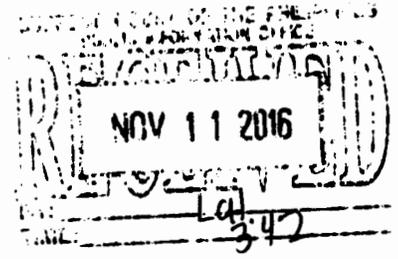




Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION



**DATU BUDENCIO E. DUMANLAG,**

Complainant,

- versus -

**ATTY. WINSTON B. INTONG,**  
 Respondent.

**A.C. No. 8638**

Present:

SERENO, C.J.,\*  
 LEONARDO-DE CASTRO,  
 Acting Chairperson,\*\*  
 BERSAMIN,  
 PERLAS-BERNABE, and  
 CAGUIOA, JJ.

Promulgated:

**OCT 10 2016**

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**RESOLUTION**

**PERLAS-BERNABE, J.:**

Before the Court is a complaint<sup>1</sup> 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.<sup>2</sup> On March 12, 2010, complainant received a letter<sup>3</sup> from respondent,<sup>4</sup> which is reproduced in full hereunder:

\* On official leave.  
 \*\* Per Special Order No. 2386 dated September 29, 2016.  
<sup>1</sup> *Rollo*, pp. 2-5.  
<sup>2</sup> *Id.* at 2.  
<sup>3</sup> *Id.* at 7.  
<sup>4</sup> See *id.* at 3.

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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 B. INTONG  
For and in behalf of Mr. & Mrs. Ajoc

Complainant took offense with the aforementioned 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."<sup>5</sup> To bolster his indignation, complainant cited Republic Act No. (RA) 8371,<sup>6</sup> 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

<sup>5</sup> Id. at 3.

<sup>6</sup> Entitled "AN ACT TO RECOGNIZE, PROTECT AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES, CREATING A NATIONAL COMMISSION ON MECHANISMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on October 29, 1997.

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<sup>7</sup> 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.”<sup>8</sup>

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 ₱10,000.00 was “very dear, very expensive,” and complainant could not afford the same.<sup>9</sup> 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,<sup>10</sup> 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<sup>11</sup> dated July 19, 2010, the Court required respondent to file his comment on the complaint, which he failed to do. Consequently, in a Resolution<sup>12</sup> 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 ₱1,000.00 upon respondent for his continued failure to comply with the directive to file comment.<sup>13</sup> However, respondent still failed to pay said fine,<sup>14</sup> or to file his comment. Thus, in a Resolution<sup>15</sup> dated July 1, 2013, the Court dispensed

<sup>7</sup> *Rollo*, pp. 11-12, including dorsal portions..

<sup>8</sup> See *id.* at 11, page 2 dorsal portion. See also *id.* at 3.

<sup>9</sup> See *id.* at 3.

<sup>10</sup> See *id.* at 3-4.

<sup>11</sup> *Id.* at 27. Signed by Clerk of Court Lucita Abjelina-Soriano.

<sup>12</sup> *Id.* at 29.

<sup>13</sup> See Resolution dated September 28, 2011; *id.* at 30.

<sup>14</sup> See Certification dated March 11, 2013; *id.* at 31.

<sup>15</sup> *Id.* at 34.

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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<sup>16</sup> directing the parties to submit their respective mandatory conference briefs. In compliance therewith, respondent filed his brief<sup>17</sup> 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";<sup>18</sup> 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.<sup>19</sup>

### The IBP's Findings

In his Report and Recommendation<sup>20</sup> dated May 27, 2014, the IBP-CBD Investigating Commissioner Cecilio 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."<sup>21</sup> 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.<sup>22</sup>

Be that as it may, Commissioner Villanueva recommended<sup>23</sup> 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

<sup>16</sup> Id. at 36. Signed by Commissioner Cecilio A. C. Villanueva.

<sup>17</sup> See Respondent's Brief dated March 5, 2014; id. at 37-41.

<sup>18</sup> Id. at 39.

<sup>19</sup> Id. at 39-40.

<sup>20</sup> Id. at 55-60.

<sup>21</sup> Id. at 59.

<sup>22</sup> Id. at 59-60.

<sup>23</sup> Id. at 60.

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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.<sup>24</sup>

On April 19, 2015, the IBP Board of Governors issued a Resolution<sup>25</sup> 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.**<sup>26</sup>

Thereafter, the IBP forwarded the case to the Court as provided under Rule 139-B, Section 12 (b)<sup>27</sup> of the Rules of Court.<sup>28</sup>

### 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.<sup>29</sup> 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.<sup>30</sup> 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.

<sup>24</sup> Id. at 57-58.

<sup>25</sup> See Notice of Resolution of Resolution No. XXI-2015-317 signed by National Secretary Nasser A. Marohomsalic; id. at 53-54.

<sup>26</sup> See id. at 53.

<sup>27</sup> Section 12. *Review and decision by the Board of Governors.* – x x x.

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

x x x x

<sup>28</sup> *Rollo*, p. at 51.

<sup>29</sup> *Aba v. De Guzman, Jr.*, 678 Phil. 588, 599-600 (2011).

<sup>30</sup> See *Balistoy v. Bron*, A.C. No. 8667, February 3, 2016, citing *Aba v. De Guzman, Jr.*, id. at 600.

Respondent described said letter in the opening paragraph as a “letter request for [complainant’s] presence.”<sup>31</sup> 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.”<sup>32</sup> As aptly pointed out by Commissioner Villanueva in his Report and Recommendation, the letter was “carefully worded, done in a respectful manner.”<sup>33</sup> 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, Canon 1 of the Code of Professional Responsibility (CPR), “[a] lawyer shall encourage his clients to avoid, end or settle a controversy if it will admit of a fair settlement.” There was nothing wrong, therefore, with respondent’s efforts to set up a conference between complainant and his clients.

With respect to the claim of exorbitant notarization fees, the same deserves scant consideration in view of complainant’s failure to offer corroborative proof to support his bare allegations. While a lawyer is mandated under Canon 20 of the CPR to charge only fair and reasonable fees, and that he may be penalized, even disbarred or suspended from his office as an attorney for breach of the ethics of the legal profession as embodied in the CPR,<sup>34</sup> such violation must be established by clear, convincing and satisfactory proof, which was not done in this case.

Respondent cannot, however, escape accountability for his repetitive disregard of the resolutions of the Court requiring him to file his comment to the complaint and to pay the fine imposed upon him for his failure to do so. As correctly pointed out by Commissioner Villanueva, the Court issued three resolutions dated July 19, 2010, March 9, 2011, and September 28, 2011, requiring respondent to file his comment, to show cause for his failure to file, and to pay a fine of ₱1,000.00 for such failure. But all three were left unheeded. Respondent ought to know that orders of the court are “not mere requests but directives which should have been complied with promptly and completely.” “He disregarded the oath he took when he was accepted to the legal profession ‘to obey the laws and the legal orders of the duly constituted legal authorities.’ x x x His conduct was unbecoming of a lawyer who is called upon to obey court orders and processes and is expected to stand foremost in complying with court directives as an officer of the court,”<sup>35</sup> pursuant to Canon 11 of the CPR, which mandates that “[a] lawyer shall observe and maintain the respect due to the courts and to judicial officers x x x.”

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<sup>31</sup> *Rollo*, p. 7.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 59.

<sup>34</sup> *Foster v. Agtang*, A.C. No. 10579, December 10, 2014, 744 SCRA 242, 261.

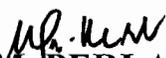
<sup>35</sup> *Andres v. Nambi*, A.C. No. 7158, March 9, 2015, 752 SCRA 110, 118; citations omitted.

It has been stressed that the determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion. The penalties for a lawyer's failure to file a brief or other pleading range from reprimand, warning with fine, suspension, and, in grave cases, disbarment.<sup>36</sup> In the present case, the Court finds too harsh the recommendation of the IBP Board of Governors that respondent be suspended from the practice of law for a period of six months. After all, respondent did file his mandatory conference brief before the IBP where he cited the Resolution dated July 19, 2010 of the Court, requiring him to file his comment to the complaint. He also attended the mandatory conference/hearing scheduled by the IBP, although he failed to file his position paper despite the directive to do so. Under the circumstances, and considering that this appears to be respondent's first infraction, the Court finds it proper to reprimand him with warning that commission of the same or similar infraction will be dealt with more severely. This is consistent with the ruling in the recent case of *Andres v. Nambi*,<sup>37</sup> where respondent therein was found to have ignored the Court's resolution directing him to file comment, and to have failed to attend the mandatory conference before the IBP Commission on Bar Discipline despite notice, as well as to file his position paper. Since it was also his first infraction, respondent therein was merely reprimanded by the Court, as in this case.

**WHEREFORE**, the Court **REPRIMANDS** respondent Atty. Winston B. Intong (respondent) for refusing to obey lawful orders of the Court and the Integrated Bar of the Philippines, with a warning that a repetition of the same or similar act or offense shall be dealt with more severely.

Let a copy of this Resolution be furnished the Office of the Bar Confidant to be appended to respondent's personal record as a member of the Bar.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

On Official Leave  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

<sup>36</sup> *Enriquez v. Lavadia, Jr.*, A.C. No. 5686, June 16, 2015, 757 SCRA 587, 598-599; citation omitted.

<sup>37</sup> *Supra* note 35.

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chief Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Alfredo Benjamin S. Caguioa*  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice