

JUDGE GREGORIO D. PANTANOSAS, JR., COMPLAINANT, VS. ATTY. ELLY L. PAMATONG, RESPONDENT.*A.C. No. 7330. June 14, 2016*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-7330/>**CAGUIOA, J:**

The practice of law is a privilege burdened with conditions and is reserved only for those who meet the twin standards of legal proficiency and morality.[1] It is so delicately imbued with public interest that it is both a power and a duty of this Court to control and regulate it in order to protect and promote the public welfare.[2] In this regard, this Court will not hesitate to hold its officers accountable for misconduct and the violation of the duty to respect the courts.

The facts culled from the records follow.

During the time period material to this case, complainant Judge Gregorio D. Pantanosas, Jr. (Pantanosas) was the presiding judge of the Regional Trial Court of Cagayan de Oro City, Branch 20 (RTC).[3] Respondent Atty. Elly L. Pamatong (Pamatong) was the counsel of plaintiffs in Civil Case No. 2006-176, entitled Nick Otero, et al. v. Sheriff of the MTCC Branch 3, Cagayan de Oro City, et al. for injunction with damages, which was then pending before the RTC.[4]

On September 8, 2006, during the hearing of an application for the issuance of a temporary restraining order (TRO) in Civil Case No. 2006-176, respondent Pamatong was allegedly asked by complainant Pantanosas to remove his copia (a hat worn by Muslims) in open court.[5] Respondent Pamatong requested to be exempted allegedly due to religious grounds and embarrassment towards his "bald pate".[6] Complainant Pantanosas thereafter obliged with a caveat that at the next hearing, he would no longer tolerate the wearing of the copia inside the courtroom.[7]

Three (3) days after, or on September 11, 2006, respondent Pamatong filed an Extremely Urgent Motion/Demand for Inhibition or Recusal in Civil Case No. 2006-176 (Motion for Inhibition), which contained the following remarks:

6. Finally, in my thirty (30) years of law practice, I never encountered a Judge who appears to be as corrupt as you are, thereby giving me the impression that you are a disgrace to the Judicial System of this land who does not deserved (sic) to be a member of the Philippine Bar at all.[8]

On the same day, complainant Pantanosas issued an Order refuting all allegations of abusive language and corruption and denying the Motion for Inhibition for lack of basis while ordering respondent Pamatong to show cause why he should not be cited in contempt of court.[9] In compliance with the directive of the RTC, respondent Pamatong filed his Answer to the Order to Show Cause and Motion for Reconsideration.[10]

On September 18, 2006, complainant Pantanosas filed a Complaint for Disbarment dated September 15, 2006 (Disbarment Complaint)[11] before this Court against respondent Pamatong on the following grounds: (i) violation of Canon 8 of the Code of Professional Responsibility (CPR)[12] for the language employed by

respondent Pamatong in the Motion for Inhibition, and (ii) violation of Canons 1[13] and 11[14] of the CPR for engaging in dishonest and deceitful conduct by supposedly causing the publication of an alleged bribe in a local newspaper and maliciously imputing motives to complainant Pantanosas, thereby casting dishonor to and distrust in the judicial system.[15]

On October 25, 2006, this Court issued a Resolution, requiring respondent Pamatong to file his comment to the Disbarment Complaint within ten (10) days from receipt of notice thereof.[16]

On December 28, 2006, respondent Pamatong timely filed his Comment on the Complaint for Disbarment and Counter-Complaint (Comment).[17] Following the September 8, 2006 incident, respondent Pamatong alleged in his Comment that he filed a complaint against complainant Pantanosas with the Office of the Court Administrator (OCA) on September 12, 2006, which was docketed as A.M. OCA IPI No. 07-2541-RTJ.[18] Notably, said complaint with the OCA was eventually dismissed through a Resolution dated February 28, 2007 issued by this Court.[19] Respondent Pamatong also alleged in his Comment that he caused the filing of two (2) separate complaints with two (2) separate offices, namely the Commission on Human Rights[20] and the Office of the Ombudsman[21].

In the main, respondent Pamatong averred in his Comment that the actual courtroom demeanor of complainant Pantanosas during the September 8, 2006 hearing was overbearing, arrogant and derogatory, while also maintaining the truth of the bribery allegations launched against complainant Pantanosas.[22] By way of counter-complaint, respondent Pamatong claimed that the alleged discriminatory conduct of complainant Pantanosas violated Canons 1,[23] 2,[24] and 3[25] of the Code of Judicial Conduct. Respondent Pamatong alleged that in a meeting with complainant Pantanosas in his chambers two (2) days before the September 8, 2006 hearing, the latter allegedly solicited from him One Million Pesos (P1,000,000.00) in exchange for the issuance of a TRO in Civil Case No. 2006-176.[26] Respondent Pamatong countered that during the TRO hearing on September 8, 2006, he was initially asked by the complainant-judge to approach the bench in order to inquire about the alleged bribe.[27] Upon disclosing that he was unable to secure the money, respondent Pamatong claimed that he was subjected to anti-Islamic comments and humiliating conduct by complainant Pantanosas.[28]

On February 5, 2007, this Court issued a Resolution referring the Disbarment Complaint to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision.[29] The case was initially set for mandatory conference on July 23, 2007.[30] After due proceedings, the mandatory conference was terminated and both parties were required to file their respective position papers by the investigating commissioner, Commissioner Manuel M. Maramba.[31] Accordingly, both parties filed their position papers dated January 5, 2009[32] and January 16, 2009,[33] respectively.

On April 19, 2010, this Court issued a Resolution, requiring the IBP to inform the Court of the status of the case.[34] In compliance with this Court's directive, the IBP, through Commissioner Albert R. Sordan (Sordan), filed its Compliance dated June 25, 2010,[35] informing this Court that the case was among those re-assigned to Commissioner Sordan for investigation, report and recommendation, which was duly noted by this Court in its Resolution dated September 8, 2010.[36]

Thus, on August 6, 2010, Commissioner Sordan rendered a Report and Recommendation, the dispositive portion of which reads:

WHEREFORE, it is recommended that for violation of the lawyer's oath and breach of ethics of the legal profession as embodied in the Code of Professional Responsibility, Atty. Elly V. Pamatong be **SUSPENDED** from the practice of law for **ONE (1) YEAR**, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.[37]

On December 15, 2012, in a Resolution of even date, the IBP Board of Governors resolved to adopt and approve, with modification the Report and Recommendation dated August 6, 2010:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's violation of the Lawyer's Oath and breach of ethics of the legal profession, Atty. Elly V. Pamatong is hereby SUSPENDED from the practice of law for three (3) years with a stern Warning that a repetition of a similar act shall be dealt with more severely.[38]

Respondent Pamatong then filed a Motion for Reconsideration and Complaint vs. Commissioner Albert R. Sordan and the IBP Board of Governors dated March 14, 2013,[39] which was subsequently denied through a Resolution dated March 22, 2014.[40]

Thereafter, in a Resolution dated January 13, 2016, this Court noted the transmittal of the documents pertaining to the case, as well as the notices of resolution dated December 15, 2012 and March 22, 2014, respectively.[41] In view of the penalty imposed, the case was referred to this Court En Banc.

For our resolution therefore is the liability of respondent Pamatong under the CPR and for violation of his oath as a member of the bar.

After a judicious examination of the records and the submissions of the parties, we find no cogent reason to disagree with the findings of the IBP in its Resolution dated December 15, 2012.[42] However, we modify the penalty accordingly for the reasons to be discussed below.

It cannot be overemphasized that it is the sworn duty of a lawyer to maintain towards the Courts a respectful attitude, "not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance." [43] It is precisely for this reason that the Lawyer's Oath enjoins all members of the bar to conduct themselves with good fidelity towards the courts [44] in order not to erode the faith and trust of the public in the judiciary.

As succinctly held in our previous ruling in *Pobre v. Defensor-Santiago*:

A lawyer is an officer of the courts; he is, "like the court itself, an instrument or agency to advance the ends of justice." His duty is to uphold the dignity and authority of the courts to which he owes fidelity, "not to promote distrust in the administration of justice." Faith in the courts, a lawyer should seek to preserve. For, to undermine the judicial edifice "is disastrous to the continuity of government and to the attainment of the liberties of the people." Thus has it been said of a lawyer that "[a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice." [45] (Emphasis supplied)

It is with this exacting standard that we measure respondent Pamatong, and find him wanting.

It is not disputed that the Motion for Inhibition filed by respondent Pamatong contained blatant accusations of corruption against complainant Pantanosas., and then some. As counsel for the plaintiffs in Civil Case No. 2006-176, it was incumbent upon respondent Pamatong to observe and maintain respect towards the judicial office then being occupied by complainant Pantanosas.[46] Instead of insisting on similar conduct from his clients, respondent Pamatong was the first to cast doubt on the impartiality and independence of the court. Worth repeating below are the invectives directed by respondent Pamatong against complainant Pantanosas:

6. Finally, in my thirty (30) years of law practice, I never encountered a Judge who appears to be as corrupt as

you are, thereby giving me the impression that you are a disgrace to the Judicial System of this land who does not deserved (sic) to be a member of the Philippine Bar at all.[47] (Emphasis supplied)

That the slanderous remarks cited above were inserted in no less than a public record, i.e., Motion for Inhibition, makes matters even worse. Even granting that the bribery charges were true, such personal attacks against the person of complainant Pantanosas should have been reserved for a different forum and certainly not included in a motion filed before a court of law. To be sure, a lawyer is obliged to abstain from scandalous, offensive or menacing language before the courts.[48] As a supposed officer of the court, such behavior exhibited by respondent Pamatong only serves to betray his utter lack of reverence towards the courts, which promotes nothing but the degradation of the administration of justice.

The records also disclose that a news article detailing the events that precipitated the bribery charge against complainant Pantanosas was published on September 15, 2006 with the participation of respondent Pamatong. At the outset, it bears stressing that lawyers should refrain from attributing to a judge motives not supported by the record or have no materiality to the case.[49]

Here, respondent Pamatong had no reason to divulge his grievances before the public as he had already lodged a complaint against complainant Pantanosas with the OCA on September 12, 2006.[50] Accordingly, owing to the baseless and impulsive charges filed by respondent Pamatong, the OCA disposed of the complaint using the following language:

A.M. OCA IPI No. 07-2541-RTJ (Rev. Sultan Elly Velez Lao Pamatong, Esq. vs. Judge Gregorio D. Pantanosas, Jr., Presiding Judge, Regional Trial Court, Branch 20, Cagayan de Oro City) - The Court NOTES the Report dated 12 January 2007 of the Office of the Court Administrator on the verified complaint dated 11 September 2006 x x x finding the complaint devoid of merit because complainant did not present any evidence, other than his bare allegation, to prove the charge of bribery.

Upon the recommendation of the Office of the Court Administrator, the Court resolves to DISMISS the instant administrative complaint against Judge Gregorio D. Pantanosas, Jr. for lack of merit.[51] (Emphasis supplied)

Moreover, such action by respondent Pamatong of resorting to the press was highly irresponsible and is contrary to his duty to submit grievances against judges to the proper authorities only.[52] Clearly, respondent Pamatong was motivated solely by improper motives in connection with the TRO application in Civil Case No. 2006-176.

As regards the recommended penalty of the IBP of suspension from the practice of law for three (3) years, we note that, in similar situations, we had imposed a suspension of less than three (3) years.

In *Judge Lacurom v. Atty. Jacoba*, which involved similar facts to the case at bench, this Court suspended the respondent from the practice of law for two (2) years for using offensive language directed towards the complainant judge in a motion filed before the court:

No doubt, the language contained in the 30 July 2001 motion greatly exceeded the vigor required of Jacoba to defend ably his client's cause. We recall his use of the following words and phrases: abhorrent nullity, legal monstrosity, horrendous mistake, horrible error, boner, and an insult to the judiciary and an anachronism in the judicial process. Even Velasco-Jacoba acknowledged that the words created "a cacophonic picture of total and utter disrespect."

Respondents nonetheless try to exculpate themselves by saying that every remark in the 30 July 2001 motion was warranted. We disagree.

Well-recognized is the right of a lawyer, both as an officer of the court and as a citizen, to criticize in properly respectful terms and through legitimate channels the acts of courts and judges. However, even the most

hardened judge would be scarred by the scurrilous attack made by the 30 July 2001 motion on Judge Lacurom's Resolution. On its face, the Resolution presented the facts correctly and decided the case according to supporting law and jurisprudence. Though a lawyer's language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession. The use of unnecessary language is proscribed if we are to promote high esteem in the courts and trust in judicial administration.

In maintaining the respect due to the courts, a lawyer is not merely enjoined to use dignified language but also to pursue the client's cause through fair and honest means.[53] (Emphasis supplied)

Similarly, in *Judge Baculi v. Atty. Battung*, this Court meted the penalty of suspension for one (1) year for the violation of Rule 11.03 of the CPR by the respondent therein due to his in-court demeanor during a motion hearing:

We agree with the IBP's finding that the respondent violated Rule 11.03, Canon 11 of the Code of Professional Responsibility. Atty. Battung disrespected Judge Baculi by shouting at him inside the courtroom during court proceedings in the presence of litigants and their counsels, and court personnel. The respondent even came back to harass Judge Baculi. This behavior, in front of many witnesses, cannot be allowed. We note that the respondent continued to threaten Judge Baculi and acted in a manner that clearly showed disrespect for his position even after the latter had cited him for contempt. In fact, after initially leaving the court, the respondent returned to the courtroom and disrupted the ongoing proceedings. These actions were not only against the person, the position and the stature of Judge Baculi, but against the court as well whose proceedings were openly and flagrantly disrupted, and brought to disrepute by the respondent.

Litigants and counsels, particularly the latter because of their position and avowed duty to the courts, cannot be allowed to publicly ridicule, demean and disrespect a judge, and the court that he represents. x x x[54] (Emphasis supplied)

Meanwhile, in *Re: Suspension of Atty. Rogelio Z. Bagabuyo*,^[55] this Court imposed the penalty of suspension for one (1) year for the respondent's act of resorting to the press instead of availing himself only of judicial remedies in airing out his grievances:

Lawyers are licensed officers of the courts who are empowered to appear, prosecute and defend; and upon whom peculiar duties, responsibilities and liabilities are devolved by law as a consequence. Membership in the bar imposes upon them certain obligations. Canon 11 of the Code of Professional Responsibility mandates a lawyer to "observe and maintain the respect due to the courts and to judicial officers and [he] should insist on similar conduct by others." Rule 11.05 of Canon 11 states that a lawyer "shall submit grievances against a judge to the proper authorities only."

Respondent violated Rule 11.05 of Canon 11 when he admittedly caused the holding of a press conference where he made statements against the Order dated November 12, 2002 allowing the accused in *Crim. Case No. 5144* to be released on bail.

Respondent also violated Canon 11 when he indirectly stated that Judge Tan was displaying judicial arrogance in the article entitled, *Senior prosecutor lambasts Surigao judge for allowing murder suspect to bail out*, which appeared in the August 18, 2003 issue of the *Mindanao Gold Star Daily*. Respondent's statements in the article, which were made while *Crim. Case No. 5144* was still pending in court, also violated Rule 13.02 of Canon 13, which states that "a lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party." (Emphasis supplied)

From the foregoing, we therefore deem it proper to reduce the period of suspension from three (3) years, as recommended, to two (2) years only.

In closing, we find it befitting to reiterate that lawyers have the right, both as an officer of the court and as a

citizen, to criticize in properly respectful terms and through legitimate channels the acts of courts and judges.[56] However, closely linked to such rule is the cardinal condition that criticisms, no matter how truthful, shall not spill over the walls of decency and propriety.[57] To that end, the duty of a lawyer to his client's success is wholly subordinate to the administration of justice.[58]

True, lawyers must always remain vigilant against unscrupulous officers of the law. However, the purification of our justice system from venal elements must not come at the expense of decency, and worse, the discrediting of the very system that it seeks to protect.

WHEREFORE, we SUSPEND Atty. Elly L. Pamatong from the practice of law for two (2) years effective upon finality of this Decision. We STERNLY WARN the respondent that a repetition of the same or similar infraction shall merit a more severe sanction.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Bersamin, Perez, Mendoza, Reyes, Perlas-Bernabe, and Leonen, JJ., concur.

Brion, J., on official leave.

Peralta, J., no part. on official leave.

