

JUDGE RENE B. BACULI, COMPLAINANT, VS. ATTY. MELCHOR A. BATTUNG, RESPONDENT.

A.C. No. 8920. September 28, 2011

Ponente: BRION, J.

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BRION, J.:

Before us is the resolution[1] of the Board of Governors of the Integrated Bar of the Philippines (IBP) finding Atty. Melchor Battung liable for violating Rule 11.03, Canon 11 of the Code of Professional Responsibility and recommending that he be reprimanded. The complainant is Judge Rene B. Baculi, Presiding Judge of the Municipal Trial Court in Cities, Branch 2, Tuguegarao City. The respondent, Atty. Battung, is a member of the Bar with postal address on Aguinaldo St., Tuguegarao City.

Background

Judge Baculi filed a complaint for disbarment[2] with the Commission on Discipline of the IBP against the respondent, alleging that the latter violated Canons 11[3] and 12[4] of the Code of Professional Responsibility.

Violation of Canon 11 of the Code of Professional Responsibility

Judge Baculi claimed that on July 24, 2008, during the hearing on the motion for reconsideration of Civil Case No. 2502, the respondent was shouting while arguing his motion. Judge Baculi advised him to tone down his voice but instead, the respondent shouted at the top of his voice. When warned that he would be cited for direct contempt, the respondent shouted, "Then cite me!"[5] Judge Baculi cited him for direct contempt and imposed a fine of P100.00. The respondent then left.

While other cases were being heard, the respondent re-entered the courtroom and shouted, "Judge, I will file gross ignorance against you! I am not afraid of you!"[6] Judge Baculi ordered the sheriff to escort the respondent out of the courtroom and cited him for direct contempt of court for the second time.

After his hearings, Judge Baculi went out and saw the respondent at the hall of the courthouse, apparently waiting for him. The respondent again shouted in a threatening tone, "Judge, I will file gross ignorance against you! I am not afraid of you!" He kept on shouting, "I am not afraid of you!" and challenged the judge to a fight. Staff and lawyers escorted him out of the building.[7]

Judge Baculi also learned that after the respondent left the courtroom, he continued shouting and punched a table at the Office of the Clerk of Court.[8]

Violation of Canon 12 of the Code of Professional Responsibility

According to Judge Baculi, the respondent filed dilatory pleadings in Civil Case No. 2640, an ejectment case.

Judge Baculi rendered on October 4, 2007 a decision in Civil Case No. 2640, which he modified on December 14, 2007. After the modified decision became final and executory, the branch clerk of court issued a certificate of

finality. The respondent filed a motion to quash the previously issued writ of execution, raising as a ground the motion to dismiss filed by the defendant for lack of jurisdiction. Judge Baculi asserted that the respondent knew as a lawyer that ejectment cases are within the jurisdiction of First Level Courts and the latter was merely delaying the speedy and efficient administration of justice.

The respondent filed his Answer,[9] essentially saying that it was Judge Baculi who disrespected him.[10] We quote from his Answer:

23.

I only told Judge Rene Baculi I will file Gross ignorance of the Law against him once inside the court room when he was lambasting me[.]

24.

It was JUDGE BACULI WHO DISRESPECTED ME. He did not like that I just submit the Motion for Reconsideration without oral argument because he wanted to have an occasion to just HUMILIATE ME and to make appear to the public that I am A NEGLIGENT LAWYER, when he said "YOU JUSTIFY YOUR NEGLIGENCE BEFORE THIS COURT" making it an impression to the litigants and the public that as if I am a NEGLIGENT, INCOMPETENT, MUMBLING, and IRRESPONSIBLE LAWYER.

25.

These words of Judge Rene Baculi made me react[.]

x x x x

28.

Since I manifested that I was not going to orally argue the Motion, Judge Rene Baculi could have just made an order that the Motion for Reconsideration is submitted for resolution, but what he did was that he forced me to argue so that he will have the room to humiliate me as he used to do not only to me but almost of the lawyers here (sic).

Atty. Battung asked that the case against him be dismissed.

The IBP conducted its investigation of the matter through Commissioner Jose de la Rama, Jr. In his Commissioner's Report,[11] Commissioner De la Rama stated that during the mandatory conference on January 16, 2009, both parties merely reiterated what they alleged in their submitted pleadings. Both parties agreed that the original copy of the July 24, 2008 tape of the incident at the courtroom would be submitted for the Commissioner's review. Judge Baculi submitted the tape and the transcript of stenographic notes on January 23, 2009.

Commissioner De la Rama narrated his findings, as follows:[12]

At the first part of the hearing as reflected in the TSN, it was observed that the respondent was calm. He politely argued his case but the voice of the complainant appears to be in high pitch. During the mandatory conference, it was also observed that indeed, the complainant maintains a high pitch whenever he speaks. In fact, in the TSN, where there was already an argument, the complainant stated the following:

Court: Do not shout.

Atty. Battung: Because the court is shouting.

Court: This court has been constantly under this kind of voice Atty. Battung, we are very sorry if you do not want to appear before my court, then you better attend to your cases and do not appear before my court if you

do not want to be corrected! (TSN, July 24, 2008, page 3)

(NOTE: The underlined words - "we are very sorry" [- were] actually uttered by Atty. Battung while the judge was saying the quoted portion of the TSN)

That it was during the time when the complainant asked the following questions when the undersigned noticed that Atty. Battung shouted at the presiding judge.

Court: Did you proceed under the Revised Rules on Summary Procedure?

*

Atty. Battung: It is not our fault Your Honor to proceed because we were asked to present our evidence ex parte. Your Honor, so, if should we were ordered (sic) by the court to follow the rules on summary procedure. (TSN page 3, July 24, 2008)

It was observed that the judge uttered the following:

Court: Do not shout.

Atty. Battung: Because the court is shouting.

(Page 3, TSN July 24, 2008)

Note: * it was at this point when the respondent shouted at the complainant.

Thereafter, it was observed that both were already shouting at each other.

Respondent claims that he was provoked by the presiding judge that is why he shouted back at him. But after hearing the tape, the undersigned in convinced that it was Atty. Battung who shouted first at the complainant.

Presumably, there were other lawyers and litigants present waiting for their cases to be called. They must have observed the incident. In fact, in the joint-affidavit submitted by Elenita Pacquing et al., they stood as one in saying that it was really Atty. Battung who shouted at the judge that is why the latter cautioned him "not to shout."

The last part of the incident as contained in page 4 of the TSN reads as follows:

Court: You are now ordered to pay a fine of P100.00.

Atty. Battung: We will file the necessary action against this court for gross ignorance of the law.

Court: Yes, proceed.

(NOTE: Atty. Battung went out the courtroom)

Court: Next case.

Interpreter: Civil Case No. 2746.

(Note: Atty. Battung entered again the courtroom)

Atty. Battung: But what we do not like ... (not finished)

Court: The next time...

Atty. Battung: We would like to clear ...

Court: Sheriff, throw out the counsel, put that everything in record. If you want to see me, see me after the court.

Next case.

Civil Case No. 2746 for Partition and Damages, Roberto Cabalza vs. Teresita Narag, et al.

(nothing follows)

Commissioner De la Rama found that the respondent failed to observe Canon 11 of the Code of Professional Responsibility that requires a lawyer to observe and maintain respect due the courts and judicial officers. The respondent also violated Rule 11.03 of Canon 11 that provides that a lawyer shall abstain from scandalous, offensive or menacing language or behavior before the courts. The respondent's argument that Judge Baculi provoked him to shout should not be given due consideration since the respondent should not have shouted at the presiding judge; by doing so, he created the impression that disrespect of a judge could be tolerated. What the respondent should have done was to file an action before the Office of the Court Administrator if he believed that Judge Baculi did not act according to the norms of judicial conduct.

