

EN BANC

[A.C. No. 10679, March 10, 2015]

PO1 JOSE B. CASPE, COMPLAINANT, VS. ATTY. AQUILINO A. MEJICA, RESPONDENT.

R E S O L U T I O N

VILLARAMA, JR., J.:

Before us is a complaint^[1] for disbarment filed by PO1 Jose B. Caspe against Atty. Aquilino A. Mejica^[2] for alleged violation of Code of Professional Responsibility (CPR) specifically Rules 1.03,^[3] 1.04,^[4] and 10.01^[5]. The Integrated Bar of the Philippines Board of Governors (IBP BOG) recommended that Atty. Mejica be suspended from the practice of law for a period of three years.^[6]

Caspe alleged the controversy started when Atty. Mejica disregarded conflict of interest rules. Caspe said that when he filed a complaint for attempted murder against Antonio Rodriguez, Jr., Atty. Mejica served as Caspe's counsel. When Rodriguez, Jr. filed his counter-affidavit, it was Atty. Mejica who counseled and represented him.^[7]

Caspe brought separate suits for damages and disbarment: one for conflict of interest^[8] and the present complaint. Atty. Mejica tried to negotiate a settlement but Caspe refused. Atty. Mejica allegedly then threatened Caspe that "he will help file cases after cases against the complainant until he kneels before [him]. He will 'put down' complainant so much so that he will be removed from the service."^[9] From then on, Caspe alleged, Atty. Mejica maliciously encouraged the filing of suits against him.

In the present complaint, Caspe narrated that on December 21, 2007, Romulo Gaduena,^[10] a barangay *tanod*, harassed Jan Mark Busa and Marcelino Jataas with a gun. Caspe, who was on duty, together with PO1 Onofre Lopeña responded. They recovered a caliber 0.357 revolver which was turned over to the Can-avid Police station. The incident was recorded in the police blotter. Gaduena evaded arrest with the help of barangay captain Prudencio Agda and other barangay *tanods*^[11] who allegedly clobbered Caspe and took his gun. In the interest of peace and harmony, the Chief of Police^[12] called and requested that Caspe desist from filing charges against the barangay captain and *tanods*, specifically Gaduena. Caspe acceded.

However, Gaduena, with Atty. Mejica as counsel, filed a complaint^[13] for serious slander by deed against Caspe, which was supported by a joint affidavit^[14] of two barangay *tanods*. It was alleged that Caspe kicked, collared and slapped Gaduena's face. This prompted Caspe to disregard the agreement with the Chief of Police and

he filed cases against the *tanods*. Suspecting that Atty. Mejica encouraged Gaduena to file the case against him, Caspe filed the cases for damages^[15] and disbarment^[16] against Atty. Mejica before the IBP.

In its July 4, 2008 Order,^[17] the IBP Commission on Bar Discipline (IBP CBD) ordered Atty. Mejica to submit his answer.

A Notice of Mandatory Conference was issued on September 22, 2008 for a hearing scheduled on October 21, 2008.^[18] Atty. Mejica, however, failed to appear. The hearing was rescheduled on November 18, 2008.

On November 13, 2008, Atty. Mejica filed a manifestation that he never received a copy of the complaints against him. He asked that the hearing be postponed and rescheduled and that copies of the complaint be furnished to him.^[19] The hearing was thus rescheduled to January 13, 2009^[20] and a copy of the complaint was sent to him via a private courier, LBC. It appeared however that he did not claim the mail.^[21]

On December 9, 2008, Atty. Mejica once more manifested that he did not receive any notice from LBC of any mail to be claimed. He also expressed misgivings on the shift from registered mail to the use of a private courier to send copies of the complaint. He requested that a copy of the complaint be sent to him via registered mail.^[22]

Atty. Mejica failed to appear in the January 13, 2009 hearing. The IBP CBD issued an order warning him that his failure to appear in the next rescheduled hearing would render him in default and the case would be submitted for decision.^[23]

Atty. Mejica failed to appear for the February 3, 2009 hearing. The IBP CBD ordered the case submitted for decision.^[24]

In its Report and Recommendation,^[25] the IBP CBD found respondent guilty of violating Rules 1.03, 1.04 and 10.01 of the CPR. It stated that Atty. Mejica was corruptly motivated in encouraging the filing of suits against Caspe making good his threat to file case upon case against the latter until he kneels before him. Notice was taken that this was Atty. Mejica's second infraction for a similar offense. In *Baldado v. Mejica*,^[26] he was suspended from the practice of law for a period of three months.^[27] The IBP CBD thus recommended that Atty. Mejica be suspended from the practice of law for one year.^[28]

In its April 15, 2013 Resolution, the IBP BOG adopted the Report and Recommendation of the IBP CBD.^[29] Atty. Mejica moved for reconsideration.^[30]

