



Republic of the Philippines  
**Supreme Court**  
 Manila

EN BANC

**PHILIPPINE NATIONAL BANK,**    **A.C. No. 8067**  
 Complainant,

Present:

GESMUNDO, *CJ*,  
 LEONEN,  
 CAGUIOA,\*  
 HERNANDO,  
 LAZARO-JAVIER,  
 INTING,  
 ZALAMEDA,  
 LOPEZ, M.,  
 GAERLAN,  
 ROSARIO,  
 LOPEZ, J.,  
 DIMAAMPAO,  
 MARQUEZ,  
 KHO, JR., and  
 SINGH, *JJ*.

-versus-

**ATTY. HENRY S. OAMINAL,**  
 Respondent.

**Promulgated:**  
 March 14, 2023

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**RESOLUTION**

**LEONEN, *J.*:**

This Court resolves a Verified Complaint for Disbarment<sup>1</sup> filed by Philippine National Bank against Atty. Henry S. Oaminal (Atty. Oaminal) for

\* No part.

<sup>1</sup> *Rollo*, pp. 1-17.

violating Canon 11 and Rule 11.03 of the Code of Professional Responsibility by engaging in menacing behavior.

The facts are not disputed.

Philippine National Bank filed a complaint against Atty. Oaminal for six counts of violation of Batas Pambansa Blg. 22 and six counts of estafa. After preliminary investigation, six Informations for violation of Batas Pambansa Blg. 22 were filed against Atty. Oaminal before the Municipal Trial Court of Ozamis City.<sup>2</sup>

Atty. Oaminal and his wife subsequently filed a case against Philippine National Bank for accounting, annulment of real estate mortgage with damages and prayer for a writ of preliminary injunction. In response, Philippine National Bank accused Atty. Oaminal for making false statements in his complaint. Thus, two Informations for perjury against him were filed in court. The eight criminal cases were thereafter raffled to different courts.<sup>3</sup>

Atty. Oaminal moved for the inhibition of the judges handling the cases against him, and two judges granted his motions for inhibition.<sup>4</sup> All eight cases were eventually raffled to Judge Rico A. Tan (Judge Tan).<sup>5</sup>

He also moved for the inhibition of Judge Tan due to the pending administrative case<sup>6</sup> for gross ignorance of the law and manifest bias that he filed against Judge Tan, but his motion was denied on July 28, 2008. That same day, Judge Tan issued a warrant for Atty. Oaminal's arrest for his failure to appear at his scheduled arraignment.<sup>7</sup>

Atty. Oaminal then filed An Urgent Omnibus Motion for the Recall of Order and/or Issued Warrant of Arrest and Order for Forfeiture of the cash Bond; and Denial of the Inhibition.<sup>8</sup>

On August 1, 2008, during the scheduled motion hearing, Atty. Oaminal arrived at the courtroom accompanied by Clarin, Misamis Occidental Mayor David Navarro (Mayor Navarro), and the mayor's five armed bodyguards. Mayor Navarro was the nephew of Atty. Oaminal's wife and was not a party to the case.<sup>9</sup>

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<sup>2</sup> *Id.* at 291.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 180.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 100-109.

<sup>7</sup> *Id.* at 22.

<sup>8</sup> *Id.* at 21.

<sup>9</sup> *Id.*

The five bodyguards refused to deposit their firearms and sat by the courtroom door, positioning themselves within Judge Tan's line of vision and observing the hearing.<sup>10</sup>

On August 5, 2008,<sup>11</sup> Judge Tan set aside the July 28, 2008 Order and cancelled the warrant of arrest against Atty. Oaminal. However, he noted how the presence of the armed bodyguards during the motion hearing "drastically changed" the court's atmosphere and caused him great stress, which was dangerous for him because of his heart issues.<sup>12</sup> The dispositive portion of the Order reads:

WHEREFORE, in light of the foregoing, the Court hereby sets aside its Order dated July 28, 2008.

SO ORDERED.<sup>13</sup>

The next day, Judge Tan voluntarily inhibited himself from hearing all criminal cases against Atty. Oaminal,<sup>14</sup> citing his health condition, as well as the presence of the armed men in court, as his reasons for inhibition. He also recommended the transfer of venue, ideally in Manila.<sup>15</sup> The dispositive portion of the August 5, 2008 Order reads:

WHEREFORE, the Presiding Judge voluntarily inhibits himself from hearing these (2) cases of perjury and six (6) cases for Violation of Batas Pambansa Blg. 22, against Atty. Henry S. Oaminal.

Let a copy of this Order of Inhibition be forwarded to the Honorable Court Administrator, Supreme Court, Manila, for appropriate action.

With this unbecoming behavior of Atty. Henry S. Oaminal, showed to the Presiding Judge, it is most respectfully and highly recommended to transfer its venue of all the eight (8) cases preferably in Manila, so that the accused could no longer do what he did to the three Judges here in Ozamiz City, as the three (3) MTCC Judges had already inhibited themselves at the instance of Atty. Oaminal, without mentioning that the cases against him had been dragged for six (6) years now, which cases are only governed by Summary Procedure.

SO ORDERED.<sup>16</sup>

On August 7, 2008,<sup>17</sup> Judge Tan wrote to Court Administrator Jose P. Perez to explain his voluntary inhibition and repeated his recommendation to

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 21–23. The August 4, 2008 Order in Crim. Case No. 7032-MTC was penned by Presiding Judge Rico A. Tan of Branch 3, Municipal Trial Court, Ozamiz City.

<sup>12</sup> *Id.* at 22.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 178–179.

<sup>15</sup> *Id.* at 179.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 180–182.

transfer venue to Manila due to the “harassment and a constructive threat”<sup>18</sup> against the three Municipal Trial Court in Cities judges of Ozamiz City.

In our August 24, 2009 Resolution, this Court granted Judge Tan’s request and transferred the venue of the criminal cases to Quezon City.<sup>19</sup>

Meanwhile, on November 6, 2008, Philippine National Bank filed a Verified Complaint<sup>20</sup> asking that Atty. Oaminal be disbarred for what transpired during the hearing on the Omnibus Motion.

In his Comment, Atty. Oaminal averred that although two judges had inhibited themselves from hearing the cases against him, and notwithstanding that, he had sought the inhibition of one of the judges, which they inhibited themselves voluntarily and not upon his motion.<sup>21</sup> He claimed that he had prayed for Judge Tan to inhibit from hearing the case because of the pending administrative case that he had filed against the judge.<sup>22</sup> Moreover, he insisted he did not attempt to threaten Judge Tan<sup>23</sup> and that he could not be blamed for what Judge Tan claims to have felt when Mayor Navarro attended the proceedings.<sup>24</sup>

He asserts that Mayor Navarro’s attendance in court was unplanned, as Atty. Oaminal only happened to run into him in the hall of justice by chance. The armed men were police-security aides and were present only to protect Mayor Navarro. They did not enter the courtroom, but only sat outside near the courtroom’s door.<sup>25</sup> Further, despite having the power to ask Mayor Navarro leave the courtroom, Judge Tan allowed him to stay, and at the time, he did not seem bothered by Mayor Navarro’s presence.<sup>26</sup>

In a Report and Recommendation<sup>27</sup> dated July 18, 2011, the Commission on Bar Discipline of the Integrated Bar of the Philippines found Judge Tan’s narration of events credible and held that Atty. Oaminal breached his duties as a lawyer. Accordingly, it recommended that Atty. Oaminal be suspended from the practice of law for one year.<sup>28</sup> The Board of Governors of the Integrated Bar of the Philippines adopted and approved the

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<sup>18</sup> *Id.* at 181.

<sup>19</sup> *Id.* at 191–192.

<sup>20</sup> *Id.* at 1.

<sup>21</sup> *Id.* at 57.

<sup>22</sup> *Id.* at 59–60.

<sup>23</sup> *Id.* at 64.

<sup>24</sup> *Id.* at 69.

<sup>25</sup> *Id.* at 64.

<sup>26</sup> *Id.* at 62 and 64.

<sup>27</sup> *Id.* at 291–294. The July 18, 2011 Report and Recommendation in CBD/AC No. 8067 was penned by Commissioner Oliver A. Cachapero of the Commission on Bar Discipline, Integrated Bar of the Philippines.

<sup>28</sup> *Id.* at 294.

recommendations of the investigating commissioner, with the modification that Atty. Oaminal only be admonished.<sup>29</sup>

Atty. Oaminal filed a Verified Motion for Reconsideration.<sup>30</sup> After an exchange of pleadings, he filed a Manifestation and Motion dated October 29, 2014, stating that Philippine National Bank had filed a complaint against him and Mayor Navarro for violation of Section 3(a), Republic Act No. 3019, as well as for grave threats and grave coercion under the Revised Penal Code, and pointing out that said complaint had been dismissed by the Ombudsman for lack of merit in a Resolution dated January 25, 2013.<sup>31</sup>

The Board of Governors granted Atty. Oaminal's motion for reconsideration in its June 7, 2015 Resolution,<sup>32</sup> and dismissed the complaint against him. However, the explanation for dismissing the complaint came more than a year later, in a November 11, 2016, Extended Resolution,<sup>33</sup> which noted the Office of the Ombudsman's January 25, 2013 Resolution,<sup>34</sup> finding there was no showing that Atty. Oaminal was responsible for any possible menacing effect that the presence of armed men may have had on Judge Tan. The Board of Governors agreed that the evidence was insufficient to establish Atty. Oaminal's responsibility, as what transpired in court was based only on Judge Tan's narration.<sup>35</sup>

The issue for this Court's resolution is whether the evidence presented sufficiently established respondent Atty. Henry S. Oaminal's responsibility for what transpired in court.

This Court reverses the Extended Resolution of the Integrated Bar of the Philippines Board of Governors.

Canon 11 of the Code of Professional Responsibility and its Rules provide:

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.

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<sup>29</sup> *Id.* at 290.

<sup>30</sup> *Id.* at 295.

<sup>31</sup> *Id.* at 394.

<sup>32</sup> *Id.* at 386.

<sup>33</sup> *Id.* at 388–401. The November 11, 2016 Extended Resolution in Adm. Case No. 8067 was penned by Deputy Director Avelino V. Sales, Jr. on Commission on Bar Discipline, Integrated Bar of the Philippines.

<sup>34</sup> *Id.* at 367–381. The January 25, 2013 Resolution in OMB-M-C-09-0223-E was penned by Graft Investigation and Prosecution Officer II Samuel P. Naungayan and reviewed by Director IV Maria Corazon A. Arancon and Assistant Ombudsman Rodolfo M. Elman, CESO III; Recommended disapproval by Deputy Ombudsman for Mindanao Humphrey T. Monteroso; and Approved by Ombudsman Conchita Carpio Morales of the Office of the Ombudsman, Mindanao.

<sup>35</sup> *Id.* at 398.

RULE 11.01 A lawyer shall appear in court properly attired.

RULE 11.02 A lawyer shall punctually appear at court hearings.

RULE 11.03 A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

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

RULE 11.05 A lawyer shall submit grievances against a Judge to the proper authorities only.

Canon 11 requires not only that lawyers observe the respect due to courts, but also that they try to maintain this respect, insisting on similarly proper conduct from others.

Direct evidence that respondent asked Mayor Navarro to bring armed men with him to court to intimidate Judge Tan is unnecessary to find respondent responsible for Mayor Navarro's presence in court and what transpired that day. Given the particular circumstances of this case and especially given that respondent was seeking Judge Tan's inhibition, the intimidation was clear. There was no reason for Mayor Navarro to be present in the courtroom that day and any lawyer should have been aware of the effect of bringing a mayor and his armed security to court.

Respondent insists that he should not be held accountable for the acts of others or the feelings of Judge Tan. He disclaims responsibility for Mayor Navarro accompanying him. He maintains that the fear and intimidation felt by Judge Tan is a state of mind that is hard to prove and even more difficult for respondent to disprove.<sup>36</sup> He points out that at the time of the incident, Judge Tan did not manifest any signs of intimidation. Moreover, neither Mayor Navarro nor his security personnel performed any overt act in order to intimidate Judge Tan<sup>37</sup> and there is nothing on the record to support the allegation that Judge Tan felt intimidated at the time.<sup>38</sup> Respondent stresses that if Judge Tan felt intimidated, this was the product of a "wild and fertile imagination."<sup>39</sup> He claims that no unlawful acts can be imputed against him without any evidentiary support.<sup>40</sup>

As to the fact of intimidation, this Court is inclined to give weight to Judge Tan's narration of what transpired and how he felt at the time. As pointed out in the Integrated Bar of the Philippines' first Resolution,

... [T]he reliability of the judge's narration of the incident is underscored

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<sup>36</sup> *Id.* at 305.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 207.

<sup>40</sup> *Id.* at 306.

by the urgency with which the judge had acted on the matter. He daringly issued his orders a few days after the hearing on August 1, 2008. He wrote a letter to the Supreme Court Administrator and gave details of how Respondent had succeeded in intimidating him or bullying him. The undersigned does not see malice in the conduct of the judge. It was simply out of character for a judge who is sickly and weary to have made up his story or presented trumped up charges against a lawyer knowing that it could cost him his lofty job and more importantly his reputation.<sup>41</sup>

We quote with approval the First Resolution's appreciation of events:

To stress, Mayor David Navarro of Clarin, Misamis Oriental with armed bodyguards in tow, came into the courtroom ostensibly with no other purpose but to lend support to Respondent Oaminal. Respondent failed to adduce evidence to prove that the Mayor attended a hearing of which he or the municipality he represents is a party either as a litigant himself or witness. Also he did not present proof that he had other interest/s in a case or cases which were set to be heard that day. On this aspect, it would have been convenient for him to have included an explanation in his pleadings that the Mayor had a legitimate purpose which was why he was there. But he failed and his failure certainly evokes the view that he was there to lend assistance to the odious plan of the Respondent.

Respondent maintains a close affinity with the Mayor and this offers hint of Respondent's wilful (sic) authorship or complicity of the latter's premeditated presence inside the courtroom. In the letter of Judge Tan to Honorable Jose Perez, then the Supreme Court Administrator, the judge indicated that Mayor Navarro is the nephew-in-law of Respondent. This did not invite any disclaimer from Respondent and its reliability is thus established.

Respondent's vehement denial of the Judge's or the Complainant's accusation is seen as fallacious and lost in the enormous and overriding effect of the observation or account of the judge which was contained in his orders of August 4, 2008, August 5, 2008 and in his letter of August 7, 2008. The judge's revelation is just too credible to be ignored. In contrast the Respondent gave her (sic) own account of what happened but this obviously was self-serving and not convincing. He had the motive to do as he did. A warrant for his arrest had been issued and the forfeiture of his bond had been ordered by the judge. Also, the same judge had denied his earlier motion for inhibition. In his pleadings, he displayed his raucous treatment to the Judge and was vocal in his accusation that the latter was partial to him (sic). Clearly Respondent bore a grudge against the judge for his perceived bias against him in his handling of his case.<sup>42</sup> (Citations omitted)

Thus, this Court finds that Judge Tan was, in fact, intimidated and agrees that respondent had the intention to intimidate him.

Canon 11 pertains not only to one's own respectful conduct, but to such circumstances tending to show respect to the courts, as well as the insistence

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<sup>41</sup> *Id.* at 294.

<sup>42</sup> *Id.* at 293-294.

that others display similar conduct. We find occasion to invoke this here because a lawyer should be accountable for his own acts.

In this case, the intimidation resulted from the respondent's own acts, and the intent to intimidate was clear. Just a moment's reflection should have led respondent to realize the impropriety of allowing Mayor Navarro to accompany him to court. This is obvious, given that: (1) respondent had already attempted to have the judge inhibit himself and had even filed an administrative complaint against him; and (2) it is common knowledge that judges face risks to their safety. Indeed, in 2004, this Court responded to a position paper on continuing assassinations/intentional killings of judges while in the performance of their duties and implemented certain measures in recognition of these risks to better allow a judge to protect themselves. Respondent's choice of companion was no less than a highly-placed local government official who had with him armed men, and who was respondent's family member, by affinity.

Intimidation, or the threat of intimidation, upon those positioned to decide on controversies, is incompatible with the rule of law. This is a basic premise that all lawyers must fully understand. Moreover, this Court does not take lightly its duty to protect its judges, especially those in areas very far from the political center, from parties who do not have the patience to respect judicial processes and act entitled to employ brute force or underhanded tactics to attain their desired results.

Finally, this Court finds that respondent should be disciplined for bringing Mayor Navarro and his armed bodyguards with him to court.

**ACCORDINGLY**, respondent Atty. Henry S. Oaminal is found guilty of violating Canon 11 of the Code of Professional Responsibility. Respondent is hereby **SUSPENDED** from the practice of law for a period of three years, effective upon the finality of this Resolution and is **WARNED** that a repetition of the same or similar offense will warrant the imposition of a more severe penalty.

Let copies of this Resolution be furnished to the Office of the Bar Confidant to be appended to respondent's personal record as an attorney, the Integrated Bar of the Philippines for its information and guidance, and the Office of the Court Administrator for circulation to all courts in the country.

**SO ORDERED.**



MARVIC M.V.F. LEONEN  
Senior Associate Justice

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
 Chief Justice

No Part

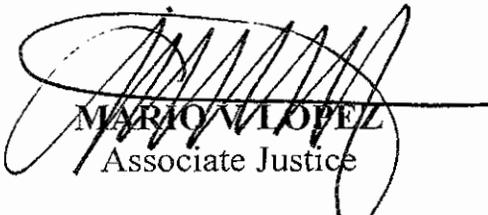
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 Associate Justice

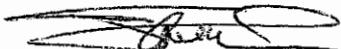
  
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**AMY C. LAZARO-JAVIER**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

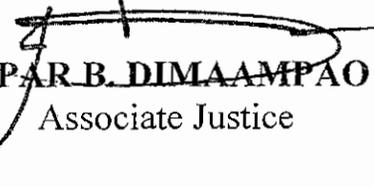
  
**RODIL V. ZALAMEDA**  
 Associate Justice

  
**MARIO LOPEZ**  
 Associate Justice

  
**SAMUEL H. GAERLAN**  
 Associate Justice

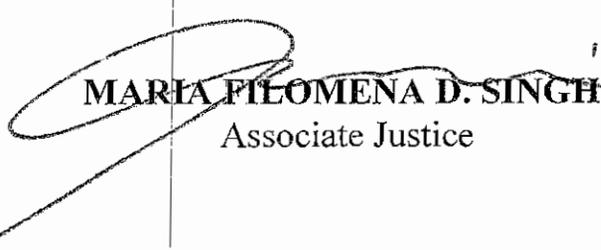
  
**RICARDO R. ROSARIO**  
 Associate Justice

  
**JHOSEP Y. LOPEZ**  
 Associate Justice

  
**JAPAR B. DIMAAMPAO**  
 Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
 Associate Justice

  
**ANTONIO T. KHO, JR.**  
 Associate Justice

  
**MARIA FILOMENA D. SINGH**  
 Associate Justice