

## **FIRST DIVISION**

**[ Adm. Case No. 2417, February 06, 2002 ]**

**ALEX ONG, COMPLAINANT, VS. ATTY. ELPIDIO D. UNTO,  
RESPONDENT.**

### **D E C I S I O N**

**PUNO, J.:**

This is a disbarment<sup>[1]</sup> case filed by Alex Ong, a businessman from Dumaguete City, against Atty. Elpidio D. Unto, for malpractice of law and conduct unbecoming of a lawyer.

The Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP-Pasig City) found Atty. Unto guilty of malpractice and recommended the penalty of one-month suspension from the practice of law or, at the very least, a severe reprimand against him.<sup>[2]</sup>

First, we look at the antecedent facts. The records show that the complainant received a demand-letter from the respondent, in the latter's capacity as legal counsel of one Nemesia Garganian. The full text of respondent's letter<sup>[3]</sup> reads:

"Dear Mr. Ong:

This is in connection with the claim of support of Miss Nemesia Garganian (my client) from you for your only child, Anson Garganian, with her (Miss Nemesia Garganian) and other claims which Miss Garganian is demanding from you. It is now about two months that you have abandoned your legal and moral obligations to support your only child with her (Miss Nemesia Garganian) and up to this moment you have not given said financial support.

I am doing this as a preliminary basis to a possible amicable settlement, if you desire so, so that you will not be dragged unnecessarily to a court proceeding in connection with your legal and moral obligations to your son with Miss Garganian.

May I advise you that within three (3) days from your receipt of this letter, you should return to her house her television and betamax which you got from her house during her absence and without her knowledge and consent. Your failure to comply with this demand, this office will be constrained to file the proper action in court against you.

I hope within three (3) days from your receipt of this letter you may come to my Law Office at the above address or you may send your lawyer and/or representative to discuss with me about the preliminary

matters in connection with all the claims of Miss Garganian against you.

I hope that you will not fail us, so that we can thresh out this matter smoothly, otherwise your intentional failure or refusal to discuss these claims amicably with our office might be construed as your absolute refusal really.

Expecting you then.

Very truly yours,

ATTY. ELPIDIO D.  
UNTO  
Counsel for Miss  
Nemesia  
Garganian  
Dumaguete City

WITH MY CONSENT:

NEMESIA GARGANIAN”

A few days thereafter, the respondent wrote a letter addressed to Dr. Jose Bueno (Agaw), an emissary of the complainant. In this letter, the respondent listed down the alleged additional financial demands of Ms. Garganian against the complainant and discussed the courses of action that he would take against the complainant should the latter fail to comply with his obligation to support Ms. Garganian and her son. The relevant portion of the respondent’s second letter reads: [4]

“These are the demands which my client would want to be complied (with):

1. P1,500.00 monthly – For the sustenance of Mr. Ong’s son. x x x  
(Note: That this amount of P1,500.00 should be up to the completion of Mr. Ong’s son in the elementary course and this is subject to adjustment when the son is already in the secondary course or up to his college course).
2. P50,000.00 - This amount should be given to Miss Garganian as her starting capital for her planned business venture to give her a source of her living since she cannot anymore be a teacher in any government position because of her status, having a child without being lawfully wedded. x x x.
3. The TV and the Betamax should be returned and delivered to the house of Miss Garganian, without the presence of Mr. Alex Ong x x x.
4. The amount of P5,000.00 as my attorney’s fees should be given or paid to me tomorrow before noon in my Law Office, through my cousin, Dr. Jose Bueno.

**Criminal, civil and administrative actions that I am contemplating to file against Mr. Alex Ong will be withheld pending the compliance by Mr. Ong of these compromise agreements.**

Gaw, if not of (sic) your representation I believe that one-week time as grace period for Mr. Ong is too long a time.

Thank you very much.

Very truly yours,

ATTY. ELPIDIO D. UNTO  
Counsel for Miss  
Nemesia Garganian”

It was alleged that the real father of Ms. Garganian’s son was the complainant’s brother and that the complainant merely assumed his brother’s obligation to appease Ms. Garganian who was threatening to sue them. The complainant then did not comply with the demands against him.

Consequently, the respondent filed a complaint<sup>[5]</sup> with the Office of the City Fiscal (now Prosecutor’s Office) of Dumaguete City against the complainant, his wife, Bella Lim, and one Albina Ong, for alleged violation of the Retail Trade Nationalization Law and the Anti-Dummy Law.

The next day, the respondent filed another criminal complaint against the complainant, Lim, Ong and Adela Peralta for their alleged violation of the Anti-Dummy Law.

In addition, the respondent commenced administrative cases against the complainant before the Bureau of Domestic Trade, the Commission on Immigration and Deportation, and the Office of the Solicitor General.<sup>[6]</sup> According to the complainant, these cases were subsequently denied due course and dismissed by the aforesaid government agencies.

The foregoing prompted the complainant to file the present case for disbarment. Essentially, the complainant alleged that the respondent “manufactured” the criminal and administrative cases against him to blackmail him or extort money from him. He claimed that the respondent solicited for any information that could be used against him in the aforementioned cases by offering any informer or would-be witness a certain percentage of whatever amounts they could get from him. The complainant branded the respondent’s tactics as “highly immoral, unprofessional and unethical, constituting...malpractice of law and conduct gravely unbecoming of a lawyer.”

In support of his accusations, the complainant submitted the following documents: (1) the afore-quoted letters of the respondent addressed to the complainant and Dr. Bueno; (2) Nemesia Garganian’s affidavit where she denied any knowledge regarding the demands listed in the letter addressed to Dr. Bueno; (3) an unsigned affidavit allegedly prepared by the respondent for the complainant, wherein the latter was acknowledging that he sired Ms. Ganganian’s son illegitimate child; (4) the criminal complaints filed against the complainant for alleged violation of the

Retail Trade Nationalization Law and the Anti-Dummy Law; and (5) an affidavit of Manuel Orbeta, a neighbor of the complainant who claimed that a representative of the respondent had asked him to sign an affidavit allegedly prepared by the respondent, with an offer "to give any informer 20% and witness, 10%, of any amount he can get from Mr. Alex Ong." To further bolster the disbarment case against the respondent, the complainant also included a Supplemental Affidavit,<sup>[7]</sup> citing several cases previously filed against the respondent by other parties.<sup>[8]</sup>

The records show that the respondent was directed to submit his comment on the complaint lodged against him.<sup>[9]</sup> He did not file any. Subsequently, the case was endorsed to the Office of the Solicitor General for investigation, report and recommendation. In turn, the OSG forwarded the records of the case to the Office of the Provincial Fiscal of Negros Oriental, authorizing said office to conduct the investigation.

It appears that the respondent did not appear before the investigating officer, then Provincial Fiscal Jacinto Bautista, to answer the charges against him. Instead, he moved for postponement. After denying the respondent's third request for postponement, Fiscal Bautista proceeded with the reception of the complainant's evidence. **The respondent was duly notified of the on-going investigation but he did not show up.** When it was the respondent's turn to present evidence, notices of the preliminary investigation were sent to his home address in Valenzuela, Negros Oriental, his law office in Dumaguete City and his last known address in Quezon City. The return cards showed that he could not be located, although his wife received some of the notices sent to his home in Dumaguete.

Meanwhile, the case was transferred from one investigating officer to another, with some of them inhibiting from the investigation. Finally, the case was assigned to 2<sup>nd</sup> Asst. Provincial Prosecutor Cristino Pinili. Atty. Pinili deemed the respondent's absence as waiver of his right to present his evidence. Finding merit in the complainant's cause, the investigator recommended that respondent be suspended from the practice of law for one month, or, at the very least, be severely reprimanded.

The records of the case were endorsed to the Office of the Solicitor General.<sup>[10]</sup> Thereafter, the OSG transmitted the records to the Integrated Bar of the Philippines in Manila, "for proper disposition, conformably with adopted policies and procedures."<sup>[11]</sup> The IBP's Commission on Bar Discipline adopted Atty. Pinili's report and recommendation *in toto*.<sup>[12]</sup>

We affirm with modification.

The complainant seeks the disbarment of the respondent. Thus, it is meet to revisit the importance of the legal profession and the purpose of the disbarment as aptly discussed in **Noriega vs. Sison**.<sup>[13]</sup> We then held:

"In resolving this disbarment case, (w)e must initially emphasize the degree of integrity and respectability attached to the law profession. There is no denying that the profession of an attorney is required after a long and laborious study. By years of patience, zeal and ability, the