board of Governors.

"The practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality. *Any* violation of these standards exposes the lawyer to administrative liability."<sup>[19]</sup>

Canon 8 of the CPR in particular, instructs that a lawyer's arguments in his pleadings should be *gracious* to both the court and his opposing counsel, and must be of such words as may be properly addressed by one gentleman to another.<sup>[20]</sup> "The language vehicle does not run short of expressions which are emphatic but respectful, convincing but not derogatory, illuminating but not offensive."<sup>[21]</sup>

Rule 8.01, Canon 8 of the CPR provides:

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

A thorough review of the records clearly shows that Atty. Dicen had resorted to the use of *derogatory* language in his pleadings filed before the IBP in order to rebut the allegations hurled against him.

For instance, in his Manifestation<sup>[22]</sup> dated October 19, 2016, Atty. Dicen referred to complainant as a "lunatic" who was on a "crazy quest for revenge" against him, *viz.:*