In its May 3, 2014 Resolution, the IBP BOG denied the motion for reconsideration and modified the penalty by increasing the period of suspension to three years.^[31] The resolution noted that Atty. Opinion, member of the BOG and counsel of Caspe for this case, stepped out of the room when the case came for discussion and did not participate in the voting.^[32]

Atty. Mejica maintains that he was not afforded due process. He stated that he received a Notice of Preliminary Conference for October 21, 2008 but did not appear since he did not receive a copy of the complaint and was not ordered to answer. For the scheduled February 3, 2009 Conference, Atty. Mejica reasoned that it was impossible for him to attend the meeting since he received the Notice in the afternoon of February 3, 2009.^[33] Furthermore, he was not given the opportunity to answer. Atty. Mejica also maintained that he never threatened Caspe because he was not present during the preliminary conference where he allegedly uttered the threatening words.^[34]

We adopt the findings of the IBP but modify the penalty imposed.

The only question the Court takes up in disbarment proceedings is whether the member of the bar is fit to be allowed the privileges as such or not.^[35] This Court has stated that a lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity, which shows him to be wanting in good moral character, honesty, probity, and good demeanor as to render him unworthy to continue as an officer of the Court.^[36]

In disciplinary proceedings against members of the bar, only clear preponderance of evidence is required to establish liability. As long as the evidence presented by complainant or that taken judicial notice of by the Court is more convincing and worthy of belief than that which is offered in opposition thereto, the imposition of disciplinary sanction is justified.^[37] The Court has required that a complainant has the onus of proving the charges against respondent by clear, convincing and satisfactory evidence.^[38]

Based on the Report and Recommendation, the Court is convinced that there is sufficient evidence to sanction Atty. Mejica. The following observation by the IBP CBD is well taken:

x x x First, when the cases were initiated and filed against PO1 Caspe through the help of [Atty. Mejica], he was already facing disbarment and civil cases which the former filed against him. Second, these cases [were] filed after [Atty. Mejica] made [the] threat [to] file cases against PO1 Caspe by reason of [the] refusal to withdraw the disbarment and civil cases. Third, a gap of more than five months elapsed between the incident of December 21, 2007 and the filing of the grave slander by deed and that during this period, the chief of Police who [was] presumed to have regularly performed his job did not prosecute the criminal cases against [Gaduená] and companions. Fourth, during [the] said period, PO1 Caspe who [was] presumed to have taken ordinary care of his cause did not file the criminal cases against [Gaduená] and companions. Fifth, the existence of a settlement agreement between PO1 Caspe and Brgy. Captain Agda, Kagawad Sobresida and the other tanods is therefore factual, but despite such settlement, the case for grave slander by deed was still filed with [Atty. Mejica] as counsel. Sixth, PO1 Caspe filed this disbarment case only after the grave slander by deed and the multiple attempted murders were filed against him with the help of [Atty. Mejica].

Seventh, and most importantly, despite ethical proscription, [Atty. Mejica] served as counsel for the criminal complainants against PO1 Caspe.^[39]

The IBP CBD concluded that there could be no other reason for Atty. Mejica to file the cases against PO1 Caspe other than to get back at him. We agree that the confluence of circumstances points to Atty. Mejica's corrupt motive in helping Gaduena in filing cases against Caspe, in violation of Rules 1.03, 1.04 and 10.01 of the CPR.

With respect to Atty. Mejica's claim that he was not afforded due process, i.e., he was not able to receive a copy of a complaint which in turn was the reason for him not to have attended the mandatory conference, we find this untenable.

Section 5, Rule V of the Rules of Procedure of the Commission on Bar Discipline Integrated Bar of the Philippines provides that:

SEC. 5. Non-appearance of Parties, and Non-verification of Pleadings. a) Non-appearance at the mandatory conference or at the clarificatory questioning date shall be deemed a waiver of right to participate in the proceeding. *Ex parte* conference or hearings shall then be conducted. Pleadings submitted or filed which are not verified shall not be given weight by the Investigating Commissioner.

Atty. Mejica during the course of these proceedings has missed all four scheduled hearings supposedly since he was not furnished any copy of the complaint. Records suggest however that a copy of the complaint was sent to him on August 25, 2008, a mail which he did not claim. He submitted two manifestations in response to notices he received. He was thus placed on notice that there was an action against him.

It is the Court's opinion that Atty. Mejica's attitude toward the proceedings before the IBP indicates a lack of respect for the IBP's rules and procedures. In *Cabauatan v. Venida*,^[40] we stated that in not heeding the IBP's directives:

x x x Respondent's refusal to obey the orders of the IBP "is not only irresponsible, but also constitutes utter disrespect for the judiciary and his fellow lawyers. His conduct is unbecoming of a lawyer, for lawyers are particularly called upon to obey court orders and processes and are expected to stand foremost in complying with court directives being themselves officers of the court." Respondent should be reminded that -

As an officer of the court, [he] is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP as the investigating arm of the Court in administrative cases against lawyers.

Respondent should strive harder to live up to his duties of