

## THIRD DIVISION

[ A.C. No. 3066, October 26, 1999 ]

**J.K. MERCADO AND SONS AGRICULTURAL ENTERPRISES, INC.,  
AND SPOUSES JESUS AND ROSARIO K. MERCADO,  
COMPLAINANTS, VS. EDUARDO DE VERA AND JOSE RONGKALES  
BANDALAN, RESPONDENTS.**

[A.C. No. 4438. OCTOBER 26, 1999]

**ATTY. EDUARDO C. DE VERA, PETITIONER-COMPLAINANT, VS.  
ATTY. MERVYN G. ENCANTO, ATTY. NUMERIANO G. TANOPO, JR.,  
ATTY. JOSE AGUILA GRAPILON, ATTY. BEDA G. FAJARDO, ATTY.  
RENE C. VILLA, THE INTEGRATED BAR OF THE PHILIPPINES,  
THRU ITS COMMISSION ON BAR DISCIPLINE, AS REPRESENTED  
BY ATTY. MERVYN G. ENCANTO, INCUMBENT NATIONAL  
PRESIDENT; ATTY. CARMEN LEONOR P. MERCADO-ALCANTARA;  
SPOUSES JESUS K. MERCADO AND ROSARIO P. MERCADO; AND  
J.K. MERCADO AND SONS AGRICULTURAL ENTERPRISES, INC.,  
RESPONDENTS.**

## R E S O L U T I O N

### **VITUG, J.:**

The petition for disbarment filed by J.K. Mercado and Sons Agricultural Enterprises, Inc. ("Mercado and Sons"), and the spouses Jesus K. Mercado and Rosario P. Mercado against Atty. Eduardo C. De Vera and Atty. Jose Rongkales Bandalan, the former Regional Trial Court Judge of Davao City, Branch 14, is an offshoot of Civil Case No. 17215, an action for "dissolution/liquidation of conjugal partnership, accounting, support with support *pendente lite*, annulment of contract, reconveyance or recovery of possession of conjugal share, partition, damages, and attorneys fees" filed by Rosario P. Mercado ("R. Mercado") against Jesus K. Mercado ("J. Mercado"), Mercado and Sons, and Standard Fruits Corporation ("Stanfilco"). The case was assigned to the sala of then Judge Bandalan. Representing R. Mercado was Atty. De Vera.

On 15 December 1986, Judge Bandalan decided the case in favor of R. Mercado. She was awarded the sum of a little over P9 million. On 19 December 1986, J. Mercado and Mercado and Sons filed a timely notice of appeal. Stanfilco, for its part, filed a motion for reconsideration. On 05 January 1987, Judge Bandalan granted the motion for execution pending appeal filed by Atty. De Vera. On even date, the judge likewise granted Atty. De Vera's "motion to note plaintiff's counsel's statement of claim of Attorney's lien (charging and retaining) and motion to direct Provincial Registry of Deeds of Davao to annotate such liens on the certificates of titles of (the) Mercado spouses." On 12 January 1998, a writ of execution was issued. Two days later or on 14 January 1987, notices of garnishment under execution pending appeal

were served by Sheriff Aquillo Angon on the respective managers of RCBC, Claveria, Davao City; RCBC, Tagum, Davao Del Norte; Traders Royal Bank, City Hall Drive, Davao City; and Traders Royal Bank, R. Magsaysay Ave., Davao City. It would appear that a total amount of P1,270,734.56 was garnished.

On 26 February 1987, R. Mercado terminated the services of Atty. De Vera, offering the amount of P350,000.00 by way of attorney's fees. She, at the same time, demanded an accounting and the turn-over of the money still in the possession of Atty. De Vera. The latter refused to heed the demand, claiming that pursuant to the decision, he should, in fact, be entitled to P2,254,217.00 by way of attorney's fees. Failing to recover what she had felt was lawfully due to her, R. Mercado filed disbarment proceedings against Atty. de Vera. The matter was initially referred to the Office of the Solicitor General for investigation, report and recommendation; however, upon the approval and implementation of Rule 139-B of the Rules of Court, the case was transferred to the Integrated Bar of the Philippines ("IBP") and assigned to Commissioner Ernesto L. Pineda.

Assailing the conduct of the proceedings, Atty. De Vera filed with this Court a petition for *certiorari*, prohibition and injunction, docketed G.R. No. 96333, to enjoin Commissioner Pineda from continuing with the investigation. The petition was dismissed by the Court, in its resolution<sup>[1]</sup> of 02 September 1992, and Commissioner Pineda was directed to proceed and to submit his report to the Court within ten (10) days from notice. Prior to his receipt of the resolution, however, Commissioner Pineda had ceased to be the IBP hearing officer; consequently, the case was re-assigned to Commissioner Plaridel C. Jose.

Noting that the proper forum of complaints against Justices and judges of lower courts is the Supreme Court, Commissioner Jose dismissed the case against Judge Bandalan for lack of jurisdiction. In his report, dated 04 November 1992, Commissioner Jose recommended the dismissal of the disbarment case "without prejudice to the rights of the parties to ventilate the question of attorney's fees that should be due to Atty. Eduardo C. de Vera before the proper forum." It would appear that a clarificatory addendum report, dated 06 December 1993, was later submitted by Commissioner Jose.

Meanwhile, on 23 March 1993, the IBP Board of Governors adopted Resolution No. X-93-41 recommending to the Supreme Court the suspension of Atty. De Vera from the practice of law for one (1) year and dismissing the case against Judge Bandalan for lack of jurisdiction. This action of the IBP Board of Governors prompted Atty. De Vera to file Administrative Case No. 4438 seeking the disbarment of Attorneys Mervyn G. Encanto, Numeriano G. Tanopo, Jr., Jose Aguila Grapilon, Beda G. Fajardo, Rene C. Villa, and Carmen Leonor P. Mercado-Alcantara for grave misconduct, violation of the lawyer's oath, and malpractice. Atty. De Vera averred that the resolution of 23 March 1993 was not formally discussed, deliberated upon, actually adopted nor passed upon during, and before the expiration of, the term of office of the members of the IBP Board of Governors. He also accused Atty. Alcantara of conspiring with the IBP officers in the preparation, rendition and release of the resolution, citing the latter's motions for early resolutions filed on 12 October 1993 and 26 July 1994. He, finally, alleged that a copy of the resolution was sent to him only on 09 June 1995.

Atty. Numeriano G. Tanopo, Jr., explained that Resolution No. X-93-41 was adopted

at a special meeting convened on 23 March 1993 by Executive Vice President Mervyn Encanto during which Governors Jose Aguila Grapilon, Ma. Zita C. Valera, Beda G. Fajardo, Rene C. Villa and Teodoro D. Nano, Jr., were in attendance. The resolution was placed in the charge of the Directorate for Bar Discipline for the procurement of the signatures of the members of the IBP Board of Governors. Since the members from the nine different IBP regions would normally visit the National Office only once a month, it was not unusual for the signing of resolutions to take place a month or so following board meetings. The adoption of the assailed resolution, according to Atty. Tanopo, had no taint of irregularity at all, asserting that the term of office of the aforementioned members of the Board of Governors expired only on 30 June 1993. Atty. Tanopo himself expressed surprise why the "Addendum Report," dated 06 December 1993, had surfaced nine months after the adoption of the resolution of the Board of Governors in A.C. No. 3066. He explained that the newly-elected members of the IBP Board of Governors, in a special meeting held on 18 December 1993, noted that "the previous Board under President Tanopo already rendered a decision in the above-entitled case as embodied under Resolution No. X-93-41 dated March 23, 1993, except that the same has not been forwarded to the Supreme Court inasmuch as some members of the previous Board had not affixed their signatures on the copy of the decision." Hence, he said, Resolution No. XI-93-170 was passed directing Governor Agustinus Gonzaga, Chairman of the Committee on Bar Discipline, "to require the members of the immediately preceding Board of Governors to affix their signatures on their decision in the above-entitled case," and that, therefore, it was not possible for Atty. De Vera to be informed sooner of the resolution of his case.

Attorneys Mervyn G. Encanto, Jose Aguila Grapilon, Beda G. Fajardo, Rene C. Villa and Ma. Zita C. Valera added that the adoption of Resolution No. X-93-41 was duly taken up and considered in the Special Meeting held on 23 March 1993. Attorneys Grapilon, Tanopo, Encanto and Fajardo were able to sign the resolution before the expiration of their term on 30 June 1993. Atty. Valera affixed his signature in the early part of 1994 while Atty. Villa also did so sometime in October 1994 or thereabouts. Attorneys Estenzo and Nano were unable to sign the resolution at all. Atty. Encanto said that he could not have given a copy of the resolution to Atty. De Vera when the latter went to his office in May 1994 since the resolution was not yet ready for release at the time nor could he then discuss the matter with Atty. De Vera because of the rule on confidentiality of pending proceedings.

Atty. Alcantara, in her case, denied the charge that she had conspired with the IBP officers in the issuance of the IBP Board resolution and pointed out that the motions for early resolution she filed would show nothing more than an adherence to the regular procedure adopted in resolving A.C. No. 3066.

Atty. De Vera, in his reply, contended that the Minutes could not be taken to be a true and faithful recording of the proceedings. He cited, for instance, the absurdity that while on page four thereof, the minutes indicated that Commissioner Plaridel Jose was asking for thirty days from *21 October 1992* within which to submit his report in A.C. No. 3066, Resolution No. X-93-37 approved the request granting Commissioner Jose a period of thirty days from *21 October 1993* within which to submit the report. For another, the request for extension of time to submit the report was granted on the same day the report was taken up. He likewise questioned why the IBP Board of Governors evidently failed to consider that Commissioner Jose had actually submitted two reports.