

## EN BANC

[ A.M. No. 09-5-2-SC, April 11, 2013 ]

### IN THE MATTER OF THE BREWING CONTROVERSIES IN THE ELECTIONS OF THE INTEGRATED BAR OF THE PHILIPPINES.

[A.C. NO. 8292]

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

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

**MENDOZA, J.:**

The Court, exercising its power of supervision over the Integrated Bar of the Philippines (*IBP*), resolves this matter of the election of the Executive Vice-President (*EVP*) of the Integrated Bar of the Philippines (*IBP*) for the 2011-2013 term.

This administrative matter was triggered by the Petition for Intervention filed by petitioner-intervenor IBP-Southern Luzon Region (*IBP-Southern Luzon*), seeking a declaration that the post of EVP-IBP for the 2011-2013 term be held open to all regions and that it is qualified to field a candidate for the said position.

This matter comes at the heels of the controversies resolved by the Court in its December 4, 2012 Resolution regarding the application of the rotation rule in determining which chapter of the IBP-Western Visayas region (*IBP-Western Visayas*) was qualified to field a candidate for the position of governor. In the said resolution, the Court clarified that the rotation rule was one by exclusion. Similar to this recently resolved controversy, the present dilemma calls for the application of the rotation system at the national level.

#### **The Factual Antecedents**

To understand the nature of the controversy and the issues presented for resolution, an examination of the structure of the IBP and its history is in order.

In 1973, the Philippine Bar was integrated<sup>[1]</sup> to elevate the standards of the legal profession, to improve the administration of justice and to enable it to discharge its public responsibility more effectively.<sup>[2]</sup> Governing the IBP was the IBP Board of Governors (*IBP-BOG*), consisting of the governors from each of the nine (9) geographic regions of the archipelago,<sup>[3]</sup> namely: Northern Luzon, Central Luzon, Southern Luzon, Greater Manila, Bicolandia, Eastern Visayas, Western Visayas, Eastern Mindanao, and Western Mindanao.<sup>[4]</sup> The governors of the IBP-BOG are, in

turn, elected by the House of Delegates which consists of members duly apportioned among the chapters of each region.<sup>[5]</sup>

At the helm of the IBP is the IBP National President (*IBP-President*),<sup>[6]</sup> who is automatically succeeded by the EVP. When the Philippine Bar was first integrated, both the IBP-President and the EVP were elected by the IBP-BOG from among themselves or from other members of the Integrated Bar,<sup>[7]</sup> with the right of automatic succession by the EVP to the presidency for the next succeeding full term. The presidency rotated among all the nine regions in such order as the IBP-BOG had prescribed.<sup>[8]</sup> Both the IBP-President and the EVP held a term of one (1) year, with the presidency rotating from year to year among the regions.<sup>[9]</sup>

On November 1, 1974, the **IBP By-Laws** took effect, providing that the IBP-President and the EVP be chosen by the Board of Governors from among nine (9) regional governors, as much as practicable, on a rotation basis.<sup>[10]</sup> It was also provided that the IBP-President and the EVP hold office for a term of two (2) years from July 1 following their election until June 30 of their second year in office and until their successors shall have been duly chosen and qualified.<sup>[11]</sup>

Later, several amendments in the IBP By-Laws were introduced, among which were the provisions relating to the election of its national officers. In **Bar Matter No. 287**, dated July 9, 1985, the Court approved the recommendation allowing the IBP-President, the EVP and the officers of the House of Delegates to be directly elected by the House of Delegates.<sup>[12]</sup>

Unfortunately, history recalls that this mode of electing the IBP national officers was marred with unethical politicking, electioneering and other distasteful practices. Thus, on October 6, 1989, the Court in **Bar Matter No. 491**, dated October 6, 1989, ordered: 1] the annulment of the just concluded national elections; 2] the abolition of the system of election of national officers by direct action of the House of Delegates; 3] the restoration of the former system of having the IBP-President and the EVP elected by the IBP-BOG from among themselves, with right of succession by the EVP to the presidency and subject to the rule that "*the position of Executive Vice President of the IBP shall be rotated among the nine (9) IBP regions*";<sup>[13]</sup> 4] the holding of special elections for the election of the first set of IBP-President and EVP;<sup>[14]</sup> and 5] the appointment of a caretaker board to administer the affairs of the IBP pending the holding of special elections.<sup>[15]</sup>

In the same **Bar Matter No. 491**, the Court ordered the amendment of **Section 47**, Article VII of the IBP By-laws, to read:

SEC. 47. National Officers. - The Integrated Bar of the Philippines shall have a President and Executive Vice President to be chosen by the Board of Governors from among nine (9) regional governors, as much as practicable, on a rotation basis. 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 to be appointed by the President with the consent of the Board. (As amended pursuant to Bar Matter No. 491)

The Executive Vice President shall automatically become President for the next succeeding term. **The Presidency shall rotate among the nine Regions.**<sup>[16]</sup> [Emphasis supplied]

Following the rotation system just ordered, the following individuals representing the different regions of the IBP served as IBP-President:

1. Eugene Tan (Capiz)	Western Visayas	January 28, 1990-April 1991 <sup>[17]</sup>
2. Numeriano Tanopo, Jr. (Pangasinan)	Central Luzon	April 1991-June 30, 1991
3. Mervin Encanto (Quezon City)	Greater Manila	1993-1995
4. Raoul R. Angangco (Makati)	Southern Luzon	1995-1997
5. Jose Aguila (Biliran)	Grapilon Eastern Visayas	1997-1999
6. Arthur Lim (Zambasulta)	Western Mindanao	1999-2001
7. Teofilo Pilando, Jr. (Kalinga Apayao)	Northern Luzon	2001-2003
8. Jose Anselmo (Camarines Sur)	Cadiz Bicolandia	2003-2005

On January 27, 1999, in ***Velez v. de Vera***,<sup>[18]</sup> reasoning that the rotation system applied only to the EVP, the Court considered the election of then EVP Leonard De Vera (*De Vera*), representing the Eastern Mindanao region, as **one completing the first rotational cycle** and affirmed the election of Jose Vicente B. Salazar (*Salazar*) of the Bicolandia region as EVP. The Court explained that the rotational cycle would have been completed with the succession of EVP De Vera, representing Eastern Mindanao as IBP-President. For having misappropriated his clients' funds and committing acts inimical to the IBP-BOG and the IBP in general, De Vera was removed as governor of Eastern Mindanao and as EVP, and his removal was affirmed by the Court.

Thus, Salazar became IBP-President for the 2005-2007 term with Feliciano Bautista (Bautista) of Central Luzon as EVP. **The term of Salazar** was the **start of the second rotational cycle**. Bautista eventually succeeded to the IBP presidency with Atty. Rogelio Vinluan (*Vinluan*) as his EVP.

In 2009, however, the national and regional IBP elections were again tainted with numerous controversies, which were resolved by the Court in its **December 14, 2010 Resolution**,<sup>[19]</sup> in the following manner:

WHEREFORE, premises considered, the Court resolves that:

1. The elections of Attys. Manuel M. Maramba, Erwin M. Fortunato and Nasser A. Marohomsalic as Governors for the Greater Manila Region, Western Visayas Region and Western Mindanao Region, respectively, for the term 2009-2011 are UPHELD;

2. A special election to elect the IBP Executive Vice President for the 2009-2011 term is hereby ORDERED to be held under the supervision of this Court within seven (7) days from receipt of this Resolution with Attys. Maramba, Fortunato and Marohomsalic being allowed to represent and vote as duly-elected Governors of their respective regions;

3. Attys. Rogelio Vinluan, Abelardo Estrada, Bonifacio Barandon, Jr., Evergisto Escalon, and Raymund Mercado are all found GUILTY of grave professional misconduct arising from their actuations in connection with the controversies in the elections in the IBP last April 25, 2009 and May 9, 2009 and are hereby disqualified to run as national officers of the IBP in any subsequent election. While their elections as Governors for the term 2007-2009 can no longer be annulled as this has already expired, Atty. Vinluan is declared unfit to hold the position of IBP Executive Vice President for the 2007-2009 term and, therefore, barred from succeeding as IBP President for the 2009-2011 term;

4. **The proposed amendments to** Sections 31, 33, par. (g), 39, 42, and 43, Article VI and **Section 47**, Article VII of the IBP By-Laws as contained in the Report and Recommendation of the Special Committee, dated July 9, 2009, are hereby approved and adopted; and

5. The designation of retired SC Justice Santiago Kapunan as Officer-in-Charge of the IBP shall continue, unless earlier revoked by the Court, but not to extend beyond June 30, 2011.

**SO ORDERED.**

Attempts to seek reconsideration of the Court's resolution were denied by the Court in its Resolution, dated February 8, 2011.<sup>[20]</sup>

Despite *Bar Matter No. 491 and Velez*,<sup>[21]</sup> which recognized the operational fact that the rotation was from the position of President to that of the EVP, Section 47 was not immediately amended to reflect the official position of the Court. It was only amended through the *December 14, 2010 Resolution*.<sup>[22]</sup> **Section 47** of the IBP By-Laws now reads:

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.

In the special elections that were held thereafter, Roan I. Libarios (*Libarios*), representing IBP-Eastern Mindanao Region, was elected EVP and he later on succeeded as president.

On April 27, 2011, the IBP-BOG, acting on the letter of then Gov. Erwin M. Fortunato (*Fortunato*) of IBP-Western Visayas requested that the Court provide guidance on how it would proceed with the application of the rotational rule in the regional elections for governor of IBP-Western Visayas.<sup>[23]</sup>

On December 4, 2012, the Court issued a resolution<sup>[24]</sup> addressing the issues with respect to the election of governor for IBP-Western Visayas. In clarifying that the **rotational rule** was one **by exclusion**, the Court explained that in the election of governor of a region, all chapters of the region should be given the opportunity to have their nominees elected as governor, to the exclusion of those chapters that had already served in the rotational cycle. Once a rotational cycle would be completed, all chapters of a region, except the chapter which won in the immediately preceding elections, could once again have the equal opportunity to vie for the position of governor of their region. The chapter that won in the immediately preceding election, under the rotational cycle just completed, could only vie for the position of governor after the election of the first governor in the new cycle.

### **The Current Controversy**

Earlier, on July 27, 2012, IBP-Southern Luzon filed its *Motion for Leave to Intervene and to Admit the Attached Petition In Intervention*<sup>[25]</sup> and the subject Petition In Intervention,<sup>[26]</sup> seeking a declaration that the post of EVP for the 2011-2013 term be held open to all regions and that it be qualified to nominate a candidate for the position of EVP for the 2011-2013 term.

The Petition in Intervention was, in turn, opposed by Fortunato,<sup>[27]</sup> who insisted that IBP-Western Visayas was the only region that could vie for the position of EVP for the 2011-2013 term.

In the December 4, 2012 Resolution, the Court deferred its action on the intervention sought by the IBP-Southern Luzon and required the IBP-BOG to submit its comment.<sup>[28]</sup>

In its Comment, dated January 2, 2013, the IBP-BOG prayed that the "*IBP-Southern Luzon be allowed to nominate a candidate for EVP for the 2011-2013 term, without prejudice to the right of other regions except IBP-Eastern Mindanao, to do the same.*"<sup>[29]</sup>

The opposition of Fortunato to the subject petition in intervention of IBP-Southern Luzon was joined by his successor, Marlou B. Ubano (*Ubano*), Gov. Manuel L. Enage, Jr. of IBP-Eastern Visayas,<sup>[30]</sup> and the members of the House of Delegates of IBP-