

SECOND DIVISION

[A.C. No. 10631, July 27, 2016]

ERNESTO B. BALBURIAS, COMPLAINANT, VS. ATTY. AMOR MIA J. FRANCISCO, RESPONDENT.

RESOLUTION

CARPIO, J.:

The Case

This case stemmed from a complaint, docketed as CBD Case No. 11- 2930, filed by Ernesto B. Balburias (Balburias) against Atty. Amor Mia J. Francisco (Atty. Francisco) before the Integrated Bar of the Philippines (IBP). The IBP Board of Governors dismissed the complaint and denied Balburias's motion for reconsideration, prompting Balburias to file the present petition for review before this Court.

The Antecedent Facts

Balburias alleged in his complaint that he filed a criminal case against his former employee, Rosalyn A. Azogue (Azogue), before the Regional Trial Court of Quezon City for stealing his company's funds. Azogue, in turn, filed a labor case against him. Azogue was represented by Atty. Francisco in the labor case.

Balburias alleged that in one of the hearings of the labor case, Atty. Francisco approached him and contemptuously and boastfully told him "*kaya ka naming bayaran*" in front of a lot of people. Balburias alleged that he was shocked by Atty. Francisco's unprofessional behavior and he asked her, "*kaya mo akong hayaran?*" to which she replied "*kaya kitang bayaran sa halaga rig complaint mo.*" Balburias claimed that he was embarrassed by Atty. Francisco's treatment and he told her, "*kahit isang pera lang ang halaga ng buhay ko, hindi ako magpapabayad sa iyo.*" The incident prompted him to file the complaint against Atty. Francisco.

In her Comment, Atty. Francisco alleged that Balburias must be referring to the incident that happened after their mediation conference. During that period, Atty. Francisco was accompanied by Atty. Arnold D. Naval (Atty. Naval). Atty. Naval approached Balburias and his counsel, Atty. Antonio Abad (Atty. Abad) to open talks for a possible settlement. Atty. Naval asked Balburias, "*puwede ho ba noting ayusin ito?*" Balburias answered "*kaya nyo bang bayaran ang nawala sa akin?*" and Atty. Naval replied, "*kaya naming bayaran.*" Atty. Francisco thought that Balburias was referring to the possible settlement and she was surprised to hear him say in a high tone, "*kaya nyo bang bayaran x x x kaya n 'yo bang bayaran x x x ang nawala sa akin? Di nyo mababayaran ng kahit anong halaga ang nawala sa akin! Saksi ang Diyos.*" When Atty. Naval realized that Balburias might have misinterpreted him, he tried to pacify him, saying "*kaya naming bayaran ang halaga ng nasa complaint n 'yo.*" Atty. Francisco stated that after that, they had a long cordial discussion at the

hallway and later, at the cafeteria of the Bookman Building to straighten up the misunderstanding. Atty. Francisco insisted that she had no intention to embarrass Balburias. She expressed surprise at the filing of the case almost two years after the incident occurred.

Balburias, in his Reply, insisted that Atty. Francisco twisted what really happened at the time of the incident. He alleged that Atty. Francisco's words conveyed that she could buy her opponents, or at least corrupt them. He further alleged that Atty. Naval was trying to protect his wife by making it appear that he was the one who talked to him.

The Report and Recommendation of the Investigating Commissioner

After the mandatory conference and hearing, Commissioner Felimon C. Abelita III (Commissioner Abelita) found that there was no sufficient evidence to prove that Atty. Francisco violated the Code of Professional Responsibility. According to Commissioner Abelita, Balburias viewed Atty. Francisco's words as threat and arrogance while Atty. Francisco viewed them as an effort to reach an amicable settlement. Commissioner Abelita noted that Balburias did not explain why he filed the case two years after the incident. He also noted that the parties even proceeded to the cafeteria after the incident. In addition, one of the witnesses for Balburias testified that the parties were not quarreling during the incident. The sworn statement of Atty. Pastor Villanueva (Atty. Villanueva) also stated that Atty. Francisco's words "*kaya ka naming bayaran*" were immediately followed by "*sa halaga ng complaint mo*" thus obviously referring to the money subject of the complaint. Commissioner Abelita recommended the dismissal of the complaint.

In its Resolution No. XX-2013-227^[1] dated 20 March 2013, the IBP Board of Governors adopted and approved Commissioner Abelita's Report and Recommendation and dismissed the case filed by Balburias.

Balburias filed a motion for reconsideration. In its Resolution No. XXI-2014-223 dated 2 May 2014,^[2] the IBP Board of Governors denied the motion for reconsideration and affirmed its Resolution No. XX-2013-227.

Balburias filed the present petition for review before the Court.

The Issue

Whether the IBP Board of Governors committed a reversible error in adopting the Report and Recommendation of Commissioner Abelita and in dismissing the complaint against Atty. Francisco.

The Rilling of this Court

The Court notes that Atty. Francisco did not personally appear during the mandatory conference/hearing and was only represented by Atty. Naval. The report did not state the reason for Atty. Francisco's absence. A reading of the transcript showed that she had to undergo a procedure but no medical certificate was submitted. In any case, Atty. Naval stated that Atty. Francisco would only confirm what was taken