

CELESTINO MALECDAN, COMPLAINANT, VS. ATTY. SIMPSON T. BALDO, RESPONDENT.

A.C. No. 12121 (Formerly CBD Case No. 14-4322). June 27, 2018

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CAGUIOA, J:

Before this Court is an administrative complaint[1] filed with the Office of the Integrated Bar of the Philippines Baguio-Benguet Chapter (IBP Baguio-Benguet Chapter) by Complainant Celestino Malecdan (Malecdan) against Respondent Atty. Simpson T. Baldo (Atty. Baldo), for the latter's alleged violation of Section 9 of Presidential Decree 1508 (P.D. 1508), otherwise known as the Katarungang Pambarangay Law, which prohibits the participation of lawyers in the proceedings before the Lupon:

SEC. 9. Appearance of parties in person. - In all proceedings provided for herein, the parties must appear in person without the assistance of counsel/representative, with the exception of minors and incompetents who may be assisted by their next of kin who are not lawyers. (Emphasis supplied)

The Factual Antecedents

Malecdan filed a letter of complaint for Estafa, Breach of Contract and Damages against spouses James and Josephine Baldo, before the Lupon of Barangay Pico in La Trinidad, Benguet.

On August 14, 2014, Atty. Baldo appeared as counsel of spouses Baldo during the hearing on the subject complaint before the Punong Barangay.[2]

On August 18, 2014, Malecdan filed a Complaint-Affidavit (Complaint) before the IBP Baguio-Benguet Chapter praying that proper sanctions be imposed on Atty. Baldo for violating Section 9 of P.D. 1508.

On August 20, 2014, the Committee on Ethics of the IBP Baguio--Benguet Chapter furnished Atty. Baldo with a copy of the complaint and set the case for a conciliation conference on September 12, 2014.[3]

On September 15, 2014, the Complaint was endorsed to the Committee on Bar Discipline-IBP (CBD-IBP) by the Committee on Ethics of IBP Baguio-Benguet Chapter after the parties failed to agree on a settlement.[4]

The CBD-IBP thereafter issued an Order[5] dated September 17, 2014, requiring Atty. Baldo to submit a duly verified Answer, within fifteen (15) days from receipt of the order.[6]

On January 14, 2015, the CBD-IBP issued a Notice[7] setting the mandatory conference/hearing of the subject complaint on February 18, 2015.[8]

On February 12, 2015, Malecdan filed his Mandatory Conference Brief.[9]

On February 23, 2015, the mandatory conference of the case was re-scheduled to March 24, 2015 after Atty. Baldo failed to attend the same.[10]

In his Answer[11] dated February 23, 2015, Atty. Baldo admitted that he was present during the proceedings before the Punong Barangay. He explained that he was permitted by the parties to participate in the said hearing,

to wit:

1. The allegation in the complaint is admitted. However, the rest of the truth to the matter is that, before entering the barangay session hall, respondent asked permission from the officer-in-charge if he will be allowed that before any hearing be conducted, he and the respondent in the said barangay case, his uncle, James Baldo, be allowed to talk to complainant Celestino Malecdan as they may be able to amicably settle the matter on their own, of which the officer in charge granted on the reason that the proceeding was still in the dialogue stage;
2. Likewise, when he entered inside the barangay session hall where complainant and his companion, Laila Alumno was waiting, respondent again asked permission from complainant and his companion, Laila Alumno if the latter will allow the former to join them in the dialogue with James Baldo as the parties may amicably settle the case on their own;
3. Since complainant already knew respondent as they had a previous meeting at the office of complainant's lawyer, Atty. Melissa Quitan-Corpuz concerning the same case against James Baldo, complainant readily permitted and allowed that parties have a dialogue on their own with respondent joining them and without the presence of any barangay officials.[12] (Emphasis supplied)

In an Order[13] dated March 24, 2015, Investigating Commissioner Eduardo R. Robles gave Malecdan a period of fifteen (15) days to file a supplemental complaint where he can incorporate other facts and circumstances which he failed to indicate in his complaint. Atty. Baldo was likewise given a period of fifteen (15) days from his receipt of the supplemental complaint within which to file his supplemental answer should he wish to do so.[14]

On March 31, 2015, Malecdan filed his Verified Supplemental Complaint Affidavit,[15] wherein he insisted that he vehemently objected to the presence of Atty. Baldo during the proceedings before the Punong Barangay, to wit:

2. Using his influence as a lawyer, Atty. Baldo prevailed upon the Punong Barangay and the Barangay Secretary to let him participate in the barangay proceedings intended for the settlement of our grievance against Spouses Josephine Baldo and James Baldo on August 14, 2014.
3. He did this over my vehement objections. I told him that he was not supposed to be there but then he insisted. It even got to the point that we were already arguing out loud. I resented the fact that he was there assisting and representing his clients, the Spouses Baldo while I was not represented by counsel. We were in a situation that Section 9 of Presidential Decree 1508 sought to prevent.[16] (Emphasis supplied)

After due proceedings, Investigating Commissioner Robles rendered a Report and Recommendation[17] on June 2, 2015, recommending that Atty. Baldo be given a warning. Commissioner Robles found that the language of the Katarungang Pambarangay Law is not that definite as to unqualifiedly bar lawyers from appearing before the Lupon, nor is the language that clear on the sanction imposable for such an appearance.[18] Commissioner Robles reasoned that the matter of appearance or non-appearance before the Lupon is clearly addressed to a lawyer's taste of propriety:

x x x. The respondent ought to have known that his attendance thereat would have caused some ruckus. That respondent chose to attend is some measure of his lack of propriety.

Although this Commission cannot legislate good taste or an acute sense of propriety, the Commission can definitely remind the respondent that another act of insensitivity to the rules of good conduct will court administrative sanctions.[19]

The dispositive portion of Commissioner Robles' Report and Recommendation reads as follows:

UPON THE FOREGOING, it is respectfully recommended that the respondent Atty. Simpson T. Baldo be given a warning.

RESPECTFULLY SUBMITTED.[20]

On June 20, 2015, the IBP Board of Governors passed a Resolution[21] reversing and setting aside the Report and Recommendation of the Investigating Commissioner and instead recommended that Atty. Baldo be reprimanded, thus:

RESOLVED to REVERSE as it is hereby REVERSED and SET ASIDE, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", considering Respondent's appearance as counsel for Spouses James and Josephine Baldo in a Katarungan[g] Pambarangay hearing, Thus, Respondent is hereby REPRIMANDED.[22] (Emphasis in the original and italics omitted)

The Court's Ruling

After a judicious examination of the records and submission of the parties, the Court upholds the findings and recommendation of the IBP Board of Governors.

The Court agrees with the IBP Board of Governors that the language of P.D. 1508 is mandatory in barring lawyers from appearing before the Lupon.

As stated in the case of *Ledesma v. Court of Appeals*,[23] Section 9 of P.D. 1508 mandates personal confrontation of the parties because:

"x x x a personal confrontation between the parties without the intervention of a counsel or representative would generate spontaneity and a favorable disposition to amicable settlement on the part of the disputants. In other words, the said procedure is deemed conducive to the successful resolution of the dispute at the barangay level."

x x x x

"To ensure compliance with the requirement of personal confrontation between the parties, and thereby, the effectiveness of the barangay conciliation proceedings as a mode of dispute resolution, the above-quoted provision is couched in mandatory language. Moreover, pursuant to the familiar maxim in statutory construction dictating that 'expressio unius est exclusio alterius', the express exceptions made regarding minors and incompetents must be construed as exclusive of all others not mentioned."[24] (Emphasis supplied)

Atty. Baldo's violation of P.D. 1508 thus falls squarely within the prohibition of Rule 1.01 of Canon 1 of the Code of Professional Responsibility (CPR), which provides:

CANON 1 -

A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 -

A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Canon 1 clearly mandates the obedience of every lawyer to laws and legal processes. A lawyer, to the best of his ability, is expected to respect and abide by the law: and thus, avoid any act or omission that is contrary to the

same.[25] A lawyer's personal deference to the law not only speaks of his character but it also inspires the public to likewise respect and obey the law.[26] Rule 1.01, on the other hand, states the norm of conduct to be observed by all lawyers. Any act or omission that is contrary to, or prohibited or unauthorized by, or in defiance of, disobedient to, or disregards the law is unlawful.[27] Unlawful conduct does not necessarily imply the element of criminality although the concept is broad enough to include such element.[28]

Here, Atty. Baldo admitted that he appeared and participated in the proceedings before the Punong Barangay in violation of Section 9 of P.D. 1508. Atty. Baldo therefore violated Rule 1.01 of the CPR in connection with Section 9 of P.D. 1508 when he appeared as counsel for spouses James and Josephine Baldo in a hearing before the Punong Barangay, Barangay Pico, Municipality of La Trinidad in Benguet.

All told, the Court finds that the evidence adduced is sufficient to support the allegations against Atty. Baldo.

WHEREFORE, the Court finds Atty. Simpson T. Baldo **LIABLE** for violation of Canon 1 and Rule 1.01 of the Code of Professional Responsibility and he is hereby **REPRIMANDED** with a stern warning that a repetition of the same or similar act would be dealt with more severely.

SO ORDERED.

Carpio, Senior Associate Justice, (Chairperson), Peralta, Perlas-Bernabe, and Reyes, Jr., JJ., concur.

[1] Rollo, pp. 6-7.

[2] Id. at 8-9.

[3] Id. at 3.

[4] Id. at 4.

[5] Id. at 11.

[6] Id.

[7] Id. at 12.

[8] Id.

[9] Id. at 13-14.

[10] Id at 18.

[11] Id. at 19-21.

[12] Id. at 19.

[13] Id. at 28.

[14] Id.

[15] Id. at 29-30.

[16] Id. at 29.

[17] Id. at 39-40.

[18] Id. at 39.

[19] Id. at 39-40.

[20] Id. at 40.

[21] Id. at 37-38.

[22] Id. at 37.

[23] 286 Phil. 917 (1992).

[24] Id. at 924-925, citing Minister of Justice Opinion No. 135, s. 1981.

[25] Maniquiz v. Atty. Emelo, A.C. No. 8968, September 26, 2017, p. 4.

[26] Id.

[27] Id.

[28] Jimenez v. Atty. Francisco, 749 Phil. 551, 565 (2014).

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