FOODSPHERE, INC., COMPLAINANT, VS. ATTY. MELANIO L. MAURICIO, JR., RESPONDENT.

A.C. No. 7199 [Formerly CBD 04-1386]. July 22, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Foodsphere, Inc. (complainant), a corporation engaged in the business of meat processing and manufacture and distribution of canned goods and grocery products under the brand name "CDO," filed a Verified Complaint[1] for disbarment before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) against Atty. Melanio L. Mauricio, Jr., popularly known as "Batas Mauricio" (respondent), a writer/columnist of tabloids including Balitang Patas BATAS, Bagong TIKTIK, TORO and HATAW!, and a host of a television program KAKAMPI MO ANG BATAS telecast over UNTV and of a radio program Double B-BATAS NG BAYAN aired over DZBB, for (1) grossly immoral conduct; (2) violation of lawyer's oath and (3) disrespect to the courts and to investigating prosecutors.

The facts that spawned the filing of the complaint are as follows:

On June 22, 2004, a certain Alberto Cordero (Cordero) purportedly bought from a grocery in Valenzuela City canned goods including a can of CDO Liver spread. On June 27, 2004, as Cordero and his relatives were eating bread with the CDO Liver spread, they found the spread to be sour and soon discovered a colony of worms inside the can.

Cordero's wife thus filed a complaint with the Bureau of Food and Drug Administration (BFAD). Laboratory examination confirmed the presence of parasites in the Liver spread.

Pursuant to Joint DTI-DOH-DA Administrative Order No. 1, Series of 1993, the BFAD conducted a conciliation hearing on July 27, 2004 during which the spouses Cordero demanded P150,000 as damages from complainant. Complainant refused to heed the demand, however, as being in contravention of company policy and, in any event, "outrageous."

Complainant instead offered to return actual medical and incidental expenses incurred by the Corderos as long as they were supported by receipts, but the offer was turned down. And the Corderos threatened to bring the matter to the attention of the media.

Complainant was later required by the BFAD to file its Answer to the complaint. In the meantime or on August 6, 2004, respondent sent complainant via fax a copy of the front page of the would-be August 10-16, 2004 issue of the tabloid Balitang Patas BATAS, Vol. 1, No. 12[2] which complainant found to contain articles maligning, discrediting and imputing vices and defects to it and its products. Respondent threatened to publish the articles unless complainant gave in to the P150,000 demand of the Corderos. Complainant thereupon reiterated its counter-offer earlier conveyed to the Corderos, but respondent turned it down.

Respondent later proposed to settle the matter for P50,000, P15,000 of which would go to the Corderos and

P35,000 to his Batas Foundation. And respondent directed complainant to place paid advertisements in the tabloids and television program.

The Corderos eventually forged a KASUNDUAN[3] seeking the withdrawal of their complaint before the BFAD. The BFAD thus dismissed the complaint.[4] Respondent, who affixed his signature to the KASUNDUAN as a witness, later wrote in one of his articles/columns in a tabloid that he prepared the document.

On August 11, 2004, respondent sent complainant an Advertising Contract[5] asking complainant to advertise in the tabloid Balitang Patas BATAS for its next 24 weekly issues at P15,000 per issue or a total amount of P360,000, and a Program Profile[6] of the television program KAKAMPI MO ANG BATAS also asking complainant to place spot advertisements with the following rate cards: (a) spot buy 15-second TVC at P4,000; (b) spot buy 30-second TVC at P7,700; and (c) season buy [13 episodes, 26 spots] of 30-second TVC for P130,000.

As a sign of goodwill, complainant offered to buy three full-page advertisements in the tabloid amounting to P45,000 at P15,000 per advertisement, and three spots of 30-second TVC in the television program at P7,700 each or a total of P23,100. Acting on complainant's offer, respondent relayed to it that he and his Executive Producer were disappointed with the offer and threatened to proceed with the publication of the articles/columns.[7]

On August 28, 2004, respondent, in his radio program Double B- Batas ng Bayan at radio station DZBB, announced the holding of a supposed contest sponsored by said program, which announcement was transcribed as follows:

> "OK, at meron akong pa-contest, total magpapasko na o ha, meron pa-contest si Batas Mauricio ang Batas ng Bayan. Ito yung ating pa-contest, hulaan ninyo, tatawag kayo sa telepono, 433-7549 at 433-7553. Ang mga premyo babanggitin po natin sa susunod pero ito muna ang contest, o, `aling liver spread ang may uod?' Yan kita ninyo yan, ayan malalaman ninyo yan. Pagka-nahulaan yan ah, at sasagot kayo sa akin, aling liver spread ang may uod at anong companya ang gumagawa nyan? Itawag po ninyo sa 433-7549 st 433-7553. Open po an[g] contest na ito sa lahat ng ating tagapakinig. Pipiliin natin ang mananalo, kung tama ang inyong sagot. Ang tanong, aling liver spread sa Pilipinas an[g] may uod? [8] (Emphasis and italics in the original; underscoring supplied)

And respondent wrote in his columns in the tabloids articles which put complainant in bad light. Thus, in the August 31- September 6, 2004 issue of Balitang Patas BATAS, he wrote an article captioned "KADIRI ANG CDO LIVER SPREAD!" In another article, he wrote "IBA PANG PRODUKTO NG CDO SILIPIN!"[9] which appeared in the same publication in its September 7-13, 2004 issue. And still in the same publication, its September 14-20, 2004 issue, he wrote another article entitled "DAPAT BANG PIGILIN ANG CDO."[10]

Respondent continued his tirade against complainant in his column LAGING HANDA published in another tabloid, BAGONG TIKTIK, with the following articles:[11] (a) "Uod sa liver spread," Setyembre 6, 2004 (Taon 7, Blg.276);[12] (b) "Uod, itinanggi ng CDO," Setyembre 7, 2004 (Taon 7, Blg.277);[13] (c) "Pagpapatigil sa CDO," Setyembre 8, 2004 (Taon 7, Blg.278);[14] (d) "Uod sa liver spread kumpirmado," Setyembre 9, 2004 (Taon 7, Blg.279);[15] (e) "Salaysay ng nakakain ng uod," Setyembre 10, 2004 (Taon 7, Blg.280);[16] (f) "Kaso VS. CDO itinuloy," Setyembre 11, 2004 (Taon 7, Blg.281);[17] (g) "Kasong Kidnapping laban sa CDO guards," Setyembre 14, 2004 (Taon 7, Blg.284);[18] (h) "Brutalidad ng CDO guards," Setyembre 15, 2004 (Taon 7, Blg.285);[19] (i) "CDO guards pinababanatan sa PNP," Setyembre 17, 2004 (Taon 7, Blg.287);[20] (j) "May uod na CDO liver spread sa Puregold binili," Setyembre 18, 2004 (Taon 7, Blg.288);[21] (k) "Desperado na ang CDO," Setyembre 20, 2004 (Taon 7, Blg.290);[22] (l) "Atty. Rufus Rodriguez pumadrino sa CDO," Setyembre 21, 2004 (Taon 7,Blg. 291);[23] (m) "Kasunduan ng CDO at Pamilya Cordero," Setyembre 22, 2004 (Taon 7,Blg. 292);[24] (n) "Bakit nagbayad ng P50 libo ang CDO," Setyembre 23, 2004 (Taon 7,Blg. 293).[25]

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In his September 8, 2004 column "Anggulo ng Batas" published in Hataw!, respondent wrote an article "Reaksyon pa sa uod ng CDO Liver Spread."[26]

And respondent, in several episodes in September 2004 of his television program Kakampi Mo ang Batas aired over UNTV, repeatedly complained of what complainant claimed to be the "same baseless and malicious allegations/issues" against it.[27]

Complainant thus filed criminal complaints against respondent and several others for Libel and Threatening to Publish Libel under Articles 353 and 356 of the Revised Penal Code before the Office of the City Prosecutor of Quezon City and Valenzuela City. The complaints were pending at he time of the filing of the present administrative complaint.[28]

In the criminal complaints pending before the Office of the City Prosecutor of Valenzuela City, docketed as I.S. Nos. V-04-2917-2933, respondent filed his Entry of Appearance with Highly Urgent Motion to Elevate These Cases to the Department of Justice,[29] alleging:

> x x x x
>
> 2.N. The question here is this: What gives, Honorable (???) Prosecutors of the Office of the City Prosecutor of Valenzuela City?
>
> x x x x
>
> 2.R. Can an ordinary person like Villarez simply be tossed around, waiting for miracles to happen?
>
> 2.S. Why? How much miracle is needed to happen here before this Office would ever act on his complaint?
>
> x x x x
>
> 8. With a City Prosecutor acting the way he did in the case filed by Villarez, and with an investigating prosecutor virtually kowtowing to the wishes of his boss, the Chief Prosecutor, can Respondents expect justice to be meted to them?
>
> 9. With utmost due respect, Respondents have reason to believe that justice would elude them in this Office of the City Prosecutor of Valenzuela City, not because of the injustice of their cause, but, more importantly, because of the injustice of the system;
>
> 10. Couple all of these with reports that many a government office in Valenzuela City had been the willing recipient of too many generosities in the past of the Complainant, and also with reports that a top official of the City had campaigned for his much coveted position in the past distributing products of the Complainant, what would one expect the Respondents to think?
>
> 11. Of course, not to be lost sight of here is the attitude and behavior displayed even by mere staff and underlings of this Office to people who dare complain against the Complainant in their respective turfs. Perhaps, top officials of this Office should investigate and ask their associates and relatives incognito to file, even if on a pakunwari basis only, complaints against the Complainant, and they would surely be given the same rough and insulting treatment that Respondent Villarez got when he filed his kidnapping charge here;[30]

And in a Motion to Dismiss [the case] for Lack of Jurisdiction[31] which respondent filed, as counsel for his therein co-respondents-staffers of the newspaper Hataw!, before the Office of the City Prosecutor of Valenzuela City, respondent alleged:

> x x x x
>
> 5. If the Complainant or its lawyer merely used even a little of whatever is inside their thick skulls, they would

have clearly deduced that this Office has no jurisdiction over this action.[32] (Emphasis supplied)

x x x x

Meanwhile, on October 26, 2004, complainant filed a civil case against respondent and several others, docketed as Civil Case No. 249-V-04,[33] before the Regional Trial Court, Valenzuela City and raffled to Branch 75 thereof.

The pending cases against him and the issuance of a status quo order notwithstanding, respondent continued to publish articles against complainant[34] and to malign complainant through his television shows.

Acting on the present administrative complaint, the Investigating Commissioner of the Integrated Bar of the Philippines (IBP) came up with the following findings in his October 5, 2005 Report and Recommendation:[35]

I.

x x x x

In Civil Case No. 249-V-04 entitled "Foodsphere, Inc. vs. Atty. [Melanio] Mauricio, et al.", the Order dated 10 December 2004 (Annex O of the Complaint) was issued by Presiding Judge Dionisio C. Sison which in part reads:

"Anent the plaintiff's prayer for the issuance of a temporary restraining order included in the instant plaintiff's motion, this Court, inasmuch as the defendants failed to appear in court or file an opposition thereto, is constrained to GRANT the said plaintiff's prater, as it is GRANTED, in order to maintain STATUS QUO, and that all the defendants, their agents, representatives or any person acting for and in behalf are hereby restrained/enjoined from further publishing, televising and/or broadcasting any matter subject of the Complaint in the instant case more specifically the imputation of vices and/or defects on plaintiff and its products."

Complainant alleged that the above-quoted Order was served on respondent by the Branch Sheriff on 13 December 2004. Respondent has not denied the issuance of the Order dated 10 December 2004 or his receipt of a copy thereof on 13 December 2004.

Despite his receipt of the Order dated 10 December 2004, and the clear directive therein addressed to him to desists [sic] from "further publishing, televising and/or broadcasting any matter subject of the Complaint in the instant case more specifically the imputation of vices and/or defects on plaintiff and its products", respondent in clear defiance of this Order came out with articles on the prohibited subject matter in his column "Atty. Batas", 2004 in the December 16 and 17, 2004 issues of the tabloid "Balitang Bayan -Toro" (Annexes Q and Q-1 of the Complaint).

The above actuations of respondent are also in violation of Rule 13.03 of the Canon of Professional Responsibility which reads: "A lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party."

II.

x x x x

In I.S. No. V.04-2917-2933, then pending before the Office of the City Prosecutor of Valenzuela City, respondent filed his "Entry of Appearance with Highly Urgent Motion to Elevate These Cases To the Department of Justice". In said pleading, respondent made the following statements:

x x x x

The above language employed by respondent undoubtedly casts aspersions on the integrity of the Office of the

City Prosecutor and all the Prosecutors connected with said Office. Respondent clearly assailed the impartiality and fairness of the said Office in handling cases filed before it and did not even design to submit any evidence to substantiate said wild allegations. The use by respondent of the above-quoted language in his pleadings is manifestly violative of Canon 11 of the Code of Professional Responsibility which provides: "A lawyer [s]hall [o]bserve and [m]aintain [t]he [re]spect [d]ue [t]o [t]he [c]ourts [a]nd [t]o [j]udicial [o]fficers [a]nd [s]hould [i]nsist [o]n [s]imilar [c]onduct [b]y [o]thers."

III.

