



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ZENAIDA MARTIN-ORTEGA,
Complainant,

A.C. No. 12018

Present:

- versus -

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

ATTY. ANGELYN A. TADENA,
Respondent.

Promulgated:

JAN 29 2020

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DECISION

PERALTA, C.J.:

Before the Court is a Complaint¹ for disbarment, dated July 12, 2012, filed by complainant Zenaida Martin-Ortega against respondent Atty. Angelyn A. Tadena for her alleged gross misconduct in the representation of her client and husband of Zenaida, Leonardo G. Ortega, Jr., with respect to the legal battle of the spouses.

The antecedent facts are as follows:

In her complaint, Zenaida narrated that she was married to Leonardo but has been separated from him since January 2011. From then on, she lived in a condominium unit located at 202A Centro Plaza, Scout Torillo, South Triangle, Quezon City, while Leonardo lived at 15-B Palawan Tower, Bay Gardens, Macapagal Avenue, Pasay City. Around 2:00 p.m. on December 7,

¹ Rollo, pp. 17-26.

2011, and while in Davao City, she received a frantic phone call from Mr. Michael Fral, the building administrator of Centro Plaza, informing her that her estranged husband, Leonardo, was at the lobby intimidating him and the building's security guards to gain entry to her unit. She immediately called her personal bodyguard, Mr. Allan A. Afable, to prevent Leonardo from entering said unit. Upon seeing Afable, Leonardo angrily scolded him and asked, "*Ikaw ba yung bodyguard ng asawa ko? Gusto ko pumasok sa unit kasi maliligo ako. Asan na ang susi?*" Afable apologized and said that he was specifically instructed by Zenaida not to allow him to enter. Then, about five (5) to seven (7) armed men came and asked him, "*Ano bang problema dito pare? Bakit ayaw mong papasukin ang Bro namin? Sya naman ang may-ari ng unit. Asan pala ang amo mo? Gusto mo bang masaktan?*" The men, however, left him alone as soon as responding policemen arrived.²

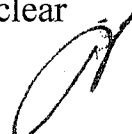
Not long after, Atty. Tadena arrived and introduced herself as Leonardo's counsel. She talked to the policemen and when they left, she scolded Afable saying, "*Walanghiya naman! Bakit ayaw mong papasukin ang may-ari? Asan na ang susi? Idedemanda kita kapag di mo ibinigay ang susi!*" But Afable stood his ground. Atty. Tadena then called a locksmith to open the unit. When Afable tried to stop them, she angrily shouted at him, "*Sige, pipigilan mo kami? Gusto mo talagang mademanda?*" Feeling intimidated, Afable had no choice but to follow them to the unit as they forcibly opened its door. He, however, took photographs of the incident. Upon gaining entry of the unit, Leonardo and Atty. Tadena took pictures of the same, rummaged through Zenaida's personal belongings, and, thereafter, padlocked the door. Zenaida then instructed Afable to report the incident at the nearest police station. Subsequently, when Zenaida arrived at the unit from Davao City, she was surprised to discover that missing therefrom were her laptop computer and twelve (12) assorted ladies' luxury bags. She immediately summoned the security guard on duty who said that he saw Leonardo carrying some items when the latter left the building. This incident prompted Zenaida to file a robbery case against Leonardo and Atty. Tadena, as well as the instant administrative complaint against Atty. Tadena.³

In her Answer,⁴ Atty. Tadena vehemently denied the accusations against her. She challenged the pieces of evidence presented by Zenaida and insisted that she never threatened Afable. Neither did she forcefully break into the subject condominium unit. Atty. Tadena argued that contrary to the claims of Zenaida, Leonardo owned the unit and had previous access to it. That is why he felt violated, embarrassed, and publicly humiliated when he waited at the lobby for more than seven (7) hours just to gain entry to his own property. The acts of Zenaida, through Afable, as well as the building administrator, in intimidating and preventing him from entering his own unit were clear

² *Id.* at 18-19.

³ *Id.* at 19-20.

⁴ *Id.* at 37-52.



violations of his civil and constitutional rights. Thus, she merely fulfilled her duty to defend Leonardo's rights. She also pointed out that Zenaida's accusation of robbery against her and Leonardo was a mere fabrication so she can use it as one of her defenses in the adultery case they filed against her. There, she relied on the argument that Leonardo's evidence, consisting of video recordings, is inadmissible because it was illegally obtained during the robbery. Moreover, Atty. Tadena refuted the insinuation that the Louis Vuitton bag she was seen holding in her Facebook account was stolen from Zenaida, stating that she purchased the same in a secondhand store. As to the alleged missing Louis Vuitton bag of Zenaida, Leonardo countered that he cannot be charged of any unlawful taking because he is the owner of the missing bag.⁵

In a Report and Recommendation⁶ dated November 8, 2014, the Investigating Commissioner of the Commission on Bar Discipline of the Integrated Bar of the Philippines (*IBP*) recommended that Atty. Tadena be admonished, with a stern warning that a repetition of the same or equivalent acts shall be dealt with more severely in the future.

In addition, on the basis of the new allegation of collusion made by Zenaida in her Supplemental Affidavit⁷ and Rejoinder⁸ against Atty. Tadena, Atty. Eric Reginaldo, and Atty. Neil P. Cariaga, the Investigating Commissioner further recommended that the Board of Governors (*BOG*) of the *IBP motu proprio* initiate administrative proceedings against said parties by requiring them to explain why they should not be held administratively liable for violation of the Lawyer's Oath and Code of Professional Responsibility for an apparent collusion in the filing of the petition for annulment of marriage of spouses Zenaida and Leonardo and/or for bribery.⁹

In her Rejoinder,¹⁰ Zenaida charged Atty. Tadena for colluding with Atty. Reginaldo and Atty. Cariaga, then counsels of Zenaida, in the filing of the petition for annulment. She alleged that in a meeting where said counsels, as well as Leonardo and herself, were present, the counsels were discussing their plan of action on the petition. In support of her allegation, Zenaida presented Atty. Tadena's e-mail message addressed to Atty. Cariaga, sent on November 16, 2011, which goes as follows:

Dear Niel;



⁵ *Id.* at 292.

⁶ *Id.* at 288-295.

⁷ *Id.* at 212.

⁸ *Id.* at 227-231.

⁹ *Id.* at 294-295.

¹⁰ *Id.* at 227-231.

Yes, we will furnish you a copy of our draft petition within this week. Regarding the fees, our client will shoulder the half of Php300,000 as agreed upon. As to the decision, just like we said, the process will go through the regular procedure, but, certainly[,] it will not take [a] year or so. Rest assured, same as Zeny, our client wants this to be settled soonest, too.

Thank you and keep in touch.

A. A. Tadena

Senior Legal Officer¹¹

In a Resolution¹² dated January 31, 2015, the BOG of the IBP approved, with modification, the Report and Recommendation of the Investigating Commissioner suspending Atty. Tadena from the practice of law for a period of three (3) months. The BOG further issued a Show Cause Order against Attys. Tadena, Reginaldo and Cariaga to explain why they should not be held administratively liable for violation of the Lawyer's Oath and the Code of Professional Responsibility for an apparent collusion among them.

On October 26, 2015, Atty. Tadena filed a Motion for Reconsideration¹³ praying that the BOG reconsider its resolution to suspend her for three (3) months. *First*, she reiterated that she merely fulfilled her duty as counsel of Leonardo in defending his rights and the same does not constitute gross misconduct amounting to her suspension. This is due to the fact that there was no legal (such as a restraining order) nor even reasonable ground why Leonardo was being prevented from gaining entry into the conjugal property he co-owned. *Second*, she argued that the challenged rulings were anchored on hearsay allegations because Zenaida was not present during the December 7, 2011 incident, her basis being merely derived from phone calls with the building administrator and from her bodyguard who executed an affidavit. But said bodyguard was never presented in any of the other proceedings against Leonardo, such as an application for the issuance of a temporary restraining order/permanent protection order. *Third*, Atty. Tadena invited attention to the propensity of Zenaida and her new lawyer, Atty. Ulysses Gallego, to file unfounded and frivolous suits against her and her client Leonardo, such as: (1) a robbery case that was dismissed for lack of merit by the Quezon City prosecutor; (2) a complaint for marital rape against Leonardo that was dismissed for lack of merit by the Pasay City prosecutor; and (3) an administrative complaint against Judge Tingaraan U. Guiling of the Regional Trial Court (RTC) of Pasay City who granted support *pendente lite* in favor of Leonardo in the main annulment case of the spouses. On appeal, the Court sustained the ruling of Judge Guiling and held that the support was valid. *Fourth*, Atty. Tadena further invited attention to the fact that on the contrary, the following cases she and Leonardo filed against Zenaida were all

¹¹ *Id.* at 228.

¹² *Id.* at 287-287A.

¹³ *Id.* at 296-304.

meritorious and sustained: (1) an adultery case against Zenaida, supported by video clips of Zenaida and her paramour kissing, as well as an affidavit of their helper who saw them having sexual intercourse which was found to have probable cause by the Quezon City prosecutor who subsequently filed an information and is now undergoing trial; (2) a libel case against Zenaida which was found to have probable cause by the Pasay City prosecutor who subsequently filed an information and is now undergoing trial; and (3) the annulment of marriage case where the video clips were presented and which had already attained finality.

As for the allegation of collusion, Atty. Tadena argued that the same was merely an attempt of Zenaida and her new counsel to save their plight. She countered that the prohibition of collusion essentially pertains to the agreement on any of the legal grounds for annulment. But the agreement in the instant case as to who will file the petition and as to sharing in the legal expenses is not a ground for annulment and, hence, collusion cannot be inferred therefrom. In fact, legal expenses for annulment are necessary expenses that may be taken from the conjugal asset. In effect, there is actually sharing in expenses by the spouses in any annulment case.¹⁴

Subsequently, in another Resolution¹⁵ dated May 27, 2017, the BOG granted Atty. Tadena's Motion for Reconsideration and restored the earlier recommendation of the Investigating Commissioner to impose on Atty. Tadena the penalty of admonition with stern warning, including the show cause order against Attys. Tadena, Reginaldo, and Cariaga.

The Court's Ruling

After a judicious review of the instant case, we affirm the recommendation of the Investigating Commissioner and admonish Atty. Tadena, with a stern warning that a repetition of the same or equivalent acts shall be dealt with more severely in the future.

Prefatorily, it must be noted that the complaint against Atty. Tadena is essentially predicated on the allegation that she violated the Code of Professional Responsibility when she gravely intimidated and hurled expletives at Zenaida's bodyguard, Afable, and, subsequently, led the forceful opening of Zenaida's condominium unit. In support of said contention, Zenaida presented an affidavit executed by Afable, as well as Police Reports dated December 7, 2011¹⁶ and December 21, 2011,¹⁷ certifying that Afable

¹⁴ *Id.* at 301.

¹⁵ *Id.* at 320-321.

¹⁶ *Id.* at 31.

¹⁷ *Id.* at 32.

personally appeared at the Kamuning Police Station to report the incident. The Police Reports provide as follows:

At this time and date[,] reportee one ALLAN AFABLE y ANACTA, 37 years old, security guard (Dasia Davao Security and Investigation Agency) native of Samar and residing at No. 38[,] Amparo Subd.[,] Baco St.[,] Novaliches, Quezon City, personally appeared before this Station and requested an incident be put on record. That on or about 2:00PM, December 7, 2011[,] he arrived at Centro Plaza located at Scout Madrinian St. corner Scout Torillo St.[,] Brgy. South Triangle, Quezon City and saw Dr. Leo Ortega[,] the husband of his VIP Dra. Zenaida D. Martin[;] that on or about 4:00pm of same date[,] three policem[e]n arrived (SPO2 San Jose, SPO1 Ticobay and PO2 Balisi) and approached Dr. Leo Ortega and the latter introduce[d] that he is the husband of Dra. Zenaida Martin[,] the BPSO also arrived[,] however[,] **Dr. Leo Ortega instructed his man to destroy the padlock (doorlock) and entered the house.**

When inside[,] reportee followed and took pictures [of] the appliances and other valuable items and **Dr. Leo Ortega also took pictures and left the unit and padlocked it with another key door lock.**

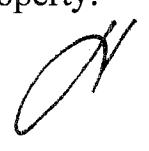
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At this time and date, one Allan Afable y Anacta, 37 years old, married[,] close-in security[,] personally appeared before this Station and reported that at about 3:00PM[,] December 21, 2011[,] his employer Dra. Zenaida D. Martin discovered that her twelve (12) pcs. of assorted handbags in different brands composed of Louis Vitton, Prada, Coach and Michael [Kors], worth One (1) Million Pesos were discovered missing[,] **allegedly [taken] by her Ex-Husband Dr. Leo Ortega sometime on December 7, 2011.**

Noteworthy to mention that Teddy and Sally Ortega[,] with a certain Maribel[,] entered x x x Unit 201-B JJB Centro Plaza without the consent and permission from Dra. Zenaida Martin. Hence this report.¹⁸ (Emphases supplied)

As can be gleaned from the above excerpts, however, and as duly pointed out by Atty. Tadana, Afable made no declaration as to the alleged intimidation and participation of Atty. Tadana in the forceful opening of the condominium unit. In fact, nowhere in the aforequoted police reports, made on two (2) separate days, was Atty. Tadana's name even stated. In both accounts, Afable merely identified Dr. Leo Ortega as the perpetrator of the break-in, with the help of "his man." He even mentioned the names of Teddy, Sally Ortega, and Maribel, as those who accompanied Dr. Leo Ortega inside the subject premises. But again, he made no statement as to the participation, if any, of Atty. Tadana therein. As such, the Court finds it rather difficult to reasonably admit as true Afable's allegations in his affidavit on Atty. Tadana's alleged indiscretions of threats and breaking into private property.

¹⁸ *Id.* at 31-32.



If, indeed, Atty. Tadena scolded Afable and forcefully opened Zenaida's unit, he should have, at least, mentioned her name in the police reports he made on two separate days – on the day of the alleged incident on December 7, 2011 and on the day Zenaida arrived from Davao City on December 21, 2011 - and not merely on the Affidavit¹⁹ he executed on January 25, 2012, almost two (2) months after the event.

Thus, while we have, in the past, suspended lawyers who wrongfully asserted their clients' rights outside the bounds of the law,²⁰ we cannot do so if the allegations against them are not satisfactorily proven by the complainants. Time and again, the Court has ruled that in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence²¹ or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.²² In the present case, it cannot be denied that complainant Zenaida failed to discharge that burden. As previously discussed, her bodyguard and witness curiously failed to declare Atty. Tadena's alleged misconduct in his police reports. Neither did he explain the reason for his omission. Apart from this, what cast more doubt on Zenaida's claims are the photographs she presented, supposedly showing Atty. Tadena in the act of breaking into her condominium unit.²³ But these photographs are, at best, mere abstract illustrations that are extremely blurred. There is, therefore, an undeniable uncertainty surrounding the issues of whether Atty. Tadena, indeed, threatened Zenaida's bodyguard and whether she actually participated in the forceful opening of the subject condominium unit.

The Court is, however, one with the finding of the Investigating Commissioner that Atty. Tadena must, nonetheless, be admonished with warning that a repetition of the same acts will be dealt with more severely. What have been established by the records are the facts that Leonardo has been living separately from Zenaida since January 2011 and that he has, in fact, filed a petition for declaration of nullity of marriage in November 2011. These show that the parties have already submitted to the jurisdiction of the court where the petition was pending. Verily, said court had jurisdiction to consider and rule upon the property relations of the spouses which necessarily include the subject condominium unit. All questions, therefore, pertaining to the administration, possession, and ownership thereof had to be addressed before said court by way of filing a pleading and/or arguing before the judge and certainly not before the building administrator, police officer, or personal bodyguard in a condominium lobby. Accordingly, while it cannot be ruled

¹⁹ *Id.* at 27-29.

²⁰ *Espanto v. Belleza*, A.C. No. 10756, February 21, 2018, 856 SCRA 163; *Rural Bank of Calape, Inc. (RBCI) Bohol v. Atty. Florido*, 635 Phil. 176 (2010); and *Ramos v. Atty. Pallugna*, 484 Phil. 184 (2004).

²¹ *Re: Letter of Lucena Ofendoreyes Alleging Illicit Activities of a certain Atty. Cajayon involving cases in the Court of Appeals, Cagayan de Oro City*, 810 Phil. 369, 374 (2017).

²² *Tumbaga v. Teoxon*, A.C. No. 5573, November 21, 2017, 845 SCRA 415, 429.

²³ *Rollo*, p. 30.

with certainty that Atty. Tadena truly engaged in threats, intimidation, and the forcible entry into the subject property, the Court agrees with the Investigating Commissioner when he held that at the very least, Atty. Tadena could have advised her client to file and make the proper representation before the court, instead of surreptitiously entering the premises.²⁴

Indeed, while a lawyer owes fidelity to the cause of his client, it should not be at the expense of truth and the administration of justice. Under the Code of Professional Responsibility, a lawyer has the duty to assist in the speedy and efficient administration of justice, and is enjoined from unduly delaying a case by impeding execution of a judgment or by misusing court processes. While lawyers owe their entire devotion to the interest of their clients and zeal in the defense of their client's right, they should not forget that they are, first and foremost, officers of the court, bound to exert every effort to assist in the speedy and efficient administration of justice. Their office does not permit violation of the law or any manner of fraud or chicanery. A lawyer's responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions against the other party. Mandated to maintain the dignity of the legal profession, they must conduct themselves honorably and fairly. They advance the honor of their profession and the best interests of their clients when they render service or give advice that meets the strictest principles of moral law.²⁵

In response to the Show Cause Resolution,²⁶ dated March 25, 2019, against Attys. Tadena, Reginaldo and Cariaga requiring them to explain why they should not be held administratively liable for an apparent collusion, Atty. Tadena reiterated that the charge of collusion, that is prohibited by law, must relate to the grounds of annulment that the parties agree to use in the petition for nullity of marriage. But the subject e-mail communication between her and the counsels involved cannot constitute collusion because it was merely about a split of legal expenses duly allowed under the law. Atty. Tadena went on to add that the annulment case they filed, which has now attained finality, was duly approved by the Public Prosecutor to have no collusion and had, subsequently, gone through the rigorous trial in the RTC of Pasay City. Hence, she insists that she cannot be held administratively liable for collusion.²⁷ The same arguments were interposed by Atty. Reginaldo in his response,²⁸ while Atty. Cariaga has yet to comply with the Show Cause Resolution.

WHEREFORE, the Court **ADOPTS** and **APPROVES** the Resolution of the Board of Governors of the Integrated Bar of the Philippines dated May 27, 2017. Thus, Atty. Angelyn A. Tadena is hereby **ADMONISHED** with a

²⁴ *Id.* at 329-330.

²⁵ *Ramos v. Atty. Pallugna*, *supra* note 20, at 191-192.

²⁶ *Rollo*, pp. 346-347.

²⁷ *Id.* at 354-356.

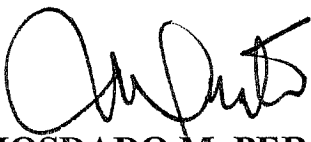
²⁸ *Id.* at 359-361.

STERN WARNING that a repetition of the same or equivalent acts shall be dealt with more severely in the future.

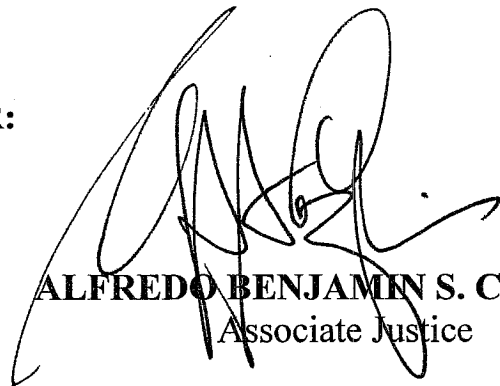
Further, the Office of the Bar Confidant is **DIRECTED** to **INITIATE** administrative proceedings against Atty. Angelyn A. Tadena, Atty. Eric Reginaldo and Atty. Neil F. Cariaga for their apparent collusion in the filing of the petition for annulment of marriage of spouses Leonardo Ortega, Jr. and Zenaida Martin-Ortega.

Let a copy of this Decision be furnished the Office of the Bar Confidant and the Integrated Bar of the Philippines for their information and guidance. The Court Administrator is directed to circulate this Decision to all courts in the country.

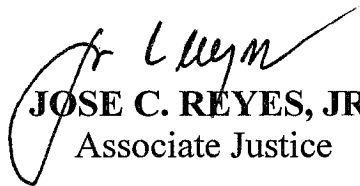
SO ORDERED.


DIOSDADO M. PERALTA
Chief Justice

WE CONCUR:



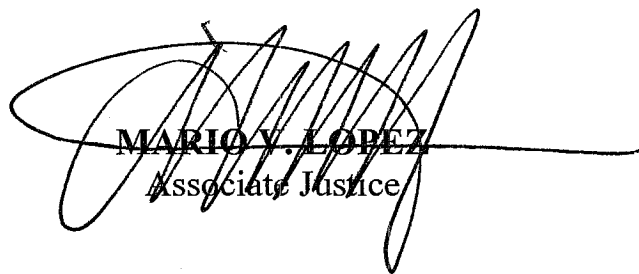
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice