

THIRD DIVISION

**[A.C. No. 9057 (Formerly CBD Case No. 12-3413),
July 03, 2019]**

**ARLENE O. BAUTISTA, COMPLAINANT, V. ATTY. ZENAIDA M.
FERRER, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before the Court is an Affidavit-Complaint^[1] dated July 11, 2011 filed by complainant Arlene O. Bautista charging respondent Atty. Zenaida M. Ferrer with Violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics.

The antecedent facts are as follows:

In her complaint, Bautista alleged that she had recently accuse Ferrer, Assistant Regional State Prosecutor, Office of the Prosecutor, Region 1, San Fernando City, La Union, with grave coercion, grave threats, grave oral defamation, unlawful arrest, violation of Republic Act (R.A.) No. 7438, entitled *An Act Defining Certain Rights of Person Arrested, Detained or under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof*, theft, and attempted homicide. As borne by the records, Bautista suggests that she once owed Ferrer P200,000.00, but the latter is now claiming that the amount is already P440,000.00.

Bautista narrated that in the morning of March 28, 2011, Ferrer, who was very furious, came to her house she was renting from the latter and uttered derogatory remarks such as "*punyeta ka! Ang kapal ng mukha mo!*" and threatened her with the words, "*kung hindi lang ako naawa sa anak mo, tuluyan kita!*" Ferrer then brought out a handgun from a bag being held by her driver, forced her to leave the house she was renting, illegally searched her bag, and forcibly took her Nokia cellular phone. When her live-in partner and the latter's sister arrived on a tricycle, she also harassed them and took the key thereto from him.

Thereafter, Bautista recalled that at around 9:00 a.m. of the same day, Ferrer forcibly brought her to the City Hall of San Fernando supposedly to identify those people who she lent Ferrer's money to. Upon arriving thereat, however, Ferrer not only identified her debtors, but also placed Bautista in public ridicule in exclaiming that she was a member of the "*Budol-budol*" gang.

Unsatisfied with said deed, Bautista alleged that at around 2:30 p.m., Ferrer next detained and delivered her to the custody of the Philippine National Police (PNP), San Fernando City, La Union, without any legal grounds. At the police station, she was subjected to an investigation where she was again asked about those persons who were indebted to Ferrer. When she finally disclosed the names, Ferrer kicked, punched, and repeatedly slapped her head. Then, Ferrer bragged that the police was

under her control and ordered Police Officer (PO) 2 Maricar Godoy to search her bag who consequently searched her wallet and got the list of debtors therein. It was only upon the intercession of a certain Johnny Go that she was released from the custody of the PNP.

Finally, at the end of the day, Bautista recalled that Ferrer evicted her and her family from the house they were renting from Ferrer and prevented them from taking their personal belongings therein. These personal belongings, which includes a television set and a refrigerator, were taken out of the rented house and brought to one of the rooms in Ferrer's house, which Ferrer refused to return until Bautista paid the alleged sum of money.

Bautista further narrates that on May 23, 2011, she went to Ferrer's office with Jose Mari Almeida, a Supervisor from the Department of Education (*DepEd*), to beg for the release of her personal belongings as well as a computer belonging to Almeida. But Ferrer got angry and told her "*Putang ina mo Arlene ayusin mo ako bago mo muna makuha mga gamit mo!*" She then picked a pair of scissors on top of her table and thrust it towards Bautista but was subdued by Almeida. According to Bautista, she made another attempt to beg for the release of her personal belongings amounting to P38,700.00, but was again rejected by Ferrer.

In the end, Bautista maintains that as a result of her family's displacement, she had no choice but to allow her former husband to bring their 13-year-old daughter with him to Isabela where he succeeded in raping the latter. Thus, she blames Ferrer for her daughter's misfortune.^[2]

In her Comment,^[3] Ferrer denied the accusations against her. Ferrer recalls that Bautista, known as "*Sudsud*" for being the familiar manicurist of the employees at the City Hall of San Fernando, rented one of her houses in December 2010. Since then, Bautista would frequent her place to do her nails and even help her out around her house. As a result, Bautista eventually gained her trust and confidence. Ferrer later learned that Bautista was in the business of lending money to people and was being financed by a rich Chinese businessman. From Bautista's representations, it appeared to Ferrer that Bautista was well-connected and that her business was very lucrative. Consequently, Ferrer soon gave Bautista capital who lent the money to several government employees. To allay Ferrer's fears, Bautista assured her that her rich Chinese financier would be arriving soon and would readily pay all the sums of money she gave Bautista amounting to a total of P440,000.00. Bautista, however, failed to pay.

Thus, in the morning of March 28, 2011, Ferrer decided to seriously talk with Bautista, bringing with her her carpenter who is close to Bautista and the wife of another one of her carpenters. In front of said persons, Ferrer asked Bautista to remit her collections, but Bautista said that she has not yet made any collections. Instead, Bautista suggested that they go to the DepEd and City Hall so Ferrer could personally talk with the debtors. Before proceeding thereto, Ferrer and Bautista passed by the latter's rented house where she voluntarily gave Ferrer her cellphone. Ferrer, however, returned it the same day. According to Ferrer, the encounter between her and Bautista was peaceful and smooth. It was not true that she pointed a gun at Bautista.

It was also untrue that Ferrer caused Bautista scandal and humiliation at the DepEd and City Hall. On the contrary, Ferrer was nothing but professional when she asked

the debtors about the amounts that they owed her. In fact, she remained calm and composed despite her discovery of several inconsistencies between Bautista's claims and those of her debtors at the said government offices.^[4]

Ferrer further denied the truth to Bautista's assertions that she forcibly detained her at the police station where she verbally and physically abused her. According to Ferrer, they went to the police station merely for the purpose of talking about Bautista's obligations in front of the police authorities. In support of said contention, Ferrer submitted a letter of the police officer stationed at the time confirming the fact that no confrontation or anything untoward occurred between the parties therein. In fact, the certain Johnny Go who supposedly helped in the release of Bautista disproved in his sworn statement Bautista's claims when he narrated how in a telephone conversation between him and another alleged debtor, Ferrer discovered that Bautista lied again as to the amount of money said debtor owes.

With respect to the claim of theft in detaining Bautista's personal properties, Ferrer insists that Bautista voluntarily left the same and would only totally vacate the rented premises when she settles her obligations to Ferrer. The only reason why the refrigerator was transferred from Bautista's rented house to Ferrer's was because it needed cleaning and safekeeping since said rented house was abandoned.^[5]

Finally, as to Bautista's allegation that Ferrer pointed a pair of scissors at her, Ferrer presented the Affidavit of Jose Mari Almeida, the DepEd Supervisor who accompanied Bautista to Ferrer's office. In said document, Almeida retracted his allegations in his original Sworn Statement submitted by Bautista to the effect that his previous statement that Ferrer pointed a pair of scissors at Bautista did not accurately reflect the events that transpired that day. Instead, Almeida declared that while Ferrer uttered the words "*putang ina mo Arlene, ang kapal ng mukha mo. Ayusin mo muna ako bago mo mahuha ang mga gamit mo,*" she never pointed the pair of scissors at Bautista but merely made a move to throw it in anger which was not in the direction of Bautista.^[6] Ferrer added that it was just her mannerism to play with the things she holds alternately with her two hands, like when she is teaching, she always holds a pen and plays with it like one would play ping pong.^[7]

In the end, Ferrer insists that the complaint filed against her is merely an attempt on Bautista's part to pressure her into withdrawing her complaint against Bautista for Estafa. She adds that to blame her for her daughter's rape is completely misguided and is the highest form of unfairness.^[8]

In a Report and Recommendation^[9] dated November 12, 2012, the Investigating Commissioner of the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) recommended that Ferrer be reprimanded and warned that a similar show in the future of the tendency to take the law into her own hands and/or careless use of her public office or influence to advance, or even to vindicate a purely private interest, and/or the careless use of abusive, offensive or otherwise improper language will be dealt with more severely.^[10]

In a Resolution^[11] dated August 9, 2014, however, the Board of Governors (BOG) of the IBP approved, with modification, the Report and Recommendation of the Investigating Commissioner and suspended Ferrer from the practice of law for one (1) year.

But in another Resolution^[12] dated June 7, 2015, the BOG granted me Motion for Reconsideration of Ferrer and resolved to set aside its earlier resolution and adopt the recommendation of the Investigating Commissioner. Thus, the BOG reprimanded Ferrer and warned her that a similar conduct in the future shall be dealt with more severely.

The Court's Ruling

In view of the circumstances of the instant case, the Court finds that Ferrer must be suspended from the practice of law for a period of one (1) year, as originally found by the BOG in its August 9, 2014 Resolution.

It may be true that Bautista was, and may still be, indebted to Ferrer and that the former may not have been completely honest about where exactly the latter's money went. This fact, however, does not give Ferrer unbridled authority to act the way that she did. As stated by the Investigating Commissioner, not only is there something wrong with the means employed by Ferrer in her efforts to recover what Bautista may have owed her, said means violated her duties under the Code of Professional Responsibility.

First of all, it was clearly established, and in fact admitted by Ferrer, that she uttered the derogatory remarks "*putang ina mo Arlene, ang kapal ng mukha mo. Ayusin mo muna ako bago mo makuha ang mga gamit mo*" in the confines of her own office. This fact, standing alone, already violates Rule 8.01 of Canon 8 of the Code of Professional Responsibility which prohibits a lawyer from using language which is abusive, offensive, or otherwise improper. It is not amiss to add, moreover, that Ferrer was even thrusting a pair of scissors making a move to throw it in anger. To the Court, Ferrer's excuse that she did not point the same in the direction of Bautista and that it is simply her mannerism to hold things with her hands does not absolve her from administrative liability. The fact that she angrily hurled offensive words at Bautista while holding a pair of scissors was enough to threaten and intimidate the latter. As the Investigating Commissioner held, these words surely have no place in the mouth of a lawyer in a high government office such as Ferrer, an Assistant Regional State Prosecutor no less.

Second, it was also clearly proven that Ferrer went to Bautista early morning on March 28, 2011 to inquire about the sum of money and that before proceeding to the government offices to talk to the alleged debtors, Ferrer took Bautista's cellphone. Moreover, while Ferrer insists that she did not physically prohibit Bautista from taking her personal property and that she only urged her to settle her obligations before she can totally vacate the leased premises, evidence show that said personal properties are really being held until payment of obligations. As the witnesses Johnny Go and Almeida stated in their affidavits, Ferrer allowed the removal of the properties only after Bautista returns Ferrer's investment. In fact, Ferrer even admitted that she said the following words to Bautista: "*putang ina mo Arlene, ang kapal ng mukha mo. Ayusin mo muna ako **bago mo makuha ang mga gamit mo.***"

Thus, the Court agrees with the Investigating Commissioner's finding that Ferrer's taking of Bautista's cellphone, even if it was eventually returned later on, and refusal to release the personal effects of Bautista is tantamount to confiscation, or depriving Bautista of something that is hers without due process of law. This is in clear breach of the Bill of Rights, particularly the principle that no person shall be