



Republic of the Philippines
Supreme Court
Cagayan de Oro City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 6, 2023** which reads as follows:*

“**A.C. No. 10413 (Isidro Alaan Iligan v. Pros. Raul O. Nasayao)**.—For Our resolution is a Complaint¹ filed by Isidro A. Iligan (Isidro) against the Assistant Provincial Prosecutor of Surigao del Norte, Raul O. Nasayao (Atty. Raul), for the latter’s alleged gross violation of several provisions of the Code of Professional Responsibility (Code). According to Isidro, the allegations in his Complaint warrant the imposition of the extreme penalty of disbarment against Atty. Raul.

The Antecedents

The core of this case stemmed from a series of incidents that occurred on May 18, 2011 involving Isidro, Atty. Raul, and Nancy Nasayao (Nancy).

By way of a brief background, it bears noting that Atty. Raul is the husband of Nancy,² whereas Isidro is her ex-boyfriend.³ Prior to the May 18, 2011 incident, or specifically on April 13, 2011⁴ and May 17, 2011,⁵ it is undisputed that Isidro and Nancy had personal encounters in Surigao del Norte.

As expected, the opposing parties presented two conflicting versions of the May 18, 2011 incident, both of which will be summarized below.

Version of Complainant Isidro

In the morning of May 18, 2011, Nancy called Isidro several times to ask for his whereabouts and itineraries that day.⁶ That same morning, Isidro and

¹ *Rollo*, Vol. 1, pp. 1-15.

² See *id.* at 2-3. See also TSN, June 29, 2011, p. 25.

³ See *id.* at 2. See also TSN, July 7, 2011, p. 34.

⁴ See *id.* at 3. See also TSN, June 29, 2011, p. 20.

⁵ See *id.* at 4. See also *rollo*, Vol. 1, p. 14.

⁶ See *id.* at 4-5.

his brother, Ludovico A. Iligan (Ludovico), went to pay their accountabilities at AYL Trading located in *Sitio Baoy, Barangay San Isidro, Municipality of Gigaquit, Surigao del Norte*. Upon reaching the establishment, Isidro parked his car beside the gate of AYL Trading.⁷

While Isidro was waiting for the issuance of their official receipt, Nancy called him again, asked for his current whereabouts, and requested if they could talk. Thereafter, to his surprise, Nancy told him that she is already outside the compound of AYL Trading. After getting the official receipt, Isidro went out and told Ludovico to wait for him. Isidro then went to meet Nancy, who in turn asked Isidro to board a pickup truck. Isidro asked who owns the vehicle but Nancy told him “*sige lang, suyod ra*” (it is okay, just get inside). Considering that Ludovico was waiting for him, and that there were many people around celebrating *Sitio Baoy’s* fiesta that day, Isidro just acceded to Nancy’s request.⁸

Upon boarding the pickup truck, Isidro noticed that someone was seated at the driver’s seat. Before he could even say a word, two individuals suddenly came from nowhere and pushed him into the middle of the vehicle. They pinned him down, tied his hands with a nylon cord, frisked his pockets, and took his cellphone. They shouted “*ayaw pag palag!*” (do not resist!), and when the vehicle started moving, they beat him and repeatedly asked about his relationship with Nancy. Isidro kept replying “*wala sir, friend lang*” (none sir, I am just her friend).⁹

Isidro noticed that each time the man on his right side punches him, Nancy would shout “*tama na daddy!*” (stop it daddy!), and then the man would reply “*paghilom!*” (shut up!). Isidro then realized that the man who kept punching him was Atty. Raul, the husband of Nancy.¹⁰

While continuously beating Isidro, they also forced him to pay the amount of PHP 130,000.00, which they allegedly spent for conducting a surveillance against him and Nancy. Subsequently, when Isidro was already feeling dizzy and weak, he heard someone say “*i-salvage nato ni, di na nato paabton sa Surigao*” (let’s kill this man, we should no longer let him reach Surigao).¹¹

Eventually, they proceeded to a police station in the Municipality of Placer, Surigao del Norte. The police officers then handcuffed Isidro and led him to the detention cell. The police blotter¹² stated that Isidro had physical injuries when he was turned over to the police station, and that he was a

⁷ See id. at 5.

