

## EN BANC

**[ A.M. No. 13-04-03-SC, December 10, 2013 ]**

**RE: NOMINATION OF ATTY. LYNDA CHAGUILE, IBP IFUGAO  
PRESIDENT, AS REPLACEMENT FOR IBP GOVERNOR FOR  
NORTHERN LUZON, DENIS B. HABAWEL**

**[A.M. No. 13-05-08-SC]**

**RE: ALLEGED NULLITY OF THE ELECTION OF IBP SOUTHERN  
LUZON GOVERNOR VICENTE M. JOYAS AS IBP EXECUTIVE VICE  
PRESIDENT [FOR 2011-2013]**

**[A.M. No. 13-06-11-SC]**

**RE: LETTER-REQUEST OF THE NATIONAL SECRETARY OF THE IBP  
RE PROPOSED OATH-TAKING BEFORE THE SUPREME COURT OF  
THE ELECTED IBP REGIONAL GOVERNORS AND THE EXECUTIVE  
VICE PRESIDENT FOR THE TERM 2013 TO 2015**

### RESOLUTION

**LEONEN, J.:**

This is yet another controversy involving the leadership of the Integrated Bar of the Philippines (IBP) that could have been resolved at the Integrated Bar of the Philippines' level but was instead referred to this Court, taking away precious resources that could have been better applied to resolve other conflicts for the public interest.

The consolidated cases involve two Administrative Matters. The first Administrative Matter (A.M. No. 13-04-03-SC) arose from a Motion filed by Atty. Marlou B. Ubano, IBP Governor for Western Visayas. Atty. Ubano sought to invalidate or have this Court declare as *ultra vires* the portion of the March 21, 2013 Resolution of the IBP Board of Governors which approved the nomination of Atty. Lynda Chaguile as replacement of IBP Governor for Northern Luzon, Denis B. Habawel. The second Administrative Matter arose from another Motion filed by Atty. Ubano who sought to nullify the May 22, 2013 election for IBP Executive Vice President (EVP) and restrain Atty. Vicente M. Joyas from discharging the duties of IBP EVP/Acting President. In a Resolution dated June 18, 2013, this Court consolidated the second Administrative Matter with the first.

#### **A.M. No. 13-04-03-SC**

The first Administrative Matter is an incident arising from: (1) A.M. No. 09-5-2-SC (*In the Matter of the Brewing Controversies in the Election in the Integrated Bar of the Philippines, Atty. Marven B. Daquilanea, Movant-Intervenor; Presidents of IBP*

*Chapter in Western Visayas Region, Intervenors; IBP Capiz Chapter, Intervenor); and (2) A.C. No. 8292 (Attys. Marcial M. Magsino, Manuel M. Maramba, and Nasser Marohomsalic v. Attys. Rogelio A. Vinluan, Abelardo C. Estrada, Bonifacio T. Barandon, Jr., Evergisto S. Escalon, and Raymund Jorge A. Mercado).*

On March 27, 2013, Atty. Marlou B. Ubano, IBP Governor for Western Visayas, filed a Motion (Original Motion) in relation to A.M. No. 09-5-2-SC. Atty. Ubano sought to invalidate or have this Court declare as *ultra vires* the portion of the March 21, 2013 Resolution of the IBP Board of Governors which approved the nomination of Atty. Lynda Chaguile as the replacement of IBP Governor for Northern Luzon, Denis B. Habawel.

In this Original Motion, Atty. Ubano noted that on December 4, 2012, this Court approved an amendment to Article I, Section 4 of the IBP By-Laws which considers as *ipso facto* resigned from his or her post any official of the Integrated Bar of the Philippines who files a Certificate of Candidacy for any elective public office. Under the amended By-Laws, the resignation takes effect on the starting date of the official campaign period.<sup>[1]</sup>

Atty. Ubano alleged that the IBP Governor for Northern Luzon, Denis B. Habawel, filed a Certificate of Candidacy to run for the position of Provincial Governor of the Province of Ifugao on or before October 5, 2012, and that on or before December 21, 2012, IBP President, Roan Libarios, filed a Certificate of Substitution to run as a substitute congressional candidate for the First District of Agusan del Norte.<sup>[2]</sup>

Atty. Ubano further alleged that “[i]n light of the impending *ipso facto* resignation of Pres. Libarios on 30 March 2013,”<sup>[3]</sup> the IBP Board of Governors agreed to constitute a five (5)-member Executive Committee (Ex Com) to “prevent hiatus in the leadership of the IBP.”<sup>[4]</sup> The Executive Committee was “tasked to temporarily administer the affairs of the IBP without prejudice to the outcome of the Honorable Court’s resolution of the pending incident.”<sup>[5]</sup> Atty. Ubano also alleged that Atty. Habawel nominated Atty. Lynda Chaguile, IBP Ifugao Chapter President, as his successor to the position of IBP Governor for Northern Luzon.<sup>[6]</sup>

Atty. Ubano claimed that Atty. Libarios began “dictating the tenor of the IBP [Board of Governors] Resolution about the creation of Ex Com”<sup>[7]</sup> and, without prior deliberation and voting, declared that the Board of Governors approved the succession of Atty. Chaguile as IBP Governor for Northern Luzon. Atty. Ubano, together with two (2) other IBP Governors, allegedly objected. However, when the matter was put to a vote, the other governors, Atty. Habawel included, approved Atty. Chaguile’s replacement of Atty. Habawel as IBP Governor for Northern Luzon.<sup>[8]</sup>

In this Original Motion, Atty. Ubano challenged the IBP Board of Governor’s approval of Atty. Chaguile’s succession as IBP Governor for Northern Luzon on two grounds:

First, there was, as yet, no vacancy. Atty. Habawel was himself present at the meeting where his replacement was named. There was, therefore, no need to name a replacement.<sup>[9]</sup>

Second, the right to elect the successor of a resigned IBP Governor is vested, not in the IBP Board of Governors, but in the delegates of the concerned region; thus, the IBP Board of Governors' approval of the nominee to succeed Atty. Habawel is *ultra vires*.<sup>[10]</sup> In support of this second ground, Atty. Ubano cited the third paragraph of Section 44 of the IBP By-Laws:

Sec. 44. Removal of members. x x x

x x x [x]

In case of any vacancy in the office of Governor for whatever cause, the delegates from the region shall by majority vote, elect a successor from among the members of the Chapter to which the resigned governor is a member to serve as governor for the unexpired portion of the term.<sup>[11]</sup>

In a Resolution dated April 2, 2013, this Court resolved to treat this Original Motion as an Administrative Matter separate from A.M. No. 09-5-2-SC and A.C. No. 8292. It was re-docketed as A.M. No. 13-04-03-SC. This Court required the IBP Board of Governors to file its Comment.

In its Comment, the IBP Board of Governors assailed the first ground raised by Atty. Ubano by saying that it was not necessary for a position to be absolutely vacant before a successor may be appointed or elected.<sup>[12]</sup> As for the second ground, the IBP Board of Governors argued that it has been the "tradition"<sup>[13]</sup> of the Integrated Bar of the Philippines that "where the unexpired term is only for a very short period of time, it is usually the Board of Governors which appoint [sic] a replacement or an officer in charge to serve the unexpired term."<sup>[14]</sup> The IBP Board of Governors cited seven (7) precedents attesting to this "tradition":

1. On January 24, 1979, the IBP Board of Governors "unanimously resolved to designate Jose F. Lim, Vice President of the IBP Samar Chapter, [as] acting Governor and *ex-officio* Vice President for Eastern Visayas in view of the absence of Gov. Juan G. Figueroa."<sup>[15]</sup>
2. On June 1, 1984, the IBP Board of Governors approved the replacements of two (2) governors who resigned to run in the Batasang Pambansa elections:
  - a. The President of the IBP Baguio-Benguet Chapter, Reynaldo A. Cortes, was elected by the IBP Board of Governors to replace Gov. Honorato Aquino who himself nominated Cortes;
  - b. "The President of the IBP Southern Leyte Chapter, Porfirio P. Siaynco, was elected by the Board to replace Gov. Cirilo Montejo."<sup>[16]</sup>
3. On January 27, 1989, the IBP Board of Governors "elected Nancy Sison Roxas, Treasurer of the House of Delegates, as Governor for Central Luzon" in lieu of Cesar L. Paras, who passed away.<sup>[17]</sup>

4. On October 7, 1991, Governor for Eastern Mindanao, Teodoro Palma Gil, who was previously appointed as a Regional Trial Court (RTC) judge, recommended that Teodoro Nano, Jr., President of the IBP Davao Oriental Chapter, be his replacement.<sup>[18]</sup> On November 8, 1991, Nano was eventually elected by the IBP Board of Governors as Governor for Eastern Mindanao.<sup>[19]</sup>
5. On September 26, 1998, the IBP "Board of Governors confirmed the designation of Teofilo S. Pilando, Jr. as Governor for Northern Luzon, to serve the unexpired portion of the term of Gov. Roy S. Pilando, who ran for public office."<sup>[20]</sup>
6. On September 12, 2002, the IBP Board of Governors "resolved to appoint acting Governor Rogelio Velarde as regular Governor of Southern Luzon Region after learning of the death of the regular Governor, Josefina S. Angara."<sup>[21]</sup>
7. On August 17, 2006, the IBP Board of Governors "appointed Abelardo C. Estrada as OIC for IBP Northern Luzon [in lieu of] Silvestre H. Bello who was facing a disqualification case as Governor of IBP Northern Luzon."<sup>[22]</sup>

In his Reply, Atty. Ubano questioned the IBP Board of Governors' claim that it is not necessary for a position to be absolutely vacant before a successor may be appointed or elected. Citing the third paragraph of Section 44 of the IBP By-Laws' use of the word "*vacancy*" (i.e., "any vacancy in the office of Governor") and "resignation" (i.e., "*resigned* governor"), Atty. Ubano claimed that the text of the By-Laws is "abundantly clear and unequivocal that there must be first a "vacancy" or a prior resignation before the delegates of the Region can lawfully elect a successor x x x."<sup>[23]</sup>

Atty. Ubano likewise challenged the precedents cited by the IBP Board of Governors and claimed that no such tradition of appointing the successor of a resigned governor existed.<sup>[24]</sup> He pointed out that prior to its amendment in March 2, 1993, the IBP By-Laws had allowed the IBP Board of Governors to elect, and not appoint, "a successor of a resigned Governor."<sup>[25]</sup> However, the amended By-Laws now require that a successor be elected by the delegates of the concerned region.<sup>[26]</sup> Even if it were true that the IBP Board of Governors had a tradition of appointing the successor of a resigned governor, the tradition cannot be validated in view of the first paragraph of Article 7 of the Civil Code which reads:

Article 7. Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.<sup>[27]</sup>

Meanwhile, on April 23, 2013, Atty. Ubano filed another Motion (Urgent Motion to Defer/Restrain Performance of Duties as Successor Governor of IBP Northern Luzon Region) seeking to prevent Atty. Chaguile from exercising the functions of IBP Governor for Northern Luzon.

This Court also received on May 16, 2013 an undated Resolution purportedly signed by delegates of the IBP Northern Luzon Region. The signatories called for an election on May 18, 2013 to name Atty. Habawel's successor.

On May 20, 2013, these same signatories filed before this Court their Opposition to Atty. Chaguile's nomination. As with the second ground cited by Atty. Ubano in his Original Motion, this Opposition was anchored on the third paragraph of Section 44 of the IBP By-Laws.

Also on May 20, 2013, Atty. Ubano filed a "Motion for Leave to File Reply with Very Urgent Motion to Restrain Atty. Chaguile from Voting in the EVP Election on 22 May 2013."<sup>[28]</sup> Attached to the Motion was his "Reply with Very Urgent Motion to Restrain Atty. Chaguile from Voting in the EVP Election on 22 May 2013."<sup>[29]</sup> Atty. Ubano also sent a letter to Associate Justice Mariano C. del Castillo "pray[ing] and beg[ging] the indulgence of the Honorable Court to immediately restrain Atty. Lynda Chaguile from voting in the IBP [Executive Vice President] Election to be held on 22 May 2013."<sup>[30]</sup>

In a Resolution dated June 4, 2013, this Court required the IBP Board of Governors to file its Comment on Atty. Ubano's (1) Urgent Motion to Defer/Restrain Performance of Duties as Successor Governor of IBP Northern Luzon Region; (2) Motion for Leave to File Reply; and (3) Reply. It also required the IBP Board of Governors to comment on the Opposition filed by the signatories purporting to be the delegates of the IBP Northern Luzon Region.

On July 8, 2013, the IBP Board of Governors filed a Compliance (i.e., Comment in Compliance) with this Court's June 4, 2013 Resolution.

With respect to Atty. Ubano's Urgent Motion to Defer/Restrain Performance of Duties as Successor Governor of IBP Northern Luzon Region, the IBP Board of Governors pointed out that Atty. Chaguile's term expired on June 30, 2013.<sup>[31]</sup>

As to the Opposition filed by signatories purporting to be the delegates of the IBP Northern Luzon Region, the IBP Board of Governors alleged that the term of the House of Delegates of Northern Luzon for 2011 to 2013 expired on March 31, 2013. As such, the Opposition signed by the purported delegates was *ultra vires*, and therefore, null and void.<sup>[32]</sup> The IBP Board of Governors pointed out that "[t]he issue about the eligibility of Atty. Lynda Chaguile as replacement Governor for Atty. Denis B. Habawel was traversed over in the Comment x x x dated April 24, 2013."<sup>[33]</sup>

#### **A.M. No. 13-05-08-SC**

The second Administrative Matter assails the conduct of the May 22, 2013 election of the IBP Executive Vice President (EVP). In this election, Atty. Vicente M. Joyas was elected IBP Governor for Southern Luzon.

On May 31, 2013, Atty. Ubano filed an Urgent Omnibus Motion to (1) nullify the May 22, 2013 IBP Executive Vice President election and (2) restrain Atty. Vicente M. Joyas from discharging the duties of EVP/Acting President. This Motion was docketed as A.M. No. 13-05-08-SC. In this Court's Resolution dated June 18, 2013, this Administrative Matter was consolidated with A.M. No. 13-04-03-SC (the first Administrative Matter).

Atty. Ubano sought to nullify the May 22, 2013 election on two (2) grounds: