

THIRD DIVISION

[ADM. CASE NO. 6554, December 14, 2005]

ERLINDA K. ILUSORIO-BILDNER, PETITIONER, VS. ATTY. LUIS K. LOKIN, JR. AND THE BOARD OF GOVERNORS OF THE INTEGRATED BAR OF THE PHILIPPINES, RESPONDENTS.

DECISION

CARPIO MORALES, J.:

On petition for review is the Resolution of the Integrated Bar of the Philippines (IBP) Board of Governors dismissing the disbarment complaint filed by Erlinda K. Ilusorio-Bildner (petitioner) against Atty. Luis Lokin, Jr. (respondent), docketed as CBD Case No. 02-984.

In her complaint against respondent, petitioner alleges that on July 15, 1991, her father, the late Potenciano Ilusorio (Ilusorio), engaged the services of the law office of Liwanag Raval Pilando Suplico and Lokin to represent him in the Sandiganbayan Civil Case No. 0009,^[1] *"Republic of the Philippines v. Jose L. Africa, et al.,"* of which Ilusorio was one of the defendants.

In that civil case, the Republic was claiming, among other properties, shareholdings in Philippine Overseas Telecommunications Corporation (POTC) and Philippine Communications Satellite Corporation (PHILCOMSAT) 99% of the shares in the latter corporation of which appeared to be owned by POTC. Respondent, together with Attorneys Demaree Raval and Salvador Hizon, actively handled the case for Ilusorio.

While the case was pending, Ilusorio, with the assistance of the law firm of Raval and Lokin (successor to Liwanag Raval Pilando Suplico and Lokin), entered into a Compromise Agreement with the Republic which bore the imprimatur of the Sandiganbayan.^[2] Under the Compromise Agreement which, by petitioner's claim, constituted the full, comprehensive and final settlement of claims of the parties, the Republic was to get 4,727 POTC shares while Ilusorio was to get 673 POTC shares.

Petitioner alleges that during the special stockholders' meeting of PHILCOMSAT held on August 27, 1998 which was supposed to be a mere informal gathering to introduce the newly appointed government nominees for PHILCOMSAT to the private stockholders of POTC, the gathering, through the "high-handed and deceitful maneuvers" of respondent, was suddenly and without notice transformed into a Special Stockholders Meeting at which directors and officers of PHILCOMSAT were elected.

Petitioner adds that Ilusorio contested the validity of the meeting by filing before the Securities and Exchange Commission (SEC) a complaint, docketed as SEC Case No. 09-98-6086, against Manuel Nieto, et al. who were purportedly elected directors and officers of PHILCOMSAT,^[3] in which SEC case respondent appeared as the counsel of

Nieto, et al., contrary to his oath not to represent conflicting interests.

Ilusorio, together with Fidelity Farms, Inc. and Great Asia Enterprises, Inc., had earlier filed with the IBP a disbarment complaint against respondent on the same grounds as those raised in the present case. However, on account of the death of Ilusorio and the failure of his children, namely, Maximo Ilusorio, Sylvia Ilusorio, and petitioner, to establish their qualification to substitute for him, his complaint was dismissed. The dismissal having explicitly stated that it was without prejudice to the filing of a new complaint by Ilusorio's children or any person who knows of respondent's unethical acts, petitioner contends that her present complaint is not barred by such dismissal.

After hearing both parties, IBP Investigating Commissioner Milagros San Juan found merit in petitioner's complaint and recommended that respondent be suspended for three months.

By the now assailed Resolution of February 27, 2004, however, the IBP Board of Governors set aside the recommendation of Commissioner San Juan and dismissed the complaint.

No copy of the notice of resolution was served upon petitioner. Petitioner, nonetheless, learned about the recommendation of Commissioner San Juan and the setting aside thereof by the Board of Governors, prodding her to write a March 10, 2004 letter to the Board in her own name requesting "that the Board take up the matter once more" and asking for "the remanding of the case against Atty. Luis Lokin to the Board of Governors." In the same letter, petitioner stated that the very brief time it took the Board to review the case and resolve it in respondent's favor confirms the information she received that a former IBP official had been intervening for respondent.

By letter of April 16, 2004 bearing the signatures of all its members, the Board of Governors denied what it considered as petitioner's malicious and reckless allegations, stating that it was "constrained to deny [petitioner's] request for a remanding or a reconsideration of the case" as there was no provision for a reconsideration of any such case either in Rule 139-B of the Rules of Court or in the Rules of Procedure of the Commission on Bar Discipline.

Counsel for petitioner, Atty. Samuel Divina, then wrote a letter of July 19, 2004 to Atty. Jose Anselmo Cadiz, Chairman of the IBP Board of Governors and concurrently National President of the IBP, informing him that petitioner had not been notified of any final action on her complaint, and attaching thereto as further evidence a document for its consideration in the event that no such action had yet been taken.

Replying, the Board Chairman, by letter dated August 11, 2004, stated that the Board could no longer act on petitioner's July 19, 2004 letter, otherwise it would, in effect, be considering the letter as a motion for reconsideration which is not provided for by the rules of procedure for cases of the kind. And the Chairman referred petitioner's counsel to the Board's April 16, 2004 letter to her.

Atty. Divina thereupon sent a letter dated August 18, 2004 to Atty. Rogelio Vinluan, National Director for Bar Discipline of the IBP, requesting for a copy of the Notice of Resolution of the Board of Governors and of the Investigation Report of

Commissioner San Juan, so that petitioner may appeal the case to the Supreme Court.

Atty. Divina later sent Atty. Vinluan another letter, dated **August 27, 2004**, stating that upon further reading of the August 11 letter of the IBP Board Chairman, it appeared that it was the Chairman's intention that the said letter be treated as a Notice of Resolution and, therefore, petitioner had until September 2, 2004 to file a Petition for Review (since the August 11 letter was received on August 17, 2004). Instead of asking for the Notice of Resolution as in his previous letter, Atty. Divina only requested in his August 24, 2004 letter for a copy of the Report and Recommendation of Commissioner San Juan and the record, if any, of the deliberations of the IBP indicating the basis for reversing her findings. This letter, according to petitioner, was simply ignored.

Petitioner thus filed the present petition on September 2, 2004 to which respondent has already filed his Comment.

Before delving into the merits of this case, the procedural issues raised by respondent against the petition will first be addressed.

Respondent contends that the petition was filed beyond the 15-day reglementary period, as petitioner should be deemed to have received notice of the challenged IBP resolution, not on August 17, 2004 when her counsel received the August 11, 2004 letter of the IBP Board Chairman, but on March 10, 2004 when she wrote the Board admitting having acquired knowledge of the reversal of Commissioner San Juan's recommendation. Hence, respondent claims, petitioner had only until March 25, 2004 to file a petition for review.

Respondent further contends that even on the assumption that the petition was timely filed, the same should be dismissed for being inappropriate and improper, it being based not on a resolution of the IBP Board, but merely on a letter of the IBP President, contrary to Section 12 of Rule 139-B of the Rules of Court which states:

x x x

(c) If the respondent is exonerated by the Board or the disciplinary sanction imposed by it is less than suspension or disbarment (such as admonition, reprimand, or fine) it shall issue a decision exonerating respondent or imposing such sanction. The case shall be deemed terminated unless upon petition of the complaint or other interested party filed with the Supreme Court within fifteen (15) days from notice of the Board's resolution, the Supreme Court orders otherwise.
(Underscoring supplied)

This Court finds that the letter of the Board Chairman to petitioner's counsel may not be deemed to be the notice of resolution required by above-quoted Section 12, Rule 139-B, paragraph (c). The notice of resolution referred to in said paragraph (c) refers not to an unofficial information that may be gathered by the parties, nor to any letter from the IBP Board Chairman or even of the Board, but to the official notice of resolution that is supposed to be issued by the Board, copy of which is given to all parties and transmitted to this Court. As paragraph (d) which immediately follows paragraph (c) states:

(d) Notice of the resolution or decision of the Board shall be given to all parties through their counsel. A copy of the same shall be transmitted to the Supreme Court.

In its Comment to the present petition, respondent IBP admits that no such notice has been sent to petitioner: "The Board has not to date issued the notice of resolution confirming the dismissal of CBD Case No. 02-984 for the reason that all the relevant records have yet to be completed for transmittal to the Supreme Court. The complainant will be formally furnished a copy of the resolution upon transmittal of the records to the Supreme Court."^[4]

The IBP eventually transmitted to this Court on July 6, 2005 the Notice of Resolution. A copy was supposedly furnished the petitioner; however, the IBP has not submitted any proof of service.

Since no notice has been sent to petitioner, at least at the time this petition was filed, as the August 11, 2004 letter from the IBP Board Chairman cannot be deemed a notice of resolution, the present petition has been timely filed.

Parenthetically, the IBP Board Chairman erred when he stated that the Board may not act on motions for reconsideration as there is no provision for such motions under the rules of procedure for disbarment cases. For *Pimentel, Jr. vs. Atty. Llorente*^[5] instructs:

x x x The question of whether a motion for reconsideration is a prohibited pleading or not under Rule 139-B, §12(c) has been settled in *Halimao v. Villanueva*, in which this Court held:

"Although Rule 139-B, §12(C) makes no mention of a motion for reconsideration, nothing in its text or in its history suggests that such motion is prohibited. It may therefore be filed within 15 days from notice to a party. Indeed, the filing of such motion should be encouraged before resort is made to this Court as a matter of exhaustion of administrative remedies. to afford the agency rendering the judgment an opportunity to correct any error it may have committed through a misapprehension of facts or misappreciation of the evidenced." (Underscoring supplied)

In another vein, respondent claims that the petition is premature as it is not based on a notice of resolution of the Board, hence, it should be dismissed for being inappropriate and improper.

While, generally, a party who desires to appeal from the IBP's dismissal of a disciplinary case should await the notice of resolution, it bears noting in this instance that the Board, despite issuing a resolution on the subject complaint on February 27, 2004, failed to send a notice of resolution to petitioner. As borne out by the IBP's statement noted earlier, there was still no notice to petitioner as of February 9, 2005 – almost one year after the dismissal of the subject complaint. The IBP has given no reason for the delay other than the nebulous explanation that records were still being completed. In view thereof, petitioner, who had already confirmed that her complaint was dismissed through a letter coming from the IBP Board Chairman, cannot be faulted for appealing to this Court notwithstanding the absence of an