The "Kasunduan" entered into by the Spouses Cordero and herein complainant (Annex C of the Complaint) was admittedly prepared, witnessed and signed by herein respondent. ...

x x x x

In its Order dated 16 August 2004, the Bureau of Food and Drugs recognized that the said "Kasunduan" was not contrary to law, morals, good customs, public order and policy, and this accordingly dismissed the complaint filed by the Spouses Cordero against herein complainant.

However, even after the execution of the "Kasunduan" and the consequent dismissal of the complaint of his clients against herein complainant, respondent inexplicably launched a media offensive intended to disparage and put to ridicule herein complainant. On record are the numerous articles of respondent published in 3 tabloids commencing from 31 August to 17 December 2004 (Annexes G to Q-1). As already above-stated, respondent continued to come out with these articles against complainant in his tabloid columns despite a temporary restraining order issued against him expressly prohibiting such actions. Respondent did not deny that he indeed wrote said articles and submitted them for publication in the tabloids.

Respondent claims that he was prompted by his sense of public service, that is, to expose the defects of complainant's products to the consuming public. Complainant claims that there is a baser motive to the actions of respondent. Complainant avers that respondent retaliated for complainant's failure to give in to respondent's "request" that complainant advertise in the tabloids and television programs of respondent. Complainant's explanation is more credible. Nevertheless, whatever the true motive of respondent for his barrage of articles against complainant does not detract from the fact that respondent consciously violated the spirit behind the "Kasunduan" which he himself prepared and signed and submitted to the BFAD for approval. Respondent was less than forthright when he prepared said "Kasunduan" and then turned around and proceeded to lambaste complainant for what was supposedly already settled in said agreement. Complainant would have been better of with the BFAD case proceeding as it could have defended itself against the charges of the Spouses Cordero. Complainant was helpless against the attacks of respondent, a media personality. The actuations of respondent constituted, to say the least, deceitful conduct contemplated under Rule 1.01 of Canon 1 of the Code of Professional Responsibility.[36] (Underscoring supplied)

The IBP Board of Governors, by Resolution No. XVIII-2006-114 dated March 20, 2006, adopted the findings and recommendation of the Investigating Commissioner to suspend respondent from the practice of law for two years.

The Court finds the findings/evaluation of the IBP well-taken.

The Court, once again, takes this occasion to emphasize the necessity for every lawyer to act and comport himself in a manner that promotes public confidence in the integrity of the legal profession,[37] which confidence may be eroded by the irresponsible and improper conduct of a member of the bar.

By the above-recited acts, respondent violated Rule 1.01 of the Code of Professional Responsibility which

mandates lawyers to refrain from engaging in unlawful, dishonest, immoral or deceitful conduct. For, as the IBP found, he engaged in deceitful conduct by, inter alia, taking advantage of the complaint against CDO to advance his interest - to obtain funds for his Batas Foundation and seek sponsorships and advertisements for the tabloids and his television program.

He also violated Rule 13.02 of the Code of Professional Responsibility, which mandates:

> A lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party.

For despite the pendency of the civil case against him and the issuance of a status quo order restraining/enjoining further publishing, televising and broadcasting of any matter relative to the complaint of CDO, respondent continued with his attacks against complainant and its products. At the same time, respondent violated Canon 1 also of the Code of Professional Responsibility, which mandates lawyers to "uphold the Constitution, obey the laws of the land and promote respect for law and legal processes." For he defied said status quo order, despite his (respondent's) oath as a member of the legal profession to "obey the laws as well as the legal orders of the duly constituted authorities."

Further, respondent violated Canon 8 and Rule 8.01 of the Code of Professional Responsibility which mandate, viz:

> 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,

by using intemperate language.

Apropos is the following reminder in Saberon v. Larong:[38]

> To be sure, the adversarial nature of our legal system has tempted members of the bar to use strong language in pursuit of their duty to advance the interests of their clients.
>
> However, 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. Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, illuminating but not offensive.
>
> On many occasions, the Court has reminded members of the Bar to abstain from all offensive personality and to advance no fact prejudicial to the honor and reputation of a party or witness, unless required by the justice of the cause with which he is charged. In keeping with the dignity of the legal profession, a lawyer's language even in his pleadings must be dignified.[39] (Underscoring supplied)

By failing to live up to his oath and to comply with the exacting standards of the legal profession, respondent also violated Canon 7 of the Code of Professional Responsibility, which directs a lawyer to "at all times uphold the integrity and the dignity of the legal profession."[40]

The power of the media to form or influence public opinion cannot be underestimated. In Dalisay v. Mauricio, Jr.,[41] the therein complainant engaged therein-herein respondent's services as "she was impressed by the pro-poor and pro-justice advocacy of respondent, a media personality,"[42] only to later find out that after he demanded and the therein complainant paid an exorbitant fee, no action was taken nor any pleadings prepared by him. Respondent was suspended for six months.

