



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 April 2022** which reads as follows:*

**“A.C. No. 13058 (Atty. Gilda S. Mahinay v. Atty. Sheila Mary L. Edig.)** – Before Us is an administrative complaint<sup>1</sup> filed by Atty. Gilda S. Mahinay (Atty. Mahinay) against Atty. Sheila Mary L. Edig (Atty. Edig) for the latter’s alleged violation of Canon 8 of the Code of Professional Responsibility (CPR). On 03 March 2021,<sup>2</sup> the Integrated Bar of the Philippines (IBP) Board of Governors transmitted to this Court the records of the case and the Notice of Resolution<sup>3</sup> dated 26 January 2020, which adopted the Report and Recommendation<sup>4</sup> dated 14 January 2020 of the IBP Commission on Bar Discipline (CBD) recommending the dismissal of the complaint.

**Antecedents**

In a complaint filed before the Office of the City Prosecutor of Panobo City, Davao Del Norte, docketed as NPS Docket No. XI-08-INV-18K-00145, for violation of Article 281 of the Revised Penal Code (Other Forms of Trespass Case), Atty. Mahinay was impleaded as one of the respondents. In the said case, it was averred that Atty. Mahinay, together with members and officers of Kasilak Panabo Agrarian Reform Beneficiaries Association, forcibly entered and illegally occupied the fenced property of Marsman Drysdale Panabo Agricultural Ventures, Inc. (MDPAVI).<sup>5</sup>

In the present complaint, Atty. Mahinay contends that Atty. Edig, as the legal counsel of MDPAVI, attacked her integrity as lawyer by impleading her in the Other Forms of Trespass Case in violation of Canon 8 of the CPR.

<sup>1</sup> *Rollo*, pp. 1-13.

<sup>2</sup> *Id.* at 16.

<sup>3</sup> *Id.* at 17-18.

<sup>4</sup> *Id.* at 19-20; penned by Deputy Director for Bar Discipline Alfred Ramon Jose Ma. X.B. Nolasco.

<sup>5</sup> *Id.* at 11-12; Affidavit-Complaint of Anthony Karl F. Gaspar.

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### **Report and Recommendation of the IBP**

In the Report and Recommendation dated 14 January 2020, the Deputy Director of Bar Discipline recommended the dismissal of the complaint against Atty. Edig due to Atty. Mahinay's failure to prove her allegations. It found that since there was a "semblance of reason" to implead Atty. Mahinay in the Other Forms of Trespass Case, it was the latter's burden to prove that she was wrongfully impleaded. Atty. Mahinay, however, failed to discharge such burden. It further noted that Atty. Edig's name was not even reflected in the complaint in the Other Forms of Trespass Case.<sup>6</sup>

The IBP Board of Governors, in the Resolution dated 26 January 2020, approved and adopted the Report and Recommendation of the Deputy Director of Bar Discipline to dismiss the complaint.<sup>7</sup>

In accordance with Section 12 (b) and (c) of Rule 129-B of the Rules of Court, as amended by Bar Matter No. 1645 dated 13 October 2015, the IBP Board of Governors transmitted its recommendation, together with the entire records of the case, to the Court for resolution.

### **Issue**

The sole issue for resolution is whether or not the administrative complaint should be dismissed.

### **Ruling of the Court**

The Court adopts the findings and recommendation of the IBP to dismiss the complaint against Atty. Edig.

Canon 8 of the CPR mandates that "[a] lawyer shall conduct himself with courtesy, fairness and candor towards his professional colleagues, and shall avoid harassing tactics against opposing counsel."

This Court will not hesitate to exercise its authority to discipline

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<sup>6</sup> *Id.* at 19-20

<sup>7</sup> *Id.* at 17-18.

lawyers who transgress their ethical duties under the CPR. Indeed, We have imposed the penalty of suspension against a lawyer who admittedly filed multiple criminal and administrative cases against the opposing counsels and the complainant and even reserved the right to file yet another perjury case against the latter.<sup>8</sup> In another case, a lawyer was sanctioned for impleading in a collection suit for damages, the prosecutor and opposing counsel who had no participation in the business transaction being sued upon.<sup>9</sup> A lawyer was likewise disciplined for threatening to file baseless administrative and criminal complaints, coupled with personal attacks, against the opposing litigant's counsel in order to strong-arm the latter and his client to submission.<sup>10</sup>

In all these cases, complainants therein were able to establish that the lawyers filed, or threatened to file, groundless and baseless suits as a harassment tactic or tool to gain leverage, instead of availing proper remedies to protect the interest of their clients. Rightly so because in administrative proceedings against lawyers, complainants have the burden of proving, by substantial evidence, the facts upon which their claims are based; otherwise, respondent is not obliged to prove his or her exception or defense.<sup>11</sup>

Here, Atty. Mahinay failed to discharge said burden.

There is nothing in the records that would show Atty. Edig's participation in the filing of the case against Atty. Mahinay. The Affidavit-Complaint in the Other Forms of Trespass Case was executed by one Anthony Karl F. Gaspar, and does not even bear the name of Atty. Edig. Meanwhile, aside from the bare allegation that Atty. Edig is the counsel of MDPAVI, no proof was presented to substantiate said claim. It is a fundamental rule that bare allegations, unsubstantiated by evidence, are not equivalent to proof.<sup>12</sup>

Even assuming that Atty. Edig was behind the filing of the complaint in the Other Forms of Trespass Case, without indicia that the complaint was employed as a harassing tactic, the act of filing a case by itself would not constitute a violation of Canon 8 of the CPR. As observed by the Deputy Director of Bar Discipline, Atty. Mahinay failed to establish that she was wrongfully impleaded as a respondent in the Other Forms of Trespass Case. Notably, Atty. Mahinay did not even deny the allegation against her in the said case...

<sup>8</sup> *Pagdanganan v. Plata*, A.C. No. 12701, 26 February 2020 [Per J. Hernando].

<sup>9</sup> *Reyes v. Chiong, Jr.*, A.C. No. 5148, 01 July 2003 [Per J. Panganiban].

<sup>10</sup> *Roque, Jr. v. Balbin*, A.C. No. 7088, 04 December 2018 [Per J. Perlas-Bernabe].

<sup>11</sup> *See Alug v. Senupe*, A.C. No. 12115, 15 October 2018 [Per J. Perlas-Bernabe].

<sup>12</sup> *Spouses Cabasal v. BPI Family Savings Bank, Inc.*, G.R. No. 233846, 18 November 2020 [Per J. Zalameda].

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In view of the foregoing, the Court finds that Atty. Mahinay failed to present substantial evidence to show that Atty. Edig violated Canon 8 of the CPR.

**WHEREFORE**, premises considered, the Court resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendations of the Deputy Director of Bar Discipline in the Report and Recommendation dated 14 January 2020, which the Integrated Bar of the Philippines Board of Governors likewise adopted and approved. Accordingly, the Complaint against Atty. Sheila Mary L. Edig is hereby **DISMISSED**.

**SO ORDERED.”**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court *pg 71c*

15 JUL 2022

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PHILIPPINE JUDICIAL ACADEMY (x)  
Supreme Court, Manila

\*For this resolution only

\*\*with a copy of the IBP Report and Recommendation dated January 14, 2020

*Please notify the Court of any change in your address.*

AC13058. 4/06/2022(56)URES

*File*