

SECOND DIVISION

[A.C. No. 5768, March 26, 2010]

ATTY. BONIFACIO T. BARANDON, JR., COMPLAINANT, VS. ATTY. EDWIN Z. FERRER, SR., RESPONDENT.

DECISION

ABAD, J.:

This administrative case concerns a lawyer who is claimed to have hurled invectives upon another lawyer and filed a baseless suit against him.

The Facts and the Case

On January 11, 2001 complainant Atty. Bonifacio T. Barandon, Jr. filed a complaint-affidavit^[1] with the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) seeking the disbarment, suspension from the practice of law, or imposition of appropriate disciplinary action against respondent Atty. Edwin Z. Ferrer, Sr. for the following offenses:

1. On November 22, 2000 Atty. Ferrer, as plaintiff's counsel in Civil Case 7040, filed a reply with opposition to motion to dismiss that contained abusive, offensive, and improper language which insinuated that Atty. Barandon presented a falsified document in court.
2. Atty. Ferrer filed a fabricated charge against Atty. Barandon in Civil Case 7040 for alleged falsification of public document when the document allegedly falsified was a notarized document executed on February 23, 1994, at a date when Atty. Barandon was not yet a lawyer nor was assigned in Camarines Norte. The latter was not even a signatory to the document.
3. On December 19, 2000, at the courtroom of Municipal Trial Court (MTC) Daet before the start of hearing, Atty. Ferrer, evidently drunk, threatened Atty. Barandon saying, "*Laban kung laban, patayan kung patayan, kasama ang lahat ng pamilya. Wala na palang magaling na abogado sa Camarines Norte, ang abogado na rito ay mga taga-Camarines Sur, umuwi na kayo sa Camarines Sur, hindi kayo taga-rito.*"
4. Atty. Ferrer made his accusation of falsification of public document without bothering to check the copy with the Office of the Clerk of Court and, with gross ignorance of the law, failed to consider that a notarized document is presumed to be genuine and authentic until proven otherwise.

5. The Court had warned Atty. Ferrer in his first disbarment case against repeating his unethical act; yet he faces a disbarment charge for sexual harassment of an office secretary of the IBP Chapter in Camarines Norte; a related criminal case for acts of lasciviousness; and criminal cases for libel and grave threats that Atty. Barandon filed against him. In October 2000, Atty. Ferrer asked Atty. Barandon to falsify the daily time record of his son who worked with the Commission on Settlement of Land Problems, Department of Justice. When Atty. Barandon declined, Atty. Ferrer repeatedly harassed him with inflammatory language.

Atty. Ferrer raised the following defenses in his answer with motion to dismiss:

1. Instead of having the alleged forged document submitted for examination, Atty. Barandon filed charges of libel and grave threats against him. These charges came about because Atty. Ferrer's clients filed a case for falsification of public document against Atty. Barandon.

2. The offended party in the falsification case, Imelda Palatolon, vouchsafed that her thumbmark in the waiver document had been falsified.

3. At the time Atty. Ferrer allegedly uttered the threatening remarks against Atty. Barandon, the MTC Daet was already in session. It was improbable that the court did not take steps to stop, admonish, or cite Atty. Ferrer in direct contempt for his behavior.

4. Atty. Barandon presented no evidence in support of his allegations that Atty. Ferrer was drunk on December 19, 2000 and that he degraded the law profession. The latter had received various citations that speak well of his character.

5. The cases of libel and grave threats that Atty. Barandon filed against Atty. Ferrer were still pending. Their mere filing did not make the latter guilty of the charges. Atty. Barandon was forum shopping when he filed this disbarment case since it referred to the same libel and grave threats subject of the criminal cases.

In his reply affidavit,^[2] Atty. Barandon brought up a sixth ground for disbarment. He alleged that on December 29, 2000 at about 1:30 p.m., while Atty. Ferrer was on board his son's taxi, it figured in a collision with a tricycle, resulting in serious injuries to the tricycle's passengers.^[3] But neither Atty. Ferrer nor any of his co-passengers helped the victims and, during the police investigation, he denied knowing the taxi driver and blamed the tricycle driver for being drunk. Atty. Ferrer also prevented an eyewitness from reporting the accident to the authorities.^[4]

Atty. Barandon claimed that the falsification case against him had already been dismissed. He belittled the citations Atty. Ferrer allegedly received. On the contrary, in its Resolution 00-1,^[5] the IBP-Camarines Norte Chapter opposed his application to serve as judge of the MTC of Mercedes, Camarines Sur, on the ground that he did

not have "the qualifications, integrity, intelligence, industry and character of a trial judge" and that he was facing a criminal charge for acts of lasciviousness and a disbarment case filed by an employee of the same IBP chapter.

On October 10, 2001 Investigating Commissioner Milagros V. San Juan of the IBP-CBD submitted to this Court a Report, recommending the suspension for two years of Atty. Ferrer. The Investigating Commissioner found enough evidence on record to prove Atty. Ferrer's violation of Canons 8.01 and 7.03 of the Code of Professional Responsibility. He attributed to Atty. Barandon, as counsel in Civil Case 7040, the falsification of the plaintiff's affidavit despite the absence of evidence that the document had in fact been falsified and that Atty. Barandon was a party to it. The Investigating Commissioner also found that Atty. Ferrer uttered the threatening remarks imputed to him in the presence of other counsels, court personnel, and litigants before the start of hearing.

On June 29, 2002 the IBP Board of Governors passed Resolution XV-2002-225,^[6] adopting and approving the Investigating Commissioner's recommendation but reduced the penalty of suspension to only one year.

Atty. Ferrer filed a motion for reconsideration but the Board denied it in its Resolution^[7] of October 19, 2002 on the ground that it had already endorsed the matter to the Supreme Court. On February 5, 2003, however, the Court referred back the case to the IBP for resolution of Atty. Ferrer's motion for reconsideration.^[8] On May 22, 2008 the IBP Board of Governors adopted and approved the Report and Recommendation^[9] of the Investigating Commissioner that denied Atty. Ferrer's motion for reconsideration.^[10]

On February 17, 2009, Atty. Ferrer filed a Comment on Board of Governors' IBP Notice of Resolution No. XVIII-2008.^[11] On August 12, 2009 the Court resolved to treat Atty. Ferrer's comment as a petition for review under Rule 139 of the Revised Rules of Court. Atty. Barandon filed his comment,^[12] reiterating his arguments before the IBP. Further, he presented certified copies of orders issued by courts in Camarines Norte that warned Atty. Ferrer against appearing in court drunk.^[13]

The Issues Presented

The issues presented in this case are:

1. Whether or not the IBP Board of Governors and the IBP Investigating Commissioner erred in finding respondent Atty. Ferrer guilty of the charges against him; and
2. If in the affirmative, whether or not the penalty imposed on him is justified.

The Court's Ruling

We have examined the records of this case and find no reason to disagree with the findings and recommendation of the IBP Board of Governors and the Investigating Commissioner.