On reading the articles respondent published, not to mention listening to him over the radio and watching him on television, it cannot be gainsaid that the same could, to a certain extent, have affected the sales of complainant.

Back to Dalisay, this Court, in denying therein-herein respondent's motion for reconsideration, took note of the fact that respondent was motivated by vindictiveness when he filed falsification charges against the therein complainant.[43]

To the Court, suspension of respondent from the practice of law for three years is, in the premises, sufficient.

WHEREFORE, Atty. Melanio Mauricio is, for violation of the lawyer's oath and breach of ethics of the legal profession as embodied in the Code of Professional Responsibility, SUSPENDED from the practice of law for three years effective upon his receipt of this Decision. He is warned that a repetition of the same or similar acts will be dealt with more severely.

Let a copy of this Decision be attached to his personal record and copies furnished the Integrated Bar of the Philippines and the Office of the Court Administrator for dissemination to all courts.

SO ORDERED.

Puno, C.J. Ynares-Santiago, Carpio, Corona, Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.
Quisumbing, J., no part-close relationship to a party.
Chico-Nazario, J., no part
Velasco, Jr., J., no part- close relationship to a party.

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[1] Rollo (Vol. I of the CBD rollo), pp. 1-21.

[2] Annex "B" of the complaint, id. at 23.

[3] Annexes "C" and "C-1," id. at 24-25.

[4] Annex "F," id at 29. The Order reads:

Before us is a "Kasunduan" dated 10 August 2004 duly signed by the parties praying that the above-entitled case be dismissed with prejudice on the ground that they have agreed to settle their differences amicably.

The Joint DTI-DOH-DA Administrative Order No. 1 s. 1993, the "Rules and Regulations Implementing the provisions of Chapter III[,] Title V of RA 7394, otherwise known as the Consumer Act of the Philippines" provides for the encouragement of both parties to settle the case amicably. (Rule III, Section 1, C.1)

The agreement of the parties is not contrary to law, morals, good customs, public order and policy.

PRESCINDING FROM THE FOREGOING, the above-captioned case is hereby DISMISSED.

x x x x

[5] Annex "D," id. at 26.

[6] Annexes "E" and "E-1," id. at 27-28.

[7] Id. at 7.

[8] Id. at 8.

[9] Annex "G-1," id. at 32-33.

[10] Annex "G-2," id. at 34-35.

[11] Attached to the complaint as Annexes "H-series."

[12] Rollo (Vol. I of the CBD rollo), p. 37.

[13] Id. at 38.

[14] Inadvertently not attached to the Annexes "H-series."

[15] Rollo (Vol. I of the CBD rollo), at 39.

[16] Id. at 40.

[17] Id. at 41.

[18] Id. at 42.

[19] Id. at 43.

[20] Id. at 44.

[21] Id. at 45.

[22] Id. at 46.

[23] Id. at 47.

[24] Id. at 48.

[25] Not attached but is supposedly included in the Annexes "H-series" of the complaint.

[26] Rollo (Vol. I of the CBD rollo), p. 49.

[27] Id. at 10. The copies of the complaint-affidavits are attached as Annexes "J," "J-1," and "J-2."

[28] Ibid.

[29] Id. at 121-125.

[30] Id. at 122-124.

[31] Id. at 126-128.

[32] Id. at 126.

[33] The complaint was for "libel" but a reading of the complaint shows that it was a complaint for damages. Annex "L," id. at 129-164.

[34] Respondent wrote and publicized: "Buwelta sa CDO" (October 2004); "Child Abuse Kontra CDO" (November 2-8, 2004).

[35] Rollo (Vol. III of CBD rollo), pp. 37-41.

[36] Id. at 45-48.

[37] Catu v. Rellosa, A.C. No. 5738, February 19, 2008, 546 SCRA 209, 221.

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[38] A.C. No. 6567, April 16, 2008, 551 SCRA 359.

[39] Id. at 368.

[40] Vide Catu v. Rellosa, supra note 37 at 220.

[41] A.C. No. 5655, April 22, 2005, 456 SCRA 508.

[42] Id. at 509.

[43] A.C. No. 5655, January 23, 2006, 479 SCRA 307, 318.

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