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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

SECOND DIVISION

[A.C. No. 9298. July 29, 2019]
(Formerly CBD Case No. 12-3504)

PRESIDING JUDGE AIDA ESTRELLA MACAPAGAL, REGIONAL TRIAL COURT, BR. 195, PARAÑAQUE CITY, *complainant, vs.* **ATTY. WALTER T. YOUNG,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY; THE LAWYER AND THE COURTS; WHILE LAWYERS HAVE THE RIGHT, BOTH AS OFFICERS OF THE COURT AND AS CITIZENS, TO CRITICIZE IN PROPERLY RESPECTFUL TERMS AND THROUGH LEGITIMATE CHANNELS THE ACTS OF THE COURTS AND JUDGES, SUCH CRITICISMS, NO MATTER HOW TRUTHFUL, SHALL NOT SPILL OVER THE WALLS OF DECENCY AND PROPRIETY; VIOLATION IN CASE AT BAR.— After much consideration, the Court finds Atty. Young's act of sending the subject letter to Judge Macapagal highly improper. Moreover, as shown in the following portion of the subject letter, there is no question that Atty. Young did threaten to file administrative and criminal complaints against Judge Macapagal if the writ of demolition was implemented: x x x with all due respect, but much to our regret, we wish to make manifest that we will be compelled to file an administrative complaint against you before the Office of the Court Administrator as well as a criminal complaint for

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"**knowingly rendering an unjust judgment**" if you should persist in your stubborn actuation of implementing the writ of possession/writ of demolition against non-parties to the expropriation case. Furthermore, while Atty. Young alleged in his Comment that he had no intention to threaten Judge Macapagal in sending the subject letter, he also stated that she may be "stubbornly pursuing" the demolition operations "because of her desire to please and gratify" the Mayor of Parañaque City. He also stated in his Comment that he sent the subject letter in order to "courteously warn" and prevent Judge Macapagal from "committing a judicial act which would be a transgression" of his clients' right to due process, and which would make her "truly vulnerable to criminal as well as administrative" complaints. These statements, in the mind of the Court, indubitably demonstrate how Atty. Young had failed to observe the respect due to the Courts and to judicial officers. While he denied in his motion for reconsideration that he criticized Judge Macapagal, the Court finds otherwise. In *Pantanosas, Jr. v. Pamatong*, the Court reiterated that while lawyers have the right, both as officers of the court and as citizens, to criticize in properly respectful terms and through legitimate channels the acts of courts and judges, such criticisms, no matter how truthful, shall not spill over the walls of decency and propriety.

2. ID.; ID.; WHEN VIOLATED, PENALTY; IN DETERMINING THE PENALTY TO BE IMPOSED, THE COURT CONSIDERS THE FACTS AND FACTORS WHICH MAY SERVE AS MITIGATING CIRCUMSTANCES; CASE AT BAR.— Further, while the Court agrees with the Board that Atty. Young violated Canon 11 of the CPR, it deems it appropriate to lower the penalty to reprimand, considering that this is his first offense and in view of his advanced age. In determining the penalty to be imposed, the Court considers the facts and factors which may serve as mitigating circumstances, such as the respondent's acknowledgment of his or her infractions and feeling of remorse, family circumstances, respondent's advanced age, humanitarian and equitable considerations, among others.

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D E C I S I O N

CAGUIOA, *J.*:

In a letter-complaint[1] dated November 10, 2011 addressed to Deputy Clerk of Court and Bar Confidant, Atty. Ma. Cristina B. Layusa (Atty. Layusa), Presiding Judge Aida Estrella Macapagal (Judge Macapagal), Regional Trial Court (RTC), Branch (Br.) 195, Parañaque City alleged that on even date, she received a letter from respondent Atty. Walter T. Young (Atty. Young), threatening her that an administrative and a criminal complaint for "knowingly rendering an unjust judgment" would be filed against her if the writ of possession/writ of demolition would be implemented. This was in connection with a pending complaint for expropriation (Civil Case No. CV-04-0245) filed by the City of Parañaque against Magdiwang Realty Corporation and Fil-Homes Realty Development Corporation.

It appears that even before the said case was unloaded to Judge Macapagal in 2008, the writ of possession had already been issued in 2006 by the previous presiding judge. On February 3, 2011, Judge Macapagal granted the plaintiffs motion for demolition and issued the corresponding writ, which the sheriff served on the occupants of the subject properties on October 28, 2011. In her letter, Judge Macapagal alleged that Atty. Young committed an act unbecoming of a lawyer in violation of the Code of Professional Responsibility (CPR) in sending the subject threatening letter.[2]

Portions of the subject letter sent by Atty. Young are hereby reproduced as follows:

Dearest Madame:

With all due respect and utmost, I am the counsel for certain residents of the Silverio Compound against whom a writ of possession/writ of demolition was/were issued by the Regional Trial Court of Parañaque

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

[2] *Id*.

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City (Branch 195) [the "**RTC**"] which branch is presently presided by Your Honor.

Again, with utmost reverence, we wish to formally inform you that on my clients' behalf, we have filed a petition for annulment of judgment with prayer for injunctive relief under Rule 47 of the Rules of Court which has been docketed as **CA-GR-SP. No. 121938** with the Honorable Court of Appeals. While we have copy furnished the **RTC** a copy of the petition via registered mail, we hereby attached (sic) the first page of the petition for your easy reference and guide as Annex "A".

Modesty aside, I am also the counsel for the K-Ville residents who recently figured in the so-called Torres land grab scam which affected a 24-hectare parcel of land in the heart of Quezon City and that I have[,] in coordination with my colleagues, caused the filing of an administrative complaint both against the Sheriff and the Presiding Judge for the uncanny attempts to execute a judgment against non-parties to the case.

Indeed, this expropriation case as well as the Torres land grab case, though at first blush are distinct from each other, have drawn certain parallels. The most significant parallelism is that in both cases, both magistrates, particularly Your Honor, in regard to this expropriation case, are attempting to execute a judgment against non-parties to the cases. The foregoing indeed is a very basic violation of a fundamental precept of law which strikes at the very heart of the concept of "due process". Having declared such, and with all due respect, but much to our regret, we wish to make manifest that we will be compelled to file an administrative complaint against you before the Office of the Court Administrator as well as a criminal complaint for "**knowingly rendering an unjust judgment**" if you should persist in your stubborn actuation of implementing the writ of possession/ writ of demolition against non-parties to the expropriation case.

Apart from the concept of judicial courtesy that ought to be accorded the Honorable Court of Appeals, may we pray therefore unto Your Honor that heretofore, Your Honor must cease and desist from any action that would prove to be violative of the basic right to due process of my clients by refraining from implementing the writ of possession as well as the writ of demolition. Thank you so much and please be guided accordingly.[3]

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[3] *Id*. at 3. (Bold in the original)

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In a Resolution[4] dated January 18, 2012, the Court required Atty. Young to submit his comment on the above letter-complaint within 10 days.

Meanwhile, upon receipt of the letter-complaint, Atty. Young submitted a letter-comment[5] dated November 26, 2011 addressed to Atty. Layusa. Subsequently, upon receipt of the Court's Resolution dated January 18, 2012, Atty. Young submitted his Comment[6] dated April 3, 2012 to the Court, praying for the dismissal of the subject administrative complaint against him. The letter-comment and the Comment have almost identical contents. Portions of the Comment are reproduced below:

(2) A writ of possession was issued by the Complainant Judge Macapagal which was set to be implemented in November 2011, for which reason, my professional service was engaged by informal settlers who have not been impleaded as defendants to the Case.

(3) As an initial reaction to thwart the eviction of the informal settlers, I called the attention of the Complainant Judge Macapagal by way of a letter which I discreetly labeled as CONFIDENTIAL on the envelope thereof.

(4) The main purpose of the letter sent to Complainant Judge Macapagal was to avert the outright eviction of the informal settlers considering that these informal settlers have not been impleaded as parties-defendants to the Case. Subsequently thereto, I filed a petition for annulment of judgment with prayer for injunctive relief with the Court of Appeals on November 8, 2011 which was docketed as CA-GR SP No. 121938 x x x

x x x x x x x x x

(6) First and foremost, there was no intention to malign and contumaciously threaten the **Complainant Judge Macapagal** through that letter dated November 10, 2011.

(7) The sending of the letter dated November 10, 2011 was in fact an act made to courteously warn and prevent the **Complainant Judge**

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[4] *Id*. at 13.

[5] *Id*. at 14-16.

[6] *Id*. at 30-35.

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Macapagal into committing a judicial act which would be a transgression of the basic rights of the informal settlers who were then my clients to due process, thus making **Complainant Judge Macapagal** truly vulnerable to criminal as well as administrative complaints.

x x x x x x x x x

(9) What was in fact intriguing and interesting was that Friday, October 28, 2011, preceded a long holiday and that on the basis of the notice given to them, the informal settlers were merely given a 10-day grace period to vacate lest the specter of demolition operations will be in their midst. x x x

(10) The **Complainant Judge Macapagal** ought to feel obliged because, plausibly by reason of the letter, the **Complainant**, (sic) **Judge Macapagal** was accorded an opportunity for a second-sober-thought consideration. And this second-sober-though (sic) consideration may have actually prevented **Complainant Judge Macapagal** from pursuing through her court sheriff with the scheduled demolition operations in the morning of November 11, 2011 until the **TRO** got issued in mid-morning of that day, x x x.

(11) In truth, a very apt passage/quotation which presents an analogy in the warning conveyed unto the **Complainant Judge Macapagal** appears in the **Book of Ezekiel** in the **Holy Bible** which reads:

x x x x x x x x x

(12) Truly indeed, no one is INFALLIBLE and we must be thankful in case one would fearlessly call our attention to our mistakes and/or possible mistakes.

(13) What made a palpable impression that the **Complainant Judge Macapagal** was initially stubbornly pursuing the demolition operations, plausibly because of her desire to please and gratify the Honorable Mayor of Parañaque City, where her court sits, was the fact that efforts to get certified true copies of the court documents were given a run-around by the court personnel.

(14) First, on November 2, 2011 when the initial request was made, it was declared that the records of the case were with the Sheriff (which was a very ridiculous excuse indeed as Sheriffs do not bring home court records) and that the court sheriff may not report to work on that day.

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(15) On November 3, 2011, still the request was ignored as purportedly; (sic) my clients are not parties to the case. It was only on the third attempt on November 4, 2011, when my clients were furnished certified true copies and only after one of my clients, x x x threatened that court staff that a complaint will be lodged with the **Office of the Court Administrator** if the request is continuously ignored.

x x x x x x x x x

(19) Truly, it has been said that if we continue to tolerate misdemeanors in government, our country will continue to be graft-ridden. The best option therefore is to forewarn government functionaries so that they may not be lured to commit misdemeanors by inadvertence. And if the warning is totally ignored, to reveal and disclose and bring to the proper venue all forms of corruption and misdemeanors in government through vigilance and watchfulness.

(20) And government functionaries including court magistrates must not feel too onion-skinned every time their attention is called to possible instance of such misdemeanors. Further, it ought to be remembered that no one is above the law and that anybody be he or she is mighty and powerful must not forget the fact that every one must be accorded his/her right to due process.

(21) Plausibly, the **Complainant Judge Macapaga**l might have overlooked the fact that my clients not being parties to the case must not be subject of execution of a court judgment in a case where they have not been heard.

(22) With this **Comment** which has delineated and proffered the explanation for the conveyance of the letter, I firmly believe that I have erased all doubts on my supposed culpability to the effect that I have disrespectfully maligned and/or irreverently threatened **Complainant Judge Macapagal**.[7] (Bold in the original; notations ours)

In a Resolution[8] dated April 16, 2012, the Court referred the case to the Integrated Bar of the Philippines (IBP) for

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[7] *Id*. at 30-34.

[8] *Id*. at 29.

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investigation, report and recommendation (IRR) or decision within 90 days. On July 18, 2012, the IBP-Commission on Bar Discipline (CBD) issued a Notice of Mandatory Conference[9], directing the parties to appear before it on September 24, 2012. After the said conference, the IBP-CBD issued an Order[10] directing the parties to submit their respective verified position papers within 15 days and afterward, the case shall be deemed submitted for report and recommendation. While Judge Macapagal filed a Manifestation[11] dated October 22, 2012, stating that she will no longer file a position paper, Atty. Young filed his position paper[12] dated September 25, 2012, alleging that: He was courteous in the subject letter; the subject letter was worded in such a manner that not a hint of scandalous, offensive or menacing tenor was made; he was so choosy with his words that almost every paragraph was prefaced with a reverential phrase or tone; the objective of the subject letter was to serve a cautionary notice unto Judge Macapagal so that she "could be thwarted and/or rescued from treading on unlawful ground (i.e. implementing the writ of possession on persons who are non-parties to the case in the court *a quo*);" assuming without admitting that he threatened Judge Macapagal, the threat must be unlawful in order to be considered as a ground for an administrative complaint; but the alleged "threat," if it may be called as such, is more of a cautionary notice — it is neither unlawful, illegal, scandalous, offensive nor menacing since his clients have a right to file an administrative complaint against an erring magistrate; finally, pursuant to Canon 18[13] and 19,[14]

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[9] *Id*. at 53.

[10] *Id*. at 55.

[11] *Id*. at 66.

[12] *Id*. at 56-65.

[13] CANON 18 — A lawyer shall serve his client with competence and diligence.

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

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a lawyer is duty-bound to serve his clients with diligence and zeal.[15]

In a Report and Recommendation[16] dated October 7, 2013, the Investigating Commissioner found that Atty. Young's act of writing the subject letter to Judge Macapagal is tantamount to simple misconduct and thus, he recommended the imposition of the penalty of warning with a reminder that a repetition of the same or similar act shall be dealt with more severely. The Investigating Commissioner noted that writing a personal letter to Judge Macapagal regarding a case pending before her is not one of the remedies available to Atty. Young.[17] The Investigating Commissioner also stated that Atty. Young's intention is immaterial and "what he did is uncalled for" and "cannot be countenanced under any situation."[18]

In Resolution No. XXI-2014-832[19] dated October 11, 2014, the IBP Board of Governors (Board) reversed the above Report and Recommendation and ruled that Atty. Young committed a disrespectful and uncalled for act against the judiciary and thus, recommended that he be suspended from the practice of law for six (6) months. In the Extended Resolution[20] dated February 18, 2016 which was issued to explain the rationale behind Resolution No. XXI-2014-832, the Board held that Atty. Young is guilty of violating Canon 11[21] and Rule 11.04[22] of the CPR for his "menacing language that imputes ill and corrupt motive

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[15] *Rollo*, pp. 62-64.

[16] *Id*. at 71-73.

[17] *Id*. at 72.

[18] *Id*.

[19] *Id*. at 70.

[20] *Id*. at 74-82.

[21] CANON 11 — A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.

[22] RULE 11.04 A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.

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to a member of the judiciary."[23] The Board also stated that: Atty. Young criticized Judge Macapagal's issuance of the writ of demolition; his imputations and statements against Judge Macapagal in his letter and in his Comment are disrespectful and show his conduct unbecoming of a member of the Bar; "no less inappropriate" is his "fairly obvious threat" against Judge Macapagal when he referred to the "parallel" case of the "Torres land grab case" where he and his colleagues supposedly "caused the filing of an administrative complaint both against the Sheriff and the Presiding Judge."[24] In support of its ruling, the Board cited the following cases: in *People v. Venturanza*,[25] the Court held the lawyer in contempt for sending a telegram to a judge, requesting him to set aside his orders, otherwise criminal, civil and administrative charges will be filed against him; in *Lacurom v. Jacoba*,[26] the Court suspended Atty. Jacoba for two years and Atty. Velasco-Jacoba for two months from the practice of law for using disrespectful terms in their motion for reconsideration of the complainant-judge's resolution; and in *In re*: *Almacen v. Yaptinchay,*[27] the Court suspended Atty. Almacen until further orders from the practice of law for filing, as a form of protest, a "Petition to Surrender Lawyer's Certificate of Title" with a prayer for the Clerk of Court to receive his certificate in trust with reservation that he may retrieve the same when he regains his faith in the institution.

Aggrieved, Atty. Young filed a "Most Respectful Motion for Reconsideration"[28] dated March 22, 2016 of Resolution No. XXI-2014-832, alleging the following: The complaint is not verified and thus should be dismissed notwithstanding his admission that he sent a letter to Judge Macapagal; he is willing to accept the

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[23] *Rollo*, p. 80.

[24] *Id*. at 81.

[25] 98 Phil. 211 (1956).

[26] 519 Phil. 195 (2006).

[27] 142 Phil. 353 (1970).

[28] *Rollo*, pp. 83-90.

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penalty of warning as recommended by the Investigating Commissioner; the Board's recommended penalty of six months is not commensurate with the fault or mistake of sending the subject letter to Judge Macapagal; he asked forgiveness from Judge Macapagal in the presence of the Investigating Commissioner but she did not accept his apology; he honestly believed that his letter was just a cautionary notice which is not unlawful, not illegal, not offensive and not menacing; the cases cited by the Board are not applicable since their facts are different from his case; he did not criticize Judge Macapagal and he did not impute ill or corrupt motive against her; and he may have been overzealous in protecting the rights of his clients against the implementation of the writ of demolition.[32] He cited *Pena v. Aparicio*,[30] wherein the Court found Atty. Aparicio liable for violation of Rule 19.01[31] of Canon 19 of the CPR and was reprimanded therefor.

In an Order[32] dated March 22, 2016, the Director for Bar Discipline required Judge Macapagal to submit within 15 days her comment to the said motion for reconsideration. In her Comment[33] dated April 29, 2016, Judge Macapagal vehemently denied Atty. Young's allegations in the motion for reconsideration in connection with his asking for her apology in the presence of the Investigating Commissioner. Judge Macapagal further alleged that, in making such untruthful statements, Atty. Young violated Canon 10[34] of the CPR.[35]

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[29] *Id*. at 84-86.

[30] 552 Phil. 512 (2007).

[31] RULE 19.01 A lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

[32] *Rollo*, p. 91.

[33] *Id*. at 92.

[34] CANON 10 — A lawyer owes candor, fairness and good faith to the court.

[35] *Rollo*, p. 92.

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In a Resolution[36] dated May 19, 2018, the Board denied Atty. Young's motion for reconsideration, there being no new reason and/or new argument adduced to reverse the Board's previous findings and decision. Thereafter, the IBP-CBD transmitted the records of the case to the Court.

After much consideration, the Court finds Atty. Young's act of sending the subject letter to Judge Macapagal highly improper. Moreover, as shown in the following portion of the subject letter, there is no question that Atty. Young did threaten to file administrative and criminal complaints against Judge Macapagal if the writ of demolition was implemented:

> x x x with all due respect, but much to our regret, we wish to make manifest that we will be compelled to file an administrative complaint against you before the Office of the Court Administrator as well as a criminal complaint for "**knowingly rendering an unjust judgment**" if you should persist in your stubborn actuation of implementing the writ of possession/writ of demolition against non-parties to the expropriation case.[37] (Bold in the original)

Furthermore, while Atty. Young alleged in his Comment that he had no intention to threaten Judge Macapagal in sending the subject letter, he also stated that she may be "stubbornly pursuing" the demolition operations "because of her desire to please and gratify" the Mayor of Parañaque City.[38] He also stated in his Comment that he sent the subject letter in order to "courteously warn" and prevent Judge Macapagal from "committing a judicial act which would be a transgression" of his clients' right to due process, and which would make her "truly vulnerable to criminal as well as administrative" complaints.[39] These statements, in the mind of the Court, indubitably demonstrate how Atty. Young had failed to observe the respect due to the Courts and to judicial officers. While he

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[36] *Id*. at 97.

[37] *Id*. at 3.

[38] *Id*. at 32.

[39] *Id*. at 31.

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denied in his motion for reconsideration that he criticized Judge Macapagal, the Court finds otherwise. In *Pantanosas, Jr. v. Pamatong*,[40] the Court reiterated that while lawyers have the right, both as officers of the court and as citizens, to criticize in properly respectful terms and through legitimate channels the acts of courts and judges, such criticisms, no matter how truthful, shall not spill over the walls of decency and propriety.[41]

Further, while the Court agrees with the Board that Atty. Young violated Canon 11 of the CPR, it deems it appropriate to lower the penalty to reprimand, considering that this is his first offense and in view of his advanced age.[42] In determining the penalty to be imposed, the Court considers the facts and factors which may serve as mitigating circumstances, such as the respondent's acknowledgment of his or her infractions and feeling of remorse, family circumstances, respondent's advanced age, humanitarian and equitable considerations, among others.[43]

WHEREFORE, the Court adopts and approves with modification the Resolution No. XXI-2014-832 dated October 11, 2014 of the IBP Board of Governors in CBD Case No. 12-3504. **Atty. Walter T. Young** is hereby adjudged **GUILTY** of violating Canon 11 of the Code of Professional Responsibility and he is hereby **REPRIMANDED** with a **STERN WARNING** that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Carpio, Senior Associate Justice (*Chairperson*), *Perlas-Bernabe, Reyes, J., Jr.,* and *Lazaro-Javier, JJ.,* concur.

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[40] 787 Phil. 86 (2016).

[41] *Id.* at 99-100.

[42] Atty. Young had been admitted to the Philippine Bar in 1981, as per his data in the Supreme Court lawlist, accessed at < http://sc. judiciary. gov.ph/lawlist/143525/ >.

[43] *Office of the Court Administrator v. Egipto, Jr.,* A.M. No. P-05-1938, January 30, 2018, 853 SCRA 339, 341, citing *Arganosa-Maniego v. Salinas*, 608 Phil. 334 (2009).