

## SECOND DIVISION

[ A.C. No. 8920, September 28, 2011 ]

**JUDGE RENE B. BACULI, COMPLAINANT, VS. ATTY. MELCHOR A. BATTUNG, RESPONDENT.**

### DECISION

**BRION, J.:**

Before us is the resolution<sup>[1]</sup> of the Board of Governors of the Integrated Bar of the Philippines (*IBP*) finding Atty. Melchor Battung liable for violating Rule 11.03, Canon 11 of the Code of Professional Responsibility and recommending that he be reprimanded. The complainant is Judge Rene B. Baculi, Presiding Judge of the Municipal Trial Court in Cities, Branch 2, Tuguegarao City. The respondent, Atty. Battung, is a member of the Bar with postal address on Aguinaldo St., Tuguegarao City.

#### **Background**

Judge Baculi filed a complaint for disbarment<sup>[2]</sup> with the Commission on Discipline of the IBP against the respondent, alleging that the latter violated Canons 11<sup>[3]</sup> and 12<sup>[4]</sup> of the Code of Professional Responsibility.

#### **Violation of Canon 11 of the Code of Professional Responsibility**

Judge Baculi claimed that on July 24, 2008, during the hearing on the motion for reconsideration of Civil Case No. 2502, the respondent was shouting while arguing his motion. Judge Baculi advised him to tone down his voice but instead, the respondent shouted at the top of his voice. When warned that he would be cited for direct contempt, the respondent shouted, "Then cite me!"<sup>[5]</sup> Judge Baculi cited him for direct contempt and imposed a fine of P100.00. The respondent then left.

While other cases were being heard, the respondent re-entered the courtroom and shouted, "Judge, I will file gross ignorance against you! I am not afraid of you!"<sup>[6]</sup> Judge Baculi ordered the sheriff to escort the respondent out of the courtroom and cited him for direct contempt of court for the second time.

After his hearings, Judge Baculi went out and saw the respondent at the hall of the courthouse, apparently waiting for him. The respondent again shouted in a threatening tone, "Judge, I will file gross ignorance against you! I am not afraid of you!" He kept on shouting, "I am not afraid of you!" and challenged the judge to a fight. Staff and lawyers escorted him out of the building.<sup>[7]</sup>

Judge Baculi also learned that after the respondent left the courtroom, he continued shouting and punched a table at the Office of the Clerk of Court.<sup>[8]</sup>

## Violation of Canon 12 of the Code of Professional Responsibility

According to Judge Baculi, the respondent filed dilatory pleadings in Civil Case No. 2640, an ejectment case.

Judge Baculi rendered on October 4, 2007 a decision in Civil Case No. 2640, which he modified on December 14, 2007. After the modified decision became final and executory, the branch clerk of court issued a certificate of finality. The respondent filed a motion to quash the previously issued writ of execution, raising as a ground the motion to dismiss filed by the defendant for lack of jurisdiction. Judge Baculi asserted that the respondent knew as a lawyer that ejectment cases are within the jurisdiction of First Level Courts and the latter was merely delaying the speedy and efficient administration of justice.

The respondent filed his Answer,<sup>[9]</sup> essentially saying that it was Judge Baculi who disrespected him.<sup>[10]</sup> We quote from his Answer:

- 23. I only told Judge Rene Baculi I will file Gross ignorance of the Law against him once inside the court room when he was lambasting me[.]
- 24. It was JUDGE BACULI WHO DISRESPECTED ME. He did not like that I just submit the Motion for Reconsideration without oral argument because he wanted to have an occasion to just HUMILIATE ME and to make appear to the public that I am A NEGLIGENT LAWYER, when he said "YOU JUSTIFY YOUR NEGLIGENCE BEFORE THIS COURT" making it an impression to the litigants and the public that as if I am a NEGLIGENT, INCOMPETENT, MUMBLING, and IRRESPONSIBLE LAWYER.
- 25. These words of Judge Rene Baculi made me react[.]  
x x x x
- 28. Since I manifested that I was not going to orally argue the Motion, Judge Rene Baculi could have just made an order that the Motion for Reconsideration is submitted for resolution, but what he did was that he forced me to argue so that he will have the room to humiliate me as he used to do not only to me but almost of the lawyers here (sic).

Atty. Battung asked that the case against him be dismissed.

The IBP conducted its investigation of the matter through Commissioner Jose de la Rama, Jr. In his Commissioner's Report,<sup>[11]</sup> Commissioner De la Rama stated that during the mandatory conference on January 16, 2009, both parties merely reiterated what they alleged in their submitted pleadings. Both parties agreed that the original copy of the July 24, 2008 tape of the incident at the courtroom would be submitted for the Commissioner's review. Judge Baculi submitted the tape and the transcript of stenographic notes on January 23, 2009.

Commissioner De la Rama narrated his findings, as follows:<sup>[12]</sup>

At the first part of the hearing as reflected in the TSN, it was observed that the respondent was calm. He politely argued his case but the voice of the complainant appears to be in high pitch. During the mandatory conference, it was also observed that indeed, the complainant maintains a high pitch whenever he speaks. In fact, in the TSN, where there was already an argument, the complainant stated the following:

Court: Do not shout.

Atty. Battung: Because the court is shouting.

Court: This court has been constantly under this kind of voice  
Atty. Battung, we are very sorry if you do not want to appear  
before my court, then you better attend to your cases and do  
not appear before my court if you do not want to be corrected!  
(TSN, July 24, 2008, page 3)

(NOTE: The underlined words - "we are very sorry" [- were]  
actually uttered by Atty. Battung while the judge was saying  
the quoted portion of the TSN)

That it was during the time when the complainant asked the following questions when the undersigned noticed that Atty. Battung shouted at the presiding judge.

Court: Did you proceed under the Revised Rules on Summary Procedure?

\*

Atty. Battung: It is not our fault Your Honor to proceed because we were asked to present our evidence ex parte. Your Honor, so, if should we were ordered (sic) by the court to follow the rules on summary procedure. (TSN page 3, July 24, 2008)

It was observed that the judge uttered the following:

Court: Do not shout.

Atty. Battung: Because the court is shouting.

(Page 3, TSN July 24, 2008)

Note: \* it was at this point when the respondent shouted at the complainant.

Thereafter, it was observed that both were already shouting at each other.