



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated April 19, 2023, which reads as follows:

“A.C. No. 11425 – LINDA DELA PAZ ADRIANO, plaintiff-appellee, versus ATTY. LUDYBETH BATOY-NANGKIL and ATTY. PHILLIP RAY NANGKIL, respondents.

This involves the Verified Disbarment Complaint/Letter Affidavit¹ (**Complaint**) filed by complainant Linda Dela Paz Adriano (**Adriano**) against respondents’ spouses Atty. Ludybeth Batoy-Nangkil (**Atty. Batoy**) and Atty. Phillip Ray Nangkil (**Atty. Nangkil**) (collectively, **the respondents**), for their involvement in the unauthorized demolition of her house.

The Facts

In her Complaint, Adriano narrated that on January 13, 2016, Atty. Nangkil, who was allegedly carrying a long firearm, and Atty. Batoy, together with their hired workers and guards came to her house in Barangay Corongcorong, El Nido, Palawan, to demolish a portion of her house, which was allegedly encroaching on their land.

When Adriano demanded that Atty. Batoy pay her ₱50,000.00 for her expenses for vacating her house, Atty. Batoy allegedly shouted “*Putang ina mo. Lumayas ka sa harapan ko. Bakit ako magbabayad sa iyo? Wala akong pera. Hindi nga nagbabayad ang mga kliyente ko. Putang ina mo.*” She then purportedly picked up a rock and threw it at Adriano’s house while shouting “*Gibain ang bahay.*”²

Thereafter, Atty. Nangkil allegedly motioned the hired workers to start the demolition. They struck down Adriano’s fence and a portion of her house.³

¹ Rollo, pp. 1-11.

² Id. at 1-2, Complaint.

³ Id. at 3, Complaint.

Adriano added that on May 21, 2016, she had an altercation with Atty. Batoy during which the latter mocked her for the dismissal of the criminal cases arising from the demolition of her house she filed against the respondents.⁴ The criminal cases were dismissed without prejudice for charging more than one offense and failure to substantially conform with the prescribed form.⁵

According to Adriano, the respondents had no authority to cause the demolition of her house. She explained that she was allowed to build her house on its location by Florello Eleazar (**Eleazar**).⁶ In 2015, Eleazar filed a complaint with their barangay seeking to eject Adriano from his property after the former failed to pay rent. Adriano and Eleazar met before their barangay's *Lupong Tagapamayapa*, during which she agreed to vacate the property by December 31, 2015.⁷ Adriano claims that the respondents were not authorized to demolish her house as they were not parties to the said proceedings.

Adriano avers that the respondents' abhorrent conduct constitutes a violation of the Lawyer's Oath and Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility (**CPR**). She contends that the respondents are not fit to remain in the profession and thus they should be disbarred.⁸

In their Comment,⁹ the respondents denied all of Adriano's allegations and claimed that the present Complaint was filed by Adriano to malign, harass, and extort money from the respondents. They averred that the men who dismantled Adriano's house were hired by Charmaine Cheryle Eleazar-Hopkins (**Hopkins**), the alleged owner of the parcel of land on which a portion of Adriano's house was situated and Atty. Batoy's client.

On March 13, 2017, the Court referred the Complaint to the Integrated Bar of the Philippines (**IBP**) for investigation, report, and recommendation.¹⁰

The IBP set the case for mandatory conference on October 27, 2017, but none of the parties appeared.¹¹ Thus, the mandatory conference was deemed terminated and the parties were directed to file their respective Verified Position Papers.¹² The respondents filed their Verified Position Paper¹³ on March 1, 2018, while Adriano failed to file hers.

⁴ Id. at 6-7, Complaint.

⁵ Id. at 66, Order, dated April 25, 2016.

⁶ Id. at 3-4, Complaint.

⁷ Id. at 48-49, Minutes of the Proceedings of Brgy. Case No. 031-15, dated March 24, 2015.

⁸ Id. at 8-9, Complaint.

⁹ Id. at 88-98.

¹⁰ Id. at 201-202, Notice, dated March 13, 2017.

¹¹ Id. at 219-220, Notice of Mandatory Conference.

¹² Id. at 221.

¹³ Id. at 225-241.

The Report and Recommendation of the IBP

In her Report and Recommendation,¹⁴ the Investigating Commissioner recommended that the respondents be suspended from the practice of law for a period of one year. He gave more credence to Adriano's evidence and found that the respondents were indeed involved in the demolition of Adriano's house. According to the Investigating Commissioner, instead of taking the law into their own hands, the respondents should have sought judicial intervention.

The IBP Board of Governors (**BOG**) resolved to adopt the findings of fact and recommendation of the Investigating Commissioner with respect to Atty. Nangkil. As regards Atty. Batoy, the IBP BOG recommended that the complaint against her be dismissed, with advice that she be more circumspect in her dealings as a lawyer. According to the IBP BOG, the record is bereft of proof of the allegations against Atty. Batoy, particularly, that she threw a stone at Adriano's house and hurled profane language at Adriano.¹⁵

The Ruling of the Court

In *Tan v. Alvarico*,¹⁶ the Court explained the burden of proof in administrative cases against lawyers:

An attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved, and that as an officer of the Court, he is presumed to have performed his duties in accordance with his oath. **In disbarment proceedings, the quantum of proof is substantial evidence and the burden of proof is on the complainant to establish the allegations in his complaint.**¹⁷ (Emphasis supplied; citations omitted)

Substantial evidence is defined as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."¹⁸

The Court finds substantial evidence of the respondents' involvement in the unauthorized demolition of Adriano's house. In her Complaint and Judicial Affidavit,¹⁹ Adriano attested that her house was demolished on January 13, 2016 under the instructions of the respondents and in their presence. This was corroborated by Myrah Dela Peña Dreo, Adriano's neighbor, in her Judicial Affidavit.²⁰

¹⁴ Id. at 375-382.

¹⁵ Id. at 383-385, Extended Resolution, dated July 1, 2022.

¹⁶ A.C. No. 10933, November 3, 2020.

¹⁷ Id.

¹⁸ RULES OF COURT, Rule 133, Sec. 6.

¹⁹ Id. at. 14-22.

²⁰ Id. at 60-64.

The fact that they were present during the demolition of Adriano's house on January 13, 2016 was not denied by the respondents. They only contended that the workers and guards who undertook the demolition were hired not by them, but by Hopkins.²¹ The Court notes, however, that Hopkins was admittedly Atty. Batoy's client. Atty. Batoy represented Hopkins in the unlawful detainer cases that the latter filed to recover possession of her property.²² It was Atty. Batoy who negotiated with Adriano when the latter demanded ₱50,000.00 in exchange for vacating her house.²³ Moreover, it was also Atty. Batoy who confronted Adriano on May 21, 2016, when the latter came back to her house to stop the further destruction thereof.²⁴ Clearly, the respondents were not mere bystanders. They facilitated the demolition of Adriano's house.

The respondents also admitted that the demolition of Adriano's house had no judicial sanction. In fact, Adriano was not among the respondents in the unlawful detainer cases that Hopkins filed against the occupants of her property through Atty. Batoy.²⁵

It is basic that there could be no demolition of building or structures without a writ of execution and demolition issued by the court. The Court, on numerous occasions, has held that even if there is already a writ of execution, there must still be a need for a special order for the purpose of demolition issued by the court before the officer in charge can destroy, demolish or remove improvements over the contested property.²⁶ No such writ of execution or demolition was issued in this case.

The foregoing circumstances show that the respondents' involvement in the demolition of Adriano's house without judicial authority was established by substantial evidence. However, the same cannot be said with regard to Adriano's other allegations that Atty. Nangkil threatened her with a long firearm and that Atty. Batoy hurled expletives at her and threw a stone at her house. These allegations were unsubstantiated and were sufficiently refuted by the barangay *kagawads* who, in answer to Adriano's call for help, proceeded to Adriano's house on January 13, 2016.²⁷

Evidently, the respondents violated their oath to "obey the laws as well as the legal orders of the duly constituted authorities" and their duty to "obey the laws of the land and promote respect for law of and legal processes" under Canon 1 of the CPR, when they facilitated the demolition of Adriano's house without judicial authority and over her objections.

²¹ Id.

²² Id. at 91, Comment.

²³ Id.

²⁴ Id. at 7, Complaint.

²⁵ Id. at 91, Comment.

²⁶ *Espanto v. Belleza*, 826 Phil. 412 (2018).

²⁷ Id. at 172, Judicial Affidavit/Sworn Statement of Hon. Reynaldo B. Ermino; p. 177, Judicial Affidavit/Sworn Statement of Hon. Ryan Gabinete Abela.

In *Espanto v. Belleza*,²⁸ the Court suspended a lawyer from the practice of law for a period of six (6) months for his participation in the demolition of the complainant's house without a judicial order from the court.

In view of the foregoing, the Court deems it proper to suspend the respondents from the practice of law for a period of six (6) months.

WHEREFORE, the Court finds respondents Atty. Ludybeth Batoy-Nangkil and Atty. Phillip Ray Nangkil **GUILTY** of violating the Lawyer's Oath and Canon 1 of the Code of Professional Responsibility. Accordingly, the Court **SUSPENDS** them from the practice of law for a period of six (6) months.

The respondents are **DIRECTED** to report to this Court the date of their receipt of this Resolution to enable it to determine when their suspension from the practice of law shall take effect.

Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be entered into the records of Atty. Ludybeth Batoy-Nangkil and Atty. Phillip Ray Nangkil. Copies shall likewise be furnished to the Integrated Bar of the Philippines for its information and guidance and to the Office of the Court Administrator for circulation to all courts concerned.

The Notice of Resolution, dated February 16, 2019, of the Integrated Bar of the Philippines Board of Governors is **NOTED**.

SO ORDERED."

By authority of the Court:

Misael C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *6/23/23*

²⁸ 826 Phil. 412 (2018).

Ms. Linda Dela Paz Adriano
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