



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MAXIMINO NOBLE III,

Complainant,

- versus -

ATTY. ORLANDO O. AILES,

Respondent.

A.C. No. 10628

Present:

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JUL 01 2015

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RESOLUTION

PERLAS-BERNABE, J.:

This instant administrative case arose from a verified Complaint¹ for disbarment dated April 16, 2012 filed by complainant Maximino Noble III (Maximino) against respondent Atty. Orlando O. Ailes (Orlando) before the Integrated Bar of the Philippines (IBP).

The Facts

Maximino alleged that on August 18, 2010, Orlando, a lawyer, filed a complaint² for damages against his own brother, Marcelo O. Ailes, Jr. (Marcelo), whom Maximino represented, together with other defendants, therein. In the said complaint, Orlando stated the following data: "IBP-774058-12/07/09-QC x x x MCLE Compliance No. II-0008689³/Issued on March 10, 2008."⁴ Maximino claimed that at the time of the filing of the said

¹ Rollo, pp. 2-6.

² Entitled "*Orlando O. Ailes v. Marcelo O. Ailes Jr., et al.*" before the Regional Trial Court of Caloocan City docketed as Civil Case No. C-22601; id. at 7-13.

³ Complainant erroneously wrote "MCLE Compliance No. II-00086899" in his Complaint dated April 16, 2012, id. at 2-3. See also Certification of MCLE Office dated February 16, 2012; id. at 14.

⁴ Id. at 2-3. See also p. 12.

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complaint, Orlando's IBP O.R. number should have already reflected payment of his IBP annual dues for the year 2010, not 2009, and that he should have finished his third Mandatory Continuing Legal Education (MCLE) Compliance, not just the second.

Sometime in December 2011, Maximino learned from Marcelo that the latter had filed a separate case for grave threats and *estafa*⁵ against Orlando. When Maximino was furnished a copy of the complaint, he discovered that, through text messages, Orlando had been maligning him and dissuading Marcelo from retaining his services as counsel, claiming that he was incompetent and that he charged exorbitant fees, saying, among others: “ x x x Better dismiss [your] hi-track lawyer who will impoverish [you] with his unconscionable [professional] fee. Max Noble, as shown in court records, never appeared even once, that's why you lost in the pre-trial stage. x x x get rid of [Noble] as [your] lawyer. He is out to squeeze a lot of money from [you]. x x x *daig mo nga mismong abogado mong polpol.*”⁶ Records show that Orlando even prepared a Notice to Terminate Services of Counsel⁷ in the complaint for damages, which stated that Maximino “x x x has never done anything to protect the interests of the defendants in a manner not befitting his representation as a seasoned law practitioner and, aside from charging enormous amount of professional fees and questionable expenses, said counsel's contracted services reached as far only in preparing and filing uncalled for motions to dismiss x x x” as well as a Compromise Agreement,⁸ both of which he sent to Marcelo for his signature. Affronted, Maximino filed the instant complaint charging Orlando with violation of Rule 7.03 of Canon 7, the entire Canon 8 of the Code of Professional Responsibility (CPR), Bar Matter (BM) Nos. 850⁹ and 1922¹⁰, and prayed for the disbarment of respondent as well as the award of damages.

In his defense,¹¹ Orlando denied the charges against him and claimed that his late submission of the third MCLE compliance is not a ground for disbarment and that the Notice to Terminate Services of Counsel and Compromise Agreement were all made upon the request of Marcelo when the latter was declared in default in the aforementioned civil case. Moreover, he insisted that the allegedly offensive language in his text messages sent to Marcelo was used in a “brother-to-brother communication” and were uttered in good faith.¹²

⁵ Id. at 16-22.

⁶ Id. at 17-21.

⁷ Id. at 25-26.

⁸ Id. at 27-28.

⁹ Mandatory Continuing Legal Education (MCLE) Adopting the Rules on Mandatory Continuing Legal Education for Members of the Integrated Bar of the Philippines (August 22, 2000).

¹⁰ Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the Courts the Counsel's MCLE Certificate of Compliance or Certificate of Exemption (June 3, 2008).

¹¹ See Answer; *rollo*, pp. 49-52.

¹² Id. at 51.

Meanwhile, the criminal case for grave threats and *estafa* filed by Marcelo against Orlando was downgraded to unjust vexation¹³ and, on June 19, 2012, after voluntarily entering a plea of *guilty*, Orlando was convicted of the crime of unjust vexation, consisting in his act of vexing or annoying Marcelo by “*texting insulting, threatening and persuading words to drop his lawyer over a case x x x.*”¹⁴

IBP Report and Recommendation

In a Report and Recommendation¹⁵ dated April 30, 2013, the IBP Commissioner recommended the dismissal of the case against Orlando, finding that a transgression of the MCLE compliance requirement is not a ground for disbarment as in fact, failure to disclose the required information would merely cause the dismissal of the case and the expunction of the pleadings from the records. Neither did the IBP Commissioner find any violation of the CPR so gross or grave as to warrant any administrative liability on the part of Orlando, considering that the communication between Orlando and Marcelo, who are brothers, was done privately and not directly addressed to Maximino nor intended to be published and known by third persons.

In a Resolution¹⁶ dated May 11, 2013, the IBP Board of Governors *adopted and approved* the IBP Commissioner’s Report and Recommendation and dismissed the case against Orlando, warning him to be more circumspect in his dealings. Maximino moved for reconsideration¹⁷ which was however denied in a Resolution¹⁸ dated May 3, 2014 with modification deleting the warning.

Aggrieved, Maximino filed the present petition for review on *certiorari*.¹⁹

The Issue Before the Court

The issue for the Court’s resolution is whether or not the IBP correctly dismissed the complaint against Orlando.

The Court’s Ruling

The petition is partly meritorious.

¹³ See Maximino’s Position Paper dated November 14, 2012; *id.* at 84.

¹⁴ *Id.* at 93. Penned by Judge Mario V. Manayon.

¹⁵ *Id.* at 192-195. Penned by Commissioner Oliver A. Cachapero.

¹⁶ *Id.* at 191. Penned by National Secretary Nasser A. Marohomsalic.

¹⁷ *Id.* at 276-280.

¹⁸ *Id.* at 287.

¹⁹ *Id.* at 220-230.

The practice of law is a privilege bestowed on lawyers who meet high standards of legal proficiency and morality.²⁰ It is a special privilege burdened with conditions before the legal profession, the courts, their clients and the society such that a lawyer has the duty to comport himself in a manner as to uphold integrity and promote the public's faith in the profession.²¹ Consequently, a lawyer must *at all times*, whether in public or private life, act in a manner beyond reproach especially when dealing with fellow lawyers.²²

In this relation, Rule 7.03 of Canon 7 as well as Canon 8 of the CPR provides:

Rule 7.03 – A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Canon 8 – A lawyer shall conduct himself with courtesy, fairness and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel.

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

Rule 8.02 – A lawyer shall not, directly or indirectly, encroach upon the professional employment of another lawyer; however, it is the right of any lawyer, without fear or favor, to give proper advice and assistance to those seeking relief against unfaithful or neglectful counsel.

Though a lawyer's language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession. The use of intemperate language and unkind ascriptions has no place in the dignity of the judicial forum.²³ In *Buatis Jr. v. People*,²⁴ the Court treated a lawyer's use of the words "lousy," "inutile," "carabao English," "stupidity," and "satan" in a letter addressed to another colleague as defamatory and injurious which effectively maligned his integrity. Similarly, the hurling of insulting language to describe the opposing counsel is considered conduct unbecoming of the legal profession.²⁵

In this case, the IBP found the text messages that Orlando sent to his brother Marcelo as casual communications considering that they were conveyed privately. To the Court's mind, however, the tenor of the messages

²⁰ *Barandon, Jr. v. Ferrer, Sr.*, 630 Phil. 524, 530 (2010).

²¹ *Foodsphere, Inc. v. Mauricio, Jr.*, 611 Phil. 1, 13 (2009).

²² See *Spouses Olbes v. Diciembre*, 496 Phil. 799, 809-810 (2005).

²³ *Barandon, Jr. v. Ferrer, Sr.*, supra note 20, at 532.

²⁴ 520 Phil. 149, 161 (2006).

²⁵ *Núñez v. Astorga*, 492 Phil. 450, 459-460 (2005).

cannot be treated lightly. The text messages were clearly intended to malign and annoy Maximino, as evident from the use of the word “*polpol*” (stupid). Likewise, Orlando’s insistence that Marcelo immediately terminate the services of Maximino indicates Orlando’s offensive conduct against his colleague, in violation of the above-quoted rules. Moreover, Orlando’s voluntary plea of guilty to the crime of unjust vexation in the criminal case filed against him by Marcelo was, for all intents and purposes, an admission that he spoke ill, insulted, and disrespected Maximino – a departure from the judicial decorum which exposes the lawyer to administrative liability.

On this score, it must be emphasized that membership in the bar is a privilege burdened with conditions such that a lawyer’s words and actions directly affect the public’s opinion of the legal profession. Lawyers are expected to observe such conduct of nobility and uprightness which should remain with them, whether in their public or private lives, and may be disciplined in the event their conduct falls short of the standards imposed upon them.²⁶ Thus, in this case, it is inconsequential that the statements were merely relayed to Orlando’s brother in private. As a member of the bar, Orlando should have been more circumspect in his words, being fully aware that they pertain to another lawyer to whom fairness as well as candor is owed. It was highly improper for Orlando to interfere and insult Maximino to his client.

Indulging in offensive personalities in the course of judicial proceedings, as in this case, constitutes unprofessional conduct which subjects a lawyer to disciplinary action.²⁷ While a lawyer is entitled to present his case with vigor and courage, such enthusiasm does not justify the use of offensive and abusive language.²⁸ The Court has consistently reminded the members of the bar to abstain from all offensive personality and to advance no fact prejudicial to the honor and reputation of a party. Considering the circumstances, it is glaringly clear how Orlando transgressed the CPR when he maligned Maximino to his client.²⁹

With regard to Orlando’s alleged violation of BM No. 1922, the Court agrees with the IBP that his failure to disclose the required information for MCLE compliance in the complaint for damages he had filed against his brother Marcelo is not a ground for disbarment. At most, his violation shall only be cause for the dismissal of the complaint as well as the expunction thereof from the records.³⁰

²⁶ *Spouses Olbes v. Diciembre*, supra note 22.

²⁷ *Asa v. Castillo*, 532 Phil. 9, 20 (2006).

²⁸ *Foodsphere, Inc. v. Mauricio Jr.*, supra note 21, at 14 citing *Saberon v. Larong*, 574 Phil. 510 (2008).


²⁹ See *Spouses Olbes v. Diciembre*, supra note 22, at 811.

³⁰ Bar Matter No. 1922. x x x

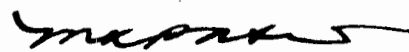
The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to REQUIRE practicing members of the bar to INDICATE in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding

WHEREFORE, the Court finds respondent Atty. Orlando O. Ailes **GUILTY** of violating Rule 7.03 of Canon 7 as well as the entire Canon 8 of the Code of Professional Responsibility. He is hereby **ADMONISHED** to be more circumspect in dealing with his professional colleagues and **STERNLY WARNED** that a commission of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

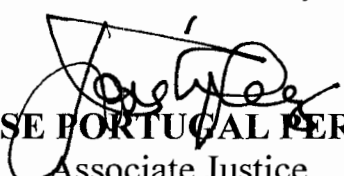

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice