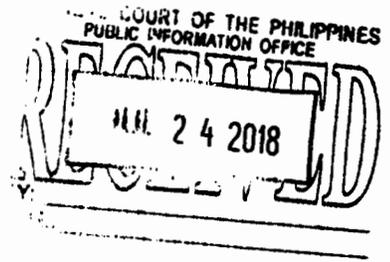




Republic of the Philippines  
 Supreme Court  
 Manila



FIRST DIVISION

**PHENINAH\* D.F. WASHINGTON,**  
*Complainant,*

**A.C. No. 12137**

Present:

LEONARDO-DE CASTRO,  
*Acting Chairperson,\*\**  
 DEL CASTILLO,  
 JARDELEZA,  
 TIJAM, *and*  
 GESMUNDO,\*\*\* *JJ.*

- versus -

**ATTY. SAMUEL D. DICEN,**  
*Respondent.*

Promulgated:  
**JUL 09 2018**

x ----- 

**RESOLUTION**

**DEL CASTILLO, J.:**

This administrative case is rooted on a Letter-Complaint<sup>1</sup> dated September 21, 2015 filed by Pheninah D.F. Washington (complainant) against respondent Atty. Samuel D. Dicen (Atty. Dicen) for “unethical practice of law, [and] abuse of [the] privilege and power vested upon him as a lawyer.”<sup>2</sup>

***The Antecedent Facts***

In her Letter-Complaint, complainant alleged that on August 14, 2015, she went to her house in Dumaguete City, then occupied by the family of her niece, Roselyn R. Toralde (Roselyn), in order to perform necessary repairs thereon after discovering that said house was in a dilapidated state and badly infested by termites.<sup>3</sup> The repairs, however, did not push through as planned because the police arrived in the premises and arrested complainant and her companions.<sup>4</sup>



\* Referred to as “Pheninahn” and “Penny” in some parts of the records.  
 \*\* Per Special Order No. 2559 dated May 11, 2018.  
 \*\*\* Per Special Order No. 2560 dated May 11, 2018.  
<sup>1</sup> *Rollo*, pp. 13-16.  
<sup>2</sup> *Id.* at 13.  
<sup>3</sup> *Id.* at 14.  
<sup>4</sup> *Id.* at 14-15.

Complainant claimed that it was Atty. Dicen, Roselyn's uncle and her first cousin, who had ordered her to be arrested for trespassing even though she was the lawful owner of the property in question.<sup>5</sup>

In his defense, Atty. Dicen strongly denied that he had given the police officers an order to arrest complainant, as he had no power or authority to do so.<sup>6</sup> He argued that complainant was arrested after she was caught in *flagrante delicto* committing acts of coercion by removing the G.I. sheet roofing of Roselyn's house to force the latter and her family to move out.<sup>7</sup>

### ***The IBP's Report and Recommendation***

In its Report and Recommendation<sup>8</sup> dated January 20, 2017, the Integrated Bar of the Philippines (IBP) – Commission on Bar Discipline (CBD), through Commissioner Jose Alfonso M. Gomos, found no merit in the allegations of unethical practice of law against Atty. Dicen. Nevertheless, it recommended that Atty. Dicen be **admonished** “to be gracious, courteous, dignified, civil and temperate (*even if forceful*) in his language.”<sup>9</sup>

The IBP pointed to: (a) Atty. Dicen's Manifestation<sup>10</sup> dated October 19, 2016 where he described complainant's actions as having “no sane purpose,”<sup>11</sup> and meant only to “satisfy her crazy quest for revenge,”<sup>12</sup> and even characterized complainant as a “lunatic;”<sup>13</sup> and (b) Atty. Dicen's Position Paper<sup>14</sup> dated November 28, 2016 where he stated:

It is the observation of the respondent that complainant is no longer thinking on her own but has become fixated on her illicit and immoral, if not adulterous relationship with her ex-husband, Martin Vince, (while current husband is in the [United States] reportedly recuperating from a surgery), a foreigner who by the latter's manipulation caused her to be estranged from the entire Flores-Dicen clan.<sup>15</sup>



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<sup>5</sup> Id.

<sup>6</sup> Id. at 274.

<sup>7</sup> Id. at 275.

<sup>8</sup> Id. at 307-315.

<sup>9</sup> Id. at 315.

<sup>10</sup> Id. at 207-208.

<sup>11</sup> Id. at 208.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id. at 273-277.

<sup>15</sup> Id. at 276.

The IBP thus concluded that Atty. Dicen had failed to adhere to the duty imposed upon lawyers not to use language “which is abusive, offensive or otherwise improper.”<sup>16</sup> It noted that Atty. Dicen’s use of offensive language “and his resort to gossip to prove a point, fell short of the gracious, gentlemanly, courteous, dignified, civil and temperate (*even if forceful*) language required of him as a lawyer.”<sup>17</sup>

The IBP Board of Governors, in its Resolution No. XXII-2017-1185<sup>18</sup> dated June 17, 2017, resolved to adopt and approve the January 20, 2017 Report and Recommendation of the IBP-CBD to admonish Atty. Dicen.

### The Issue

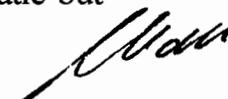
The issue for the Court’s resolution is whether Atty. Dicen should be held administratively liable for violating Rule 8.01, Canon 8 of the Code of Professional Responsibility (CPR) for his use of intemperate language in his pleadings.

### The Court’s Ruling

The Court has examined the records of this case and concurs with the findings and recommendations of the IBP Board of Governors.

“The practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality. *Any* violation of these standards exposes the lawyer to administrative liability.”<sup>19</sup>

Canon 8 of the CPR, in particular, instructs that a lawyer’s arguments in his pleadings should be *gracious* to both the court and his opposing counsel, and must be of such words as may be properly addressed by one gentleman to another.<sup>20</sup> “The language vehicle does not run short of expressions which are emphatic but respectful, convincing but not derogatory, illuminating but not offensive.”<sup>21</sup>



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<sup>16</sup> Id. at 314.

<sup>17</sup> Id.

<sup>18</sup> Id. at 305.

<sup>19</sup> *Atty. Barandon, Jr. v. Atty. Ferrer, Sr.*, 630 Phil. 524, 530 (2010). Italics supplied.

<sup>20</sup> *Atty. Torres v. Atty. Javier*, 507 Phil. 397, 408-409 (2005).

<sup>21</sup> Id. at 409.

Rule 8.01, Canon 8 of the CPR provides:

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

A thorough review of the records clearly shows that Atty. Dicen had resorted to the use of *derogatory* language in his pleadings filed before the IBP in order to rebut the allegations hurled against him.

For instance, in his Manifestation<sup>22</sup> dated October 19, 2016, Atty. Dicen referred to complainant as a “lunatic” who was on a “crazy quest for revenge” against him, *viz.*:

That evidently, if this affidavit has also been filed with this Honorable Commission, the purpose can only be to misle[a]d and muddle its findings of facts; otherwise, then it has **no sane purpose** except to persecute respondent and satisfy her **crazy quest for revenge** against respondent who she wants to answer for her arrest and detention when she was caught by police officers in the act of demolishing the house of her niece, Roselyn Toralde;

That these puzzling moves of the complainant, *i.e.*, demolishing (against the advice of her counsel) the house of her niece to evict her despite the pendency of an unlawful detainer case and the filing of an administrative case before [the] IBP x x x because she was unlawfully arrested and detained by the police for her attempt at demolishing a house appear to be **lunatic**; x x x <sup>23</sup> (Emphasis supplied)

In the same pleading, Atty. Dicen also called complainant “a puppet and a milking cow” of a certain Martin, who he suggested was complainant’s lover in the Philippines while her husband was in the United States:

That[,] in fact[,] this [sic] puzzling acts of complainant finds some rationality if eyes are set beyond the complainant and focus[ed] on the man that has made her **a puppet and a milking cow.**

This man is a certain Martin, a foreigner, [living] with her in her “home alone” while her husband is in the U.S. reportedly recuperating from some surgery. Since then[,] complainant has become aggressive in pursuing her vendetta against all her siblings and relatives for imagined ungrateful acts,



<sup>22</sup> *Rollo*, pp. 207-208.

<sup>23</sup> *Id.* at 208.

claiming that their lives have become better because of her, and therefore should kowtow to her every whims and caprices.<sup>24</sup>

To make matters worse, Atty. Dicen continued his personal tirades against complainant in his Position Paper<sup>25</sup> dated November 28, 2016 where he stated that:

It is the observation of the respondent that complainant is **no longer thinking on her own** but has become **fixated on her illicit and immoral, if not adulterous[,] relationship** with her ex-husband, Martin Vince, (while current husband is in the [United States] reportedly recuperating from a surgery), a foreigner who[,] by the latter's manipulation[,] caused her to be estranged from the entire Flores-Dicen Clan.

Blinded by manipulative lover[,] Martin[,] she had become **so hostile and unreasonable**, if not **unchristian[,]** to her relatives who are members of the Seventh-Day Adventist Church. x x x<sup>26</sup> (Emphasis supplied)

The totality of these circumstances leads the Court to inevitably conclude that Atty. Dicen violated Rule 8.01, Canon 8 of the CPR for his use of language that not only **maligned complainant's character**, but also **imputed a crime against her**, *i.e.*, that she was committing *adultery* against her husband who was, at the time, living in the United States.

Indeed, Atty. Dicen could have simply stated the ultimate facts relative to complainant's allegations against him, explained his participation (or the lack of it) in the latter's arrest and detention, and refrained from resorting to name-calling and personal attacks in order to get his point across. After all, "[t]hough a lawyer's language may be forceful and emphatic, **it should always be dignified and respectful**, befitting the dignity of the legal profession. The use of intemperate language and unkind ascriptions has no place in the dignity of judicial forum."<sup>27</sup>

**WHEREFORE**, respondent Atty. Samuel D. Dicen is found **GUILTY** of violating Rule 8.01, Canon 8 of the Code of Professional Responsibility. He is hereby **ADMONISHED** to refrain from using language that is abusive, offensive or otherwise improper in his pleadings, and is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.



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<sup>24</sup> Id.

<sup>25</sup> Id. at 273-277.

<sup>26</sup> Id. at 276.

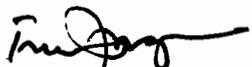
<sup>27</sup> *Spouses Nuezca v. Atty. Villagarcia*, 792 Phil. 535, 540 (2016).

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*  
*Acting Chairperson*

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

  
**NOEL GIMENEZ TIJAM**  
*Associate Justice*

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*