

Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY

Wilfredo M. Lantican
WILFREDO M. LANTICAN
Division Clerk of Court
Third Division

AUG 17 2018

THIRD DIVISION

ACHERNAR B. TABUZO,
Complainant,

A.C. No. 12005

Present:

- versus -

VELASCO, JR., Chairman
BERSAMIN,
LEONEN,
MARTIRES,
GESMUNDO, JJ.

ATTY. JOSE ALFONSO M. GOMOS,
Respondent.

Promulgated:

July 23, 2018

Wilfredo M. Lantican

x ----- x

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 Complaint¹ filed by Atty. Achernar B. Tabuzo (complainant) against Atty. Jose Alfonso M. Gomos (respondent)²

¹ *Rollo*, pp. 2-19.

² His term as commissioner ended last June 30, 2017; see *rollo*, p. 79.

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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 Recommendation⁴ 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.

³ *Rollo*, p. 2.

⁴ *Id.* at. 45-55.

⁵ *Id.* at 44.

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. 6713⁶ 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 1.01⁸ and 1.02⁹ of Canon 1 and Rules 3.01,¹⁰ 3.02,¹¹ and 3.04¹² 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. 13¹⁵ of the IBP's By-Laws.¹⁶

⁶ The Code of Conduct and Ethical Standards for Public Officials and Employees.

⁷ *Rollo*, pp. 3-7.

⁸ Rule 1.01 – A judge should be the embodiment of competence, integrity and independence.

⁹ Rule 1.02 – A judge should administer justice impartially and without delay.

¹⁰ Rule 3.01 – A judge shall be faithful to the law and maintain professional competence.

¹¹ Rule 3.02 – In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

¹² Rule 3.04 – A judge should be patient, attentive, and courteous to lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts, instead of the courts for the litigants.

¹³ *Rollo*, pp. 7-15.

¹⁴ Section 1. *How Instituted*. — Proceedings for disbarment, suspension, or discipline of attorneys may be taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.

The IBP Board of Governors may, *motu proprio* or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, initiate and prosecute proper charges against erring attorneys including those in the government service. xxx.

Six (6) copies of the verified complaint shall be filed with the Secretary of the IBP or the Secretary of any of its chapters who shall forthwith transmit the same to the IBP Board of Governors for assignment to an investigator.



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

¹⁵ Section 13. *Malfeasance, misfeasance, nonfeasance.* - Notwithstanding the provisions of the next preceding section, the Board of Governors may *motu proprio* or upon the petition of any person, inquire into any malfeasance, misfeasance, or nonfeasance committed by any member of the Integrated Bar or of any of its Chapters, and, after due hearing, take whatever action it may deem warranted. Such action may include his suspension or removal from any office in the Integrated Bar or of its Chapters held by such erring member, as well as recommendation to the Supreme Court for his suspension from the practice of law or disbarment.

¹⁶ *Rollo*, pp. 15-16.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 79-85.

¹⁹ *Id.* at 86-89.

²⁰ *Id.* at 174-177.



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 Reconsideration²¹ 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 Comment²⁴ 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.

²¹ Id. at 178-190.

²² Id. at 179-183.

²³ Id. at 183-190.

²⁴ Id. at 195-199.



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-2017-1120²⁵ 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

²⁵ Id. at 203.

²⁶ Id. at 202.

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. 6397²⁷ 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*

²⁷ An Act Providing for the Integration of the Philippine Bar, and Appropriating Funds Therefor (September 17, 1971).

*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. 181²⁹ was enacted formally creating the IBP and vesting it with corporate personality. Sec. 2 of the law states:

Section 2. **The Integrated Bar shall have perpetual succession and shall have all legal powers appertaining to a juridical person,** particularly the power to sue and be sued; to contract and be contracted with; to hold real and personal property as may be necessary for corporate purposes; to mortgage, lease, sell, transfer, convey and otherwise dispose of the same; to solicit and receive public and private donations and contributions; to accept and receive real and personal property by gift, devise or bequest; to levy and collect membership dues and special assessments from its members; to adopt a seal and to alter the same at pleasure; to have offices and conduct its affairs in the Greater Manila Area and elsewhere; to make and adopt by-laws, rules and regulations not inconsistent with the laws of the Philippines or the Rules of Court, particularly Rule 139-A thereof; and generally to do all such acts and things as may be necessary or proper to carry into effect and promote the purposes for which it was organized. (emphasis supplied)

Significantly, Section 6³⁰ of P.D. No. 181 still recognized this Court's constitutional power to promulgate rules concerning the IBP, and such power of the Court was also institutionalized and carried into the present Constitution in which Sec. 5(5), Art. VIII now reads:

Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, **the integrated bar**, and legal assistance to the under-privileged. 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. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. (emphasis supplied)

Now, given the IBP's statutory and jurisprudential background, the Court proceeds to answer the question: What branch of government created

²⁸ 151 Phil. 132 (1973).

²⁹ Constituting the Integrated Bar of the Philippines Into a Body Corporate and Providing Government Assistance Thereto for the Accomplishment of its Purposes (May 4, 1973).

³⁰ Section 6. The foregoing provisions shall without prejudice to the exercise by the Supreme Court of its rule-making power under the Constitution or to the provisions of Court Rule 139-A.

the IBP? More importantly: Is the IBP strictly a **public office** or a **private institution**?

To answer both questions, the Court highlights its observations regarding the important segments of the legal history which led to the grant of the IBP's juridical personality, *viz*:

Firstly, both the 1935 and 1973 Constitutions gave the Court and the Legislature the concurrent power to regulate the practice of law. In other words, the overlapping and coequal powers of both branches of government to regulate the practice of law became the initial bases for the IBP's establishment.

Secondly, Sec. 1 of R.A. No. 6397 used the phraseology "to effect the integration" which means that Congress, though it also had the power to enact laws affecting the practice of law under the 1935 Constitution, had *acknowledged* the Court's rightful (and primary) prerogative to adopt measures to raise the standard of the legal profession.³¹ At that time, only this Court had the power to "promulgate" rules concerning the practice of law while Congress may only "repeal, alter or supplement" these promulgated rules. That may be the apparent reason why Congress only appropriated (and allowed for subsequent appropriations of) the necessary funds to *assist* this Court in attaining the objective of initiating the integration of the Philippine Bar.

Thirdly, the Court had ordained the integration of the Philippine Bar to: a) assist in the administration of justice; b) foster and maintain on the part of its members high ideals of integrity, learning, professional competence, public service and conduct; c) safeguard the professional interests of its members; d) cultivate among its members a spirit of cordiality and brotherhood; e) provide a forum for the discussion of law, jurisprudence, law reform, pleading, practice and procedure, and the relations of the Bar to the Bench and to the public, and publish information relating thereto; f) encourage and foster legal education; g) promote a continuing program of legal research in substantive and adjective law, and make reports and recommendations thereon; h) enable the Bar to discharge its public responsibility effectively; i) render more effective assistance in maintaining the Rule of Law; j) protect lawyers and litigants against the abuse of tyrannical judges and prosecuting officers; k) discharge, fully and properly, its responsibility in the disciplining and/or removal of incompetent and

³¹ In the judicial system from which ours has been evolved, the admission, suspension, disbarment and reinstatement of attorneys at law in the practice of the profession and their supervision have been disputably a judicial function and responsibility [*In re: Cunanan, et al.*, 94 Phil. 534, 544 (1954)].

unworthy judges and prosecuting officers; l) shield the judiciary, which traditionally cannot defend itself except within its own forum, from the assaults that politics and self-interest may level at it, and assist it to maintain its integrity, impartiality and independence; m) have an effective voice in the selection of judges and prosecuting officers; n) prevent the unauthorized practice of law, and break up any monopoly of local practice maintained through influence or position; o) establish welfare funds for families of disabled and deceased lawyers; p) provide placement services, and establish legal aid offices and set up lawyer reference services throughout the country so that the poor may not lack competent legal service; q) distribute educational and informational materials that are difficult to obtain in many of our provinces; r) devise and maintain a program of continuing legal education for practicing attorneys in order to elevate the standards of the profession throughout the country; s) enforce rigid ethical standards, and promulgate minimum fees schedules; t) create law centers and establish law libraries for legal research; u) conduct campaigns to educate the people on their legal rights and obligations, on the importance of preventive legal advice, and on the functions and duties of the Filipino lawyer; and v) generate and maintain pervasive and meaningful country-wide involvement of the lawyer population in the solution of the multifarious problems that afflict the nation.³²

Fourthly, P.D. No. 181 endowed the IBP with the attributes of perpetual succession and, more importantly, “all legal powers appertaining to a juridical person.” It means that the IBP had corporate attributes which gave it the ability to pursue desired activities on its own, subject only to the Court’s administrative supervision.

Lastly, the present Constitution’s acknowledgment of the “integrated bar” as one of the subjects of this Court’s power to promulgate rules relative to the practice of law cements the IBP’s existence as a juridical person.

The aforementioned observations indubitably establish that the collaborative enactments of the Court, the Congress (and the President exercising legislative powers in the case of P.D. No. 181), and the present Constitution all contributed to the emergence of the IBP’s juridical personality. Due to this *peculiar manner of creation*, it now becomes reasonable for the Court to conclude that the IBP is a ***sui generis public institution*** deliberately organized, by both the legislative and judicial

³² Supra note 28 at 135-137.

³³ Cf. The characteristics of a public office, according to Mechem, include the delegation of sovereign functions, its creation by law and not by contract, an oath, salary, continuance of the position, scope of duties, and the designation of the position as an office [*Laurel v. Desierto*, 430 Phil. 658, 672 (2002)], citing F.R. Mechem, *A Treatise on the law of Public Offices and Officers*, 1.

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branches of government and recognized by the present and past Constitutions, for the advancement of the legal profession. At this juncture, the Court needs to determine whether the IBP's officers, especially the IBP Commissioners, are considered as public officers under the purview of the law.

Presently, the IBP as an organization has as its members all lawyers coming from both the public and private sectors who are authorized to practice law in the Philippines. However, Section 4³⁴ of the IBP's By-Laws **allows only private practitioners to occupy any position in its organization.** This means that only individuals engaged in the private practice are authorized to be officers or employees and to perform acts for and in behalf of the IBP. Hence, the IBP Commissioners, being officers of the IBP, **are private practitioners performing public functions** delegated to them by this Court in the exercise of its constitutional power to regulate the practice of law. This was aptly described in *Frias v. Atty. Bautista-Lozada*³⁵ where the Court declared that:

The [IBP-CBD] **derives its authority** to take cognizance of administrative complaints against lawyers **from this Court** which has the inherent power to regulate, supervise and control the practice of law in the Philippines. Hence, in the **exercise of its delegated power to entertain administrative complaints against lawyers, the [IBP-CBD] should be guided by the doctrines and principles laid down by this Court.** (emphasis supplied)

Even if the afore-cited case did not expound *in what way* the IBP-Commission is to be "guided by the doctrines and principles laid down by this Court," it can be reasonably inferred that **the IBP-CBD's delegated function of entertaining complaints against lawyers is public in nature; but the responsible officer performing such function is a private individual—not a public officer.** Consequently, it also follows that IBP Commissioners are **not "public officers"** in context of Sec. 3(b)³⁶ of R.A.

³⁴ Section 4. *Non-political bar.* - The Integrated Bar is strictly non-political, and every activity tending to impair this basic feature is strictly prohibited and shall be penalized accordingly. No lawyer holding an elective, judicial, quasi-judicial, or prosecutory office in the Government or any political subdivision or instrumentality thereof shall be eligible for election or appointment to any position in the Integrated Bar or any Chapter thereof. A Delegate, Governor, officer or employee of the Integrated Bar, or an officer or employee of any Chapter thereof shall be considered *ipso facto* resigned from his position as of the moment he files his certificate of candidacy for any elective public office or accepts appointment to any judicial, quasi-judicial, or prosecutory office in the Government or any political subdivision or instrumentality thereof. (emphasis supplied)

³⁵ 523 Phil. 17-20 (2006).

³⁶ "Public Officials" includes elective and appointive officials and employees, permanent or temporary, whether in the career or non-career service, including military and police personnel, whether or not they receive compensation, regardless of amount. (emphasis supplied)

No. 6713, Art. 203 the Revised Penal Code,³⁷ Sec. 4(e)³⁸ R.A. No. 9485,³⁹ or even Sec. 2(b)⁴⁰ of R.A. No. 3019.⁴¹ Especially in the context of R.A. No. 6713, they are not “public officials” as they are not elective or appointive officials of the “government” as defined by Sec. 3(a)⁴² of the same law. Moreover, it is also obvious that IBP Commissioners cannot be held liable for violation of Sec. 15(1),⁴³ Art. VIII of the Constitution because they are neither members of the Judiciary in the context of the Constitution or statutory provisions organizing lower collegiate and trial courts nor quasi-judicial officers in the context of applicable laws creating quasi-judicial agencies. Finally, IBP Commissioners cannot be held administratively liable for malfeasance, misfeasance and non-feasance in the framework of administrative law because they cannot strictly be considered as being “employed” with the government or of any subdivision, agency or instrumentality including government-owned or controlled corporations.⁴⁴

Nonetheless, IBP Commissioners and other IBP officers may be held administratively liable for violation of the rules promulgated by this Court relative to the integrated bar and to the practice of law. Even if they are not “public officers” in the context of their employment relationship with the government, they are still “officers of the court” and “servants of the law” who are expected to observe and maintain the rule of law and to make themselves exemplars worthy of emulation by others.⁴⁵ Most importantly, no less than Sec. 5(5) of the Constitution placed them under the Court’s administrative supervision. Therefore, IBP Commissioners may be held administratively liable **only in relation to their functions as IBP officers—not as government officials.**

³⁷ A public officer is defined in the Revised Penal Code as “any person who, by direct provision of the law, popular election, or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government or in any of its branches public duties as an employee, agent, or subordinate official, of any rank or class [*Zoleta v. Sandiganbayan, et al.*, 765 Phil. 39, 53 (2015), emphasis supplied].

³⁸ “Officer or Employee” refers to a person employed in a government office or agency required to perform specific duties and responsibilities related to the application or request submitted by a client for processing. (emphasis supplied)

³⁹ Anti-Red Tape Act of 2007 (June 2, 2007).

⁴⁰ “Public officer” includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government as defined in the preceding subparagraph. (emphasis supplied)

⁴¹ Anti-Graft and Corrupt Practices Act (August 17, 1960).

⁴² “Government” includes the National Government, the local governments, and all other instrumentalities, agencies or branches of the Republic of the Philippines including government-owned or controlled corporations, and their subsidiaries.

⁴³ All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

⁴⁴ See Section 2(10), 2(13) & 2(15), Introductory Provisions of Executive Order No. 292 (Administrative Code of 1987, July 25, 1987); Sections 13 & 16 of Republic Act No. 6770 (The Ombudsman Act of 1989 November 17, 1989).

⁴⁵ See *De Leon v. Atty. Castelo*, 654 Phil. 224, 231 (2011), citations omitted.

**On the Alleged Delay of
the Resolution of CBD
Case No. 12-3457:**

Sec. 1, Rule III of the Rules of Procedure of the IBP-CBD provides that “[t]he *only pleadings allowed are verified complaint, verified answer and verified position papers and motion for reconsideration* of a resolution.”⁴⁶ Such *restrictive* enumeration is consistent with the summary nature of disciplinary proceedings as well as the basic tenets of practical expediency encouraged by Sec. 5(5), Art. VIII of the Constitution which mandates this Court to adopt such rules for a “simplified and inexpensive procedure for the speedy disposition of cases.” Relatedly, this is also the reason why a party has to first ask for a leave of court before filing any pleading which is not expressly sanctioned by applicable rules of procedure. Such practice is intended to alert litigants that the resolution of unsanctioned motions and other pleadings seeking for affirmative reliefs is discretionary on the part of the courts (including quasi-judicial bodies or investigatory administrative agencies). This is because these unsanctioned pleadings clutter up court (or any administrative quasi-adjudicative or investigative body) records and tend to impede the speedy disposition of cases.

Concomitantly, it is settled that considering the serious consequences of the disbarment or suspension of a member of the Bar, the Court has consistently held that preponderant evidence is necessary to justify the imposition of administrative penalty on a member of the Bar.⁴⁷ Here, preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other or that which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.⁴⁸ Conversely, bare allegations, unsubstantiated by evidence, are not equivalent to proof.⁴⁹

In this case, the source of the complainant’s main gripe against the respondent is the supposed delay in the resolution of the following motions as alleged⁵⁰ in the complaint, to wit:

⁴⁶ *Ramientas v. Atty. Reyala*, 529 Phil. 128, 135 (2006).

⁴⁷ *Aba, et al. v. Atty. De Guzman, Jr., et al.*, 678 Phil. 588, 600 (2011), citations omitted.

⁴⁸ *Castro, et al. v. Atty. Bigay, Jr., et al.*, A.C. No. 7824, July 19, 2017, citations omitted.

⁴⁹ *Real v. Belo*, 542 Phil. 109, 122 (2007), citations omitted.

⁵⁰ *Rollo*, p. 3.

Motion/Pleading Filed	Approximate Days Unresolved	Remarks
Motion for the Issuance of a Subpoena Duces Tecum and Subpoena Ad Testificandum	529 days	Ignored by previous Commissioner, denied by current Commissioner
Respondent's interrogatories to Complanant Lucille Sillo	529 days	Ignored by previous Commissioner, denied by current Commissioner
Motion to Sever	349 days	Ignored by previous Commissioner and granted by current Commissioner on the ground that "complaints for disbarment, suspension or for discipline of attorneys are to be instituted before this Commission by filing six (6) copies of a verified Complaint"
Motion to Inhibit	384 days	Ignored by previous Commissioner and deemed by current Commissioner as follows "Let it be placed on record that Commissioner Irving C. Corvera may now be deemed to have inhibited himself xxx "

These charted allegations show that the complainant had filed several pleadings which are not among those that are explicitly enumerated in Sec. 1, Rule III of the Rules of Procedure of the IBP-CBD. The rule uses the term "only" which is patently indicative that the enumeration is tightly restrictive. Clearly, the respondent had no positive duty *at all* to act on these unsanctioned pleadings, especially in a manner favorable to the complainant. The complainant cannot blame respondent for not acting on prohibited or unsanctioned pleadings. Her insistence in having the aforementioned motions resolved despite not being mentioned as among the pleadings allowed by Sec. 1, Rule III of the Rules of Procedure of the IBP-CBD actually contributed to the delay of the *whole* proceedings in CBD Case No. 12-3457.

Even if the Court were to consider the aforementioned pleadings as not prohibited for the sake of argument, the complainant never attached in her complaint or adduced during the hearings before the IBP-Commission certified true copies of the same documents to show the dates of actual filing so the periods to act on them may be fairly reckoned. She also failed to submit copies of respondent's supposed resolutions denying or granting these motions to show the date on when they were actually rendered or issued. These material omissions leave this Court unable to verify with certainty or to determine with practical accuracy the existence of delay. The only basis of the complainant in imputing delay on the part of the respondent was her Position Paper⁵¹ which merely alleged the existence of her motions in CBD Case No. 12-3457 and their supposedly tarried resolution. Undeniably, the complainant failed to offer any preponderant proof of respondent's supposed delay in the resolutions of her motions in CBD Case No. 12-3457 and merely relied on bare allegations and factual conclusions to support her administrative complaint. Clearly, the quantum of proof required in disbarment or administrative disciplinary cases was not satisfied by the complainant. Therefore, contrary to the complainant's hasty imputation of delay, it only appears that respondent merely disregarded the unsanctioned pleadings filed pursuant to Sec. 1, Rule III of the Rules of Procedure of the IBP-CBD and prudently proceeded to render the report and recommendation thereby belying the allegations of nonfeasance.

At any rate, the Court evinces its observation that the complainant's charge of delay in the resolution of the subject unsanctioned pleadings of the complainant appears to be a *mere retaliation* on the adverse Resolution No. XXI-205-074 dated January 31, 2015 in CBD Case No. 12-3457. The Court had already declared that an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exists and is available.⁵² Similarly, an administrative complaint is not the proper remedy for an adverse decision, order or resolution of an administrative adjudicator deemed by a complaining party as erroneous; especially when there are other remedies under the ordinary course of law such as a motion for reconsideration. Thus, a party who has lost his or right to appeal a decision, resolution or order of a court or quasi-judicial body (including administrative offices or agencies empowered to conduct investigations) cannot re-litigate the same matters in another administrative case filed against the adjudicator.

⁵¹ Id. at 20-43.

⁵² *Atty. Tamondong v. Judge Pasal*, A.M. No. RTJ-16-2467, October 18, 2017.



**On the Respondent's Comments
Against the Complainant in the
Report and Recommendation
for Her Behavior:**

The Court has, in some instances, even conceded that “a lawyer may think highly of his [or her] intellectual endowment.”⁵³ Such observation is but a moderate and fair commentary to remind members of the legal profession to espouse humility in all their dealings not only with their clients and with their fellow lawyers but also against their adversaries.

The respondent's comment, that the complainant “must have thought so highly of herself that...she finds it necessary to declare that [Sillo's words] are not words a graduate of the only Pontifical University in Asia and a law school ran by monks would use,” is merely a fair and realistic observation. Clearly, an academic slur implicating incompetence on a person's intellectual capabilities due to his or her scholastic background simply amounts to an intemperate language on the complainant's part. It finds no place in decent legal argumentation and debate. Besides, lawyers should not be too onion-skinned and should be tolerant of criticisms (especially those which are fair or mild) against them as litigation is inherently a hostile endeavor between adverse or contending parties. Hence, it was proper on the part of Commissioner Limpingco to recommend for the dismissal of the complainant's charges of impropriety for the respondent merely made a fair comment.

Canon 8 of the Code of Professional Responsibility states:

CANON 8 – A lawyer shall conduct himself with **courtesy**, **fairness** and **candor** toward his **professional colleagues**, and shall avoid harassing tactics against opposing counsel. (emphasis supplied)

Obviously, the filing of baseless and unfounded administrative complaints against fellow lawyers is antithetical to conducting oneself with courtesy, fairness and candor. It reduces the Bar's disciplinary process into an avenue for childish bickering and trivial catfights. Realistically, filing harassment administrative complaints definitely causes undue anxiety and considerable psychological stress on wrongly charged respondents. Thus, it should be understood that the aforementioned Canon proscribes the filing of

⁵³ See *Cruz v. Justice Aliño-Hormachuelos, et al.*, 470 Phil. 435, 445 (2004), citations omitted.

frivolous administrative complaints against fellow members of the legal profession to prevent exploitative lawyers from abusing the disciplinary process. Besides, an important portion of the Lawyer's Oath which should be the guiding beacon of every member of the legal profession states: "I will not wittingly nor willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same."

Here, the Court cannot help but notice that even a cursory reading of the complainant's pleadings exhibits her propensity for filing baseless complaints and penchant for hurling denigrating allegations against her adversaries. Moreover, the instant affidavit complaint contains a smorgasbord of violations ascribed to the respondent which the complainant had inaccurately and miserably failed to substantiate. Worse, the complaint's pointless perplexity was compounded by convoluted allegations which made it laborious for the Court to make coherent sense. Accordingly, the Court deems it proper to sternly warn the complainant and her collaborating counsel, Atty. Barboza, to refrain from filing and maintaining baseless administrative suits against fellow lawyers under pain of administrative sanctions.

Final Note

Lawyers are reminded to treat their fellow members of the legal profession and even their non-lawyer adversaries with utmost candor, respect and dignity. More importantly, the primary purpose of administrative disciplinary proceedings against delinquent lawyers is to uphold the law and to prevent the ranks of the legal profession from being corrupted by unscrupulous practices—not to shelter or nurse a wounded ego. Such is the reason why lawyers should always set a good example in not using the law and the rules as weapons or tools of malicious vindication during petty squabbles as it degrades the credibility of the legal profession and tarnishes its integrity.

WHEREFORE, in view of the foregoing premises, the Court **AGREES** with the Report and Recommendation of the Integrated Bar of the Philippines – Committee on Bar Discipline adopted by the Integrated Bar of the Philippines – Board of Governors, and **DISMISSES** the administrative complaint filed against Atty. Jose Alfonso M. Gomos.




Furthermore, the Court **STERNLY WARNS** Atty. Achernar B. Tabuzo and her collaborating counsel Atty. Gaudencio A. Barboza, Jr. to **REFRAIN** from abusing the disciplinary proceedings thru filing and maintaining frivolous administrative complaints against fellow members of the Bar. A repetition of the same or commission of similar acts will be dealt with more severely.

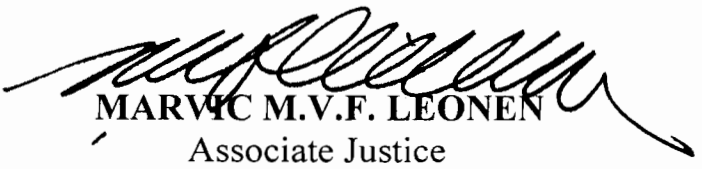
SO ORDERED.


ALEXANDER G. GESMUNDO
Associate Justice

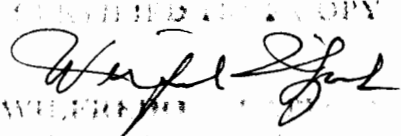
WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


SAMUEL R. MARTIRES
Associate Justice

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