

THIRD DIVISION

[A.C. No. 12005, July 23, 2018]

ACHERNAR B. TABUZO, COMPLAINANT, VS. ATTY. JOSE ALFONSO M. GOMOS, RESPONDENT.

RESOLUTION

GESMUNDO, J.:

The filing of an administrative complaint against an adjudicator is *not* the proper remedy for assailing the legal propriety of an adverse decision, order, resolution or recommendation, in the case of administrative complaints against lawyers. More importantly, the reckless practice of filing baseless administrative complaints against fellow lawyers undeniably degrades rather than cleanses the ranks of the legal profession.

The Antecedents:

Before the Court is a Verified Complaint^[1] filed by Atty. Achernar B. Tabuzo (complainant) against Atty. Jose Alfonso M. Gomos (respondent)^[2] who was then a Commissioner of the Integrated Bar of the Philippines (*IBP*), for allegedly committing the following acts:

- 2.1 Violation of the Constitution of the Republic of the Philippines, the Rules of Procedure of the Commission on Bar Discipline, Rule 139-B of the Rules of Court and Republic Act 6713 (Code of Conduct and Ethical Standards for Public [O]fficials and Employees;
- 2.2 Violation of Canon[s] 1 and 3 of the Code of Judicial Conduct and the Guidelines for Imposing Lawyer Sanctions of the Commission on Bar Discipline;
- 2.3 Nonfeasance in deliberately refusing to institute disciplinary action for serious violations of duties owed to the Courts and the Legal Profession committed by a lawyer, despite repeated notice, and contrary to the mandate of his office and the Integrated Bar of the Philippines;
- 2.4 Gross Ignorance of the Law;
- 2.5 All the foregoing were aggravated by: a) pattern of misconduct; b) multiple offenses; [c)] substantial experience in the practice of law; and [d)] betrayal of the trust of his office as Commissioner of the Honorable Commission on Bar Discipline.^[3]

The controversy stemmed from an administrative complaint filed by Lucille G. Sillo (*Sillo*) against complainant before the IBP, docketed as CBD Case No. 12-3457. The case was assigned to respondent for investigation and report.

On August 15, 2014, the respondent issued a Report and Recommendation^[4] recommending that complainant be reprimanded for the impropriety of talking to Sillo, without her counsel, prior to the calling of their case for mediation conference, and for the abusive, offensive or improper language used in the pleadings she filed in the said case.

The report and recommendation was adopted and approved by the IBP Board of Governors (*Board*) in its Resolution No. XXI-2015-074, dated January 31, 2015.^[5]

Hence, this administrative complaint.

Complainant alleged that respondent violated the Constitution, the Rules of Procedure of the IBP-Commission on Bar Discipline (*Commission*), Rule 139-B of the Rules Court and Republic Act (R.A.) No. 6713^[6] when he failed to act on her pleadings with dispatch and for issuing his report and recommendation on August 15, 2014 or 174 days from the submission of the last pleading.^[7]

Complainant averred that respondent was very cruel and heartless to an inexperienced lawyer when he mutilated statements made in her pleadings in CBD Case No. 12-3457; and that he maliciously cropped and pasted portions of complainant's statement in her position paper to give the wrong impression before the IBP-Board of Governors (*Board*) that the introductory heading was an act of name calling against respondent, thereby violating Rules 1.01^[8] and 1.02^[9] of Canon 1 and Rules 3.01,^[10] 3.02,^[11] and 3.04^[12] of Canon 3 of the Code of Judicial Conduct.^[13]

Complainant asserted that respondent committed nonfeasance for deliberately refusing to institute disciplinary action against a lawyer for serious violation of duties owed to the Court and the legal profession despite several notices. She alleged that as early as December 2013, respondent was aware that Atty. Alan R. Bulawan committed forum shopping and other grave malpractices but respondent refused to institute disciplinary action reasoning that there should first be a verified complaint before he could act on it. Complainant claimed that respondent's inaction was a violation of Section 1,^[14] Rule 139-B of the Rules of Court and Sec. 13^[15] of the IBP's By-Laws.^[16]

Lastly, complainant posited that respondent was grossly ignorant of the rules on privileged communication, on evidence, on the crime of perjury, and on forum shopping when he failed to dismiss the present administrative case outright because it had no merit and when he ignored the perjury and forum shopping committed by Sillo.^[17]

In his Answer,^[18] respondent denied the allegations and contended that they were not only false and an unfortunate misappreciation of the laws, facts and

circumstances but also an act of harassment. He countered that it was complainant who caused the delay of the resolution of the case because of the numerous motions and pleadings she filed. Also, the report and recommendation was based on facts, law and jurisprudence which was adopted and approved by the IBP Board. If complainant felt aggrieved by the report and recommendation, she could have filed a motion for reconsideration of the Board's January 31, 2015 Resolution.

In Reply,^[19] complainant claimed that the only proof that the report and recommendation was adopted and approved by the Board was the Notice of Resolution; and when she asked for a copy of the transcript and resolution of the case, she was informed by the head of the records section that it was confidential and that she should file a manifestation to secure a copy. Furthermore, complainant argued that it was respondent who was guilty of singling her out when he reprimanded her for alleged belligerence in her pleadings and papers, and maintained that respondent was grossly ignorant, inefficient and had no regard for due process of law.

The Report and Recommendation of the IBP

In its Report and Recommendation,^[20] the Commission recommended the dismissal of the complaint for lack of merit. It ratiocinated that complainant's allegations while seemingly couched as acts of misconduct, actually assails the report and recommendation of respondent as investigating commissioner in CBD Case No. 12-3457. The Commission stated that it would be irregular and improper to review such findings because it would be tantamount to reopening matters and issues that have been passed upon and approved by the IBP Board. The Commission agreed with the respondent that if complainant felt aggrieved by such findings, her option would have been to file a motion for reconsideration or some other appropriate remedy, but not an administrative case against the investigating commissioner.

On August 27, 2016, the Board, in its Resolution No. XXII-2016-468, adopted the Commission's report and recommendation dismissing the complaint.

Undeterred, complainant filed a Motion for Reconsideration^[21] insisting that respondent, as an investigating commissioner, has an accountability to the legal profession separate and distinct from that of the IBP Board and such accountability is not a mere administrative matter inside the IBP-Commission. Complainant insisted that respondent could be held accountable independently of the Board or the staff assigned to him when he issued a late report and recommendation and issued it without the mandatory conference being held, and with no actual admissions or stipulations of facts and no definition of issues. Complainant averred that respondent cannot choose his deadline for submitting a report and recommendation, and his failure to decide a case within the required period constitutes gross inefficiency.^[22]

Complainant posited that respondent could be held administratively liable because he was a quasi-judicial officer performing functions delegated by the Court, hence, a public officer.^[23]

On February 23, 2017, respondent filed his Comment^[24] stating that the

complainant's motion for reconsideration was a mere rehash of the arguments raised in her complaint and position paper. Respondent reiterated that he immediately acted on the administrative case filed against complainant as soon as he received the records of the case; and that the cause of delay was due to the several motions filed by complainant instead of just filing the required position paper. The respondent emphasized that the report and recommendation was a product of a conscientious study of all the pleadings submitted by the parties and application of the law and jurisprudence.

Respondent added that complainant's inordinate liberty in calling him "grossly ignorant" and "grossly inefficient" at practically every turn or page of her pleadings notably characterizes her penchant for name-calling her adversaries. He believed that he was clearly being harassed and singled out considering that his report and recommendation was approved by the majority members of the Board.

In its Resolution No. XXII-2017-1120^[25] dated May 27, 2017, the Board denied the motion for reconsideration.

On February 5, 2018, the IBP transmitted before the Court the records of the case for final disposition.^[26]

The issues to be resolved are: (1) whether respondent may be held administratively liable in the same manner as judges and other government officials; and (2) whether respondent may be held administratively liable for rendering an alleged adverse judgment in his capacity as an investigating commissioner of the IBP.

The Court's Ruling

On the Respondent's Ascription of Liability in the Same Manner as Judges or Other Government Officials Due to His Position as Commissioner on Bar Discipline:

In order to have a meaningful understanding of the nature of the functions and accountabilities of an IBP Commissioner, it is necessary to first identify the character of the IBP as an organization. To do this, the Court deems it imperative to dig deep and trace its legislative and jurisprudential background.

The IBP's existence traces its roots to Sec. 13, Article VIII of the 1935 Constitution which stated that:

Section 13. **The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law.** Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repealed as statutes, and are declared Rules of Courts, subject to the power of the Supreme Court to alter and modify the same. **The Congress shall have the power to repeal, alter or**

supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines. (emphases supplied)

In view of this provision, Congress enacted R.A. No. 6397^[27] which gave this Court the facility to initiate the integration process of the Philippine Bar; the provisions of which read:

Section 1. Within two years from the approval of this Act, the Supreme Court **may adopt rules of court to effect the integration of the Philippine Bar under such conditions as it shall see fit** in order to raise the standards of the legal profession, improve the administration of justice, and enable the bar to discharge its public responsibility more effectively.

Section 2. The sum of five hundred thousand pesos is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to carry out the purposes of this Act. Thereafter, such sums as may be necessary for the same purpose shall be included in the annual appropriations for the Supreme Court.

Section 3. This Act shall take effect upon its approval. (emphasis supplied)

Meanwhile, the 1973 Constitution was ratified wherein Sec. 5(5) of Art. X enumerated the powers of this Court, thus:

Promulgate rules concerning pleading, practice, and procedure in all courts, the admission to the practice of law, and the integration of the bar, which, however, may be **repealed, altered or supplemented by the Batasang Pambansa**. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. (emphasis supplied)

Finally, the legal quandary pertaining to the integration of the Philippine Bar culminated in the promulgation of ***In the Matter of the Integration of the Bar of the Philippines***^[28] where the Court upheld the integration of the Philippine Bar on the ground that it was sanctioned by Sec. 13, Art. VIII of the 1935 Constitution.

Following this judicial pronouncement, Presidential Decree (P.D.) No. 181^[29] was enacted formally creating the IBP and vesting it with corporate personality. Sec. 2 of the law states: