

SECOND DIVISION

[A.C. No. 12631, July 08, 2020]

ATTY. FERNANDO P. PERITO, COMPLAINANT, VS. ATTY. BERTRAND A. BATERINA, ATTY. RYAN R. BESID, ATTY. RICHIE L. TIBLANI, AND ATTY. MARI KHRIS R. PAMMIT, RESPONDENTS.

D E C I S I O N

HERNANDO, J.:

This is a Petition for Disbarment^[1] filed by Atty. Fernando P. Perito (Atty. Perito) before the Integrated Bar of the Philippines (IBP) against respondents Atty. Bertrand A. Bateria (Atty. Bateria), Atty. Ryan R. Besid (Atty. Besid), Atty. Richie L. Tiblani (Atty. Tiblani), and Atty. Mari Khris R. Pammit (Atty. Pammit).

The Facts

Atty. Perito was the lawyer for the accused in a kidnapping case entitled *People v. Josephine and Jason Bracamonte* which was filed before Branch 169 of the Regional Trial Court (RTC) of Malabon. The case was initially filed by Antonio Galian (Galian) but he was later substituted by Geri Villa. Respondents Attys. Bateria and Besid^[2] were the private prosecutors.^[3]

During the reinvestigation of the kidnapping case, the Investigating Panel of the Department of Justice (DOJ) issued a Resolution dated August 1, 2007 dismissing the charge against the Bracamontes. Attys. Bateria and Besid, as Galian's counsels, filed a Motion for Reconsideration which the DOJ dismissed in a Resolution dated September 27, 2007. Atty. Besid then filed a Petition for Review^[4] before the Secretary of Justice.^[5]

Meanwhile, in view of the DOJ's August 1, 2007 Resolution and the repeated failure of the private complainant to appear despite due notice, the RTC issued an Order on September 17, 2007, provisionally dismissing^[6] the case against the Bracamontes, but without prejudice to any motion for reconsideration which may have been filed by the private prosecutors. Consequently, Attys. Bateria and Besid filed a motion for reconsideration^[7] which the RTC denied in an Order dated December 17, 2007^[8] for lack of conformity of the public prosecutor. Afterwards, Attys. Bateria and Besid filed a Petition for *Certiorari*^[9] with the Court of Appeals (CA) with Dulce Hernandez (Dulce) (mother of the alleged kidnap victim) as petitioner.^[10]

On August 29, 2008, Attys. Bateria and Besid learned that the Bracamontes had filed a disbarment case against them before the Court which was docketed as A.C. No. 7929. Suspecting that Atty. Perito was behind the filing of said complaint, Atty. Bateria filed a countersuit for disbarment^[11] against Atty. Perito which was

docketed as CBD Case No. 09-2468.^[12]

Relevantly, though, A.C. No. 7929 (*Josephine Bracamonte, et al. v. Attys. Bertrand A. Baterina and Ryan R. Besid*) was dismissed, and thereafter declared as closed and terminated.^[13] Also, CBD Case No. 09-2468 (*Atty. Bertrand A. Baterina v. Atty. Ferdinand P. Perito*) was dismissed by the IBP-Board of Governors (BOG) for lack of merit.^[14]

Nonetheless, in the case at bench, Atty. Perito charged herein respondents with pursuing a losing and dismissed case or endlessly persecuting the Bracamontes in the kidnapping case, and for filing a baseless disbarment complaint against him (Atty. Perito) grounded on suspicion. Atty. Perito likewise charged respondents Attys. Baterina and Besid with misrepresentation because Dulce was never an original complainant in the proceedings before the Office of the Prosecutor of Malabon, the DOJ and the RTC of Malabon, nor can she represent the then alleged minor victim who already reached the age of majority at that time.^[15]

Moreover, Atty. Perito charged Attys. Baterina and Besid of demeanor unbecoming of members of the Bar for purportedly accusing him of "'being the cause of the prolonged detention of accused Josephine Bracamonte,' 'delaying the proceedings of the case and obtaining undue advantage by not attending the hearing scheduled by the Court,' 'adopting a scheme where counsel will go to court and making a manifestation in open court even if the case is not scheduled on that day,' [and] 'depriving private complainant of his day in court, fair play and right to be heard'." ^[16]

In addition, Atty. Perito asserted that respondents failed to uphold the dignity and authority of the court for imputing upon the Presiding Judge of the RTC with grave abuse of discretion "amounting to excess of jurisdiction by succumbing to the pressure employed by counsel (complainant Perito) who uses dirty and coercive tactics to obtain a favorable judgment by any and all means possible and completely [disregarding and compromising] its supposed integrity".^[17]

Atty. Perito impleaded Attys. Tiblani and Pammit as respondents in the instant complaint since they allegedly conspired with Attys. Baterina and Besid in filing a disbarment case against him.^[18]

Conversely, herein respondents argued that the petition for review and petition for *certiorari* which they filed in the kidnapping case were remedies which can be availed of as a matter of law in behalf of their client and that resorting to such remedies cannot be a ground for disbarment.^[19] They added that contrary to Atty. Perito's allegation, Dulce can properly file the petition since the complainant was a minor when the alleged felony was committed. They further stated that a petition for *certiorari* is an entirely different remedy with a new cause of action and that the criminal case should not be affected even if Dulce was a stranger to the proceedings before the DOJ and the RTC.^[20] Similarly, they averred that the imputation of grave abuse of discretion upon the RTC was necessary for a *certiorari* petition under Rule 65 and cannot be a ground for disbarment if the said imputation was supported by facts and logic.^[21]

Moreover, the respondents explained that the act of Attys. Tiblani and Pammit in filing a disbarment case in behalf of Atty. Bateria against Atty. Perito is not a ground for disbarment.^[22]

The Report and Recommendation of the IBP

In a Report and Recommendation^[23] dated March 9, 2018, the Investigating Commissioner^[24] of the IBP-Commission on Bar Discipline (IBP-CBD) found that the respondents did not violate the Code of Professional Responsibility (CPR) and recommended the dismissal of the complaint.

The Investigating Commissioner stated that the burden of proof rests upon Atty. Perito to prove his allegations with [substantial] evidence.^[25] In light of this, the Investigating Commissioner found that Attys. Bateria and Besid did not violate Rule 1.03, Canon 1 and Rule 10.03, Canon 10 of the CPR since the pleadings which they filed in the criminal proceedings were proper remedies under DOJ Circular No. 70 (2000 NPS Rule on Appeal) and the Rules of Court. Also, if Attys. Bateria and Besid did not pursue the said remedies, they would have been remiss in their duties to their client.^[26]

Moreover, the Investigating Commissioner found that Attys. Bateria and Besid did not violate Rule 11.04, Canon 11 of the CPR. Their imputation of grave abuse of discretion on the Presiding Judge of the RTC was necessary to substantiate their *certiorari* petition before the CA, especially when they questioned the orders of the RTC which provisionally dismissed the case and denied the motion for reconsideration thereof.^[27]

As for Attys. Tiblani and Pammit, the Investigating Commissioner found that they did not violate Rule 1.03 and Canon 8 of the CPR since there was no proof that they were motivated by ill will in representing Atty. Bateria in the disbarment case that he (Atty. Bateria) filed against Atty. Perito and in the other disbarment case filed by the Bracamontes against Attys. Bateria and Besid.^[28]

Noting that this is the third disbarment case involving Attys. Perito, Bateria and Besid whether as parties or counsels, which all stemmed from the kidnapping case involving the Bracamontes, the Investigating Commissioner reminded the lawyers to focus on the merits of their claims, exercise mutual respect and courtesy with each other, and not to indiscriminately file disbarment suits against each other.^[29]

In a Resolution^[30] dated November 8, 2018, the IBP-BOG resolved to adopt the findings of fact and recommendation of the Investigating Commissioner and to dismiss the petition.

The Ruling of the Court

The Court adopts the findings and approves the recommendation of the IBP to dismiss the instant petition for disbarment against the respondents.

After assessment of the attendant circumstances, the Court is convinced that the present disbarment case stemmed from the kidnapping case, which unfortunately