



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ERNESTO B. BALBURIAS,
Complainant,

A.C. No. 10631

Present:

- versus-

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

ATTY. AMOR MIA J. FRANCISCO,
Respondent.

Promulgated:
27 JUL 2016

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x

RESOLUTION

CARPIO, *J.*:

The Case

This case stemmed from a complaint, docketed as CBD Case No. 11-2930, filed by Ernesto B. Balburias (Balburias) against Atty. Amor Mia J. Francisco (Atty. Francisco) before the Integrated Bar of the Philippines (IBP). The IBP Board of Governors dismissed the complaint and denied Balburias's motion for reconsideration, prompting Balburias to file the present petition for review before this Court.

The Antecedent Facts

Balburias alleged in his complaint that he filed a criminal case against his former employee, Rosalyn A. Azogue (Azogue), before the Regional Trial Court of Quezon City for stealing his company's funds. Azogue, in turn, filed a labor case against him. Azogue was represented by Atty. Francisco in the labor case.



Balburias alleged that in one of the hearings of the labor case, Atty. Francisco approached him and contemptuously and boastfully told him “*kaya ka naming bayaran*” in front of a lot of people. Balburias alleged that he was shocked by Atty. Francisco’s unprofessional behavior and he asked her, “*kaya mo akong bayaran?*” to which she replied “*kaya kitang bayaran sa halaga ng complaint mo.*” Balburias claimed that he was embarrassed by Atty. Francisco’s treatment and he told her, “*kahit isang pera lang ang halaga ng buhay ko, hindi ako magpapabayad sa iyo.*” The incident prompted him to file the complaint against Atty. Francisco.

In her Comment, Atty. Francisco alleged that Balburias must be referring to the incident that happened after their mediation conference. During that period, Atty. Francisco was accompanied by Atty. Arnold D. Naval (Atty. Naval). Atty. Naval approached Balburias and his counsel, Atty. Antonio Abad (Atty. Abad) to open talks for a possible settlement. Atty. Naval asked Balburias, “*puwede ho ba nating ayusin ito?*” Balburias answered “*kaya nyo bang bayaran ang nawala sa akin?*” and Atty. Naval replied, “*kaya naming bayaran.*” Atty. Francisco thought that Balburias was referring to the possible settlement and she was surprised to hear him say in a high tone, “*kaya nyo bang bayaran x x x kaya n’yo bang bayaran x x x ang nawala sa akin? Di nyo mababayaran ng kahit anong halaga ang nawala sa akin! Saksi ang Diyos.*” When Atty. Naval realized that Balburias might have misinterpreted him, he tried to pacify him, saying “*kaya naming bayaran ang halaga ng nasa complaint n’yo.*” Atty. Francisco stated that after that, they had a long cordial discussion at the hallway and later, at the cafeteria of the Bookman Building to straighten up the misunderstanding. Atty. Francisco insisted that she had no intention to embarrass Balburias. She expressed surprise at the filing of the case almost two years after the incident occurred.

Balburias, in his Reply, insisted that Atty. Francisco twisted what really happened at the time of the incident. He alleged that Atty. Francisco’s words conveyed that she could buy her opponents, or at least corrupt them. He further alleged that Atty. Naval was trying to protect his wife by making it appear that he was the one who talked to him.

The Report and Recommendation of the Investigating Commissioner

After the mandatory conference and hearing, Commissioner Felimon C. Abelita III (Commissioner Abelita) found that there was no sufficient evidence to prove that Atty. Francisco violated the Code of Professional Responsibility. According to Commissioner Abelita, Balburias viewed Atty. Francisco’s words as threat and arrogance while Atty. Francisco viewed them as an effort to reach an amicable settlement. Commissioner Abelita noted that Balburias did not explain why he filed the case two years after the

incident. He also noted that the parties even proceeded to the cafeteria after the incident. In addition, one of the witnesses for Balburias testified that the parties were not quarreling during the incident. The sworn statement of Atty. Pastor Villanueva (Atty. Villanueva) also stated that Atty. Francisco's words "*kaya ka naming bayaran*" were immediately followed by "*sa halaga ng complaint mo,*" thus obviously referring to the money subject of the complaint. Commissioner Abelita recommended the dismissal of the complaint.

In its Resolution No. XX-2013-227¹ dated 20 March 2013, the IBP Board of Governors adopted and approved Commissioner Abelita's Report and Recommendation and dismissed the case filed by Balburias.

Balburias filed a motion for reconsideration. In its Resolution No. XXI-2014-223 dated 2 May 2014,² the IBP Board of Governors denied the motion for reconsideration and affirmed its Resolution No. XX-2013-227.

Balburias filed the present petition for review before the Court.

The Issue

Whether the IBP Board of Governors committed a reversible error in adopting the Report and Recommendation of Commissioner Abelita and in dismissing the complaint against Atty. Francisco.

The Ruling of this Court

The Court notes that Atty. Francisco did not personally appear during the mandatory conference/hearing and was only represented by Atty. Naval. The report did not state the reason for Atty. Francisco's absence. A reading of the transcript showed that she had to undergo a procedure but no medical certificate was submitted. In any case, Atty. Naval stated that Atty. Francisco would only confirm what was taken up during the mandatory conference/hearing. The Court can rule based on the pleadings filed, the transcript of the case, and the Report and Recommendation of the Investigating Commissioner.

The established fact from the records is that Atty. Francisco, not Atty. Naval, approached Balburias after a hearing in the labor case and told him, "*kaya ka naming bayaran,*" which she later followed with "*kaya kitang bayaran sa halaga ng complaint mo.*" The affidavits of the witnesses, Ana Maria Aquino (Aquino)³ and Analyn M. Delos Santos (Delos Santos),⁴ stated that Atty. Francisco added the second statement after Balburias was

¹ *Rollo*, p. 199.

² *Id.* at 261.

³ *Id.* at 7-8.

⁴ *Id.* at 9-10.

offended. However, the affidavit of Atty. Villanueva⁵ stated that Atty. Francisco's first statement was immediately followed by the second statement. Balburias stated that Atty. Francisco uttered the statements arrogantly while Atty. Naval, who said he was present when it happened, stated that they were uttered firmly but not arrogantly.⁶ It was also established that Atty. Francisco was referring to the criminal case and not to the labor case.

In his petition, Balburias denied that there was a conference or discussion at the cafeteria after the incident.⁷ However, during his testimony, Balburias stated:

COMM. LIMPINGCO;

Baka puwede nating pag-usapan ito?

MR. BALBURIAS:

Hindi ho at saka nakita nyo po natutuwa ako sa tao talaga eh, ang salita ng tao talagang nilalagay ng ano yan e. Ang problema iba ang sinasabi mo dyan sa Affidavit mo sa sinasabi mo ngayon. Sabi mo kaya mong bayaran, ang sabi sa akin ni Atty. Amor, "kaya ka naming bayaran," sabay ganon ako nagalit nong nagalit ako, ito hindi m[a]n tanggapin eh hanggang nagalit ako ang sabi nga, "kaya ka naming bayaran sa halaga ng Complaint mo," yon ang pinakamaganda na sinabi yon nagkaliwanagan tayo, nagkakwentuhan tayo pero yong dagdagan mo ulit ng hindi tama wag naman.⁸

Obviously, they were able to talk after the incident. The Court's impression is that the case before us is a result of a misunderstanding between Balburias and Atty. Francisco. The incident happened two years prior to the filing of this case but it was aggravated by Balburias's dissatisfaction with the progress of the labor case. Balburias testified:

COMM. LIMPINGCO:

Hindi kung hal[i]mbawa nandyan si Atty. Francisco at mag-ano sa inyo nae-explain sa inyo.

MR. BALBURIAS:

Hindi naman ho sya ang sumagot nyan si Atty. Naval ho.

COMM. LIMPINGCO:

Hindi ho nagtatanong ho, hindi ho ako nakikipag-debate sa inyo. Tinatanong ko po kung halimbawa po andito si Atty. Francisco at ee[k]splikha sa inyo na hindi lang kay[o] nagkakaintindihan ano hong ano nyo sa ganong sitwasyon, hindi nyo hong makukuhang....

⁵ Id. at 11-12.

⁶ Id. at 162; TSN, 2 June 2011, p. 28.

⁷ Id. at 245.

⁸ Id. at 165-166; TSN, 2 June 2011, pp. 31-32.

MR. BALBURIAS:

Alam ko ho ang sinasabi nyo matagal ko na hong pinatawad yan pero kailangan din ho nyang dapat harapin yan. Pinagdasal ko na ho yan eh. Ako'y ... ng kaaway pero parang ako ang laging inaaway, matanda na ho ako magsi-62 years old na ho ako pero parang hindi ho respetuhin dahil abogado ho siya, kahit abogado pa ho siya, una titingnan mo kung matanda yong tao.

COMM. LIMPINGCO:

Pero yon ho ang sinabi sa inyo wala na hong dagdag o di kaya'y minura, sinigawan.

MR. BALBURIAS:

Hindi man nya ako kayang murahin, hindi naman pwedeng mangyari yon. Pero yon sabihan mo akong kaya ka naming bayaran, ako talagang mahirap ako pero hindi ako nagpapabayad kahit kanino. Parang ang sakit naman para sa akin non. Sino sya para magsalita ng ganon sa akin.⁹

Atty. Francisco could have avoided the incident if she at least tried to talk to Balburias's counsel on the matter of amicable settlement of the criminal case instead of talking to Balburias himself. Balburias misinterpreted the approach as an attempt to "buy her opponents." We rule that Balburias failed to satisfactorily show that Atty. Francisco acted in bad faith. Delos Santos's affidavit showed that Atty. Francisco immediately corrected herself when she realized that she might have offended Balburias by saying that she was referring to the amount of the complaint. We gathered the same impression from the affidavits of Aquino and Atty. Villanueva. Nevertheless, we deem it proper to admonish Atty. Francisco to be more careful in dealing with other litigants to avoid a repetition of a similar incident in the future.

WHEREFORE, we **DENY** the petition. We **DISMISS** the complaint filed by Ernesto B. Balburias against Atty. Amor Mia J. Francisco. We **ADMONISH** Atty. Francisco to be more circumspect in her actions and to be more courteous in dealing with litigants in the future.

SO ORDERED.


ANTONIO T. CARPIO
Associate Justice

⁹ Id. at 181-183; TSN, 2 June 2011, pp. 47-49.

WE CONCUR:


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice