

ANTONIO A. ALCANTARA, COMPLAINANT, VS. ATTY. MARIANO PEFIANCO, RESPONDENT.

A.C. No. 5398. December 03, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a complaint against Atty. Mariano Pefianco for conduct unbecoming a member of the bar for using improper and offensive language and threatening and attempting to assault complainant.

The complainant, Atty. Antonio A. Alcantara, is the incumbent District Public Attorney of the Public Attorney's Office in San Jose, Antique. He alleged that on May 18, 2000, while Atty. Ramon Salvani III was conferring with a client in the Public Attorney's Office (PAO) at the Hall of Justice in San Jose, Antique, a woman approached them. Complainant saw the woman in tears, whereupon he went to the group and suggested that Atty. Salvani talk with her amicably as a hearing was taking place in another room. At this point, respondent Atty. Mariano Pefianco, who was sitting nearby, stood up and shouted at Atty. Salvani and his client, saying, "Nga-a gina-areglo mo ina, ipapreso ang imo nga kliyente para mahibal-an na anang sala." ("Why do you settle that case? Have your client imprisoned so that he will realize his mistake.")

Complainant said he was surprised at respondent Pefianco's outburst and asked him to cool off, but respondent continued to fulminate at Atty. Salvani. Atty. Salvani tried to explain to respondent that it was the woman who was asking if the civil aspect of the criminal case could be settled because she was no longer interested in prosecuting the same. Respondent refused to listen and instead continued to scold Atty. Salvani and the latter's client.

As head of the Office, complainant approached respondent and asked him to take it easy and leave Atty. Salvani to settle the matter. Respondent at first listened, but shortly after he again started shouting at and scolding Atty. Salvani. To avoid any scene with respondent, complainant went inside his office. He asked his clerk to put a notice outside prohibiting anyone from interfering with any activity in the Public Attorney's Office.

Complainant said that he then went out to attend a hearing, but when he came back he heard respondent Pefianco saying: "Nagsiling si Atty. Alcantara nga pagwa-on na kuno ako dya sa PAO, buyon nga klase ka tawo." ("Atty. Alcantara said that he would send me out of the PAO, what an idiot.") Then, upon seeing complainant, respondent pointed his finger at him and repeated his statement for the other people in the office to hear. At this point, according to complainant, he confronted respondent Pefianco and told him to observe civility or else to leave the office if he had no business there. Complainant said respondent resented this and started hurling invectives at him. According to complainant, respondent even took a menacing stance towards him.

This caused a commotion in the office. Atty. Pepin Marfil and Mr. Robert Minguez, the Chief of the Probation Office, tried to pacify respondent Pefianco. Two guards of the Hall of Justice came to take respondent out of the office, but before they could do so, respondent tried to attack complainant and even shouted at him, "Gago ka!" ("You're stupid!") Fortunately, the guards were able to fend off respondent's blow and complainant was not

harmed.

Complainant also submitted the affidavits of Atty. Ramon Salvani III, Felizardo Del Rosario, Atty. Pepin Joey Marfil, Robert Minguez, Herbert Ysulat and Ramon Quintayo to corroborate his allegations.

In his Comment and Counter-Complaint, respondent Pefianco said that the sight of the crying woman, whose husband had been murdered, moved him and prompted him to take up her defense. He said that he resented the fact that complainant had ordered an employee, Napoleon Labonete, to put a sign outside prohibiting “standbys” from hanging round in the Public Attorney’s Office.

Respondent claimed that while talking with Atty. Salvani concerning the woman’s case, complainant, with his bodyguard, arrived and shouted at him to get out of the Public Attorney’s Office. He claimed that two security guards also came, and complainant ordered them to take respondent out of the office. Contrary to complainant’s claims, however, respondent said that it was complainant who moved to punch him and shout at him, “Gago ka!” (“You’re stupid!”)

Prior to the filing of the present complaint, respondent Pefianco had filed before the Office of the Ombudsman an administrative and criminal complaint against complainant. However, the complaint was dismissed by the said office.

The Committee on Bar Discipline of the Integrated Bar of the Philippines found that respondent committed the acts alleged in the complaint and that he violated Canon 8 of the Code of Professional Responsibility. The Committee noted that respondent failed not only to deny the accusations against him but also to give any explanation for his actions. For this reason, it recommended that respondent be reprimanded and warned that repetition of the same act will be dealt with more severely in the future.

We find the recommendation of the IBP Committee on Bar Discipline to be well taken.

The evidence on record indeed shows that it was respondent Pefianco who provoked the incident in question. The affidavits of several disinterested persons confirm complainant’s allegation that respondent Pefianco shouted and hurled invectives at him and Atty. Salvani and even attempted to lay hands on him (complainant).

Canon 8 of the Code of Professional Responsibility[1] admonishes lawyers to conduct themselves with courtesy, fairness and candor toward their fellow lawyers. Lawyers are duty bound to uphold the dignity of the legal profession. They must act honorably, fairly and candidly toward each other and otherwise conduct themselves without reproach at all times.[2]

In this case, respondent’s meddling in a matter in which he had no right to do so caused the untoward incident. He had no right to demand an explanation from Atty. Salvani why the case of the woman had not or could not be settled. Even so, Atty. Salvani in fact tried to explain the matter to respondent, but the latter insisted on his view about the case.

Respondent said he was moved by the plight of the woman whose husband had been murdered as she was pleading for the settlement of her case because she needed the money. Be that as it may, respondent should realize that what he thought was righteous did not give him the right to demand that Atty. Salvani and his client, apparently the accused in the criminal case, settle the case with the widow. Even when he was being pacified, respondent did not relent. Instead he insulted and berated those who tried to calm him down. Two of the witnesses, Atty. Pepin Marfil and Robert Minguez, who went to the Public Attorney’s Office because they heard the commotion, and two guards at the Hall of Justice, who had been summoned, failed to stop respondent from his verbal rampage. Respondent ought to have realized that this sort of public behavior can only bring down the legal

profession in the public estimation and erode public respect for it. Whatever moral righteousness respondent had was negated by the way he chose to express his indignation. An injustice cannot be righted by another injustice.

WHEREFORE, Atty. Mariano Pefianco is found GUILTY of violation of Canon 8 of the Code of Professional Responsibility and, considering this to be his first offense, is hereby FINED in the amount of P1,000.00 and REPRIMANDED with a warning that similar action in the future will be sanctioned more severely.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Canon 8: “A lawyer shall conduct himself with courtesy, fairness and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel.”

[2] De Ere v. Rubi, 320 SCRA 617 (1999).

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