

EN BANC

[A.C. No. 7253, February 18, 2020]

ATTY. PLARIDEL C. NAVA II, COMPLAINANT, VS ATTY. OFELIA M. D. ARTUZ,* RESPONDENT.

[A.M. No. MTJ-08-1717 (FORMERLY OCA IPI NO. 07-1911-MTJ)]

ATTY. PLARIDEL C. NAVA II, COMPLAINANT, VS. JUDGE OFELIA M. D. ARTUZ, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 5, ILOILO CITY, ILOILO, RESPONDENT.

R E S O L U T I O N

PER CURIAM:

For the Court's resolution are two (2) administrative cases for disbarment against respondent Atty. Ofelia M. D. Artuz (respondent), namely: (a) A.C. No. 7253 filed by complainant Atty. Plaridel C. Nava II (Atty. Nava II) for respondent's acts of allegedly willfully and viciously maligning, insulting, and scorning him and his father, in a case; and (b) A.M No. MTJ-08-1717 where the Court dismissed her from the service as a judge, and thereafter, directed her to show cause why she should not be disbarred for the same acts which caused her dismissal.

The Facts

Sometime in 2006, Atty. Nava II filed a Petition for Disbarment^[1] against respondent for violation of Canon 8 of the Code of Professional Responsibility (CPR), and for Grave Misconduct and violation of Republic Act No. 6713, docketed as **A.C. No. 7253**. He claimed that on July 28, 2005, he filed a Request for Inhibition and Re-Raffle^[2] of his client's case before the City Prosecutor's Office on the ground that he and respondent, then a Prosecutor, are not in good terms as they are adversaries in various administrative and criminal cases. In her comment^[3] to his request, however, she willfully and viciously maligned, insulted, and scorned him and his father, who is not a party to the case. Further, Atty. Nava II alleged that respondent: (1) falsely and maliciously imputed a crime against him; (2) maliciously filed criminal cases against him, along with others, before the Department of Justice (DOJ), intended clearly to harass, annoy, vex, and humiliate them; and (3) maligned her former superior and colleague, City Prosecutor Efrain V. Baldago.^[4]

During the pendency of A.C. No. 7253, respondent was appointed and subsequently took her Oath of Office as Presiding Judge of the Municipal Trial Court in Cities, Branch 5, Iloilo City on October 9, 2006,^[5]

notwithstanding Atty. Nava II's written opposition^[6] thereto. Thus, Atty. Nava II filed a complaint-petition^[7] docketed as **A.M. No. MTJ-08-1717**, seeking to nullify

respondent's nomination and appointment as judge. In said complaint-petition, Atty. Nava II alleged that respondent is unfit and incompetent to be appointed as a judge as she faces "several criminal and administrative cases, the nature of which involves her character, competence, probity, integrity and independence which should not have been disregarded in her application to the judiciary."^[8] Upon verifying that there are indeed pending cases against respondent which she failed to disclose in her Personal Data Sheets (PDS) dated October 28, 2005 and November 6, 2006, the Court directed^[9] her to show cause why no disciplinary action should be taken against her.^[10] Due investigation and proceedings commenced thereafter.

The two (2) cases were subsequently consolidated in a Resolution^[11] dated June 17, 2015.

In a Decision^[12] dated August 29, 2017, the Court found respondent guilty of Grave Misconduct, Dishonesty, and Falsification in connection with **A.M. No. MTJ-08-1717**, and accordingly, meted her with the penalty of dismissal from the service effective immediately, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch or agency of the government, including government-owned or controlled corporations, without prejudice to her criminal liabilities therein. In addition, the Court: (a) in connection with **A.M. No. MTJ-08-1717**, required respondent to show cause why she should not be disbarred for the acts she committed which led to her dismissal, *i.e.*, failure to disclose in her PDS the pendency of various cases against her; and (b) in connection with **A.C. No. 7253**, required respondent to comment on Atty. Nava II's complaint, which she has yet to submit.

Aggrieved, respondent moved for reconsideration,^[13] praying for the reversal of the August 29, 2017 Decision, including the removal of the penalties of dismissal and disqualification, as well as for permission to retire with all the benefits due her. She also filed a Comment^[14] dated November 30, 2017 which: (a) simply denied the allegations in the disbarment petition in A.C. No. 7253 and instead largely discussed the administrative cases filed and sanctions meted against Atty. Nava II; and (b) attributed the false statements in her two (2) PDS subject of A.M. No. MTJ-08-1717 to mere error in judgment, explaining that while she was aware that there were complaints lodged against her, the clearance from the DOJ led her to honestly believe that the same have not ripened into formal charges to be disclosed in her PDS. Thereafter, respondent filed a Supplement to the Motion for Reconsideration^[15] dated December 4, 2018, which the Court noted without action in a Resolution^[16] dated January 8, 2019.

In a Resolution^[17] dated January 10, 2018, the Court resolved to, among others: (1) deny with finality respondent's motion for reconsideration; and (2) referred the Petition for Disbarment, as well as respondent's Comment, to the Office of the Bar Confidant (OBC) for evaluation, report, and recommendation.

The Report and Recommendation of the OBC

In a Report and Recommendation^[18] dated March 22, 2019, the OBC recommended that respondent be disbarred pursuant to A.M. No. 02-9-02-SC for violation of Rule 1.01 of Canon 1, Canon 7, Rule 10.01 of Canon 10, and Canon 11 of the CPR, as

well as Section 27, Rule 138 of the Rules of Court, and that her name be ordered stricken off the Roll of Attorneys.^[19] The OBC noted that respondent was already found by the Court guilty of Grave Misconduct, Dishonesty, and Falsification of Official Documents for her false statements in her two (2) PDS and for her willful defiance of Court directives, which findings, it held, already constitute sufficient grounds to warrant her disbarment. Moreover, notwithstanding the opportunity given her, she failed to provide sufficient explanation why she should not be suspended, disbarred, or otherwise administratively dealt with, after having been dismissed from the service, and instead opted to focus more on attacking and impugning Atty. Nava II's integrity and credibility.^[20]

Meanwhile, respondent filed a Motion for Leave to Admit Second Motion for Reconsideration with the Attached Second Motion for Reconsideration^[21] in connection with **A.M. No. MTJ-08-1717**, arguing that there were no evidence showing that she had knowledge of the cases allegedly filed against her nor was there a showing that she received any notice, order or resolution requiring her to comment on the same. Additionally, she reiterates that she was denied due process as the investigating Judge, Vice Executive Judge Danilo P. Galvez, did not inform her of the hearing between the parties.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not respondent should be disbarred.

The Court's Ruling

At the outset, the Court notes that the above report and recommendation of the OBC resolved to disbar respondent based on the Court's findings in the August 29, 2017 Decision in **A.M. No. MTJ-08-1717** sans any findings on the subject matter of **A.C. No. 7253**. Thus, while the Court is inclined to adopt the OBC's findings and recommendations relative to **A.M. No. MTJ-08-1717**, the Court shall also determine respondent's administrative liability, if any, in **A.C. No. 7253** in order to write finis to these consolidated cases against respondent.

I.

Anent **A.M. No. MTJ-08-1717**, it is well to note that in an earlier Decision dated August 29, 2017, the Court had already found respondent guilty of the administrative offenses of Grave Misconduct, Dishonesty, and Falsification of Official Documents for deliberately and calculatedly lying in her October 28, 2005 and November 6, 2006 PDS about the fact that she had been formally charged and had pending cases to make it appear that she is qualified for the judgeship position. Pursuant to A.M. No. 02-9-02-SC^[22] - which provides that administrative cases against a judge for grave misconduct, dishonesty, and falsification are automatically considered as disciplinary proceedings against him or her as a member of the Bar - respondent was made to show cause why she should not be disbarred. As the OBC correctly pointed out, "[i]nstead of showing cause and proving to the Court why she should not be suspended, disbarred, or otherwise administratively dealt with, [respondent] opted to focus more on attacking and impugning [Atty. Nava II's] integrity and credibility"^[23] and conveniently brushed aside her omissions in her

PDS as "mere error in judgment."^[24] Verily, respondent's untruthful statements in her PDS constitute breaches of Rule 1.01 of Canon 1, Canon 7, Rule 10.01 of Canon 10, and Canon 11 of the CPR, all of which respectively read:

CANON 1 - A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and for legal processes.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful act.

CANON 7 - A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the integrated bar.

CANON 10 - A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead or allow the court to be misled by any artifice.

CANON 11 - A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

Furthermore, said misdemeanor likewise constitutes a contravention of Section 27, Rule 138 of the Rules of Court, viz.:

Section 27. Disbarment and suspension of attorneys by Supreme Court, grounds therefor. - A member of the bar may be disbarred or suspended from his 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 conviction of a crime involving moral turpitude, or for any violation of the oath which he 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. (Emphases supplied)

It cannot therefore be denied that Grave Misconduct, Dishonesty, and Falsification of Official Documents constitute grounds to disbar an attorney. In respondent's case, she was herein found to have committed all of these grounds warranting her immediate disbarment as a consequence.

II.

As for **A.C. No. 7253**, it is well to recall that in his complaint, Atty. Nava II claimed, among others, that respondent willfully and viciously maligned, insulted, and scorned him and his father, who was not a party to the case, in her comment to his request for her inhibition from said case then being investigated by her as the Prosecutor. Said comment pertinently states: