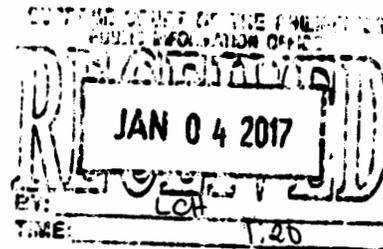




Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION



**MARIA VICTORIA G. BELO-  
 HENARES,**

**A.C. No. 11394**

Complainant,

Present:

- versus -

**ATTY. ROBERTO "ARGE" C.  
 GUEVARRA,**

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

Respondent.

Promulgated:

**DEC 01 2016**

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**DECISION**

**PERLAS-BERNABE, J.:**

The instant administrative case arose from a verified complaint<sup>1</sup> for disbarment filed by complainant Maria Victoria G. Belo-Henares (complainant) against respondent Atty. Roberto "Argee" C. Guevarra (respondent) for alleged violations of Rules 1.01 and 1.02, Canon 1; Rule 7.03, Canon 7; Rule 8.01 of Canon 8; and Rule 19.01, Canon 19 of the Code of Professional Responsibility.

<sup>1</sup> Dated October 25, 2009. *Rollo*, Vol. I, pp. 2-12.

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### The Facts

Complainant is the Medical Director and principal stockholder of the Belo Medical Group, Inc. (BMGI), a corporation duly organized and existing under Philippine laws<sup>2</sup> and engaged in the specialized field of cosmetic surgery.<sup>3</sup> On the other hand, respondent is the lawyer of a certain Ms. Josefina “Josie” Norcio (Norcio), who filed criminal cases against complainant for an allegedly botched surgical procedure on her buttocks in 2002 and 2005, purportedly causing infection and making her ill in 2009.<sup>4</sup>

In 2009, respondent wrote a series of posts on his Facebook account, a popular online social networking site, insulting and verbally abusing complainant. His posts include the following excerpts:

Argee Guevarra **Quack Doctor Becky Belo: I am out to get Puwitic Justice here! Kiss My Client’s Ass, Belo. Senator Adel Tamano, don’t kiss Belo’s ass.** Guys and girls, *nagiisip na akong tumakbo sa Hanghalan 2010 to Kick some ass!!! I will launch a national campaign against Plastic Politicians – No guns, No goons, No gold – IN GUTS I TRUST!*

Argee Guevarra **Dr. Vicki Belo**, watch out for Josefina Norcio’s Big Bang on Friday – **You will go down in Medical History as a QUACK DOCTOR!!!! QUACK QUACK QUACK QUACK.** CNN, FOX NEWS, BLOOMBERG, CHICAGO TRIBUNE, L.A. TIMES c/o my partner in the U.S., Atty. Trixie Cruz-Angeles :) (September 22 at 11:18pm)<sup>5</sup>

Argee Guevarra is amused by a libel case filed by Vicki Belo against me through her office receptionist in Taytay Rizal. **Haaaaay, style-bulok at style-duwag talaga. Lalakaran ng Reyna ng Kaplastikan at Reyna ng Payola ang kaso... si Imelda Marcos nga sued me for ₱300 million pesos and ended up apologizing to me, si Belo pa kaya?** (September 15 at 12:08pm)<sup>6</sup>

Argee Guevarra **get vicki belo as your client!!! may ‘extra-legal’ budget yon. Kaya lang, bistado ko na kung sino-sino ang tumatanggap eh, pag nalaman mo, baka bumagsak pa isang ahensya ng gobyerno dito, hahaha** (August 9 at 10:31pm)<sup>7</sup>

Argee Guevarra **ATTENTION MGA BATCHMATES SA DOJ: TIMBREHAN NIYO AKO KUNG MAGKANONG PANGSUHOL NI BELO PARA MADIIN AKO HA????** I just [want] to know how much she hates me, ok? **Ang payola budget daw niya runs into tens of millions....** (September 15 at 3:57pm)<sup>8</sup>

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

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

<sup>4</sup> Id.

