

SECOND DIVISION

[A.C. No. 12017, October 14, 2020]

**ROGER B. DAP-OG, COMPLAINANT, VS. ATTY. LUEL C. MENDEZ,
RESPONDENT.**

DECISION

HERNANDO, J.:

This is a complaint for disbarment filed by Roger B. Dap-og (Roger) against respondent Atty. Luel C. Mendez (Atty. Mendez) for allegedly mauling Roger and hurling invectives at him.

The facts of the case are as follows.

On February 12, 2014, Roger was at the compound of the Community Environment and Natural Resources Office (CENRO), Department of Environment and Natural Resources (DENR) XI, Bangkal, Davao City, to accompany his brother Ruben B. Dap-og (Ruben) to attend a hearing/conference in a case entitled *Heirs of Betil Sigampong Rep. By Rodolfo Sigampong, Protestants versus Timotea Ninsnea, et al., Respondents*^[1] where Roger's wife, Gemma Dap-og (Gemma) was one of the respondents. Protestants therein were represented by Atty. Mendez^[2] while Atty. Lilibeth O. Ladaga (Atty. Ladaga)^[3] was Gemma's counsel. During the hearing, the parties agreed, with the concurrence of the Acting Special Land Investigator, that some of the impleaded respondents therein, including Gemma, be dropped as parties to the case after establishing that they were not occupying the subject lot.^[4]

After the hearing, Roger, together with Ruben and Atty. Ladaga, went to the CENRO canteen to photocopy some documents.^[5] The parties had conflicting versions as to what transpired next.

Complainant's version:

According to Roger, Atty. Mendez approached their table and asked for his name.^[6] Meanwhile, Rodolfo Sigampong (Rodolfo), one of the protestants in the CENRO case, verbally confirmed the latter's identity as Roger Dap-og.

Roger then shook hands with Atty. Mendez. However, he was surprised when Atty. Mendez suddenly called him a demon. He then demanded an explanation from Atty. Mendez. Instead of answering, Atty. Mendez, who was sitting then, stood up from where he was seated and tried to grab Roger from across the table. Roger managed to move back but Atty. Mendez still managed to scratch his neck. Atty. Mendez then slapped Roger's left cheek.

Roger tried to move away but respondent, together with Rodolfo and several others, pursued him and managed to land some punches on him.^[7] Roger's companion, Jimmy Dela Peña (Jimmy) eventually succeeded in disengaging Roger from Atty.

Mendez but not before the latter hit Roger's right shoulder.^[8] During the commotion, the group of Atty. Mendez was hurling invectives and accusations at Roger.

Afterwards, Roger went to the Matina Police Station to have the incident recorded in their blotter.^[9] He also proceeded to the Southern Philippines Medical Center for a medical examination. The Medical Certificate^[10] dated February 12, 2014 issued by Dr. Joffrey S. Betanio (Dr. Betanio) revealed that Roger sustained several physical injuries, viz.:

SOFT TISSUE CONTUSION PARASTERNAL LINE AT LEVEL OF T2
CONTUSION HEMATOMA SHOULDER RIGHT
T/C FRACTURE CLAVICLE RIGHT
SECONDARY TO ALLEGED MAULING^[11]

Roger suffered bruises for several days and his right shoulder was fractured. He also felt humiliated and psychologically tormented after the incident. He averred that he is now constantly in fear and anxious for his personal safety due to the death threats hurled at him by respondent's group.^[12]

Consequently, Roger filed a complaint for Less Serious Physical Injuries, Grave Slander and Grave Threat against Atty. Mendez before the Office of the City Prosecutor, Davao City.^[13]

Respondent's version:

Atty. Mendez denied Roger's allegedly malicious accusations against him.^[14]

Respondent alleged that he was at the CENRO canteen to discuss case related matters with his clients, including Rodolfo, but the discussion was interrupted upon the arrival of Roger.^[15] Atty. Mendez invited Roger to their table which the former acquiesced. Atty. Mendez then asked Roger why he is siding with the other parties. Rodolfo then declared that Roger is without principles or scruples and that he swindled Rodolfo and his family. At this point, Roger stood up and told Rodolfo to stop. Roger shouted invectives at them and was later joined by Ruben.^[16]

Respondent alleged that the tension between his client, on one hand, and Roger on the other, escalated into a shouting match. Atty. Mendez claimed that while there was an exchange of vindictive words and heated argument, Roger was never threatened or physically harmed.^[17]

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

On May 7, 2014, Roger filed the instant complaint with the IBP Commission on Bar Discipline (CBD).^[18] After due proceedings, the Investigating Commissioner^[19] issued a Report and Recommendation^[20] recommending that Atty. Mendez be suspended from the practice of law for a period of three (3) months.

The IBP Board of Governors (BOG), in Resolution No. XXII-2015-41^[21] dated October 3, 2015, modified the findings of facts and the recommended penalty of the Investigating Commissioner by increasing the penalty of suspension from the practice of law to one (1) year.

Aggrieved, Atty. Mendez filed a Motion for Reconsideration^[22] which was denied by the IBP BOG in Resolution No. XXII-2017-1090^[23] dated May 27, 2017.^[24]

Hence, this case is now before Us for final action pursuant to Section 12(b), Rule 139-B of the Rules of Court.

Issue

Whether or not Atty. Mendez should be held administratively liable based on the allegations on the Complaint.

Our Ruling

We affirm the findings of the IBP and adopt the recommended penalty of suspension from the practice of law for one (1) year.

Section 27, Rule 138 of the Revised Rules of Court provides:

SEC. 27. Disbarment or 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 wilfully 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. (Emphasis supplied)

Relevantly, Rule 1.01, Canon 1, of the Code of Professional Responsibility (CPR) provides:

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

The records of this case show without a shadow of doubt that Atty. Mendez exhibited Gross Misconduct unbecoming of an officer of the court.

There is no dispute that an incident happened on February 12, 2014 at the CENRO Compound of the DENR in Bangkal, Davao City, involving the group of respondent on the one hand, and the group of Roger on the other. While the parties presented two different versions of the incident, we find Roger's version to be more credible as the same is supported by substantial evidence.

As aptly found by the IBP, the denial of Atty. Mendez, while attested by his own witnesses, could not overcome the positive declaration of Roger and his witnesses.^[25] In particular, the affidavit of Atty. Ladaga deserves much weight there being no

proof of personal interest or bias against respondent.^[26] In her Affidavit,^[27] Atty. Ladaga narrated the incident as follows:

6. I was so shocked by that outburst. I just did not expect it to come from him considering that a few short minutes before that, he was still asking Roger Dap-og his name. And then, Roger Dap-og said: "*Unsay Demonyo? Ikaw ang demonyo kay wa gani ka kaila nako, wa pud ko kaila nimo, pataka ka lang ug estorya.*" (What demon? You are the demon! You don't know me, I don't also know you yet you are talking nonsense!) Immediately after these words were uttered, Atty. Mendez suddenly stood up, reached across the table and looked as he wanted to grab Dap-og across the table. As I was seated practically between them, Atty. Mendez had to reach across the table with me in between. Thankfully in my surprise, I instinctively pushed back my chair away from the table, getting myself away from Atty. Mendez;

7. I immediately stood up and went near the door of the canteen. I saw Roger Dap-og immediately moved away from the table. However, Atty. Mendez followed him with Rodolfo Sigampong and five (5) other men plus one (1) woman. I thought at first that Rodolfo Sigampong and the others were trying to prevent Atty. Mendez from committing further violence upon Roger Dap-og but they however also joined the fray;

8. I saw Roger Dap-og kept backing away and tried to block the punches they were throwing at him. Some of them were even grabbing his shirt. I saw several people coming nearer to look at the commotion going on, including the security guard. I called to the security guard telling him to make the group stop. But the young security guard just kept on watching the commotion doing nothing about it;

9. All the while these people where also shouting invectives and accusations against Dap-og. Among them were: "*Lami ka patyon! Ipabarang ta ka! Mangingilad! Sindikato! Traydor!*" (It would be a pleasure to kill you! Swindler! Traitor!);

10. I heard Roger Dap-og shouted back at them: "*Kung tatoo yan, kasuhan nyo ako! Ifile na sa court!*" (If that were true, then bring it to court, file your case against me!) At which point Atty. Mendez said: "*Paghulat lang. Kasuhan ta ra ka. Mangingilad ka!*" (Just wait. I will file a case against you. You swindler!) To which Roger Dap-og answered: "*Sige lang, Atty., ipa disbar ta pud ka!*" (Go ahead, Atty. I'll also have you disbarred!);

11. Twice during the commotion, when I saw Roger Dap-og able to extricate himself from the group, I approached Atty. Mendez asking him to stop by saying: "*Tama na na, sir*" (That's enough, sir.) To which he would only say: "*Pasensya lea na, panyera.*" (My apologies, panyera.) To my utter dismay, however, whenever the group of his clients again managed to surround Roger Dap-og, he went and joined the fray again;

12. The commotion finally stopped when Ruben Dap-og shouted at them to stop and was already visibly angry. He said "*Tama na! Undang na kung dili ninyo gusto nga mangil-ad ang padulungan nato niini.*" (Enough! Stop now if you do not want to get things end up badly for all