

EDUARDO L. NUÑEZ, EUGENIO O. NUÑEZ, ELISA NUÑEZ-ALVARICO AND IMELDA L. NUÑEZ, COMPLAINANTS, VS. ATTY. ARTURO B. ASTORGA, RESPONDENT.*A.C. NO. 6131. February 28, 2005*

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-6131/>**PANGANIBAN, J.:**

Disbarment and suspension of an attorney are the most severe forms of disciplinary action; thus, they should be imposed with great caution. They should be meted out only for duly proven serious administrative charges.[1]

The Case and the Facts

This administrative case stems from a Complaint-Affidavit[2] filed with the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) by Eduardo L. Nuñez, Eugenio O. Nuñez, Eliza Nuñez-Alvarico and Imelda L. Nuñez. Atty. Arturo B. Astorga was charged therein with conduct unbecoming a member of the bar. The material averments of the Complaint are summarized by the IBP-CBD as follows:

“Complainants allege that sometime on June 5, 1968, the late Maria Ortega Vda. De Nu[ñ]ez executed a Sale with Right to Repurchase in favor of Eugenio O. Nu[ñ]ez Lot No. 106 covered by OCT No. 2651 (now TCT No. 8955) containing an area of 384 sq. ms. for a consideration of P400.00. In the said contract, the stipulated time of repurchase was ten (10) years from the date of execution thereof or until June 5, 1978. That said period of vendor’s right to repurchase expired without any agreement of extending said period of repurchase. To date, even the heirs of the late Maria Ortega Vda. de Nu[ñ]ez have not exercised[d] their right of repurchase. A year after the execution of the said pacto de ret[r]o sale, the late Maria Ortega Vda. de Nu[ñ]ez and her son Ricardo Nu[ñ]ez, as the surviving heirs of the late Eleuterio Nu[ñ]ez, extrajudicially partitioned his estate, among others, the subject [L]ot No. 106 was adjudicated to Ricardo Nu[ñ]ez which eventually was the basis for the issuance of TCT No. 8955 in the name of Ricardo Nu[ñ]ez. Eugenio O. Nu[ñ]ez [has] occupied and possessed said Lot No. 106 for more than 40 years up to the present and it is also where his children, Eduardo, Elisa and Imelda, all surnamed Nu[ñ]ez, grew and [are] presently residing.

“By virtue of a power of attorney executed sometime in 1982 by the late spouses Ricardo Nu[ñ]ez and Paterna Nu[ñ]ez appointing respondent as administrator, as well as on the alleged judicial confirmation of respondent’s wife, as acknowledged natural child of Ricardo Nu[ñ]ez, respondent, on the pretext of administering the properties of the late spouses, had been disturbing the peaceful occupation and possession of complainants of Lot No. 106 claiming that complainants have no right over the same. With our desire to peaceably settle the controversy, complainants agreed to buy Lot No. 106, and respondent, who, without being appointed by the court as administrator of the intestate estate of the late spouses Ricardo Nu[ñ]ez and Paterna Nu[ñ]ez, sold and conveyed to Imelda Nu[ñ]ez and Elisa Nu[ñ]ez-Alvarico the portions of Lot No. 106 they were occupying. After which Elisa Nu[ñ]ez-Alvarico filed a criminal complaint for Estafa against respondent before the Municipal Trial Court of Baybay, Leyte docketed as Criminal Case No. R-4013-A.

“Sometime on 29 March 2001 at around 7:30 in the evening, respondent went to the house of Eduardo L. Nu[ñ]ez at corner J.P. Laurel and M.L. Quezon Sts., Baybay, Leyte and threatened to kill Eduardo Nu[ñ]ez by

uttering the words ‘ipaposisil ta ka’ which means ‘I’ll have you shot.’ A complaint for Grave Threats docketed as Case No. R-4012-A was filed by Eduardo L. Nuñez before Municipal Trial Court of Baybay, Leyte.”[3]

In a hearing held on June 5, 2002, complainants appeared with their counsel, while respondent was represented by Atty. Arnold Logares. As respondent had not yet filed his answer to the Complaint despite a previous Order dated December 7, 2001, he was granted a period of fifteen (15) days within which to do so. The hearing was thus reset to June 26, 2002.[4]

On June 26, 2002, only respondent’s counsel, Atty. Arnold Logares, was present. Respondent filed a Motion seeking a cancellation of the scheduled hearing and another extension of fifteen (15) days within which to file his answer. He was thus granted a non-extendible period of fifteen (15) days within which to do so.[5]

On July 18, 2002, Atty. Astorga finally submitted his Answer.[6] He denied that he had utilized his profession to circumvent the law and averred that there were already several pending cases involving the same issues raised by complainants in the present administrative action:

“2. That the Deed of Sale with Right to Repurchase executed by the late Maria Ortega Vda. De Nuñez on June 5, 1968 is more civil in nature and can be best threshed out in the amended complaint of Civil Case No. B-2001-10-27, entitled [‘]The Intestate Estate of the late Spouses Ricardo O. Nuñez, et al versus Spouses Bonito D. Alvarico, et al[‘] for Rescission of Contract[.] [T]he original complaint was filed in October 2001 at the Regional Trial Court, Branch 14, Baybay, Leyte; an amended complaint of which is filed where one of the issues is the declaration of invalidity of the foregoing questioned deed of sale with right to repurchase because if this document is really valid and existing then why did complainant Eugenio Nuñez [affix] his signature as one of the instrumental witnesses in the Deed of Extra-Judicial Partition among Maria Ortega Vda. De Nuñez and Ricardo O. Nuñez on May 19, 1969 otherwise he would have protested at the time of the execution thereof because he is the temporary owner of Lot No. 106, one of the properties subject of partition. Why did he allow the late Ricardo O. Nuñez to take control and full possession and ownership of Lot 106 to his exclusion after the partition in 1969?

x x x x x x x x

“[3] b) It is not only the authority of the Spouses Ricardo O. Nuñez and Paterna Baltazar that herein respondent is relying as administrator of the said intestate estate but the same had been duly confirmed by the judicially declared daughter of Ricardo O. Nuñez, namely, respondent’s wife Dr. Linda Teresa Tan-Nuñez who confirmed undersign[ed]’s authority as administrator of the aforementioned estate;

“[3] c) With the discovery of the aforementioned deed of sale with the right to repurchase only recently, the complainants were emboldened to actively [question] [the] estate as they now [refuse] to recognize the ownership and long time possession of the real properties forming part of the aforementioned [estate] to belong to the offspring of the late Ricardo O. Nuñez;

“[3] d) Undersigned respondent did not utilize his profession to circumvent the law. Complainants Elisa L. Nuñez and Imelda L. Nuñez are actually renting the cornermost portion of the consolidated Lot Nos. 106 and 107 of the Baybay Cadastre with an area only of 201 square meters, more or less, and when respondent was trying to eject them, complainants negotiated with the respondent to buy their area of Lot No. 106 they rented and in fact actually advanced part of the agreed consideration until their father Eugenio Nuñez discovered an existing document of sale with right to repurchase when they, ill-advised by their counsel [started] filing [a] series of criminal, civil and administrative cases against respondent and his wife at the instigation of their lawyers, the late Atty. Jose C. Modina and their current counsel, Atty. Norjue I. Juego as a way of pressuring respondent and wife to give up [the] portion they are occupying [of] Lot No. 106[,] including [the] portion which complainant Eduardo Nuñez is now renting of Lot No. 89;

“4. That respondent in response to paragraph 7 of the complaint hereby admit the pendency of Criminal Case

No. R-4013-A which was personally filed by Elisa L. Nuñez without the intervention from any government prosecutor but said case is no longer pending in the Municipal Trial Court of Baybay, Leyte when then same was recommended for dismissal x x x. Later it was ordered dismissed by the Asst. Provincial Prosecutor Rosulo U. Vivero and approved by Provincial Prosecutor Teresita S. Lopez on February 22, 2001 x x x but complainants elevated the case for review to the Department of Justice x x x. Because of the pendency of this criminal case with the Department of Justice[,] a prejudicial question now exist[s] whereby this administrative case should be suspended until the resolution of that petition for review by the Department of Justice;

“5. That respondent specifically denies the material allegations of paragraph 8, 9 and 10 of the complaint, the truth of the matter is that Amado Caballes at the instigation of the complain[an]ts and their counsel filed Criminal Case No. R-4011-A with the Municipal Trial Court, Baybay, Leyte which is pending pre-trial. Like Criminal Case No. R-4013-A, the same was filed at the instance of Amado Caballes, x x x. But before the filing of this present action initiated by Mr. Caballes’s counsel and complainants Eduardo Nuñez and Eugenio Nuñez required Mr. Caballes to execute a document of resale on August 14, 2001 despite knowing that the same has already been long redeemed by respondent x x x. Despite legal redemption, and despite Amado Caballes having executed x x x a Deed of Resale which was witnessed by complainant Eugenio Nuñez x x x, the complainants convinced Amado Caballes to file Crim. Case No. R-4011-A[,] x x x. That by virtue of the pendency of Criminal Case No. R-4011-A, there exist[s] a prejudicial question and that further hearing of the present administrative action should be suspended until the outcome of this criminal case;

“6. That respondent is duly authorized to negotiate for the disposal of any part of the Intestate Estate of the late Spouses Ricardo O. Nuñez and Paterna Baltazar x x x.

“7. That regarding paragraph 12 and 13 of the complaint[,] this is a matter of existence and pend[ing] with [the IBP-CBD] and need not be a part of this complaint because this will be threshed out in another hearing[.] [T]he truth of the matter is that respondent had been already acquitted in Crim. Case No. CBU-29395 x x x.

“8. That similar to other cases filed at the instance of the Nuñezes, there is also filed Crim. Case No. R-4012-A for Grave Threats by complainant Eduardo Nuñez and now pending in the Municipal Court of Baybay, Leyte despite the lack of witnesses x x x. Again, the pendency of this case will constitute a prejudicial question which necessarily will suspend further hearing of the present administrative action until the final outcome of the aforesaid Crim. Case No. R-4011-A;”

x x x x x x x x x x.[7]

On August 8, 2002, complainants submitted their Reply.[8] Thereafter, IBP-CPD Commissioner Rebecca Villanueva-Maala scheduled the case for hearing on December 11, 2002. On this date, respondent requested and was granted a period of fifteen (15) days to file his rejoinder. The parties agreed to file simultaneous memoranda on January 15, 2003, after which the case was to be considered submitted for resolution.[9]

Report and Recommendation of the IBP

In her Report,[10] Commissioner Villanueva-Maala found respondent guilty of serious misconduct. Thus, the investigating commissioner recommended his suspension from the practice of law for a period of one year.

In Resolution No. XV-2003-346 dated June 21, 2003, the Board of Governors of the IBP adopted the Report and Recommendation of Commissioner Villanueva-Maala.

The Resolution, together with the records of the case, was transmitted to this Court for final action, pursuant to Section 12(b) of Rule 139-B of the Rules of Court. Respondent also filed a Petition for Review under Rule 45 of the Rules of Court, to set aside Resolution No. XV-2003-346 of the IBP Board of Governors.

The Court’s Ruling

We disagree with the findings and recommendation of the IBP, but find respondent's offensive language against complainants and their counsel unbecoming an attorney.

Administrative Liability of Respondent

The legal profession exacts a high standard from its members. Lawyers shall not engage in conduct that adversely reflects on their fitness to practice law. Neither shall they, whether in public or in private life, behave in a scandalous manner to the discredit of the legal profession.[11] In *Gonzaga v. Villanueva*,^[12] this Court, citing *Tucay v. Tucay*,^[13] held thus:

“A lawyer may be disbarred or suspended for any violation of his oath, a patent disregard of his duties, or an odious deportment unbecoming an attorney. Among the grounds enumerated in Section 27, Rule 138 of the Rules of Court are deceit; malpractice; gross misconduct in office; grossly immoral conduct; conviction of a crime involving moral turpitude; any violation of the oath which he is required to take before admission to the practice of law; willful disobedience of any lawful order of a superior court; corrupt or willful appearance as an attorney for a party to a case without authority to do so. The grounds are not preclusive in nature even as they are broad enough as to cover practically any kind of impropriety that a lawyer does or commits in his professional career or in his private life. A lawyer must at no time be wanting in probity and moral fiber, which are not only conditions precedent to his entrance to the Bar but are likewise essential demands for his continued membership therein.”^[14]

However, the penalties of disbarment and suspension are severe forms of disciplinary action and must be imposed with great caution.^[15] The allegations in the Complaint were not substantiated by clear evidence; they were bereft of convincing proof of respondent's deceit and gross misconduct.

The admission of respondent that there are various cases filed or pending against him does not ipso facto constitute serious misconduct. His contention that the pending cases against him pose a prejudicial question that will bar the instant administrative case is untenable. Likewise bereft of merit, however, is the finding of the IBP investigating commissioner that the mere existence of the same pending cases constitute serious misconduct on the part of respondent.

Under Section 27 of Rule 138, conviction of a crime involving moral turpitude is a ground for disbarment or suspension. Suspension or disbarment may follow as a matter of course, upon a finding that the crime a lawyer has been convicted of involves moral turpitude. By such conviction, such lawyer has become unfit to uphold the administration of justice and is no longer possessed of good moral character.^[16] In the present case, however, while respondent has been charged with several criminal cases involving moral turpitude, he has yet to be convicted of any of them.

Without clear and convincing evidence that he committed acts that allegedly constituted serious misconduct, the mere existence of pending criminal charges cannot be a ground for disbarment or suspension of respondent. To hold otherwise would open the door to harassment of attorneys through the mere filing of numerous criminal cases against them.

Respondent contends that his right to due process was violated when the IBP investigating commissioner failed to conduct a formal investigation.^[17] As borne by the records, Investigating Commissioner Villanueva-Maala conducted hearings on the case on June 5 and June 26, 2002, during which counsel for respondent, Atty. Logares, appeared. Respondent was allowed to file his Answer, as well as his Rejoinder. And, more important, he himself appeared at the December 11, 2002 hearing when the parties agreed to file simultaneous memoranda, after which the case was deemed submitted for resolution. Records show that respondent filed his Memorandum on January 29, 2003. Hence, he cannot claim that he was not given ample opportunity to rebut the charges filed against him.

While we are not convinced that complainants have clearly and convincingly proven the charges of serious misconduct, we do, however, note the use of offensive language in respondent's pleadings. The Code of Professional Responsibility mandates:

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.

In his Memorandum[18] dated January 15, 2003, the opposing counsel, Atty. Norjue I. Juego, points out the manner and tenor of the language in the Answer[19] and the Rejoinder of respondent.[20] The latter suggested that complainants and their counsel had caused the filing of several baseless suits, including the present charge, merely to harass and place him in a bad light.[21] He hurled insulting language in describing the opposing counsel[22] and cast doubts on the latter's integrity by implying that the lawyer had instigated the filing of the so-called baseless suits, violated the rules on non-forum shopping and committed malpractice.[23] Indeed, these statements, particularly the words "who he is despite x x x his shortness not only in size but in arrogance," constitute conduct unbecoming a member of the legal profession and cannot be countenanced by this Court.

A lawyer's language may be forceful, but should always be dignified; emphatic, but respectful as befitting an advocate. Arguments, whether written or oral, should be gracious to both court and opposing counsel and should use such language as may be properly addressed by one gentleperson to another.[24]

WHEREFORE, Atty. Arturo B. Astorga is ACQUITTED of the charge of serious misconduct, but is held liable for conduct unbecoming an attorney and is FINED two thousand pesos.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

Carpio-Morales, J., on leave.

[1] De Ere v. Rubi, 378 Phil. 377, December 14, 1999.

[2] Dated November 19, 2001; rollo, pp. 2-8.

[3] Report of the IBP-CBD, pp. 1-2.

[4] IBP-CBD Order, per Commissioner Rebecca Villanueva-Maala; rollo, p. 27.

[5] IBP-CBD Order; id., p. 40.

[6] Rollo, pp. 46-55.

[7] Answer, pp. 2-7; rollo, pp. 47-52.

[8] Rollo, pp. 72-81.

[9] IBP-CBD Order, December 11, 2002; rollo, p. 90.

[10] Report of the IBP Investigating Commissioner, March 3, 2003.

[11] Rule 7.03 of the Code of Professional Responsibility.

[12] AC No. 1954, July 23, 2004.

[13] 376 Phil. 336, November 17, 1999.

[14] *Gonzaga v. Villanueva*, supra.

[15] *De Ere v. Rubi*, supra.

[16] *In Re: De Los Angeles*, 106 Phil. 1, August 12, 1959.

[17] Rule 139-B of the Rules of Court. “Section 8. Investigation. – Upon joinder of issues or upon failure of respondent to answer, the Investigator shall, with deliberate speed, proceed with the investigation of the case. He shall have the power to issue subpoenas and administer oaths. The respondent shall be given full opportunity to defend himself, to present witnesses on his behalf, and be heard by himself and counsel. However, if upon reasonable notice, the respondent fails to appear, the investigation shall proceed ex parte.”

[18] *Rollo*, pp. 175-198.

[19] *Id.*, pp. 46-55.

[20] *Id.*, pp. 91-97.

[21] Answer, p. 4:

“[Complainants,] ill-advised by their counsel[,] started filing [a] series of criminal, civil and administrative cases against respondent and his wife at the instigation of their lawyers, the late Atty. Jose C. Modina[,] and their current counsel, Atty. Norjue Juego[,] as a way of pressuring respondent and wife to give up their portion x x x.”

Answer, p. 5:

“[T]he truth of the matter is that Amado Caballes at the instigation of the complainants and their counsel filed Criminal Case No. R-4011-A x x x.”

[22] *Id.*, p. 8:

“That what Atty. Juego is now doing is to saddle different courts and tribunals with cases if only for him to let the respondent feel who he is despite of his shortness not only in size but also in arrogance.”

[23] Rejoinder, p. 2:

“[In] CBD No. 02-971, Amado Caballes versus undersigned respondent, Atty. Norjue I. Juego pretends not to be the counsel of the complainant and in fact returned the copy of undersigned answer with an accompanying letter x x x. This is a malpractice because good counsel of the complainant Mr. Amado Caballes is actually the counsel of the criminal case filed in the Municipal Trial Court, Baybay, Leyte against the respondent.”

[24] *Hueysuwan-Florido v. Florido*, 420 SCRA 132, January 20, 2004.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.