⁸ See id.

⁹ See id. at 5-6.

¹⁰ See id. at 6.

¹¹ See id.

¹² Id. at 16.

suspect for illegal detention and abduction with rape committed against Nancy. However, Isidro averred that Atty. Raul merely fabricated the aforesaid charges.¹³

Version of Respondent Atty. Raul

In the morning of May 18, 2011, while Emerito Laude (Emerito) and Veronico Aton (Veronico) were riding their motorcycle on the way to *Brgy.* Cabugo, they saw Nancy and another individual apparently having an argument along the highway. When they reached *Brgy.* Baoy, they chanced upon Atty. Raul and informed him of what they saw. Thereafter, Atty. Raul, together with two other companions, used a pickup truck to go to Nancy. Emerito and Veronico followed them upon Atty. Raul's request.¹⁴

Upon reaching their destination, Atty. Raul and his companions saw Nancy being forcibly dragged by a man (identified as Isidro) towards the latter's vehicle. Thus, Atty. Raul came to the rescue of his wife and a fistfight ensued between him and Isidro.¹⁵ Upon witnessing this, Veronico approached and pacified them.¹⁶ Thereafter, Emerito and Veronico allegedly heard Isidro apologizing to Atty. Raul.¹⁷

Subsequently, Atty. Raul and Veronico accompanied Isidro to board the pickup truck, after which they proceeded to Placer Municipal Police Station.¹⁸

Report and Recommendation of the Integrated Bar of the Philippines (IBP)

In a February 20, 2018 Report and Recommendation,¹⁹ the IBP's Commission on Bar Discipline (IBP-CBD) recommended Atty. Raul's suspension from the practice of law for one year. The *fallo* thereof reads:

In view of the foregoing, the undersigned hereby finds the respondent to have violated the Code of Professional Responsibility for Lawyers and hereby recommends his suspension from the practice of law for a period of **one (1) year**.

Respectfully submitted.²⁰

¹³ See *id.* at 7-8.

¹⁴ See TSN, June 27, 2011, pp. 19-21.

¹⁵ See *id.* at 23-24.

¹⁶ See TSN, June 28, 2011, p. 18.

¹⁷ See TSN, June 27, 2011, pp. 26-27. See also TSN, June 28, 2011, pp. 19-20.

¹⁸ *Rollo*, Vol. 2, unpaginated.

¹⁹ *Id.*, unpaginated. Signed by Commissioner Maria Eliza C. Hermosura.

²⁰ *Id.*

The IBP-CBD gave more credence to Isidro's version of the May 18, 2011 incident since the narration was supported by clear, convincing, and satisfactory evidence.

In a May 19, 2018 Resolution,²¹ the IBP Board of Governors resolved to adopt the IBP-CBD's factual findings and modify the recommended penalty to a suspension from the practice of law for three years. On July 1, 2022, the IBP Board of Governors issued an Extended Resolution,²² the *fallo* thereof reads:

WHEREFORE, premises considered, this Board **RESOLVES** to **MODIFY** the recommendation of the Investigating Commissioner Maria Eliza C. Hermosura and instead recommend that the Respondent be **SUSPENDED** for a period of three (3) years[.]

SO ORDERED.²³

Hence, the present case.

Issue

Did Atty. Raul violate the Code?

Our Ruling

It is undisputed that at the time of the alleged incident, Atty. Raul was an Assistant Provincial Prosecutor. In the case of *Guevarra-Castil v. Trinidad*,²⁴ the Court established rules in the filing and handling of complaints against government lawyers, thus:

1. All complaints against and which seek to discipline government lawyers in their respective capacities as members of the Bar must be filed directly before this Court. Conversely, complaints which do not seek to discipline them as members of the Bar shall be dismissed for lack of jurisdiction and referred to the Ombudsman or concerned government agency for appropriate action.

2. In connection with paragraph 1, upon filing, the Court must determine whether the concerned agency, the Ombudsman, or the Court, has jurisdiction over the complaint against the government lawyer. In making such determination, the following must be considered: did the allegations of malfeasance touch upon the errant lawyer's continuing obligations under the [Code] and/or the Lawyer's Oath? To put it more simply, the primordial question to be asked in making this determination is this: **do the allegations in the complaint, assuming them to be true, make the lawyer unfit to practice the profession?**

²¹ *Rollo*, Vol. 2, unpaginated. Signed by National Secretary Patricia-Ann T. Prodigalidad.

²² *Id.*, unpaginated. Signed by CBD Task Force Commissioner Oliver A. Cachapero.

²³ *Id.*

²⁴ A.C. No. 10294, July 12, 2022.

2a. If the question in paragraph 2 yields a positive answer, the case properly lies before the Court, which shall retain jurisdiction.

This is so because again, the power to regulate the practice of law, and discipline members of the bar, belongs to Us. Necessarily, proceedings to be had before this Court should concern these and only these matters. This rule shall hold, even if the complaint also contains allegations of administrative and/or civil service rules infractions. In such situation however; the Court shall limit its ruling only to the matter of the respondent's fitness as a lawyer.

2b. On the other hand, if the question in paragraph 2 yields a negative answer, the Court, for lack of jurisdiction, shall dismiss the case and refer the same to the appropriate government office or the Ombudsman.

3. If multiple complaints have been filed, the process shall be the same.

In the event that paragraph 2b shall apply, and results in a situation where one or more complaint/s have been dismissed and referred to the appropriate government office or the Ombudsman, and one or more complaint/s have been retained by this Court, the cases shall proceed independently from one another.²⁵ (Emphases in the original)

In the present case, the allegations in the complaint pertain to Atty. Raul's fitness as a member of the Bar. Certainly, the alleged act of violence is not related to his duties as an Assistant Provincial Prosecutor. Further, as will be explained below, he was not acting as such when he allegedly fabricated criminal charges against Isidro. For these reasons, We retain jurisdiction and find it proper to discipline Atty. Raul as a lawyer.

The complaint is meritorious. We adopt the IBP findings but modify the recommended penalty to suspend Atty. Raul from the practice of law for a period of two years.

Sec. 27, Rule 138 of the Rules of Court provides:

Section 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be disbarred or suspended from his [or her] office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his [or her] conviction of a crime involving moral turpitude, or for any violation of the oath which he [or she] is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

²⁵ Id.

Pertinently, Rule 1.01, Canon 1 of the Code mandates that “[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.”

Atty. Raul exhibited gross misconduct unbecoming of a member of the legal profession

We agree with the IBP findings that Isidro’s version of the May 18, 2011 incident deserves more credence. As aptly found by the IBP, Atty. Raul failed to specifically deny that he and his companions inflicted physical injuries against Isidro.

“Time and again, the Court has pointed out that when the integrity or morality of a member of the bar is challenged, it is not enough that he [or she] denies the charge, for he [or she] must meet the issue and overcome the evidence presented on the charge. [The lawyer] must present proof that he [or she] still maintains the degree of integrity and morality expected of him [or her] at all times.”²⁶

Here, Atty. Raul’s claim—that he came to the rescue of Nancy after being informed that the latter was seen apparently having an argument with Isidro—fails to persuade. The statements made by Emerito and Veronico to corroborate such claim are marred with major inconsistencies. According to Veronico, he did not notice Atty. Raul’s car when they passed by the vicinity of AYL Trading and that he saw Nancy being dragged towards the highway.²⁷ In contrast, Emerito claimed that he saw Nancy being dragged towards Isidro’s car.²⁸ Moreover, if indeed Atty. Raul and Isidro had a fistfight, it is quite perplexing that only Isidro sustained slight physical injuries.²⁹

All told, We find the narration of Isidro to be more credible, thus: (1) that Nancy called him while he was at AYL Trading was corroborated by the sworn affidavit³⁰ of Jocelyn Aliwanag, an office clerk thereof; (2) that Nancy led him to the pickup truck was corroborated by the sworn affidavit³¹ of Ludovico; and (3) that he was the only one who sustained injuries is consistent with his claim that Atty. Raul and his companions ganged up on him when the pickup truck started moving.³²

²⁶ *Hierro v. Nava II*, A.C. No. 9459, January 7, 2020. Citation omitted.

²⁷ *Rollo*, Vol. 2, pp. 86-87.

²⁸ *Id.* at 95.

²⁹ *Rollo*, Vol. 1, pp. 17 and 32-36.

³⁰ *Id.* at 24.

³¹ *Id.* at 18-20.

³² *See id.* at 5-6.

**Atty. Raul's alleged fabrication
of criminal charges against
Isidro**

It is well to emphasize that “[i]n administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Further, the complainant has the burden of proving by substantial evidence the allegations in his [or her] complaint.”³³

Here, while the records lack evidence to show that Atty. Raul instigated the filing of a criminal charge against Isidro, We are convinced that he was motivated by malice when he allowed himself to be a “witness” in a groundless Information in violation of his duty under the Lawyer’s Oath not to “wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same.” This duty is also provided under Rule 1.03, Canon 1 of the Code, to wit:

Rule 1.03 — A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any [person]’s cause.³⁴

As earlier mentioned, the police blotter³⁵ stated that Isidro had physical injuries when he was turned over to the police station, and that he was a suspect for illegal detention and abduction with rape committed against Nancy. According to Isidro, Atty. Raul initially accused him of abduction with rape but then changed it to illegal detention.³⁶ This is supported by an Information³⁷ for serious illegal detention filed by Provincial Prosecutor Jesse Rey M. Silvosa against Isidro with “Raul O. Nasayao”³⁸ as one of the witnesses indicated therein. The accusatory portion thereof reads:

That on or about the 18th day of May, 2011 at more or less 7:00 o’ clock in the morning in the municipalities of Sison, Placer, and Gigaquit, Surigao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with full freedom and intelligence, did, then and there, willfully, unlawfully and feloniously threaten with death and forcibly take one **NANCY A. NASAYAO**, a female public officer being an election officer of Comelec, Sison, Surigao del Norte, by dragging her towards his car to the damage and prejudice of said victim in the amount as may be allowed by law.

CONTRARY TO LAW.³⁹

³³ *Macaventa v. Atty. Nuyda*, A.C. No. 11087, October 12, 2020.

³⁴ See *Atty. Cabarroguis v. Atty. Basa*, A.C. No. 8789, March 11, 2020.

³⁵ *Rollo*, Vol. 1, p. 16.

³⁶ See *id.* at 8.

³⁷ *Id.* at 399-400.

³⁸ See *id.* at 399.

³⁹ *Id.*

Subsequently, 2nd Assistant Provincial Prosecutor Irwin Ariel D. Miel filed an Amended Information,⁴⁰ the accusatory portion of which reads:

That on or about the 18th day of May 2011, at about 7:00 o'clock all through 11:00 o'clock in the morning, while the private complainant NANCY MANAMTAM-NASAYAO, a female and a public officer, being an election assistant of COMELEC-Sison, Surigao del Norte, was in Sison, Surigao del Norte, the above-named accused, through deceit, threats and intimidations, enticed her, to come to the municipality of Gigaquit, passing through the municipalities of Placer and Bacuag, all of the Province of Surigao del Norte, Philippines and within the jurisdiction of this Honorable Court, purportedly to meet him to settle some problems, and once the private complainant arrived there, the said accused, after having failed to make her to agree to his terms, will full freedom and intelligence, did then and there, willfully, unlawfully and feloniously take and detain said private complainant by preventing her to leave and dragging her to his car by means of force, threats and intimidation, depriving her of her liberty against her will to her damage and prejudice in the amount as may be allowed by law.

CONTRARY TO LAW.⁴¹

The Regional Trial Court (RTC), Surigao City, Branch 24, issued an Order⁴² granting the application for bail of Isidro in the serious illegal detention case. It explained that Isidro may only be held liable for grave coercion at most and not kidnapping or serious illegal detention.

On the other hand, the Office of the Ombudsman (Ombudsman) likewise filed an Information⁴³ for serious illegal detention against Atty. Raul, the accusatory portion of which reads:

On 18 May 2011, or sometime prior or subsequent thereto, in Sitio Baoy, San Isidro, Gigaquit, Surigao del Norte, Philippines, and within this Honorable Court's jurisdiction; accused **RAUL OCON NASAYAO, aided by two unidentified men**; without sufficient provocation, order by competent authority or lawful ground; did then and there willfully, unlawfully and feloniously detain one ISIDRO A. ILIGAN inside a vehicle against his will and deprive him of his liberty by binding his hands together and driving away with him in such condition; and while detaining Isidro A. Iligan threaten to kill him, and even inflict physical injuries on his person which required medical attention for seven days.

CONTRARY TO LAW.⁴⁴

Following Our discussion on the credibility of Isidro's version of the May 18, 2011 incident, there is enough evidence to support the conclusion

⁴⁰ Id. at 401-402

⁴¹ Id. at 401.

⁴² Id. at 26-28.

⁴³ *Rollo*, Vol. 2, pp. 115-116. Signed by Assistant Special Prosecutor III Maria Janina J. Hidalgo.

⁴⁴ Id. at 115.

that among the conflicting Informations, that which was filed by the Ombudsman is more probable and consistent with the totality of the circumstances in this case.

Relevantly, “there is malice where a criminal complaint [is] initiated deliberately by a complainant knowing that his [or her] charges [are] false and groundless.”⁴⁵ Thus, for the foregoing reasons, this Court holds Atty. Raul liable for violating the Lawyer’s Oath, Rule 1.01, and Rule 1.03 of the Code.

Atty. Raul may be disciplined for acts committed in his private capacity

Atty. Raul maintained that the acts complained of have nothing to do with his membership in the Bar, hence, he may not be sanctioned therefor.⁴⁶

Such argument is untenable.

It is well-settled that “[a] lawyer may be disciplined for any conduct, in his [or her] professional or private capacity, that renders him [or her] unfit to continue to be an officer of the court.”⁴⁷ Canon 7 of the [Code] commands all lawyers to at all times uphold the dignity and integrity of the legal profession. Specifically, in Rule 7.03, the Code provides:”

RULE 7.03. A lawyer shall not engage in conduct that adversely reflects on his [or her] fitness to practice law, nor shall he [or she] whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.⁴⁸

The proper penalty

While Isidro prays for Atty. Raul’s disbarment, We deem that a penalty of suspension from the practice of law for two years is sufficient to discipline Atty. Raul. In *Genato v. Mallari*,⁴⁹ We explained:

The power to disbar is always exercised with great caution and only for the most imperative reasons or in cases of clear misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar.⁵⁰ The Court has to ask itself whenever this remedy is considered — Do the transgressions of the erring lawyer justify his or her disbarment? What circumstances in the erring lawyer’s life can we draw upon to avoid disbarment as an outcome? Would the legal profession be better off

⁴⁵ *Sosmeña v. Bonafe*, G.R. No. 232677, June 8, 2020.

⁴⁶ *Rollo*, Vol. 2, unpaginated.

⁴⁷ *Spouses Saburnido v. Madroño*, 418 Phil. 241, 246-247 (2001), citing *Ducat, Jr. v. Villalon, Jr.*, 392 Phil. 394, 402 (2000).

⁴⁸ *Id.* at 247.

⁴⁹ A.C. No. 12486, October 15, 2019.

⁵⁰ *Id.*, citing *Madria v. Rivera*, 806 Phil. 774, 785 (2017).



without this erring lawyer in the Roll of Attorneys, and would others be deterred from following the erring lawyer's type of practice?⁵¹

Relevantly, “[l]awyers are disciplined, as are judges and court personnel, on the totality of the circumstances attendant to the case being heard.”⁵²

Here, as a lawyer, and an Assistant Provincial Prosecutor at that, more is expected from Atty. Raul who should not have violently acted in a fit of jealous rage. He should be reminded that his acts, even in a private capacity, are always subject to public scrutiny. As held in a previous case:

It must be recalled that at the time of the commission of the crime, respondent was an Assistant Public Prosecutor of the City of Dagupan. x x x. Indeed —

Respondent's conduct in office fell short of the integrity and good moral character required of all lawyers, specially one occupying a public office. Lawyers in public office are expected not only to refrain from any act or omission which tend to lessen the trust and confidence of the citizenry in government but also uphold the dignity of the legal profession at all times and observe a high standard of honesty and fair dealing. A government lawyer is a keeper of public faith and is burdened with a high degree of social responsibility, higher than his [or her colleagues] in private practice.⁵³

Nonetheless, the totality of the circumstances does not reveal such gross immorality on Atty. Raul's part which may warrant the extreme penalty of disbarment. “Immoral conduct, or immorality, is that which is so willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members of the community. As a basis of disciplinary action, such immoral conduct, or immorality must be so corrupt as to virtually constitute a criminal act or so unprincipled as to be reprehensible to a high degree or committed under such scandalous or revolting circumstances as to shock the common sense of decency.”⁵⁴

In *Atty. Cabarroguis v. Atty. Basa*,⁵⁵ We disciplined the respondent lawyer for filing frivolous complaints against an opposing counsel. Thus, for violating the Lawyer's Oath, Canon 1, and Rule 1.03, among others, the respondent lawyer was suspended from the practice of law for a period of six months.

⁵¹ Id.

⁵² Id.

⁵³ *Re: Decision Dated 17 March 2011 in Criminal Case No. SB-28361 Entitled “People v. Barrozo,”* 764 Phil. 310, 319 (2015). Citation omitted.

⁵⁴ *Hierro v. Nava II*, supra note 26, citing *Advincula v. Atty. Advincula*, 787 Phil. 101, 112-113 (2016).

⁵⁵ Supra note 34.

In *Gonzalez v. Alcaraz*⁵⁶ and *Dap-og v. Mendez*,⁵⁷ We suspended the respondent lawyers from the practice of law for a period of one year due to their violent tendencies.

In this case, considering that Atty. Raul was an Assistant Provincial Prosecutor at the time of the incident, We find that a suspension from the practice of law for a period of two years is proper.

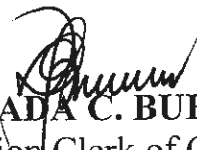
WHEREFORE, for violation of the Lawyer's Oath, Canon 1, Rule 1.01, Rule 1.03, Canon 7, and Rule 7.03 of the Code of Professional Responsibility, Atty. Raul O. Nasayao is hereby **SUSPENDED** from the practice of law for a period of two years. He is **STERNLY WARNED** that a repetition of the same or similar offense will be dealt with more severely.

Atty. Raul O. Nasayao is **DIRECTED** to immediately file a manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Copies of this Resolution shall be furnished to: (1) the Office of the Bar Confidant, to be appended to Atty. Raul O. Nasayao's personal record as an attorney-at law; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all Philippine courts.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *6/3/16*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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MAR 17 2023

⁵⁶ 534 Phil. 471, 484 (2006).

⁵⁷ A.C. No. 12017, October 14, 2020.

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