

## EN BANC

[ A.C. No. 7330, June 14, 2016 ]

**JUDGE GREGORIO D. PANTANOSAS, JR., COMPLAINANT, VS.  
ATTY. ELLY L. PAMATONG, RESPONDENT.**

### DECISION

#### **CAGUIOA, J:**

The practice of law is a privilege burdened with conditions and is reserved only for those who meet the twin standards of legal proficiency and morality.<sup>[1]</sup> It is so delicately imbued with public interest that it is both a power and a duty of this Court to control and regulate it in order to protect and promote the public welfare.<sup>[2]</sup> In this regard, this Court will not hesitate to hold its officers accountable for misconduct and the violation of the duty to respect the courts.

The facts culled from the records follow.

During the time period material to this case, complainant Judge Gregorio D. Pantanosas, Jr. (Pantanosas) was the presiding judge of the Regional Trial Court of Cagayan de Oro City, Branch 20 (RTC).<sup>[3]</sup> Respondent Atty. Elly L. Pamatong (Pamatong) was the counsel of plaintiffs in Civil Case No. 2006-176, entitled *Nick Otero, et al. v. Sheriff of the MTCC Branch 3, Cagayan de Oro City, et al.* for injunction with damages, which was then pending before the RTC.<sup>[4]</sup>

On September 8, 2006, during the hearing of an application for the issuance of a temporary restraining order (TRO) in Civil Case No. 2006-176, respondent Pamatong was allegedly asked by complainant Pantanosas to remove his *copia* (a hat worn by Muslims) in open court.<sup>[5]</sup> Respondent Pamatong requested to be exempted allegedly due to religious grounds and embarrassment towards his "bald pate".<sup>[6]</sup> Complainant Pantanosas thereafter obliged with a caveat that at the next hearing, he would no longer tolerate the wearing of the *copia* inside the courtroom.<sup>[7]</sup>

Three (3) days after, or on September 11, 2006, respondent Pamatong filed an *Extremely Urgent Motion/Demand for Inhibition or Recusal* in Civil Case No. 2006-176 (*Motion for Inhibition*), which contained the following remarks:

6. Finally, in my thirty (30) years of law practice, I never encountered a Judge who appears to be as corrupt as you are, thereby giving me the impression that you are a disgrace to the Judicial System of this land who does not deserved (sic) to be a member of the Philippine Bar at all.<sup>[8]</sup>

On the same day, complainant Pantanosas issued an *Order* refuting all allegations of abusive language and corruption and denying the *Motion for Inhibition* for lack of

basis while ordering respondent Pamatong to show cause why he should not be cited in contempt of court.<sup>[9]</sup> In compliance with the directive of the RTC, respondent Pamatong filed his *Answer to the Order to Show Cause and Motion for Reconsideration*.<sup>[10]</sup>

On September 18, 2006, complainant Pantanosas filed a *Complaint for Disbarment* dated September 15, 2006 (*Disbarment Complaint*)<sup>[11]</sup> before this Court against respondent Pamatong on the following grounds: (i) violation of Canon 8 of the Code of Professional Responsibility (CPR)<sup>[12]</sup> for the language employed by respondent Pamatong in the *Motion for Inhibition*, and (ii) violation of Canons 1<sup>[13]</sup> and 11<sup>[14]</sup> of the CPR for engaging in dishonest and deceitful conduct by supposedly causing the publication of an alleged bribe in a local newspaper and maliciously imputing motives to complainant Pantanosas, thereby casting dishonor to and distrust in the judicial system.<sup>[15]</sup>

On October 25, 2006, this Court issued a *Resolution*, requiring respondent Pamatong to file his comment to the *Disbarment Complaint* within ten (10) days from receipt of notice thereof.<sup>[16]</sup>

On December 28, 2006, respondent Pamatong timely filed his *Comment on the Complaint for Disbarment and Counter-Complaint (Comment)*.<sup>[17]</sup> Following the September 8, 2006 incident, respondent Pamatong alleged in his *Comment* that he filed a complaint against complainant Pantanosas with the Office of the Court Administrator (OCA) on September 12, 2006, which was docketed as A.M. OCA IPI No. 07-2541-RTJ.<sup>[18]</sup> Notably, said complaint with the OCA was eventually dismissed through a *Resolution* dated February 28, 2007 issued by this Court.<sup>[19]</sup> Respondent Pamatong also alleged in his *Comment* that he caused the filing of two (2) separate complaints with two (2) separate offices, namely the Commission on Human Rights<sup>[20]</sup> and the Office of the Ombudsman<sup>[21]</sup>.

In the main, respondent Pamatong averred in his *Comment* that the actual courtroom demeanor of complainant Pantanosas during the September 8, 2006 hearing was overbearing, arrogant and derogatory, while also maintaining the truth of the bribery allegations launched against complainant Pantanosas.<sup>[22]</sup> By way of counter-complaint, respondent Pamatong claimed that the alleged discriminatory conduct of complainant Pantanosas violated Canons 1,<sup>[23]</sup> 2,<sup>[24]</sup> and 3<sup>[25]</sup> of the Code of Judicial Conduct. Respondent Pamatong alleged that in a meeting with complainant Pantanosas in his chambers two (2) days before the September 8, 2006 hearing, the latter allegedly solicited from him One Million Pesos (P1,000,000.00) in exchange for the issuance of a TRO in Civil Case No. 2006-176.<sup>[26]</sup> Respondent Pamatong countered that during the TRO hearing on September 8, 2006, he was initially asked by the complainant-judge to approach the bench in order to inquire about the alleged bribe.<sup>[27]</sup> Upon disclosing that he was unable to secure the money, respondent Pamatong claimed that he was subjected to anti-Islamic comments and humiliating conduct by complainant Pantanosas.<sup>[28]</sup>

On February 5, 2007, this Court issued a *Resolution* referring the *Disbarment Complaint* to the Integrated Bar of the Philippines (IBP) for investigation, report and

recommendation or decision.<sup>[29]</sup> The case was initially set for mandatory conference on July 23, 2007.<sup>[30]</sup> After due proceedings, the mandatory conference was terminated and both parties were required to file their respective position papers by the investigating commissioner, Commissioner Manuel M. Maramba.<sup>[31]</sup> Accordingly, both parties filed their position papers dated January 5, 2009<sup>[32]</sup> and January 16, 2009,<sup>[33]</sup> respectively.

On April 19, 2010, this Court issued a *Resolution*, requiring the IBP to inform the Court of the status of the case.<sup>[34]</sup> In compliance with this Court's directive, the IBP, through Commissioner Albert R. Sordan (Sordan), filed its *Compliance* dated June 25, 2010,<sup>[35]</sup> informing this Court that the case was among those re-assigned to Commissioner Sordan for investigation, report and recommendation, which was duly noted by this Court in its *Resolution* dated September 8, 2010.<sup>[36]</sup>

Thus, on August 6, 2010, Commissioner Sordan rendered a *Report and Recommendation*, the dispositive portion of which reads:

**WHEREFORE**, it is recommended that for violation of the lawyer's oath and breach of ethics of the legal profession as embodied in the Code of Professional Responsibility, **Atty. Elly V. Pamatong** be **SUSPENDED** from the practice of law for **ONE (1) YEAR**, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.<sup>[37]</sup>

On December 15, 2012, in a *Resolution* of even date, the IBP Board of Governors resolved to adopt and approve, with modification the *Report and Recommendation* dated August 6, 2010:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's violation of the Lawyer's Oath and breach of ethics of the legal profession, Atty. Elly V. Pamatong is hereby **SUSPENDED from the practice of law for three (3) years** with a stern Warning that a repetition of a similar act shall be dealt with more severely.*<sup>[38]</sup>

Respondent Pamatong then filed a *Motion for Reconsideration and Complaint vs. Commissioner Albert R. Sordan and the IBP Board of Governors* dated March 14, 2013,<sup>[39]</sup> which was subsequently denied through a *Resolution* dated March 22, 2014.<sup>[40]</sup>

Thereafter, in a *Resolution* dated January 13, 2016, this Court noted the transmittal of the documents pertaining to the case, as well as the notices of resolution dated December 15, 2012 and March 22, 2014, respectively.<sup>[41]</sup> In view of the penalty imposed, the case was referred to this Court *En Banc*.

For our resolution therefore is the liability of respondent Pamatong under the CPR

and for violation of his oath as a member of the bar.

After a judicious examination of the records and the submissions of the parties, we find no cogent reason to disagree with the findings of the IBP in its *Resolution* dated December 15, 2012.<sup>[42]</sup> However, we modify the penalty accordingly for the reasons to be discussed below.

It cannot be overemphasized that it is the sworn duty of a lawyer to maintain towards the Courts a respectful attitude, "not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance."<sup>[43]</sup> It is precisely for this reason that the Lawyer's Oath enjoins all members of the bar to conduct themselves with good fidelity towards the courts<sup>[44]</sup> in order not to erode the faith and trust of the public in the judiciary.

As succinctly held in our previous ruling in *Pobre v. Defensor-Santiago*:

A lawyer is an officer of the courts; he is, "like the court itself, an instrument or agency to advance the ends of justice." **His duty is to uphold the dignity and authority of the courts to which he owes fidelity, "not to promote distrust in the administration of justice."** Faith in the courts, a lawyer should seek to preserve. For, to undermine the judicial edifice "is disastrous to the continuity of government and to the attainment of the liberties of the people." Thus has it been said of a lawyer that "[a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice."<sup>[45]</sup> (Emphasis supplied)

It is with this exacting standard that we measure respondent Pamatong, and find him wanting.

It is not disputed that the *Motion for Inhibition* filed by respondent Pamatong contained blatant accusations of corruption against complainant Pantanosas., and then some. As counsel for the plaintiffs in Civil Case No. 2006-176, it was incumbent upon respondent Pamatong to observe and maintain respect towards the judicial office then being occupied by complainant Pantanosas.<sup>[46]</sup> Instead of insisting on similar conduct from his clients, respondent Pamatong was the first to cast doubt on the impartiality and independence of the court. Worth repeating below are the invectives directed by respondent Pamatong against complainant Pantanosas:

6. Finally, in my thirty (30) years of law practice, **I never encountered a Judge who appears to be as corrupt as you are**, thereby giving me the impression that **you are a disgrace to the Judicial System** of this land who does not deserved (*sic*) to be a member of the Philippine Bar at all.<sup>[47]</sup> (Emphasis supplied)

That the slanderous remarks cited above were inserted in no less than a public record, *i.e.*, *Motion for Inhibition*, makes matters even worse. Even granting that the bribery charges were true, such personal attacks against the person of complainant Pantanosas should have been reserved for a different forum and certainly not included in a motion filed before a court of law. To be sure, a lawyer is obliged to abstain from scandalous, offensive or menacing language before the courts.<sup>[48]</sup> As a

supposed officer of the court, such behavior exhibited by respondent Pamatong only serves to betray his utter lack of reverence towards the courts, which promotes nothing but the degradation of the administration of justice.

The records also disclose that a news article detailing the events that precipitated the bribery charge against complainant Pantanosas was published on September 15, 2006 with the participation of respondent Pamatong. At the outset, it bears stressing that lawyers should refrain from attributing to a judge motives not supported by the record or have no materiality to the case.<sup>[49]</sup>

Here, respondent Pamatong had no reason to divulge his grievances before the public as he had already lodged a complaint against complainant Pantanosas with the OCA on September 12, 2006.<sup>[50]</sup> Accordingly, owing to the baseless and impulsive charges filed by respondent Pamatong, the OCA disposed of the complaint using the following language:

**A.M. OCA IPI No. 07-2541-RTJ (Rev. Sultan Elly Velez Lao Pamatong, Esq. vs. Judge Gregorio D. Pantanosas, Jr., Presiding Judge, Regional Trial Court, Branch 20, Cagayan de Oro City)** - The Court NOTES the Report dated 12 January 2007 of the Office of the Court Administrator on the verified complaint dated 11 September 2006 x x x **finding the complaint devoid of merit because complainant did not present any evidence, other than his bare allegation, to prove the charge of bribery.**

Upon the recommendation of the Office of the Court Administrator, the Court resolves to **DISMISS** the instant administrative complaint against Judge Gregorio D. Pantanosas, Jr. for lack of merit.<sup>[51]</sup> (Emphasis supplied)

Moreover, such action by respondent Pamatong of resorting to the press was highly irresponsible and is contrary to his duty to submit grievances against judges to the proper authorities only.<sup>[52]</sup> Clearly, respondent Pamatong was motivated solely by improper motives in connection with the TRO application in Civil Case No. 2006-176.

As regards the recommended penalty of the IBP of suspension from the practice of law for three (3) years, we note that, in similar situations, we had imposed a suspension of less than three (3) years.

In *Judge Lacurom v. Atty. Jacoba*, which involved similar facts to the case at bench, this Court suspended the respondent from the practice of law for two (2) years for using offensive language directed towards the complainant judge in a motion filed before the court:

No doubt, **the language contained in the 30 July 2001 motion greatly exceeded the vigor required of Jacoba to defend ably his client's cause. We recall his use of the following words and phrases: abhorrent nullity, legal monstrosity, horrendous mistake, horrible error, boner, and an insult to the judiciary and an anachronism in the judicial process.** Even Velasco-Jacoba acknowledged that the words created "a cacophonic picture of total and utter disrespect."