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[A.C. No. 12883; March 2, 2021]
(Formerly CBD Case No. 16-5016)

ENRICO R. VELASCO, *Complainant*, *v.* **ATTY. BERTENI C. CAUSING,** *Respondent*.

APPEARANCES OF COUNSEL

Andres Padernal & Paras Law Offices for complainant.

D E C I S I O N

INTING, *J.*:

This administrative case is rooted on the Complaint-Affidavit[1] for disbarment filed by Enrico R. Velasco (complainant) against Atty. Berteni C. Causing (Atty. Causing) before the Integrated Bar of the Philippines (IBP) for alleged violation of the Code of Professional Responsibility (CPR).

The Antecedents

Complainant is the petitioner in Civil Case No. 10536 for the declaration of nullity of his marriage with Nina Ricci Narvaez Laudato (Laudato) pending before Branch 3, Regional Trial Court, Balanga City, Bataan (nullity case).[2]

Atty. Causing is the counsel of Laudato in the nullity case.[3]

On April 7, 2016, Atty. Causing sent a direct message to complainant's son, Jomel A. Velasco, through Facebook, a social networking site,[4] stating as follows: "[*p*]*akitignan mo ang iyong*

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[1] *Rollo*, pp. 2-6.

[2] *Id.* at 2. See Petition for Declaration for Nullity of Marriage under Article 4 of the Family Code docketed as Civil Case No. 10536 and raffled to Branch 3, Regional Trial Court, Balanga City, Bataan, *id.* at 42-48.

[3] *Id.*

[4] See *Belo-Henares v. Atty. Guevarra*, 801 Phil. 570 (2016).

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ama, iho at huwag mo syang gayahin ha."[5] The message was accompanied by a link to a post dated March 19, 2016 (subject post) published by Atty. Causing on Facebook with the caption *"Wise Polygamous Husband?"*, to wit:

"WISE POLYGAMOUS HUSBAND?

"After marrying a girl as his second wife while his first wife was still alive, when there was no doubt it was bigamous and a crime of bigamy, this man still has the gall to file a petition to declare his second marriage null and void.

"In his petition, he asked the RTC of Balanga to declare his marriage void because of lack of marriage license and not because of marriage being bigamous.

"*If you want to read his petition, a copy is attached here. His intention in filing the petition was to prevent the second wife's criminal case of bigamy from succeeding by reason of prejudicial question.*"[6] (Italics supplied.)

Notably, Atty. Causing also attached photographs of the complete copy of complainant's petition in the nullity case to the subject post on Facebook. Thereafter, he "shared" the subject post to his other Facebook account under the name "Berteni 'Toto' Cataluña Causing" and to a Facebook group likewise under the same name which is a public group with more or less 3,500 members. The subject post was also "shared" by the other persons onto their respective Facebook accounts. Resultantly, the subject post generated negative reactions and comments against complainant.[7]

In his Verified Answer,[8] Atty. Causing admitted that he published the subject post in his Facebook account and sent the link thereof to complainant's son.[9] However, he denied

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[5] *Rollo*, p. 3.

[6] *Id.* at 8.

[7] *Id.* at 3-4, 111.

[8] *Id.* at 11-24.

[9] *Id.* at 13.

harassing complainant and insisted that he was only performing his duties as the "spokesman-lawyer" of his client. He asserted that he was not tarnishing the reputation of complainant when he published the post in Facebook, and that his actuations did not constitute libel as he was only telling the truth, *viz.*:[10]

> 43. There can never be libel statements in expressing truth, especially when said truth is admitted by complainant;
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> 44. In this case, it is true that [complainant] filed a complaint or petition for declaration of nullity of marriage and *in fact he does not even deny the existence and genuineness of the complaint for declaration of nullity that I posted and that I sent to his son*;
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> 45. In the Holy Bible, John 8:32, it is said: "x x x *the truth shall make you free*." (Emphasis omitted; italics supplied.)[11]

Moreover, Atty. Causing averred that as a "journalist-blogger," he merely exercised his constitutional right to press freedom when he published the subject post in Facebook.[12] He further asserted that being a lawyer did not make his right to press freedom an inch less. Hence, he should not be denied of his constitutional right to express his ideas.[13]

The IBP's Report and Recommendation

In his Report and Recommendation[14] dated January 23, 2017, Investigating Commissioner Jose Alfonso M. Gomos (Investigating Commissioner) found that Atty. Causing breached the rule on the privacy and confidentiality of Family Court proceedings[15] and recommended that he be suspended

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[10] *Id.* at 18-19.

[11] *Id.* at 19.

[12] *Id.* at 21.

[13] *Id.* at 22.

[14] *Id.* at 192-199.

[15] Section 12 of Republic Act No. (RA) 8369 provides:

SECTION 12. *Privacy and Confidentiality of Proceedings*. — All hearings and conciliation of the child and family cases shall be treated in a manner

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from the practice of law for a period of one (1) year. The Investigating Commissioner held that Atty. Causing's contentions that he was only acting in his capacity as the "spokesman-lawyer" of his client, or that he was merely exercising his right to press freedom as a "journalist-blogger" did not justify his violation of the CPR.[16]

In the Resolution[17] dated November 28, 2017, the IBP Board of Governors adopted the Investigating Commissioner's findings of fact, but *modified* the recommended penalty to suspension from the practice of law for a period of two (2) years.

Aggrieved, Atty. Causing moved for reconsideration,[18] but the IBP Board of Governors denied the motion in a Resolution[19] dated June 18, 2019.

Issue

Whether Atty. Causing should be held administratively liable for publishing the subject post and photographs of complainant's petition in the nullity case in his Facebook accounts.

The Court's Ruling

The Court adopts the findings of the IBP, but *modifies* the penalty to be imposed upon Atty. Causing.

The records show that Atty. Causing had already admitted that he indeed published the subject post with photographs of complainant's petition in the nullity case in Facebook and thereafter sent a link of the post to complainant's son. In his

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consistent with the promotion of the child's and family's dignity and worth, and shall respect their privacy at all stages of the proceedings. Records of the cases shall be dealt with utmost confidentiality and the identity of parties shall not be divulged unless necessary and with authority of the judge.

[16] *Rollo*, p. 198.

[17] *Id*. at 191.

[18] See Motion for Reconsideration dated December 6, 2018, *id.* at 204-234.

[19] *Id.* at 267-268.

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defense, Atty. Causing invokes his rights to freedom of expression and of the press and argues that he was merely acting as a "spokesman-lawyer" and a "journalist-blogger" when he published the subject post.

The defense, however, is untenable.

First, a lawyer is not allowed to divide his personality as an attorney at one time and a mere citizen at another.[20] Regardless of whether a lawyer is representing his client in court, acting as a supposed spokesperson outside of it, or is merely practicing his right to press freedom as a "journalist-blogger," his duties to the society and his ethical obligations as a member of the bar remain *unchanged*.

In particular, the CPR provides:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

x x x x

Rule 8.01 — A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

x x x x

CANON 13 — A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

Rule 13.02 — A lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party.

x x x x

CANON 19 — A lawyer shall represent his client with zeal within the bounds of the law.

Rule 19.01 — A lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present,

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[20] *Valin, et al. v. Atty. Ruiz*, 820 Phil. 390, 405 (2017) citing *In Re: A.M. No. 04-7-373-RTC [Report on the Judicial Audit Conducted in the RTC, Br. 60, Barili, Cebu], et al.*, 788 Phil. 492, 507 (2016).

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participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

Here, Atty. Causing had clearly violated Section 12[21] of Republic Act No. 8369, or the Family Courts Act of 1997, which prohibits the publication or disclosure, in any manner, of the records of Family Court cases. This is, in itself, a breach of his duties under Canon 1 as well as Canon 13 and Rule 13.02 of the CPR as the subject post not only disclosed confidential information regarding the nullity case, but also included his own, strongly-worded opinion regarding complainant's character and the circumstances surrounding the case.

In addition, Atty. Causing likewise violated Rule 8.01 of the CPR when he used the words "polygamous,"[22] "criminal,"[23] "dishonest,"[24] "arrogance,"[25] "disgusting,"[26] and "cheater"[27] in the subject post and in his pleadings in direct reference to complainant. Indeed, a lawyer's language, though forceful and emphatic, must always be dignified and respectful, befitting the dignity of the legal profession.[28] *"The use of intemperate language and unkind ascriptions has no place in the dignity of judicial forum. Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, and illuminating but not offensive."*[29]

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[21] Section 12 of Republic Act No. (RA) 8369 provides:

SECTION 12. *Privacy and Confidentiality of Proceedings*. — x x x Records of the cases shall be dealt with utmost confidentiality and the identity of parties shall not be divulged unless necessary and with authority of the judge.

[22] *Rollo*, p. 3.

[23] *Id.* at 12.

[24] *Id.* at 133.

[25] *Id.* at 132.

[26] *Id.*

[27] *Id.* at 137.

[28] *Sps. Nuezca v. Atty. Villagarcia*, 792 Phil. 535, 540 (2016).

[29] *Id.*, citing *Atty. Barandon, Jr. v. Atty. Ferrer, Sr.*, 630 Phil. 524, 532 (2010) and *Gimeno v. Atty. Zaide*, 759 Phil. 10, 23 (2015).

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Though it is true that Atty. Causing is, by all means, given the liberty to defend his client's cause with utmost zeal, this is not without reasonable limitations. In this case, it appears that Atty. Causing's post in Facebook was so designed to elicit, at the very least, a negative public opinion against complainant. Such act, however, is proscribed under Rule 19.01 of the CPR which, among others, mandates lawyers to *"employ only fair and honest means to attain the lawful objectives of his client."*

And *second*, it is settled that the freedom of speech, of expression, and of the press, like all constitutional freedoms, are *not* absolute.[30]

On this point, the Court's ruling in *Belo-Henares v. Atty. Guevarra*[31] *(Belo-Henares)* is instructive. As in the present case, the respondent lawyer in *Belo-Henares* published Facebook posts that maligned and insulted the complaining party, which he claimed had been written in the exercise of his freedom of speech and expression. The Court, however, rejected this defense as the *"freedom of expression may not be availed of to broadcast lies or half-truths, insult others, destroy their name or reputation or bring them into disrepute."*[32] Thus, the Court suspended the respondent lawyer therein for a period of one (1) year for publicly insulting the complaining party through his Facebook posts.[33]

In line with the above-mentioned ruling, the Court deems it proper to suspend Atty. Causing from the practice of law for a period of one (1) year with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

WHEREFORE, the Court finds respondent Atty. Berteni C. Causing **GUILTY** of violating Canon 1, Rule 8.01, Canon 13, Rule 13.02, Canon 19, and Rule 19.01 of the Code of

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[30] *See Belo-Henares v. Atty. Guevarra, supra* note 4 at 586, citing *In Re Emil P. Jurado*, 313 Phil. 119, 163 (1995), further citing *Zaldivar v. Sandiganbayan*, 248 Phil. 542, 579 (1988).

[31] *Id.*

[32] *Id.* at 586-587, citing *In Re Emil P. Jurado, id.* at 165.

[33] *Id.* at 589.

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Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of one (1) year, effective upon his receipt of this Decision, and is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

The suspension in the practice of law shall take immediately upon receipt of this Decision by respondent Atty. Berteni C. Causing. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to respondent Atty. Berteni C. Causing's personal record, and the Office of the Court Administrator and the Integrated Bar of the Philippines for their information and guidance.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, Zalameda, M. Lopez, Delos Santos, Gaerlan, Rosario, and *J. Lopez, JJ.*, concur.