With respect to the charge of violation of Canon 12 of the Code of Professional Responsibility, Commissioner De la Rama found that the evidence submitted is insufficient to support a ruling that the respondent had misused the judicial processes to frustrate the ends of justice.

Commissioner De la Rama recommended that the respondent be suspended from the practice of law for six (6) months.

On October 9, 2010, the IBP Board of Governors passed a Resolution adopting and approving the Report and Recommendation of the Investigating Commissioner, with the modification that the respondent be reprimanded.

The Court's Ruling

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. The Code of Professional Responsibility provides:

Canon 11 - A lawyer shall observe and maintain the respect due the courts and to judicial officers and should insist on similar conduct by others.

Rule 11.03 - A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

We ruled in *Roxas v. De Zuzuarregui, Jr.*[13] that it is the duty of a lawyer, as an officer of the court, to uphold the dignity and authority of the courts. Respect for the courts guarantees the stability of the judicial institution; without this guarantee, the institution would be resting on very shaky foundations.

A lawyer who insults a judge inside a courtroom completely disregards the latter's role, stature and position in our

justice system. When the respondent publicly berated and brazenly threatened Judge Baculi that he would file a case for gross ignorance of the law against the latter, the respondent effectively acted in a manner tending to erode the public confidence in Judge Baculi's competence and in his ability to decide cases. Incompetence is a matter that, even if true, must be handled with sensitivity in the manner provided under the Rules of Court; an objecting or complaining lawyer cannot act in a manner that puts the courts in a bad light and bring the justice system into disrepute.

The IBP Board of Governors recommended that Atty. Battung be reprimanded, while the Investigating Commissioner recommended a penalty of six (6) months suspension.

We believe that these recommended penalties are too light for the offense.

In Re: Suspension of Atty. Rogelio Z. Bagabuyo, Former Senior State Prosecutor,[14] we suspended Atty. Bagabuyo for one year for violating Rule 11.05, Canon 11, and Rule 13.02, Canon 13 of the Code of Professional Responsibility, and for violating the Lawyer's Oath for airing his grievances against a judge in newspapers and radio programs. In this case, Atty. Battung's violations are no less serious as they were committed in the courtroom in the course of judicial proceedings where the respondent was acting as an officer of the court, and before the litigating public. His actions were plainly disrespectful to Judge Baculi and to the court, to the point of being scandalous and offensive to the integrity of the judicial system itself.

WHEREFORE, in view of the foregoing, Atty. Melchor A. Battung is found GUILTY of violating Rule 11.03, Canon 11 of the Code of Professional Responsibility, for which he is SUSPENDED from the practice of law for one (1) year effective upon the finality of this Decision. He is STERNLY WARNED that a repetition of a similar offense shall be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to the respondent's personal record as an attorney; the Integrated Bar of the Philippines; the Department of Justice; and all courts in the country, for their information and guidance.

SO ORDERED.

Del Castillo,[**] Perez, Mendoza,[***] and Sereno, JJ., concur.
Brion,[*] (Acting Chairperson)

[*] Designated as Acting Chairperson in lieu of Associate Justice Antonio T. Carpio, per Special Order No. 1083 dated September 13, 2011.

[**] Designated as Additional Member in lieu of Associate Justice Antonio T. Carpio, per Special Order No. 1084 dated September 13, 2011.

[***] Designated as Additional Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 1107 dated September 27, 2011.

[1] Rollo, p. 161.

[2] Id. at 1-5.

[3] Canon 11 - A lawyer shall observe and maintain the respect due the courts and to judicial officers and should insist on similar conduct by others.

[4] Canon 12 - A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient

administration of justice.

[5] Rollo, p. 2.

[6] Ibid.

[7] Id. at 8-12.

[8] Id. at 13.

[9] Id. at 20-28.

[10] Id. at 24.

[11] Id. at 162-175.

[12] Id. at 169-171.

[13] G.R. Nos. 152072 & 152104, July 12, 2007, 527 SCRA 446.

[14] A.C. No. 7006, October 9, 2007, 535 SCRA 200.

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