

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

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Third Division

JUL 24 2019

THIRD DIVISION

ARLENE O. BAUTISTA,
Complainant,

A.C. No. 9057
[Formerly CBD Case No. 12-3413]

Present:

PERALTA, J., *Chairperson,*
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, JJ.

- versus -

Promulgated:

ATTY. ZENAIDA M. FERRER,
Respondent.

July 3, 2019

X-----X

Wilfredo V. Lapitan X

DECISION

PERALTA, J.:

Before the Court is an Affidavit-Complaint¹ dated July 11, 2011 filed by complainant Arlene O. Bautista charging respondent Atty. Zenaida M. Ferrer with Violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics.

The antecedent facts are as follows:

In her complaint, Bautista alleged that she had recently accused Ferrer, Assistant Regional State Prosecutor, Office of the Prosecutor, Region 1, San Fernando City, La Union, with grave coercion, grave threats, grave oral defamation, unlawful arrest, violation of Republic Act (R.A.) No. 7438, entitled *An Act Defining Certain Rights of Person Arrested, Detained or under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations*

¹ Rollo, pp. 2-5.

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Thereof, theft, and attempted homicide. As borne by the records, Bautista suggests that she once owed Ferrer ₱200,000.00, but the latter is now claiming that the amount is already ₱440,000.00.

Bautista narrated that in the morning of March 28, 2011, Ferrer, who was very furious, came to her house she was renting from the latter and uttered derogatory remarks such as “*punyeta ka! Ang kapal ng mukha mo!*” and threatened her with the words, “*kung hindi lang ako naawa sa anak mo, tuluyan kita!*” Ferrer then brought out a handgun from a bag being held by her driver, forced her to leave the house she was renting, illegally searched her bag, and forcibly took her Nokia cellular phone. When her live-in partner and the latter’s sister arrived on a tricycle, she also harassed them and took the key thereto from him.

Thereafter, Bautista recalled that at around 9:00 a.m. of the same day, Ferrer forcibly brought her to the City Hall of San Fernando supposedly to identify those people who she lent Ferrer’s money to. Upon arriving thereat, however, Ferrer not only identified her debtors, but also placed Bautista in public ridicule in exclaiming that she was a member of the “*Budol-budol*” gang.

Unsatisfied with said deed, Bautista alleged that at around 2:30 p.m., Ferrer next detained and delivered her to the custody of the Philippine National Police (*PNP*), San Fernando City, La Union, without any legal grounds. At the police station, she was subjected to an investigation where she was again asked about those persons who were indebted to Ferrer. When she finally disclosed the names, Ferrer kicked, punched, and repeatedly slapped her head. Then, Ferrer bragged that the police was under her control and ordered Police Officer (*PO*) 2 Maricar Godoy to search her bag who consequently searched her wallet and got the list of debtors therein. It was only upon the intercession of a certain Johnny Go that she was released from the custody of the *PNP*.

Finally, at the end of the day, Bautista recalled that Ferrer evicted her and her family from the house they were renting from Ferrer and prevented them from taking their personal belongings therein. These personal belongings, which includes a television set and a refrigerator, were taken out of the rented house and brought to one of the rooms in Ferrer’s house, which Ferrer refused to return until Bautista paid the alleged sum of money.

Bautista further narrates that on May 23, 2011, she went to Ferrer’s office with Jose Mari Almeida, a Supervisor from the Department of Education (*DepEd*), to beg for the release of her personal belongings as well as a computer belonging to Almeida. But Ferrer got angry and told her “*Putang ina mo Arlene ayusin mo ako bago mo muna makuha mga gamit*”

mo!” She then picked a pair of scissors on top of her table and thrust it towards Bautista but was subdued by Almeida. According to Bautista, she made another attempt to beg for the release of her personal belongings amounting to ₱38,700.00, but was again rejected by Ferrer.

In the end, Bautista maintains that as a result of her family’s displacement, she had no choice but to allow her former husband to bring their 13-year-old daughter with him to Isabela where he succeeded in raping the latter. Thus, she blames Ferrer for her daughter’s misfortune.²

In her Comment,³ Ferrer denied the accusations against her. Ferrer recalls that Bautista, known as “*Sudsud*” for being the familiar manicurist of the employees at the City Hall of San Fernando, rented one of her houses in December 2010. Since then, Bautista would frequent her place to do her nails and even help her out around her house. As a result, Bautista eventually gained her trust and confidence. Ferrer later learned that Bautista was in the business of lending money to people and was being financed by a rich Chinese businessman. From Bautista’s representations, it appeared to Ferrer that Bautista was well-connected and that her business was very lucrative. Consequently, Ferrer soon gave Bautista capital who re-lent the money to several government employees. To allay Ferrer’s fears, Bautista assured her that her rich Chinese financier would be arriving soon and would readily pay all the sums of money she gave Bautista amounting to a total of ₱440,000.00. Bautista, however, failed to pay.

Thus, in the morning of March 28, 2011, Ferrer decided to seriously talk with Bautista, bringing with her her carpenter who is close to Bautista and the wife of another one of her carpenters. In front of said persons, Ferrer asked Bautista to remit her collections, but Bautista said that she has not yet made any collections. Instead, Bautista suggested that they go to the DepEd and City Hall so Ferrer could personally talk with the debtors. Before proceeding thereto, Ferrer and Bautista passed by the latter’s rented house where she voluntarily gave Ferrer her cellphone. Ferrer, however, returned it the same day. According to Ferrer, the encounter between her and Bautista was peaceful and smooth. It was not true that she pointed a gun at Bautista.

It was also untrue that Ferrer caused Bautista scandal and humiliation at the DepEd and City Hall. On the contrary, Ferrer was nothing but professional when she asked the debtors about the amounts that they owed her. In fact, she remained calm and composed despite her discovery of several inconsistencies between Bautista’s claims and those of her debtors at the said government offices.⁴

² *Id.* at 1-6.

³ *Id.* at 48-59.


⁴ *Id.* at 52-56.

Ferrer further denied the truth to Bautista's assertions that she forcibly detained her at the police station where she verbally and physically abused her. According to Ferrer, they went to the police station merely for the purpose of talking about Bautista's obligations in front of the police authorities. In support of said contention, Ferrer submitted a letter of the police officer stationed at the time confirming the fact that no confrontation or anything untoward occurred between the parties therein. In fact, the certain Johnny Go who supposedly helped in the release of Bautista disproved in his sworn statement Bautista's claims when he narrated how in a telephone conversation between him and another alleged debtor, Ferrer discovered that Bautista lied again as to the amount of money said debtor owes.

With respect to the claim of theft in detaining Bautista's personal properties, Ferrer insists that Bautista voluntarily left the same and would only totally vacate the rented premises when she settles her obligations to Ferrer. The only reason why the refrigerator was transferred from Bautista's rented house to Ferrer's was because it needed cleaning and safekeeping since said rented house was abandoned.⁵

Finally, as to Bautista's allegation that Ferrer pointed a pair of scissors at her, Ferrer presented the Affidavit of Jose Mari Almeida, the DepEd Supervisor who accompanied Bautista to Ferrer's office. In said document, Almeida retracted his allegations in his original Sworn Statement submitted by Bautista to the effect that his previous statement that Ferrer pointed a pair of scissors at Bautista did not accurately reflect the events that transpired that day. Instead, Almeida declared that while Ferrer uttered the words "*putang ina mo Arlene, ang kapal ng mukha mo. Ayusin mo muna ako bago mo makuha ang mga gamit mo,*" she never pointed the pair of scissors at Bautista but merely made a move to throw it in anger which was not in the direction of Bautista.⁶ Ferrer added that it was just her mannerism to play with the things she holds alternately with her two hands, like when she is teaching, she always holds a pen and plays with it like one would play ping pong.⁷

In the end, Ferrer insists that the complaint filed against her is merely an attempt on Bautista's part to pressure her into withdrawing her complaint against Bautista for Estafa. She adds that to blame her for her daughter's rape is completely misguided and is the highest form of unfairness.⁸



⁵ *Id.* at 54.

⁶ *Id.* at 69.

⁷ *Id.* at 55.

⁸ *Id.* at 57.

In a Report and Recommendation⁹ dated November 12, 2012, the Investigating Commissioner of the Commission on Bar Discipline (*CBD*) of the Integrated Bar of the Philippines (*IBP*) recommended that Ferrer be reprimanded and warned that a similar show in the future of the tendency to take the law into her own hands and/or careless use of her public office or influence to advance, or even to vindicate a purely private interest, and/or the careless use of abusive, offensive or otherwise improper language will be dealt with more severely.¹⁰

In a Resolution¹¹ dated August 9, 2014, however, the Board of Governors (*BOG*) of the *IBP* approved, with modification, the Report and Recommendation of the Investigating Commissioner and suspended Ferrer from the practice of law for one (1) year.

But in another Resolution¹² dated June 7, 2015, the *BOG* granted the Motion for Reconsideration of Ferrer and resolved to set aside its earlier resolution and adopt the recommendation of the Investigating Commissioner. Thus, the *BOG* reprimanded Ferrer and warned her that a similar conduct in the future shall be dealt with more severely.

The Court's Ruling

In view of the circumstances of the instant case, the Court finds that Ferrer must be suspended from the practice of law for a period of one (1) year, as originally found by the *BOG* in its August 9, 2014 Resolution.

It may be true that Bautista was, and may still be, indebted to Ferrer and that the former may not have been completely honest about where exactly the latter's money went. This fact, however, does not give Ferrer unbridled authority to act the way that she did. As stated by the Investigating Commissioner, not only is there something wrong with the means employed by Ferrer in her efforts to recover what Bautista may have owed her, said means violated her duties under the Code of Professional Responsibility.

First of all, it was clearly established, and in fact admitted by Ferrer, that she uttered the derogatory remarks "*putang ina mo Arlene, ang kapal ng mukha mo. Ayusin mo muna ako bago mo makuha ang mga gamit mo*" in the confines of her own office. This fact, standing alone, already violates Rule 8.01 of Canon 8 of the Code of Professional Responsibility which prohibits a

⁹ *Id.* at 363-374.

¹⁰ *Id.* at 371-374.

¹¹ *Id.* at 362.

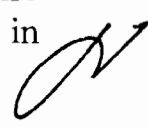
¹² *Id.* at 437-438.

lawyer from using language which is abusive, offensive, or otherwise improper. It is not amiss to add, moreover, that Ferrer was even thrusting a pair of scissors making a move to throw it in anger. To the Court, Ferrer's excuse that she did not point the same in the direction of Bautista and that it is simply her mannerism to hold things with her hands does not absolve her from administrative liability. The fact that she angrily hurled offensive words at Bautista while holding a pair of scissors was enough to threaten and intimidate the latter. As the Investigating Commissioner held, these words surely have no place in the mouth of a lawyer in a high government office such as Ferrer, an Assistant Regional State Prosecutor no less.

Second, it was also clearly proven that Ferrer went to Bautista early morning on March 28, 2011 to inquire about the sum of money and that before proceeding to the government offices to talk to the alleged debtors, Ferrer took Bautista's cellphone. Moreover, while Ferrer insists that she did not physically prohibit Bautista from taking her personal property and that she only urged her to settle her obligations before she can totally vacate the leased premises, evidence show that said personal properties are really being held until payment of obligations. As the witnesses Johnny Go and Almeida stated in their affidavits, Ferrer allowed the removal of the properties only after Bautista returns Ferrer's investment. In fact, Ferrer even admitted that she said the following words to Bautista: "*putang ina mo Arlene, ang kapal ng mukha mo. Ayusin mo muna ako bago mo makuha ang mga gamit mo.*"

Thus, the Court agrees with the Investigating Commissioner's finding that Ferrer's taking of Bautista's cellphone, even if it was eventually returned later on, and refusal to release the personal effects of Bautista is tantamount to confiscation, or depriving Bautista of something that is hers without due process of law. This is in clear breach of the Bill of Rights, particularly the principle that no person shall be deprived of life, liberty, or property without due process of law. Under Canon 1 of the Code of Professional Responsibility, lawyers, such as Ferrer, are mandated to uphold the Constitution and the laws. The Court is of the opinion, therefore, that Ferrer's withholding of Bautista's personal property not only runs counter to her duty to uphold the law, it is also equivalent to putting the law into her own hands.

