

FIRST DIVISION

[A.C. No. 8638, October 10, 2016]

**DATU BUDENCIO E. DUMANLAG, COMPLAINANT, VS. ATTY.
WINSTON B. INTONG, RESPONDENT.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

Before the Court is a complaint^[1] dated March 19, 2010 filed by complainant Datu Budencio E. Dumanlag (complainant) against respondent Atty. Winston B. Intong (respondent) for gross misconduct and negligence.

The Facts

Complainant claims to be a leader of the Indigenous People of Bangcud, Malaybalay and the President of the Philippine Datus Cultural Minorities Assistance, Inc. and the Frontier's Mining Prospectors and Location Corporation.^[2] On March 12, 2010, complainant received a letter^[3] from respondent,^[4] which is reproduced in full hereunder:

February 08, 2010

TO: DATU BUDENCIO DUMANLAG
Infront Mac Feedmill, San Jose
P-1, Malaybalay City, Bukidnon

Sir:

Please consider this as a letter request for your presence on 12

February 2010 at 2:00 o'clock in the afternoon located at Purok 11,
Poblacion, Valencia City, Bukidnon.

This is for the settlement and pre-litigation conference prior to any legal action against you as complainant by my client JAIME AJOC & ENCARNACION DUMANLAG-AJOC of Lapu-lapu St., Valencia City.

Hoping for your preferential and positive action on this matter. Thank you very much. My highest esteem.

Very truly yours,

(SGD) ATTY. WINSTON

Mr. & Mrs. Ajoc

Complainant took offense with the aforequoted letter as it was allegedly intended "to FORCE, COMPULSORY (*sic*), to investigate, or fiscalize, in the moment (*sic*) [complainant] in his LAW OFFICE at Purok 11 Poblacion Valencia City, Bukidnon. [Respondent] intend (*sic*) for particular purpose that HIS LAW OFFICE in Valencia City is one of the COURTS in the Philippines as to investigate [complainant] thereat."^[5] To bolster his indignation, complainant cited Republic Act No. (RA) 8371, ^[6] otherwise known as "The Indigenous Peoples' Rights Act of 1997," specifically Section 21 which accords equal protection and non discrimination of Indigenous Cultural Communities and Indigenous Peoples (ICCs/IPs), as follows:

Section 21. Equal Protection and Non-discrimination of ICCs/IPs. Consistent with the equal protection clause of the Constitution of the Republic of the Philippines, the Charter of the United Nations, the Universal Declaration of Human Rights including the Convention on the Elimination of Discrimination Against Women and International Human Rights Law, the State shall, with due recognition of their distinct characteristics and identity, accord to the members of the ICCs/IPs the rights, protections and privileges enjoyed by the rest of the citizenry. It shall extend to them the same employment rights, opportunities, basic services, educational and other rights and privileges available to every member of the society. Accordingly, the State shall likewise ensure that the employment of any form of force or coercion against ICCs/IPs shall be dealt with by law.

x x x x

He likewise quoted an Evaluation Report^[7] of the Office of the Ombudsman dated October 11, 2001 where he, as complainant, stressed that "[n]o court in the Philippines, therefore, should punish any member of a cultural community but shall extend to them courtesies in accordance with [the aforesaid] law."^[8]

Complainant averred further that the incorporation papers of the Philippine Datus Cultural Minorities Assistance, Inc. and the Frontier's Mining Prospectors and Location Corporation were supposed to be notarized at respondent's law office, but the charge for notarization amounting to P10,000.00 was "very dear, very expensive," and complainant could not afford the same.^[9] He then accused respondent of soliciting cases for purposes of gain, which act constitutes malpractice, citing Section 27, Rule 138 of the Rules of Court,^[10] to wit:

Section 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 willfully appearing as an attorney for a party to a case without authority to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

In a Resolution^[11] dated July 19, 2010, the Court required respondent to file his comment on the complaint, which he failed to do. Consequently, in a Resolution^[12] dated March 9, 2011, the Court issued a show cause order against respondent reiterating compliance with Resolution dated July 19, 2010. On September 28, 2011, the Court imposed a fine of P1,000.00 upon respondent for his continued failure to comply with the directive to file comment.^[13] However, respondent still failed to pay said fine,^[14] or to file his comment. Thus, in a Resolution^[15] dated July 1, 2013, the Court dispensed with the filing of respondent's comment, and referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

On January 21, 2014, the IBP-Commission on Bar Discipline (IBP CBD) issued a Notice of Mandatory Conference/Hearing^[16] directing the parties to submit their respective mandatory conference briefs. In compliance therewith, respondent filed his brief^[17] on March 11, 2014 claiming that the letter dated February 8, 2010 merely invited complainant "for his presence and to confront, if not, sit and resolve any issue/s that he x x x may have against JAIME AJOC and his wife ENCARNACION";^[18] and that such effort at conflict resolution in the hope of avoiding costly and cumbersome litigations is not an act of malpractice, and does not constitute gross misconduct.^[19]

The IBP's Findings

In his Report and Recommendation^[20] dated May 27, 2014, the IBP CBD Investigating Commissioner Cecilia A. C. Villanueva (Commissioner Villanueva) proposed the **dismissal of the complaint** for failure of the complainant to substantiate his accusations against respondent. Commissioner Villanueva found no force, threat or intimidation in the tenor of the letter sent by respondent, and described the same as a "mere request" that was "carefully worded, done in a respectful manner."^[21] He pointed out, however, the demeanor of the complainant at the mandatory conference as that of a senior citizen who was "very sensitive and demanding of his reputation as a leader of cultural group. People should be careful of things to say to him lest he gets offended or even get mad." Commissioner Villanueva almost cited complainant in contempt when the latter threatened him and the stenographer with a lawsuit before the Commission on Human Rights, this Court, and the United Nations.^[22]

Be that as it may, Commissioner Villanueva recommended^[23] that respondent be **reprimanded** for his disrespectful actuations before the Court and the IBP-CBD committed as follows:

Respondent's propensity to ignore the lawful orders of the [Court] as well as those of the IBP[-CBD] is manifest from the record. The [Court] issued three resolutions requiring respondent to comment on the complaint filed by complainant, but he simply ignored the Court's orders and did not file his comment. Consequently, the [Court] resolved to dispense with the filing of the comment but referred the matter to the IBP for investigation, report and recommendation so as not to deprive respondent of his right to due process.

Again, respondent was given several opportunities to express his side on the charge during the investigation thereof by the IBP. Neither did he file a position paper as required by the Commission on Bar Discipline. Again, he merely ignored the Commission's directives.^[24]

On April 19, 2015, the IBP Board of Governors issued a Resolution^[25] which adopted and approved with modification the aforesaid Report and Recommendation of Commissioner Villanueva. In view of respondent's propensity to ignore the lawful orders of the Court, as well as the IBP-CBD, which was found to be unbecoming of him as officer of the court, respondent was **suspended from the practice of law for six (6) months.**^[26]

Thereafter, the IBP forwarded the case to the Court as provided under Rule 139-B, Section 12 (b)^[27] of the Rules of Court.^[28]

The Court's Ruling

The Court sustains the findings of the IBP Board of Governors, except as to the penalty.

It has been consistently held that an attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved, and that as an officer of the court, he is presumed to have performed his duties in accordance with his oath.^[29] Thus, in disbarment proceedings, the burden of proof rests upon the complainant, and for the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof.^[30] However, in this case, complainant failed to discharge the burden of proving his accusations of gross misconduct on the part of the respondent.

Complainant's allegation of force and compulsion accompanying the letter dated February 8, 2010 is negated by the very words used therein. Respondent described said letter in the opening paragraph as a "letter request for [complainant's] presence."^[31] He then went on to close the letter with "[h]oping for your [(complainant's)] preferential and positive action on this matter" and "[m]y highest esteem."^[32] As aptly pointed out by Commissioner Villanueva in his Report and Recommendation, the letter was "carefully worded, done in a respectful manner."^[33] There was absolutely nothing on the face of the letter that would justify complainant's indignation against any discourtesy or discrimination against him. The letter was a mere invitation for complainant to attend a settlement and pre-litigation conference, which respondent, as a lawyer, is obligated to pursue. Under Rule 1.04,