Del Castillo, J., on official leave

Jardeleza, J., no part. on official business.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on June 14, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 12, 2016 at 2:20 p.m.

Very truly yours,

(SGD)FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] See *Sps. Garcia v. Bala*, 512 Phil. 486 (2005).

[2] *Petition for Leave to Resume Practice of Law, Benjamin M. Dacanay*, 565 Phil. 165, 168 (2007).

[3] *Rollo*, p. 1.

[4] *Id.* at 2.

[5] *Id.* at 2-3.

[6] *Id.* at 3.

[7] *Id.*

[8] *Id.* at 8.

[9] *Id.* at 10-12.

[10] Id. at 37-39.

[11] Id. at 1-6.

[12] Rule 8.01 - A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

[13] Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

[14] Rule 11.04 - A lawyer shall not attribute to a judge motives not supported by the record or have no materiality to the case.

[15] Rollo, p. 13.

[16] Id. at 14.

[17] Id. at 15-21.

[18] Id. at 27-31, Solicitation of One-Million-Peso Bribe Money, Violation of Rule 137 of the Rules of Court & Gross Violation of Canon 1, Canon 2, & Canon 3 of the Code of Judicial Conduct and Judicial Assault Against Freedom of Religion dated September 11, 2006.

[19] Id. at 224.

[20] Id. at 24-26, Complaint for Violation of Human Rights and Related Offenses Pursuant to the Applicable Provisions of the Constitution and the Universal Declaration of Human Rights dated September 14, 2006.

[21] Id. at 32-36, Rev. Sultan Elly Velez Lao Pamatong, Esquire's Sworn Statement on (A) the Illegal Demolition of Two Parcels of Land Covered by Case No. 4 OCT. 1310 and (B) Case No. 2006-176 Pending with the RTC of Cagayan De Oro City Wherein Judge Gregorio D. Pantanosas Asked for a One-Million-Peso Bribe Money dated September 11, 2006.

[22] Id. at 17-18.

[23] Rule 1.01 - A judge should be the embodiment of competence, integrity and independence.

[24] Rule 2.01 - A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

[25] Rule 3.12 - A judge should take no part in a proceeding where the judge's impartiality might reasonably be questioned. x x x

[26] Rollo, p. 29.

[27] Id. at 28.

[28] Id. at 29.

[29] Id. at 76.

[30] Id. at 147.

[31] Id. at 187.

[32] Id. at 188-194.

[33] Id. at 216-223.

[34] Id. at 228.

[35] Id. at 230-231.

[36] Id. at 232.

[37] Id. at 86.

[38] Id. at 78.

[39] Id. at 89-99.

[40] Id. at 237.

[41] Id. at 250.

[42] Id. at 78.

[43] *Pobre v. Defensor-Santiago*, 613 Phil. 352, 363 (2009).

[44] Lawyer's Oath.

[45] *Pobre v. Defensor-Santiago*, supra note 43, at 364, citing *Surigao Mineral Reservation Board v. Cloribel*, 142 Phil. 1, 15-16 (1970).

[46] Canon 11, Code of Professional Responsibility.

[47] *Rollo*, p. 8.

[48] Rules 8.01 & 11.03, Code of Professional Responsibility.

[49] Rule 11.04, Code of Professional Responsibility.

[50] *Rollo*, pp. 27-31, Solicitation of One-Million-Peso Bribe Money, Violation of Rule 137 of the Rules of Court & Gross Violation of Canon 1, Canon 2, & Canon 3 of the Code of Judicial Conduct and Judicial Assault Against Freedom of Religion dated September 11, 2006.

[51] Id. at 224.

[52] Rule 11.05, Code of Professional Responsibility.

[53] *Judge Lacurom v. Atty. Jacoba*, 519 Phil. 195, 209-210 (2006).

[54] *Judge Baculi v. Atty. Battung*, 614 Phil. 1, 8 (2011).

[55] *Re: Suspension of Atty. Rogelio Z. Bagabuyo, Former Senior State Prosecutor*, 561 Phil. 325, 339-340 (2007).

[56] *Habawel v. Court of Tax Appeals*, 672 Phil. 582, 595 (2011).

[57] Id. at 596.

[58] *Areola v. Mendoza*, 724 Phil. 155, 164 (2014).

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