<sup>5</sup> Id. at 13; emphases and italics supplied.

<sup>6</sup> Id. at 5 and 14; emphasis and italics supplied.

<sup>7</sup> Id. at 15; emphasis and italics supplied.

<sup>8</sup> Id. at 16; emphases and italics supplied.

Argee Guevarra **thinks aloud how the payola machinery of vicki belo killed the news of a picket demonstration in front of the Belo clinic.** I wonder how television, print[,] and radio programs can kill the story when the next rallies will have the following numbers – 100, 200, 500 and 1000. *Kung magkaasaran pa*, 10,000 demonstrators will be assembled in front of the Belo Medical Clinic at Tomas Morato on July 27, 2009. *Hahahahaha!* (July 17 at 7:56pm)<sup>9</sup>

Argee Guevarra *Nakatawa nga, 10milyon pa budget...* [I] didn't know that my reputation is worth that much. *Aba ako kaya magdemanda sa kanila :) Ikot-ikot daw ang mga P.R. ni Belo trying to convince editors to pin me down with something eh alam ko na wala naman akong sex video!!! Adik talaga sa botox si Aling Becky at may tama na sa utak – eh kung gagastos ka lang ng 10 milyon para sa tirang-pikon laban sa akin at to protect your burak na reputasyon as a plastic surgeon, i-donate mo na lang yon sa biktima ni Ondoy, Pepeng at Ramil! Yung mga homeboys ko sa Pasig na nilimas [ni] Ondoy ang kukubra sa yo!* (October 23 at 5:31pm)<sup>10</sup>

Argee Guevarra is inspired by Jose Norio's courageous act of showing her face on national television to expose the *Reyna ng Kaplastikan, Reyna ng Kapalpakan*. Inspired by shock nevertheless by the fact that the much needed partial restoration of her behind would cost a staggering \$500,000-\$1,000,000 Stanford Medical Hospital and she will still remain permanently disabled for the rest of her life... (July 11 at 2:08am)<sup>11</sup>

Argee Guevarra Just got my internet connection. **WILL EMAIL U THE LURID UNASSAILABLE FACTS ABOUT VICKI BELO'S QUACK DOCTORING.** (October 27, 2009)<sup>12</sup>

Argee Guevarra yeah... actually the issue is simple and you will easily see which side you'll be taking – just pay Ms. Josie Norcio a visit at St. Luke's *at talagang binaboy siya ng Reyna ng Kaplastikan* (July 10 at 12:08am)<sup>13</sup>

The complaint further alleged that respondent posted remarks on his Facebook account that were intended to destroy and ruin BMGI's medical personnel, as well as the entire medical practice of around 300 employees for no fair or justifiable cause,<sup>14</sup> to wit:

Argee Guevarra yup... [I'll] even throw the kitchen sink at her. **Enjoy nga ito, we will paralyze the operations of all her clinic and seek out her patients and customers to boycott her.** [So] far, good response – 70% decrease in her July sales... (August 9 at 10:29pm)<sup>15</sup>

<sup>9</sup> Id. at 17; emphasis and italics supplied.

<sup>10</sup> Id. at 5 and 18; emphases and italics supplied.

<sup>11</sup> Id. at 19; emphases and italics supplied.

<sup>12</sup> Id. at 6 and 20; emphases and italics supplied.

<sup>13</sup> Id. at 21; emphases and italics supplied.

<sup>14</sup> Id. at 6.

<sup>15</sup> Id. at 22; emphasis and italics supplied.

Argee Guevarra Guys, pandemonium has broken loose in [BMGI's] 6 clinics after Ms. Josie Norio's tell-all. With only 2 surgeons of BMGI certified by PAPRAS, there is real-and-present danger that surgeries like liposuction, nose lift, boob jobs which have been performed by [BMGI's] physicians, every patient runs the risk of something going wrong with the procedures they have undergone under [BMGI's] hands :(" (July 12 at 12:21am)<sup>16</sup>

Argee Guevarra [T]hey perform plastic surgery procedures without licensed and trained doctors, they nearly killed a client of mine, medical malpractice, use of banned substances/fillers on patients. just recently, in flawless clinic, a patient who had a simple facial landed in the hospital.... (August 9 at 10:04pm)<sup>17</sup>

Argee Guevarra braces for typhoon Ramil without forgetting to ask comrades and friends in Cebu to greet Vicki Belo with a boycott once she visits there on Oct. 20. Cebu's royal set already knows that **she is not a certified plastic surgeon: Boycott Belo, Flawless Reckless, Belat Essentials!!!!** (October 18 at 6:23pm)<sup>18</sup>

Argee Guevarra [W]ell, **with all the kababuyan of the Belo clinic, its money-making machines, dapat convert them into public health clinics!!!** instead of pandering to the vanities of those who want to look like Dra. Belo. (July 11 at 2:16am)<sup>19</sup>

Argee Guevarra darling kellyn, so far, i have 3 other ex-belo patients who will tell all too!!!! **Grabe pala ang mga kapalpakan niyan. So did u leave Belo Clinic because it has become a Frankenstein Factory?** (July 11 at 2:30am)<sup>20</sup>

Argee Guevarra **BOYCOTT BELO! FLAWLESS RECKLESS! BELAT ESSENTIALS!!!** I'll be gone for a week to a place where there will be no facebook so please, add Trixie Cruz-Angeles if you want to find out more about our anti-quack doctor campaign! (September 24 at 3:00pm)<sup>21</sup>

Argee Guevarra Anyone care to sponsor T-shirts bearing this slogan? – **BOYCOTT BELO! FLAWLESS RECKLESS! BELAT ESSENTIALS!** (September 23 at 12:17am)<sup>22</sup>

Argee Guevarra *Pare, eksena* on Thursday – I will go to the hearing with a placard – **BOYCOTT BELO!!! FLAWLESS RECKLESS!!! BELAT ESSENTIALS!!!** I will vote for Adel Tamano (La Salle-Ateneo lower batch *sa akin at mabuti ang pamilya niyan*)... **BUT WOULD YOU???** (September 23 at 1:50am)<sup>23</sup>

Argee Guevarra advocates a national patients' boycott of the Belo Medical Group. To all my friends and comrades, **please stay away from Belo's clinics.** I have 2 cousins and 3 friends already who have canceled

<sup>16</sup> Id. at 23.

<sup>17</sup> Id. at 24.

<sup>18</sup> Id. at 25; emphasis and italic supplied.

<sup>19</sup> Id. at 26; emphasis and italics supplied.

<sup>20</sup> Id.; emphasis and italics supplied.

<sup>21</sup> Id. at 27; emphasis supplied.

<sup>22</sup> Id. at 28; emphasis supplied.

<sup>23</sup> Id.; emphasis and italics supplied

their lipo from belo. **Please help me shut down the Belo Medical Group until they perform their moral and legal obligation to Ms. Josie Norcio...** (July 17 at 2:12pm)<sup>24</sup>

Moreover, respondent, through his Facebook account, posted remarks that allegedly threatened complainant with criminal conviction, without factual basis and without proof,<sup>25</sup> as follows:

Argee Guevarra Mr. Jay, by next year – GMA will no longer be president and she will be jailed for plunder; **Vicky Belo will no longer be a doctor and she will be in the middle of a criminal prosecution.** The General Surgeon of France will have a Philippine version. By October and November, some congressmen I have spoken with will be issuing summons to Vicky Belo for a congressional inquiry; the subject – legislation regulating the practice of cosmetic surgery! (September 22 at 11:31pm)<sup>26</sup>

Argee Guevarra Celso delos Angeles can still get medical attention in prison – from **Vicky Belo after she gets convicted too for criminal negligence and estafa** (July 15 at 10:05am)<sup>27</sup>

Argee Guevarra is preparing himself for a **campaign against the Belo Medical Group for its criminal negligence which nearly killed Ms. Josie Norcio over a botched butt augmentation procedure.** He found out that the Dr. Belo herself marketed the product to Ms. Norcio, the operation was carried out by her **doctors who were not licensed** by the Philippine Association of Plastic Reconstructive and Aesthetic Surgeons..... (July 9 at 8:54pm)<sup>28</sup>

Complainant likewise averred that some of respondent's Facebook posts were sexist, vulgar, and disrespectful of women,<sup>29</sup> to wit:

Argee Guevarra but can u help me too with maricar reyes? who's the hottest cebuana chic chick there nowadays? haven't been there for quite some time... *pa-chicks ka naman!!!* I'm sure *marami kang 25-and-below na prends diyan* (August 10 at 8:36pm)<sup>30</sup>

Argee Guevarra *hay joseph!!!* how's the gayest lawyer in cebu? our forces will soon picket the belo clinic there, can u tell me where that is? ***balato ko na sayo si hayden, promise!***" (August 10 at 12:23am)<sup>31</sup>

Argee Guevarra joseph, i can't say i love u too – *baka* belo's team will use all sorts of attacks na against me. to thwart them, being the gayest gay in the philippines, can u issue a certification that i am so not like your

<sup>24</sup> Id. at 29; emphases supplied.

<sup>25</sup> Id. at 9.

<sup>26</sup> Id. at 30; emphasis supplied.

<sup>27</sup> Id. at 31; emphasis and italic supplied.

<sup>28</sup> Id. at 32; emphases supplied.

<sup>29</sup> Id. at 10.

<sup>30</sup> Id. at 33; italics supplied.

<sup>31</sup> Id. at 34; emphasis and italics supplied.

type? *at yung* preferred *ko lang ay* thin, *thalino* and *thisay?* (September 23 at 12:01am)<sup>32</sup>

Finally, complainant averred that the attacks against her were made with the object to extort money from her, as apparent from the following reply made by respondent on a comment on his Facebook post:<sup>33</sup>

Kellyn Conde Sy *utang mo!* Pay up time :) (July 11 at 2:37am)

Argee Guevarra kellyn, *sisingilin ko muna si belo... at saka sabi mo naman, maibagsak ko lang ang kaplastikan ni belo, quits na tayo...* (July 11 at 2:38am)<sup>34</sup>

Asserting that the said posts, written in vulgar and obscene language, were designed to inspire public hatred, destroy her reputation, and to close BMGI and all its clinics, as well as to extort the amount of ₱200 Million from her as evident from his demand letter<sup>35</sup> dated August 26, 2009, complainant lodged the instant complaint for disbarment against respondent before the Integrated Bar of the Philippines (IBP), docketed as CBD Case No. 09-2551.

In defense,<sup>36</sup> respondent claimed that the complaint was filed in violation of his constitutionally-guaranteed right to privacy,<sup>37</sup> asserting that the posts quoted by complainant were private remarks on his private account on Facebook, meant to be shared only with his circle of friends of which complainant was not a part.<sup>38</sup> He also averred that he wrote the posts in the exercise of his freedom of speech, and contended that the complaint was filed to derail the criminal cases that his client, Norcio, had filed against complainant.<sup>39</sup> He denied that the remarks were vulgar and obscene, and that he made them in order to inspire public hatred against complainant.<sup>40</sup> He likewise denied that he attempted to extort money from her, explaining that he sent the demand letter as a requirement prior to the filing of the criminal case for *estafa*, as well as the civil case for damages against her.<sup>41</sup> Finally, respondent pointed out that complainant was a public figure who is, therefore, the subject of fair comment.<sup>42</sup>

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<sup>32</sup> Id. at 35; italics supplied.

<sup>33</sup> See id. at 10-11.

<sup>34</sup> Id. at 36; emphasis and italics supplied.

<sup>35</sup> Id. at 37-39.

<sup>36</sup> See Answer dated January 4, 2010; id. at 44-57.

<sup>37</sup> See id. at 44.

<sup>38</sup> See id. at 45-46.

<sup>39</sup> See id. at 55.

<sup>40</sup> Id. at 47-48.

<sup>41</sup> See id. at 49.

<sup>42</sup> Id. at 54.

After the mandatory conference had been terminated,<sup>43</sup> the parties were directed to file their respective position papers.<sup>44</sup> Thereafter, the IBP, through the Commission on Bar Discipline (CBD), set the case for clarificatory hearing.<sup>45</sup> Upon termination thereof, the case was deemed submitted for report/recommendation.<sup>46</sup>

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

In its Report and Recommendation<sup>47</sup> dated August 13, 2013, the IBP-CBD recommended that respondent be suspended for a period of one (1) year from the practice of law, with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.<sup>48</sup> It held respondent liable for violation of Rule 7.03,<sup>49</sup> Rule 8.01,<sup>50</sup> and Rule 19.01<sup>51</sup> of the Code of Professional Responsibility for having posted the above-quoted remarks on his Facebook account, pointing out that respondent cannot invoke the "private" nature of his posts, considering that he had at least 2,000 "friends" who can read and react thereto. Moreover, the IBP-CBD maintained that the criminal cases he had filed against complainant on behalf of Norcio had been dismissed for insufficient evidence; therefore, he can no longer campaign against complainant whose alleged crimes against Norcio had not been established.<sup>52</sup>

In a Resolution<sup>53</sup> dated September 27, 2014, the IBP Board of Governors resolved to adopt and approve the August 13, 2013 Report and Recommendation of the IBP-CBD.

Respondent moved for reconsideration,<sup>54</sup> arguing that there was no specific act attributed to him that would warrant his suspension from the practice of law. He also averred that the libel cases filed against him by an

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<sup>43</sup> See Order dated January 28, 2011 issued by Commissioner Hector B. Almeyda; *id.* at 65-66.

<sup>44</sup> See Position Paper for complainant dated February 25, 2011 (*id.* at 67-88) and Respondent's Position Paper dated February 28, 2011 (*id.* at 176-191).

<sup>45</sup> See Order dated April 13, 2011; *id.* at 213-214.

<sup>46</sup> See Order dated September 3, 2012; *id.* at 281.

<sup>47</sup> Signed by Commissioner Atty. Eldrid C. Antiquiera. *Rollo*, Vol. II, pp. 329-331.

<sup>48</sup> *Id.* at 331.

<sup>49</sup> Rule 7.03 – A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

<sup>50</sup> Rule 8.01 – A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

<sup>51</sup> 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.

<sup>52</sup> *Rollo*, Vol. II, pp. 330-331.

<sup>53</sup> See Notice of Resolution in Resolution No. XXI-2014-637 issued by National Secretary Nasser A. Marohomsalic; *id.* at 328, including dorsal portion.

<sup>54</sup> Dated April 25, 2015. *Id.* at 332-343.

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employee of BMGI had already been dismissed, without prejudice, for lack of jurisdiction.<sup>55</sup>

In a Resolution<sup>56</sup> dated October 28, 2015, the IBP Board of Governors partially granted respondent's motion, reducing the penalty from one (1) year to six (6) months suspension.

### **The Issue Before the Court**

The sole issue for the Court's resolution is whether or not respondent should be held administratively liable based on the allegations of the verified complaint.

### **The Court's Ruling**

The Court has examined the records of this case and concurs with the IBP's findings, except as to the penalty imposed on respondent.

At the outset, the Court notes that respondent never denied that he posted the purportedly vulgar and obscene remarks about complainant and BMGI on his Facebook account. In defense, however, he invokes his right to privacy, claiming that they were "private remarks" on his "private account"<sup>57</sup> that can only be viewed by his circle of friends. Thus, when complainant accessed the same, she violated his constitutionally guaranteed right to privacy.

The defense is untenable.

Facebook is currently the most popular social media site, having surpassed one (1) billion registered accounts and with 1.71 billion monthly active users.<sup>58</sup> *Social media* are web-based platforms that enable online interaction and facilitate users to generate and share content. There are

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<sup>55</sup> See *id.* at 338-341.

<sup>56</sup> See Notice of Resolution in Resolution No. XXII-2015-82 issued by Assistant National Secretary Maria Angela N. Esquivel; *id.* at 366-367.

<sup>57</sup> *Rollo*, Vol. I, p. 44.

<sup>58</sup> Seth Fiegerman, Facebook is unstoppable, CNN Tech, July 27, 2016, available at <[money.cnn.com/2016/07/27/technology/facebook-earnings-high-expectations/](http://money.cnn.com/2016/07/27/technology/facebook-earnings-high-expectations/)> (visited November 10, 2016).

various classifications<sup>59</sup> of social media platforms and one can be classified under the “social networking sites” such as Facebook.<sup>60</sup>

Facebook is a “voluntary social network to which members subscribe and submit information. x x x It has a worldwide forum enabling friends to share information such as thoughts, links, and photographs, with one another.”<sup>61</sup> Users register at this site, create a personal profile or an open book of who they are, add other users as friends, and exchange messages, including automatic notifications when they update their profile. A user can post a statement, a photo, or a video on Facebook, which can be made visible to anyone, depending on the user’s privacy settings.<sup>62</sup>

To address concerns about privacy, but without defeating its purpose, Facebook was armed with different privacy tools designed to regulate the accessibility of a user’s profile, as well as information uploaded by the user. In *H v. W*,<sup>63</sup> the South Gauteng High Court of Johannesburg, Republic of South Africa recognized this ability of the users to “customize their privacy settings,” but with the cautionary advice that although Facebook, as stated in its policies, “makes every effort to protect a user’s information, these privacy settings are however not foolproof.”<sup>64</sup>

Consequently, before one can have an expectation of privacy in his or her online social networking activity – in this case, Facebook – it is first necessary that said user manifests the intention to keep certain posts private, through the employment of measures to prevent access thereto or to limit its visibility. This intention can materialize in cyberspace through the utilization of Facebook’s privacy tools. In other words, utilization of these privacy tools is the manifestation, in the cyber world, of the user’s invocation of his or her right to informational privacy.<sup>65</sup>

The bases of the instant complaint are the Facebook posts maligning and insulting complainant, which posts respondent insists were set to private

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<sup>59</sup> Other classification of social media platforms are (1) blog and microblog sites (Twitter, Tumblr); (2) content communities sites (YouTube, Instagram); (3) collaborative projects (Wikipedia); (4) Virtual social worlds (Farmville); and (5) Virtual game-world (World of Warcraft). See Government Social Research, Using social media for Social research: An introduction, May 2016, available at <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524750/GSR\\_Social\\_Media\\_Research\\_Guidance\\_-\\_Using\\_social\\_media\\_for\\_social\\_research.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524750/GSR_Social_Media_Research_Guidance_-_Using_social_media_for_social_research.pdf)> (visited October 28, 2016).

<sup>60</sup> Id.

<sup>61</sup> *H v. W*, Case No. 12/10142, In the South Gauteng High Court, Johannesburg, Republic of South Africa, January 30, 2013. See also <<http://www.saflii.org/za/cases/ZAGPJHC/2013/1.html>> (visited October 28, 2016).

<sup>62</sup> *Disini, Jr. v. The Secretary of Justice*, 727 Phil. 28, 117 (2014).

<sup>63</sup> *H v. W*, supra note 61,

<sup>64</sup> Id., as cited in *Vivares v. St. Theresa’s College*, G.R. No. 202666, September 29, 2014, 737 SCRA 92, 114.

<sup>65</sup> *Vivares v. St. Theresa’s College*, id. at 116.

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view. However, the latter has failed to offer evidence that he utilized any of the privacy tools or features of Facebook available to him to protect his posts, or that he restricted its privacy to a select few. Therefore, without any positive evidence to corroborate his statement that the subject posts, as well as the comments thereto, were visible only to him and his circle of friends, respondent's statement is, at best, self-serving, thus deserving scant consideration.<sup>66</sup>

Moreover, even if the Court were to accept respondent's allegation that his posts were limited to or viewable by his "Friends" only, there is no assurance that the same – or other digital content that he uploads or publishes on his Facebook profile – will be safeguarded as within the confines of privacy, in light of the following:

- (1) Facebook "allows the world to be more open and connected by giving its users the tools to interact and share in any conceivable way";
- (2) A good number of Facebook users "befriend" other users who are total strangers;
- (3) The sheer number of "Friends" one user has, usually by the hundreds; and
- (4) A user's Facebook friend can "share" the former's post, or "tag" others who are not Facebook friends with the former, despite its being visible only to his or her own Facebook friends.<sup>67</sup>

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Thus, restricting the privacy of one's Facebook posts to "Friends" does not guarantee absolute protection from the prying eyes of another user who does not belong to one's circle of friends. The user's own Facebook friend can share said content or tag his or her own Facebook friend thereto, regardless of whether the user tagged by the latter is Facebook friends or not with the former. Also, when the post is shared or when a person is tagged, the respective Facebook friends of the person who shared the post or who was tagged can view the post, the privacy setting of which was set at "Friends."<sup>68</sup> Under the circumstances, therefore, respondent's claim of violation of right to privacy is negated.

Neither can the Court accept the argument that the subject remarks were written in the exercise of his freedom of speech and expression.

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<sup>66</sup> Id. at 118.

<sup>67</sup> Id. at 120-121, citations omitted.

<sup>68</sup> See id. at 121.

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Time and again, it has been held that the freedom of speech and of expression, like all constitutional freedoms, is not absolute.<sup>69</sup> While the freedom of expression and the right of speech and of the press are among the most zealously protected rights in the Constitution, every person exercising them, as the Civil Code stresses, is obliged to act with justice, give everyone his due, and observe honesty and good faith.<sup>70</sup> As such, the constitutional right of freedom of expression may not be availed of to broadcast lies or half-truths, insult others, destroy their name or reputation or bring them into disrepute.<sup>71</sup>

A punctilious scrutiny of the Facebook remarks complained of disclosed that they were ostensibly made with malice tending to insult and tarnish the reputation of complainant and BMGI. Calling complainant a “quack doctor,” “*Reyna ng Kaplastikan*,” “*Reyna ng Payola*,” and “*Reyna ng Kapalpakan*,” and insinuating that she has been bribing people to destroy respondent smacks of bad faith and reveals an intention to besmirch the name and reputation of complainant, as well as BMGI. Respondent also ascribed criminal negligence upon complainant and BMGI by posting that complainant disfigured (“*binaboy*”) his client Norcio, labeling BMGI a “Frankenstein Factory,” and calling out a boycott of BMGI’s services – all these despite the pendency of the criminal cases that Norcio had already filed against complainant. He even threatened complainant with conviction for criminal negligence and *estafa* – which is contrary to one’s obligation “to act with justice.”

In view of the foregoing, respondent’s inappropriate and obscene language, and his act of publicly insulting and undermining the reputation of complainant through the subject Facebook posts are, therefore, in complete and utter violation of the following provisions in the Code of Professional Responsibility:

Rule 7.03 – A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

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

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

<sup>69</sup> See *In Re Emil (Emiliano) P. Jurado Ex Rel.: Philippine Long Distance Telephone Company (PLDT), per its First Vice-President, Mr. Vicente R. Samson*, 313 Phil. 119, 163 (1995), citing *Zaldivar v. Gonzalez*, 248 Phil. 542, 579 (1988).

<sup>70</sup> Article 19 of the Civil Code provides:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

<sup>71</sup> See *In Re Emil (Emiliano) P. Jurado Ex Rel.: Philippine Long Distance Telephone Company (PLDT), per its First Vice-President, Mr. Vicente R. Samson*, supra note 69, at 165.

in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

By posting the subject remarks on Facebook directed at complainant and BMGI, respondent disregarded the fact that, as a lawyer, he is bound to observe proper decorum at all times, be it in his public or private life. He overlooked the fact that he must behave in a manner befitting of an officer of the court, that is, respectful, firm, and decent. Instead, he acted inappropriately and rudely; he used words unbecoming of an officer of the law, and conducted himself in an aggressive way by hurling insults and maligning complainant's and BMGI's reputation.

That complainant is a public figure and/or a celebrity and therefore, a public personage who is exposed to criticism<sup>72</sup> does not justify respondent's disrespectful language. It is the cardinal condition of all criticism that it shall be *bona fide*, and shall not spill over the walls of decency and propriety.<sup>73</sup> In this case, respondent's remarks against complainant breached the said walls, for which reason the former must be administratively sanctioned.

"Lawyers may be disciplined even for any conduct committed in their private capacity, as long as their misconduct reflects their want of probity or good demeanor, a good character being an essential qualification for the admission to the practice of law and for continuance of such privilege. When the Code of Professional Responsibility or the Rules of Court speaks of conduct or misconduct, the reference is not confined to one's behavior exhibited in connection with the performance of lawyers' professional duties, but also covers any misconduct, which—albeit unrelated to the actual practice of their profession—would show them to be unfit for the office and unworthy of the privileges which their license and the law invest in them."<sup>74</sup> Accordingly, the Court finds that respondent should be suspended from the practice of law for a period of one (1) year, as originally recommended by the IBP-CBD, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

**WHEREFORE**, respondent Atty. Roberto "Argee" C. Guevarra is found guilty of violation of Rules 7.03, 8.01, and 19.01 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for a period of one (1) year, effective upon his receipt of this Decision, and is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

<sup>72</sup> See *rollo*, Vol. I, pp. 183-185.

<sup>73</sup> See *Habawel v. CTA*, 672 Phil. 582, 596 (2011), citing *In Re Alamcen v. Yaptinchay*, G.R. No. L-27654, February 18, 1970, 31 SCRA 562, 580.

<sup>74</sup> *Pobre v. Defensor-Santiago*, 613 Phil. 352, 364-365 (2009).

Let a copy of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all the courts.

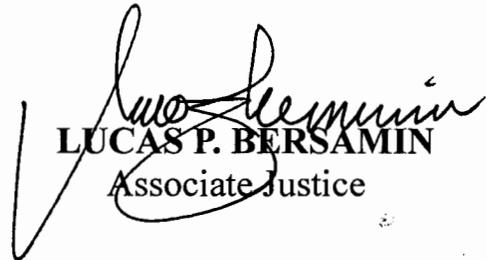
**SO ORDERED.**

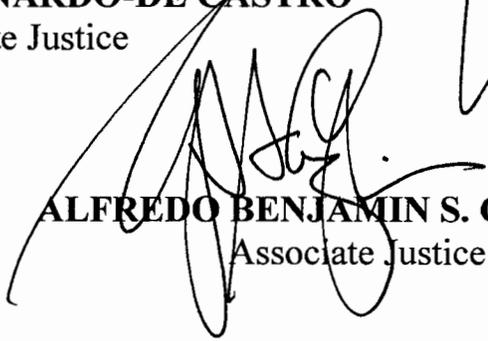
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

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

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice