

EN BANC

[A.M. No. 09-5-2-SC, December 14, 2010]

**IN THE MATTER OF THE BREWING CONTROVERSIES IN THE
ELECTION IN THE INTEGRATED BAR OF THE PHILIPPINES,**

[A.C. NO. 8292]

**ATTYS. MARCIAL M. MAGSINO, MANUEL M. MARAMBA AND
NASSER MAROHOMSALIC, COMPLAINANTS, VS. ATTYS. ROGELIO
A. VINLUAN, ABELARDO C. ESTRADA, BONIFACIO T. BARANDON,
JR., EVERGISTO S. ESCALON AND RAYMUND JORGE A. MERCADO,
RESPONDENTS.**

RESOLUTION

CORONA, C.J.:

This resolves the above matter involving the leadership controversy at the Integrated Bar of the Philippines (IBP) and the administrative case that was filed against some of the high-ranking officers of the IBP on account thereof.

I. *Antecedents*

The Court in an *En Banc* Resolution dated June 2, 2009 created a Special (Investigating) Committee^[1] to look into the "brewing controversies in the IBP elections, specifically in the elections of Vice-President for the Greater Manila Region and Executive Vice-President of the IBP itself xxx and any other election controversy involving other chapters of the IBP, if any", that includes as well the election of the Governors for Western Mindanao and Western Visayas.

Consequently, the Special Committee called the IBP officers involved to a preliminary conference on June 10, 2009. With respect thereto, Atty. Rogelio A. Vinluan then submitted a Preliminary Conference Brief on the same day. During the conference it was determined that the investigation would focus on the following issues or controversies:

1. What is the correct interpretation of Section 31, Article V of the IBP By-Laws which provides:

"SEC. 31. **Membership.** - The membership (of Delegates) shall consist of all the Chapter Presidents and, in the case of Chapters entitled to more than one Delegate each, the Vice-Presidents of the Chapters and such additional Delegates as the Chapters are entitled to. Unless the Vice-President is already a Delegate, he shall be an alternate Delegate.

Additional Delegates and alternates shall in proper cases be elected by the Board of Officers of the Chapter. Members of the Board of Governors who are not Delegates shall be members *ex officio* of the House, without the right to vote."

2. Who was validly elected Governor for the Greater Manila Region?
3. Who was validly elected Governor for Western Visayas Region?
4. Who was validly elected Governor for Western Mindanao Region?
5. Who was validly elected IBP Executive Vice President for the next term?
6. What is the liability, if any, of respondent Atty. Rogelio A. Vinluan under the administrative complaint for "grave professional misconduct, violation of attorney's oath, and acts inimical to the IBP" filed against him by Attys. Marcial Magsino, Manuel Maramba and Nasser Marohomsalic?

Meanwhile, a Supplemental Complaint dated June 11, 2009 was received from Attys. Magsino, Maramba and Marohomsalic regarding the earlier complaint that they filed last May 21, 2009 against Atty. Vinluan.

As such, then IBP President Feliciano M. Bautista and then Executive Vice President (EVP) Vinluan agreed to submit their respective position papers on the above issues and controversies. Also, Atty. Vinluan was required to file his answer to the administrative complaint against him.

A Position Paper dated June 15, 2009 was then received from Atty. Vinluan. Attys. Elpidio G. Soriano, III and Erwin M. Fortunato also filed their Position Papers both dated June 15, 2009. It appears that an earlier Position Paper also dated June 15, 2009 was submitted by Atty. Benjamin B. Lanto.

For their part, Attys. Bautista, Maramba and Magsino filed their Position Paper dated June 16, 2009. Incidentally, in a Manifestation likewise dated June 16, 2009 Attys. Bautista, Maramba and Marcial M. Magsino submitted the same paper but already bearing the signature of Atty. Bautista.

Atty. Nasser A. Marohomsalic submitted his Position Paper dated June 17, 2009. The Special Committee, in the course of its investigation, further received a letter dated June 22, 2009 from Atty. Alex L. Macalawi, President of the IBP Lanao del Sur Chapter.

As to the administrative case filed against him, Atty. Vinluan, as respondent, filed his Comment dated June 15, 2009. In turn, Attys. Magsino, Maramba and Marohomsalic, as complainants, submitted their Reply dated June 23, 2009.

The Special Committee then submitted a Report and Recommendation dated July 9,

2009 the dispositive portion of which read as follows:

A. That to avoid further controversy regarding its proper interpretation and implementation, Sec. 31, Article V, of the By-Laws should be amended as follows (suggested amendments are in bold print):

"SEC. 31. **Membership.** - The membership of the House of Delegates shall consist of all the Chapter Presidents and in the case of Chapters entitled to mo(r)e than on(e) Delegate each, the Vice President of the Chapters and such additional Delegates as the Chapters are entitled to. Unless the Vice President is already (a) delegate, he shall be an alternate Delegate. **Additional Delegates and their respective alternates shall be elected from, and by, the Board of Officers of the Chapter. If the Delegate chosen is incapacitated, or disqualified, or resigns, or refuses to serve, and there are enough members of the Board to be elected as Delegates, then the Board of Officers shall elect the additional delegates and alternates from the general membership of the Chapter, and his corresponding alternate shall take his place.**"

B. That to avoid any ambiguity as to how the President shall preside and vote in meetings of the House of Delegates, paragraph (g), Sec. 33, Article V of the By-Laws should be amended as follows:

"(g) In all meetings and deliberations of the House, whether in annual or special convention, the President shall preside, **or the Executive Vice President, if the President is absent or incapacitated, but neither of them shall vote except to break a tie.**"

C. Similarly, Sec. 42, Article VI of the By-Laws, on meetings of the Board of Governors, should be amended to read as follows:

"Sec. 42. **Meetings.** - The Board shall meet regularly once a month, on such date and such time and place as it shall designate. Special meetings may be called by the President, and shall be called by him upon the written request of five (5) members of the Board. **The President shall not vote except to break a tie in the voting. When for any reason, the President cannot preside on account of his absence, incapacity, or refusal to call a meeting, the Executive Vice President shall preside, there being a quorum to transact business, but he may not vote except to break a tie.**

D. That Sec. 43, Article VI of the By-Laws, on the procedure for approving a resolution by the Board of Governors without a meeting, should be amended by adding the following exception thereto so that the procedure may not be abused in connection with any election in the IBP:

"This provision shall not apply when the Board shall hold an election or hear and decide an election protest."

E. That the provision for the strict implementation of the rotation rule among the Chapters in the Regions for the election of the Governor for the regions, (as ordered by this Honorable Court in Bar Matter No. 586, May 14, 1991) should be incorporated in Sec. 39, Article VI of the By-Laws, as follows:

"Sec. 39. ***Nomination and election of the Governors.*** - At least one (1) month before the national convention the delegates from each region shall elect the Governor for their region, **who shall be chosen by rotation which is mandatory and shall be strictly implemented among the Chapters in the region. When a Chapter waives its turn in the rotation order, its place shall redound to the next Chapter in the line. Nevertheless, the former may reclaim its right to the Governorship at any time before the rotation is completed; otherwise, it will have to wait for its turn in the next round, in the same place that it had in the round completed.**

F. That in view of the fact that the IBP no longer elects its President, because the Executive Vice President automatically succeeds the President at the end of his term, Sec. 47, Article VII of the By-Laws should be amended by deleting the provision for the election of the President. Moreover, for the strict implementation of the rotation rule, the Committee recommends that there should be a sanction for its violation, thus:

"Sec. 47. *National Officers.* - The Integrated Bar of the Philippines shall have a President, an Executive Vice President, **and nine (9) regional Governors. The Executive Vice President shall be elected on a strict rotation basis by the Board of Governors from among themselves, by the vote of at least five (5) Governors.** The Governors shall be *ex officio* Vice President for their respective regions. There shall also be a Secretary and Treasurer of the Board of Governors.

"The violation of the rotation rule in any election shall be penalized by annulment of the election and disqualification of the offender from election or appointment to any office in the IBP."

G. That Atty. Manuel M. Maramba should be declared the duly elected Governor of the Greater Manila Region for the 2009-2011 term.

H. That Atty. Erwin Fortunato of the Romblon Chapter should be declared the duly elected Governor of the Western Visayas Region for the 2009-2011 term.

I. That a special election should be held in the Western Mindanao Region,

within fifteen (15) days from notice, to elect the Governor of that region for the 2009-2011 term. In accordance with the rotation rule, only the six (6) Chapters in the region that have not yet been elected to the Board of Governors, namely: Zamboanga Sibugay, Zamboanga del Norte, Za(m)boanga del Sur, Lanao del Norte, Misamis Occidental, and Maguindanao-Cotabato City, shall participate in the election.

J. That, thereafter, a special election should also be held by the Board of Governors to elect the Executive Vice President for the 2009-2011 term with strict observance of the rotation rule. Inasmuch as for the past nine (9) terms, i.e., since the 1991-1993 term, the nominees of the Western Visayas and Eastern Mindanao Regions have not yet been elected Executive Vice President of the IBP, the special election shall choose only between the nominees of these two (2) regions who shall become the Executive Vice President for the 2009-2011 term, in accordance with the strict rotation rule.

K. That the high-handed and divisive tactics of Atty. Rogelio A. Vinluan and his group of Governors, Abelardo Estrada, Bonifacio Barandon, Jr., Evergisto Escalon, and Raymund Mercado, which disrupted the peaceful and orderly flow of business in the IBP, caused chaos in the National Office, bitter disagreements, and ill-feelings, and almost disintegrated the Integrated Bar, constituted grave professional misconduct which should be appropriately sanctioned to discourage its repetition in the future.

II. *Findings of the Special Committee*

In its Report and Recommendation dated July 9, 2009, the Special Committee disclosed when it was discussing the Board of Officers of each chapter that:

The government of a Chapter is vested in its **Board of Officers** composed of nine (9) officers, namely: the President, Vice-President, Secretary, Treasurer, and five (5) Directors who shall be elected by the members of the Chapter at the biennial meeting on the last Saturday of February, and shall hold office for a term of two (2) years from the first day of April following their election and until their successors shall have been duly chosen and qualified. For the 2009-2011 term, the election of Chapter officers was held on February 28, 2009.

In 1983 up to 1995, the Quezon City Chapter elected the usual nine (9) officers to its Board of Officers and they were all delegates to the House of Delegates. Beginning with the 1997-1999 term, when it added a Public Relations Officer (P.R.O.) and Auditor to its Board of Officers, the number of delegates allotted to the Chapter was also increased to eleven (11) like the membership in its Board of Officers, pursuant to a reapportionment of delegates by the Board of Governors under Sec. 30, Art. V of the By-Laws.

Up to the 2007-2009 term, all the officers of the QC Chapter were also the Chapter's delegates to the House of Delegates. Atty. Victoria Loanzon