

EN BANC

A.C. No. 10372 – AURORA R. LADIM, ANGELITO A. ARDIENTE, and
DANILO S. DELA CRUZ, *complainants, versus* ATTY. PERLA D.
RAMIREZ, *respondent*.

Promulgated:

February 21, 2023

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CONCURRING AND DISSENTING OPINION

CAGUIOA, J.:

The *ponencia* disbars respondent Atty. Perla D. Ramirez (Atty. Ramirez) for violating the Lawyer's Oath and Rule 7.03, Rule 8.01, and Rule 11.03 of the Code of Professional Responsibility¹ (CPR). The penalty of disbarment is imposed because Atty. Ramirez maligned and insulted the former Bar Confidant, Atty. Cristina B. Layusa (Atty. Layusa), in the confines of her own office. Atty. Ramirez also ignored the resolutions of the Court directing her to Comment on the Incident Report of the Office of the Bar Confidant (OBC) dated March 16, 2017; neither did she express any remorse from the said incident. Hence, in consideration of her previous infraction where she was suspended for six months, the *ponencia* holds that the imposition of the penalty of disbarment is warranted since "she continues to show offensive behavior"² despite the prior warning against the repetition of the same or similar acts.³

While I agree that Atty. Ramirez should be disciplined for hurling insults at Atty. Layusa, I dissent from the majority's decision to impose the penalty of disbarment. With due respect, the penalty of a three-year suspension from the practice of law is more appropriate than disbarment, which is too harsh a penalty.

It is settled that the appropriate penalty to be imposed on an erring lawyer involves the exercise of sound judicial discretion based on the facts of the case.⁴ In the exercise of this discretion, the Court is reminded that:

x x x Disbarment should never be decreed where any lesser penalty could accomplish the end desired. Undoubtedly, a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most

¹ *Ponencia*, p. 15.

² *Id.* at 14.

³ *Id.*

⁴ *Mitchell v. Amistoso*, A.C. No. 10713, September 8, 2020, 950 SCRA 65, 74-75.



severe forms of disciplinary action and their consequences are beyond repair.⁵

Here, there is no dispute that Atty. Ramirez insulted Atty. Layusa on March 15, 2017 when she followed up on the status of her request to lift the suspension order with the OBC. Despite the forbearance of Atty. Layusa in explaining the requirements for lifting her suspension from the practice of law, Atty. Ramirez hurled invectives and used abusive language while transacting with the OBC. Furthermore, she neglected to comply with the directives of the Court when: (1) she insisted on the lifting of the suspension order through a letter, instead of submitting the requirements therefor; and (2) she failed to comment on the OBC's Incident Report dated March 16, 2017, even though the Court directed her to do so in its April 19, 2017 Resolution and January 29, 2018 Resolution.

Be that as it may, the Court has often adhered to the principle that the penalty of disbarment should be exercised in the preservative, and not on the vindictive principle. In similar cases where errant lawyers insulted another, or used offensive and abusive language, whether in their personal dealings or in their pleadings, the Court has stayed its hand in imposing the most severe penalty of disbarment.

For instance, in *Washington v. Dicen*,⁶ the Court only admonished the lawyer who repeatedly used abusive language in his pleadings, which included personal tirades against the complainant therein.⁷ Meanwhile, in another case where a lawyer personally attacked the mental fitness of his opposing counsel, the Court suspended the errant lawyer from the practice of law for one month.⁸

In *Bautista v. Ferrer*⁹ (*Bautista*), a case cited in the *ponencia*, therein respondent lawyer was suspended from the practice of law for a period of one year for her offensive language and intimidating conduct. The period of suspension was conspicuously longer than other cases involving the lone complaint of abusive and intemperate language, as the Court in *Bautista* took into consideration other violations of the CPR on the part of therein respondent, which include withholding the personal property of another person, and the use of therein respondent's public position to promote or advance her personal interests.

Similarly, the errant lawyer in *Gimeno v. Zaide*¹⁰ was also suspended from the practice of law for one year. Therein respondent not only used intemperate, offensive, and abusive language in his professional dealings, but

⁵ *Francia v. Abdon*, 739 Phil. 299, 311-312 (2014).

⁶ 835 Phil. 837 (2018).

⁷ *Id.* at 842. The Court ruled in a similar manner in *Parks v. Misa, Jr.*, A.C. No. 11639, February 5, 2020, 931 SCRA 249, 255-256.

⁸ *Torres v. Javier*, 507 Phil. 397 (2005).

⁹ A.C. No. 9057, July 3, 2019, 907 SCRA 205, cited in the *ponencia*, p. 11.

¹⁰ 759 Phil. 10 (2015).

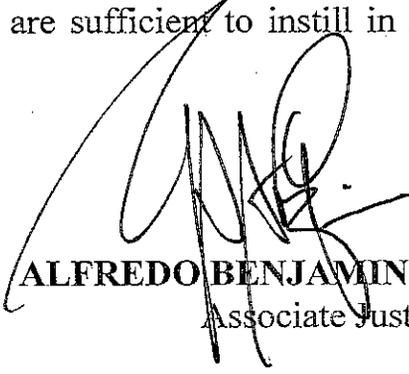


also represented conflicting interests and violated the 2004 Rules on Notarial Practice.

At this juncture, it must be pointed out that *Nava II v. Artuz*¹¹ (*Nava II*), which the *ponencia* cites to support the imposition of the penalty of disbarment against Atty. Ramirez, is not on all fours with this case. Therein respondent was a Presiding Judge of the Municipal Trial Court in Cities, who made deliberate and false declarations in her Personal Data Sheet. In particular, she failed to declare the pending cases against her to make it appear that she was qualified for a judgeship position. She was accordingly dismissed from the service after being found guilty of Grave Misconduct, Dishonesty, and Falsification, and was directed to show cause why she should not be disbarred for these same acts. In the course of the disbarment proceeding in *Nava II*, the Court found that therein respondent also maligned, insulted, and scorned therein complainant's father. The Court thus ruled that such actions, **in addition to her dishonesty**, were sufficient to justify the disbarment of therein respondent.

Unlike the case of *Nava II*, it is evident that the penalty of suspension would suffice for the misconduct of Atty. Ramirez. Although Atty. Ramirez was previously disciplined for her incorrigible behavior, I respectfully submit that disbarment is still excessive, which should be reserved for the most depraved behavior. Following the Court's rulings on similar cases, the less severe penalty of suspension achieves the ends of the disciplinary proceeding — to penalize an erring lawyer and to preserve the integrity of the legal profession.

All told, I **DISSENT** from the majority's decision to disbar Atty. Ramirez. In my view, denying the lifting of the suspension order until she complies with the requirements, and the imposition of an additional period of suspension for three (3) years are sufficient to instill in Atty. Ramirez the gravity of her misdeeds.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

¹¹ A.C. No. 7253 and A.M. No. MTJ-08-1717, February 18, 2020, 932 SCRA 401.