Finally, it was, likewise, established that in her quest to inquire about the money she had given Bautista, Ferrer did not stop at merely dropping by Bautista's house. As the records show, Ferrer began her confrontation early in the morning at Bautista's place where she confiscated the latter's cellphone, then proceeded with Bautista to the government offices to talk to the debtors, and finally ended up at the police station where she further questioned Bautista about the same issue concerning the money she had given her. In hindsight, this interrogation practically persisted the entire day, beginning early in the morning of March 28, 2011 up until 7 o'clock in



the evening. Thus, Ferrer may insist that she only wanted to “talk about Bautista’s obligations in front of the police authorities,” but We agree with the Investigating Commissioner when he said that Ferrer’s actuations gave Bautista the impression that she was arrested and detained, and worse, that government agencies were being used to advance her private interests.

Rule 6.02, Canon 6 of the Code of Professional Responsibility prohibits a lawyer in government from using his/her public position or influence to promote or advance his/her private interests. On this score, let Us not forget that Ferrer was the Assistant Regional State Prosecutor of San Fernando City, La Union, at the time of the incident and that Bautista was well aware of such fact. Let Us also not forget that Bautista was questioned at the police station from 2:30 p.m. to 7:00 p.m., or almost 5 hours. But despite this, Ferrer did not file any complaint against Bautista, insisting that she merely wanted to talk to Bautista in front of the police authorities. These police authorities searched Bautista’s belongings looking for any clue as to the whereabouts of Ferrer’s money as well as the debtors who borrowed the same. Thus, even assuming that Ferrer did not really kick, punch, or repeatedly slap Bautista’s head, the fact that Bautista surrendered her cellphone and allowed herself to be brought by Ferrer from one place to another, from early morning until the evening, shows how Ferrer succeeded in using her high and powerful position in the government to intimidate Bautista, a mere manicurist and lessee of her property.

In view of the foregoing, Section 27, Rule 138 of the Rules of Court provides that a member of the bar may be removed or suspended from his office as attorney by the Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a wilfull disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so. In addition, the failure to live up to the provisions of the Code of Professional Responsibility is, likewise, a ground for disciplinary action.¹³

Moreover, whether the dispute between the parties is a private matter is of no moment. In *Gonzalez v. Atty. Alcaraz*,¹⁴ We held that “whether in their professional or in their private capacity, lawyers may be disbarred or suspended for misconduct. This penalty is a consequence of acts showing their unworthiness as officers of the courts, as well as their lack of moral character, honesty, probity, and good demeanor. When the misconduct committed outside of their professional dealings is so gross as to show them

¹³ *Collantes v. Atty. Renomeron*, 277 Phil. 668, 674 (1991).

¹⁴ 534 Phil. 471 (2006).



to be morally unfit for the office and the privileges conferred upon them by their license and the law, they may be suspended or disbarred.”¹⁵

The rationale for this is found in *Cordon v. Balicanta*,¹⁶ to wit:

x x x If the practice of law is to remain an honorable profession and attain its basic ideal, those enrolled in its ranks should not only master its tenets and principles but should also, in their lives, accord continuing fidelity to them. Thus, the requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning. Lawyers are expected to abide by the tenets of morality, not only upon admission to the Bar but also throughout their legal career, in order to maintain one's good standing in that exclusive and honored fraternity. Good moral character is more than just the absence of bad character. Such character expresses itself in the will to do the unpleasant thing if it is right and the resolve not to do the pleasant thing if it is wrong. This must be so because 'vast interests are committed to his care; he is the recipient of unbounded trust and confidence; he deals with his client's property, reputation, his life, his all.'"¹⁷

Accordingly, We ruled in *Olazo v. Justice Tinga*¹⁸ that “since public office is a public trust, the ethical conduct demanded upon lawyers in the government service is more exacting than the standards for those in private practice. Lawyers in the government service are subject to constant public scrutiny under norms of public accountability. They also bear the heavy burden of having to put aside their private interest in favor of the interest of the public; their private activities should not interfere with the discharge of their official functions.”¹⁹

Thus, while Ferrer had every right to demand the return of her investments, the appropriate course of action should have been to file a collection case against Bautista. But instead, she chose to put the law into her own hands by personally questioning Bautista, bringing her to the police station, and confiscating her personal belongings. To the Court, Ferrer's acts evinces a certain vindictiveness, an undesirable trait in any individual, and as extensively discussed above, these actuations violated multiple provisions of the Code of Professional Responsibility. Hence, Ferrer may have been in the government service for many years, but such fact may not extinguish her administrative liability.

In *Santiago v. Oca*,²⁰ We ruled that “the Court may suspend or disbar a lawyer for any misconduct showing any fault or deficiency in his moral

¹⁵ *Id.* at 483.

¹⁶ 439 Phil. 95 (2002).

¹⁷ *Id.* at 115-116.

¹⁸ 651 Phil. 290 (2010).

¹⁹ *Id.* at 299.

²⁰ A.C. No. 10463 (Notice), July 1, 2015.



character, honesty, probity or good demeanor, whether in his profession or private life because good character is an essential qualification for the admission to the practice of law and for the continuance of such privilege.”²¹

Indeed, the possession of good moral character is both a condition precedent, and a continuing requirement, to warrant admission to the Bar and to retain membership in the legal profession. This proceeds from the lawyer's duty to observe the highest degree of morality in order to safeguard the Bar's integrity. Consequently, any errant behavior on the part of a lawyer, be it in the lawyer's public or private activities, which tends to show deficiency in moral character, honesty, probity or good demeanour, is sufficient to warrant suspension or disbarment.”²²


In *Canlapan v. Atty. Balayo*,²³ *Sangalang v. Intermediate Appellate Court*,²⁴ *Atty. Torres v. Atty. Javier*,²⁵ and *Re: Complaints of Mrs. Milagros Lee and Samantha Lee against Atty. Gil Luisito R. Capito*,²⁶ the Court suspended erring lawyers for periods ranging from one (1) month to three (3) months for their insulting, offensive, and improper language. In the present case, however, Ferrer not only exclaimed foul words and expletives directed at Bautista, she practically took matters into her own hands in detaining and confronting Bautista in the police station as well as in depriving her of her belongings without due process of law. This vindictive behavior must be met with suspension from the practice of law for a period of one (1) year in line with *Spouses Saburnido v. Madroño*,²⁷ *Gonzalez v. Atty. Alcaraz*,²⁸ and *Co v. Atty. Bernardino*.²⁹

WHEREFORE, for violation of Canon 1, Rule 6.02 of Canon 6, and Rule 8.01 of Canon 8 of the Code of Professional Responsibility, Atty. Zenaida M. Ferrer is hereby **SUSPENDED** from the practice of law for a period of one (1) year, effective upon her receipt of this Decision, and **WARNED** that commission of the same or similar acts in the future will be dealt with more severely.

Let copies of this Decision be furnished the Secretary of Justice, the Prosecutor General, the Office of the Bar Confidant, and the Integrated Bar of the Philippines, for their information and guidance.


²¹ *Id.*
²² *Id.*
²³ 781 Phil. 63 (2016).
²⁴ 257 Phil. 930 (1989).
²⁵ 507 Phil. 397 (2005).
²⁶ 640 Phil. 11 (2010).
²⁷ 418 Phil. 241 (2001).
²⁸ *Supra* note 14.
²⁹ 349 Phil. 16 (1998).


SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

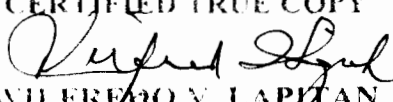
WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

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