



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 March 2022** which reads as follows:*

“**A.C. No. 11538 (Atty. Carlos M. Canilao and Engr. Nazita F. Banez v. Atty. Francis Rae G. Camtugan II)**. — The instant administrative case stemmed from a complaint¹ filed before the Office of the Bar Confidant by complainants Atty. Carlos M. Canilao and Engr. Nazita Banez (complainants), in their capacities as head of the Baguio City Anti-Squatting and Illegal Structures Committee, and the City Demolition Team and City Building and Architecture, respectively, charging respondent Atty. Francis Rae G. Camtugan II (Atty. Camtugan) with failure to exemplify courtesy, fairness, and candor required by the Lawyer’s Oath, in violation of Sections 20(b) and (f), Rule 138 of the Rules of Court, and Canons 8, 10, 12 and 13 of the Code of Professional Responsibility (CPR).

The Facts

Complainants averred² that in the petition³ filed by Atty. Camtugan before the Regional Trial Court of Baguio City, Branch 5 (RTC), seeking to declare null and void the demolition order issued by the Baguio City Mayor against his clients (demolition case), Atty. Camtugan: (1) made stipulations that (a) were without bases, misleading, irrelevant, and malicious; and (b) attacked the character of the respondents therein, as well as other government agencies which were not parties to the petition; (2) misinterpreted the case of *Aquino v. Municipality of Malay, Aklan*⁴ (*Aquino*) when he stated that there should be a twin violation of law and ordinance before the power of the Local Government Unit (LGU) to demolish can be allowed; and (3) used words such as ‘parroting’ and ‘defanged’ as if he was referring to respondents therein as ‘mindless animals’, and the phrase ‘open rebellion’, and ‘blatantly illegal’ as overstepping the boundaries of courtesy, fairness, candor and circumspection required to champion his client’s cause; and (4) made it appear that Mayor Mauricio G. Domogan was the person charged in the case of *Alangdeo v. The City Mayor of Baguio, et al.*⁵ They also deplored as another instance of his lack

¹ *Rollo*, pp. 1-13.

² See *id.* at 2-13.

³ *Id.* at 15-75.

⁴ 744 Phil. 497, 520 (2014).

⁵ 762 Phil. 539 (2015).

of courtesy the ensuing *certiorari* petition he filed before the Court of Appeals (CA) against the RTC Order denying his prayer for writ of preliminary injunction in the demolition case.⁶

In his Comment,⁷ Atty. Camtugan prayed for the dismissal of the complaint, countering that he merely prepared a passionately written pleading, and that it was the complainants who twisted portions thereof to make them appear as the victims. He denied: (a) attacking the government agencies not impleaded in the case, which were mentioned only to establish a factual account of the basis for his clients' claims; (b) maliciously misinterpreting certain cases in his petition as he only cited cases that he deemed relevant to his clients' case; and (c) comparing complainants to "mindless animals" as the words 'parroting' and 'defanged' were only figures of speech he used to emphasize his arguments.⁸

In a Resolution⁹ dated July 9, 2018, the Court referred the instant case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation within thirty (30) days from receipt of the records. Pursuant to the Court's resolution, the IBP Commission on Bar Discipline (IBP-CBD) set the case for mandatory conference on December 5, 2018, and directed the parties to submit their respective mandatory conference briefs at least five (5) days prior thereto.¹⁰ The mandatory conference was rescheduled to January 10, 2019.¹¹ After the same was terminated, the IBP-CBD directed the parties to submit their respective position papers,¹² but only complainants complied.¹³

The IBP Recommendation

In a Report and Recommendation¹⁴ dated June 28, 2019, the IBP-CBD recommended the dismissal of the complaint, finding that the charges proven do not constitute a clear case of misconduct and breach of the CPR. It treated the words 'parroting' and 'defanged' as words of common usage in our daily life. Moreover, while it found that Atty. Camtugan really misquoted the ruling in *Aquino*, he concluded that the same was unintentional and an excusable negligence since the same was not a direct quotation. As such, it warrants a mere admonition with a warning that a repetition of a similar blunder shall be dealt with more severely. Finally, it found that Atty. Camtugan did not commit forum shopping when he included the other agencies implored by him for succor as they do not belong to the judiciary, and thus, resort to them cannot be considered as judicial remedies covered by the rules on forum shopping.

In a Resolution¹⁵ dated September 11, 2021, the IBP Board of Governors adopted and approved the IBP-CBD's Report and Recommendation dismissing the complaint against Atty. Camtugan.

⁶ See *rollo*, p. 8

⁷ Id. at 230-240.

⁸ See id. at 231-240.

⁹ Id. at 243-244.

¹⁰ Id. at 246.

¹¹ Id. at 3.

¹² See Order dated January 10, 2019; id. at 255-256.

¹³ See Report and Recommendation dated June 28, 2019, id. at 294-304. Signed by Investigating Commissioner Abelardo P. De Jesus.

¹⁴ Id. at 303-304.

¹⁵ Id. at 292-293. Signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

The Court's Ruling

We agree with the IBP that the complained acts of Atty. Camtugan do not constitute a clear case of misconduct and breach of Sections 20(b) and (f), Rule 138 of the Rules of Court, and Canons 8, 12 and 13 of the CPR.

Every lawyer is required to act with courtesy at all times, even towards the adverse parties. This duty is enjoined by the Rules of Court which mandates members of the Philippine Bar to 'abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged.'¹⁶ This duty is emphasized in the CPR, specifically, Rule 8.01 of Canon 8 which provides that: '[a] lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.'

Recognizing the adversarial nature of our legal system which has necessitated lawyers to use strong language in the advancement of their clients' interest, the Court had nonetheless impressed upon lawyers, as members of a noble profession, that their duty to represent their clients' cause with courage and zeal should not be used as license for the use of offensive and abusive language.¹⁷ Though a lawyer's language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession.¹⁸

In *Chua v. Pascua*¹⁹ (*Chua*), the Court had the occasion to rule that while some words and phrases, such as 'duped,' 'to take advantage of the innocence of,' 'his ignorance and abusive manner,' and 'foolishness' (used by respondent lawyer to refer to one of the adverse parties), and 'bungling' (even if used to refer to the act of the trial judge) can at times be considered as off-color or even as abrasive, their being so considered depends on the specific context or situation in which they are used or uttered. That they have synonyms or alternatives that are more or less expressive does not warrant characterizing them as excessive, intemperate or offensive. Considering the context where they were used, the Court treated them as words of common usage in our daily life, and to be understood by what they ordinarily convey.

Following the ruling in *Chua*, the IBP-CBD in its Report and Recommendation correctly found the words 'parroting' and 'defanged' as words of common usage in our daily life. The Court has perused the records and found that the use of said words was merely forceful and emphatic, taken within the context within which they were used. Moreover, as observed by the IBP-CBD, even the RTC, which was the recipient of some of Atty. Camtugan's lashings, merely let go of the matter, and even complimented his zeal and vigor in advancing his client's cause, with the advise to nip his sharp tongue or be mindful of when to lash out.

However, the Court finds Atty. Camtugan to have violated Rule 10.02, Canon 10 of the CPR when he stated in the petition in the demolition case that *Aquino* required a twin violation of law and ordinance before the power of the LGU

¹⁶ Section 20(f), Rule 138 of the Rules of Court.

¹⁷ See *Buenviaje v. Magdamo*, A.C. No. 11616 (Formerly CBD Case No. 08-2141), August 23, 2017; *Chua v. Pascua*; *Sanchez v. Aguilos*, A.C. No. 10543, March 16, 2016.

¹⁸ See *Buenviaje v. Magdamo*, id.

¹⁹ Supra note 17.

to demolish can be allowed. While the IBP-CBD found that Atty. Camtugan should be admonished for misinterpreting *Aquino*, it recommended the dismissal of the complaint.

In *Aquino*, the Court ruled:

b. Respondent mayor has the power to order the demolition of illegal constructions

Generally, LGUs have no power to declare a particular thing as a nuisance unless such a thing is a nuisance *per se*. xxxx

Despite the hotel’s classification as a nuisance *per accidens*, however, We still find in this case that the LGU may nevertheless properly order the hotel’s demolition. This is because, in the exercise of police power and the general welfare clause, property rights of individuals may be subjected to restraints and burdens in order to fulfil the objectives of the government. Otherwise stated, the government may enact legislation that may interfere with personal liberty, property, lawful businesses and occupations to promote the general welfare.

One such piece of legislation is **the LGC, which authorizes city and municipal governments, acting through their local chief executives, to issue demolition orders.** Under existing laws, the office of the mayor is given powers not only relative to its function as the executive official of the town; it has also been endowed with authority to hear issues involving property rights of individuals and to come out with an effective order or resolution thereon. **Pertinent herein is Sec. 444 (b)(3)(vi) of the LGC, which empowered the mayor to order the closure and removal of illegally constructed establishments for failing to secure the necessary permits, to wit:**

Section 444. The Chief Executive: Powers, Duties, Functions and Compensation. –

x x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

x x x x

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:

x x x x

(vi) **Require owners of illegally constructed houses, buildings or other structures to obtain the**

necessary permit, subject to such fines and penalties as may be imposed by law or ordinance, or to make necessary changes in the construction of the same when said construction violates any law or ordinance, or to order the demolition or removal of said house, building or structure within the period prescribed by law or ordinance.
(Emphasis supplied)

c. Requirements for the exercise of the power are present

i. Illegality of structures

In the case at bar, petitioner admittedly failed to secure the necessary permits, clearances, and exemptions before the construction, expansion, and operation of Boracay Wet Cove's hotel in Malay, Aklan. To recall, petitioner declared that the application for zoning compliance was still pending with the office of the mayor even though construction and operation were already ongoing at the same time. As such, it could no longer be denied that petitioner openly violated Municipal Ordinance 2000-131, which provides:

SECTION 9. – Permits and Clearances.

(a) **No building or structure shall be allowed to start construction unless a Building Permit therefore has been duly issued by the Office of the Municipal Engineer.** Once issued, the building owner or any person in charge of the construction shall display on the lot or on the building undergoing construction a placard containing the Building Permit Number and the date of its issue. The office of the Municipal Engineer shall not issue any building permit unless:

1. **The proposed construction has been duly issued a Zoning Clearance by the Office of the Municipal Zoning Officer;**
2. The proposed construction has been duly endorsed by the Sangguniang Bayan through a Letter of Endorsement.

(b) Only buildings/structures which has complied with all the requirements for its construction as verified by the Building Inspector and the Sangguniang Bayan shall be issued a Certificate of Occupancy by the Office of the Municipal Engineer.

(c) **No Business or Mayor's Permit shall be issued to businesses being undertaken on buildings or structures which were not issued a certificate of Occupancy beginning January 2001 and thereafter.**

x x x x

SECTION 10. – Penalties.

x x x x

(d) Any building, structure, or contraption erected in any public place within the Municipality of Malay such as but not limited to streets, thoroughfares, sidewalks, plazas, beaches or in any other public

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place are hereby declared as nuisance and illegal structure. **Such building structure or contraption shall be demolished by the owner thereof or any of his authorized representative within ten (10) days from receipt of the notice to demolish. Failure or refusal on the part of the owner or any of his authorized representative to demolish the illegal structure within the period here inabove specified shall automatically authorize the government of the Municipality of Malay to demolish the same, gather and keep the construction materials of the demolished structure.** (emphasis supplied)

Petitioner cannot justify his position by passing the blame onto the respondent mayor and the latter's failure to act on his appeal for this does not, in any way, imply that petitioner can proceed with his infrastructure projects. On the contrary, this only means that the decision of the zoning administrator denying the application still stands and that petitioner acquired no right to construct on the no build zone. The illegality of the construction cannot be cured by merely tendering payment for the necessary fees and permits since the LGU's refusal rests on valid grounds.

Instead of taking the law into his own hands, petitioner could have filed, as an alternative, a petition for mandamus to compel the respondent mayor to exercise discretion and resolve the controversy pending before his office. There is indeed an exception to the rule that matters involving judgment and discretion are beyond the reach of a writ of *mandamus*, for such writ may be issued to compel action in those matters, when refused. Whether or not the decision would be for or against petitioner would be for the respondent mayor to decide, for while mandamus may be invoked to compel the exercise of discretion, it cannot compel such discretion to be exercised in a particular way. What would have been important was for the respondent mayor to immediately resolve the case for petitioner to be able to go through the motions that the zoning clearance application process entailed.

Alas, petitioner opted to defy the zoning administrator's ruling. He consciously chose to violate not only the Ordinance but also Sec. 301 of PD 1096, laying down the requirement of building permits, which provides:

Section 301. Building Permits. No person, firm or corporation, including any agency or instrumentality of the government shall erect, construct, alter, repair, move, convert or demolish any building or structure or cause the same to be done without first obtaining a building permit therefor from the Building Official assigned in the place where the subject building is located or the building work is to be done.

This twin violation of law and ordinance warranted the LGU's invocation of Sec. 444 (b)(3)(vi) of the LGC, which power is separate and distinct from the power to summarily abate nuisances per se. Under the law, insofar as illegal constructions are concerned, the mayor can, after satisfying the requirement of due notice and hearing, order their closure and demolition. (Underscoring supplied; emphasis in the original)

Contrary to Atty. Camtugan's statement, *Aquino* did not declare that there should be a twin violation of law and ordinance before the LGU may exercise its power to demolish. *Aquino* merely observed that there was violation of both ordinance and law in the said case, resulting in the demolition order. It appears that the supposed ruling was drawn from Atty. Camtugan's own interpretation and conclusions from the said case.

Nonetheless, the Court finds no clear indication that the statement was intended to mislead the court or commit a falsehood. However, while the evidence on record fell short in establishing that the omission was an ‘act of lying or cheating’ that would constitute a ‘dishonest act,’ it clearly contravened Rule 10.02 of the CPR²⁰ which provides: ‘[a] lawyer shall not knowingly misquote or misrepresent the contents of paper, the language or the argument of the opposing counsel, or the text of a decision or authority, or knowingly cite as a law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.’ In similar cases,²¹ the Court found the lawyer’s admonition to be adequate penalty for such violation.

WHEREFORE, Atty. Francis Rae G. Camtugan II is found **GUILTY** of violation of Rule 10.02, Canon 10 of the Code of Professional Responsibility. He is hereby **ADMONISHED** to be more careful in citing decisions of the Supreme Court in the future, with a **WARNING** that any repetition of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this Resolution be attached to the personal records of respondent, as Atty. Francis Rae G. Camtugan II, in the Office of the Bar Confidant.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
27 MAY 2022

²⁰ See *Ingram v. Lorica*, A.C. No. 10306, September 16, 2020.

²¹ See *Ingram v. Lorica*, id.; *Torres v. Dalangin*, 822 Phil. 80, 105 (2017); *Allied Banking Corporation v. Court of Appeals*, G.R. No. 144412, November 18, 2003.

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