SECOND DIVISION

[A.C. No. 12609, February 10, 2020]

SPOUSES DARITO P. NOCUENCA AND LUCILLE B. NOCUENCA, COMPLAINANTS, VS. ATTY. ALFREDO T. BENSI, RESPONDENT.

D E C I S I O N

HERNANDO, J.:

Spouses Darito P. Nocuenca (Darito) and Lucille B. Nocuenca (Lucille, collectively complainants) filed this complaint[1] for disbarment against respondent, Atty. Alfredo T. Bensi (Atty. Bensi), before the Integrated Bar of the Philippines (IBP). Complainants alleged that Atty. Bensi violated Rule 1.01,[2] Canon 1[3] and Rule 10.01,[4] Canon 10[5] of the Code of Professional Responsibility (CPR), as well as the Lawyer's Oath when he assaulted the complainants in an effort to prevent them from entering a disputed property. Complainants further averred that Atty. Bensi filed a criminal case against them based on false allegations.

The Complainants' Position

Complainants alleged that the present case originated from Civil Case No. 6143-L,[6] an action for Declaratory Relief, Reformation of Contract, Recovery of Possession of a Portion of a Property, Cancellation of Tax Declaration, Damages, and Attorney's Fees, filed by plaintiffs-spouses Restituto Bensi and Dominga F. Bensi (plaintiffs) against Atty. Bensi and other defendants therein. The plaintiffs are the parents of Lucille.

On January 25, 2007, the Regional Trial Court, Branch 53, Lapu-Lapu City, rendered a Partial Summary Judgment[7] declaring plaintiffs to be the lawful owners of a 428.8-square-meter portion of Lot No. 1499-C.[8] This portion of the disputed lot serves as a site for a Catholic chapel. Complainants claimed that they inherited the said portion after the death of Lucille's parents.

Complainants alleged that on June 5, 2013, in the course of exercising their right of ownership over the portion of the disputed lot, they went to the chapel to post a sign that reads, "PRIVATE PROPERTY, NO TRESPASSING"[9] but they were assaulted and clobbered by Atty. Bensi and his son. Due to the incident, complainants filed two (2) counts of Slight Physical Injuries against Atty. Bensi and his son before the Municipal Trial Court in Cities, Lapu-Lapu City.

Shortly after the incident, complainants went to the chapel to reopen it for religious purposes and for the benefit of the community. However, they were shocked when they discovered that the altar was tom down and all religious articles were thrown out. Complainants believed that these were done at the behest of Atty. Bensi.

On August 28, 2013, Atty. Bensi filed a criminal case for Trespass to Property with Physical Injuries against the complainants. According to complainants, the criminal case was anchored on false and fabricated accusations. Ultimately, the case was dismissed by the Office of the City Prosecutor in an October 8, 2013 Resolution for lack of merit.

Complainants argued that the physical injuries they suffered at the hands of Atty. Bensi clearly fell within the ambit of unlawful conduct proscribed by Rule 1.01, Canon 1 of the CPR. Moreover, they claimed that the criminal case contained false accusations in violation of Rule 10.01, Canon 10 of the CPR and the Lawyer's Oath thereby warranting the penalty of disbarment.[10]

Complainants pointed out that the Court, in a previous administrative case, had already reprimanded Atty. Bensi.

The Respondent's Position

On the other hand, Atty. Bensi claimed that the bigger portion of Lot No. 1499-C is owned by his late parents and that the same had not yet been partitioned by the heirs.

Atty. Bensi claimed that on June 5, 2013, complainant Darito brought a hammer and a flat bar which were used as a chisel to forcibly open the padlocked gate of the chapel. As the caretaker of the property, Atty. Bensi asked the complainants from whom did they ask permission to open the closed gate.[11] This resulted in a heated confrontation where Lucille rushed and attacked Atty. Bensi while shouting, *"P*TANG INA NINYO, WALANG HIYA KAYO!"*[12] Atty. Bensi fell down on the floor of the chapel. His son rushed inside and held the hands of Lucille. Thereafter, Atty. Bensi's son picked up a plastic handle of an umbrella and struck the head of Lucille while Darito went outside to gather rocks and threw the same at Atty. Bensi. Fortunately, he was not hit.

Because of the incident, complainants filed two (2) counts of Slight Physical Injuries against Atty. Bensi and his son. Atty. Bensi, for his part, filed a criminal case for Trespass to Property with Physical Injuries against the complainants.

On February 13, 2015, the complainants filed the present administrative case for disbarment.

On April 15, 2015, Atty. Bensi filed his Answer with Urgent and Earnest Motion to Issue a Subpoena Duces Tecum[13] against the complainants.

On May 25, 2015, the Investigating Commissioner issued a Notice of Mandatory Conference[14] directing the parties to appear on June 18, 2015 and to submit their Mandatory Conference Brief at least three (3) days prior to the scheduled date of conference.

On June 15, 2015, the complainants filed their Mandatory Conference Brief.[15] Only the complainants appeared during the mandatory conference on June 18, 2015.

On September 23, 2015, the next mandatory conference, only Lucille appeared.

Atty. Bensi failed to appear the second time. On the same day, however, Atty. Bensi filed his Mandatory Conference Brief.[16]

On November 27, 2015, Atty. Bensi filed a Motion to Conduct Clarificatory Hearing, [17] which motion was denied by the Investigating Commissioner.

Report and Recommendation of the Integrated Bar of the Philippines

In her Report and Recommendation [18] dated June 13, 2016, Investigating Commissioner Suzette A. Mamon (Commissioner Mamon) recommended that Atty. Bensi be suspended from the practice of law for a period of thirty (30) days.

Commissioner Mamon found that:

> In the instant case, there were findings of probable cause against respondent with his son for slight physical injuries which Were duly filed in Court. While it can be said that the crime of slight physical injuries is not one which can be classified as a crime involving moral turpitude, more so that there has yet no conviction on the part [of the] herein respondent, it must be emphasized that lawyers must behave within the tenets of morality and good moral character. x x x[19]

Moreover, Commissioner Mamon found that Atty. Bensi committed acts in violation of the Lawyer 's Oath and Section 20(f),[20] Rule 138 of the Rules of Court when he allegedly assaulted the complainants.

In its February 22, 2018 Resolution,[21] the IBP-Board of Governors (IBP-BOG) resolved to reverse the findings of fact and recommendation of Commissioner Mamon and instead, recommended that the case be dismissed, thus:

> RESOLVED to REVERSE the findings of fact and recommendation of the Investigating Commissioner, and instead, recommend that the case against Atty. Alfredo T. Bensi be Dismissed considering that respondent was in possession of the property and that the aggressive behavior of the complainant triggered the altercation.[22]

Our Ruling

Every person has the right to be presumed innocent until the contrary is proved. Considering the gravity of the consequences of the disbarment or suspension of a lawyer, the Court has consistently ruled that a lawyer enjoys the presumption of innocence, and the burden of proof rests upon the complainant to satisfactorily prove the allegations in his/her complaint through substantial evidence.[23] Time and again, the Court has held that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation cannot be