

SECOND DIVISION

[G.R. NO. 126980, March 31, 2006]

**SALLY V. BELLOSILLO, PETITIONER, VS. THE BOARD OF
GOVERNORS OF THE INTEGRATED BAR OF THE PHILIPPINES
AND ANICETO G. SALUDO, JR., RESPONDENTS**

D E C I S I O N

GARCIA, J.:

Under consideration is this petition for certiorari assailing the Resolution,^[1] dated March 30, 1996, of the respondent Board of Governors of the Integrated Bar of the Philippines (IBP Board of Governors), adopting and approving the Report and Recommendation^[2] of the Investigating Commissioner in a complaint for disbarment filed by the herein petitioner Sally V. Bellosillo against respondent Atty. Aniceto G. Saludo, Jr. in Administrative (Adm.) Case No. 3297. The assailed Resolution reads:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, hereinmade part of this Resolution/Decision as Annex "A"; and, finding the recommendation therein to be fully supported by the evidence on record and the applicable laws and rules, the complaint against Respondent is hereby DISMISSED.

The records of the case disclose the following:

On January 31, 1989, the petitioner filed a complaint^[3] for disbarment against the respondent for alleged gross professional misconduct and malpractice. Essentially, petitioner charged respondent of pocketing the settlement money in the Philippine Plaza bombing incident; improper financial dealings through borrowings of cash and post-dated checks; and unwarranted solicitations in the form of gifts, pianos, lechon, and wallpapering of respondent's house.

In his Answer,^[4] dated May 31, 1989, with a number of documents attached thereto, respondent denied all the charges and dismissed them as deliberate falsehoods. He asserted that it was he, not the petitioner, who was the lender of money.

On August 4, 1989, the petitioner filed a Reply.^[5]

In answer to said Reply, respondent filed a motion to dismiss^[6] the charges for failure to show a *prima facie* case against him. Respondent argued that despite the challenge to produce receipts and documents, the petitioner could not produce any document or evidence that he settled the claims of the Philippine Plaza bombing

victims and misappropriated the proceeds thereof for his benefit; that with respect to the post-dated checks, the petitioner has changed her theory by alleging that it was she who was lending money to the respondent and the checks issued to her by the respondent were payments of said borrowings; and assuming *arguendo* the change in theory to be true, the parties' transactions were ordinary business transactions where conflicts do not provide grounds for disbarment.

Respondent's motion to dismiss as well as his subsequent motion for reconsideration were denied by the Hearing Commissioner.

From such denial, respondent then filed a petition for review^[7] with the IBP Board of Governors. The petition, however, was likewise denied by the latter which even ordered the investigation to proceed with deliberate speed.

Respondent then went to this Court by way of a petition for certiorari and prohibition with prayer for preliminary injunction, challenging the above-mentioned orders of the IBP Board of Governors, and insisting that the pleadings of the parties on record, affidavits and admissions would clearly show lack of *prima facie* case against him, so that the case should be dismissed outright.

On October 13, 1992, the Court issued a Resolution^[8] dismissing respondent's petition, but directing the IBP Board of Governors, as follows:

The IBP Board is directed to look into whether or not, on the basis of all the records before it, there is a prima facie case, or, as claimed by the [respondent], circumstances warrant the outright dismissal of the case. If the interests of justice require it, reception of evidence may then proceed giving due process to both parties involved.^[9] (Word in bracket supplied).

On March 30, 1996, the IBP Board of Governors issued the herein assailed Resolution^[10] which adopted and approved the 31-page Report and Recommendation^[11] of the Investigating Commissioner, dated November 22, 1995, pertinent portions of which read:

In sum, it appears that complainant's actuations were motivated by vengeance, hatred and ill-will acting as she did only after the aforesaid civil cases were filed against her, for which she blamed the respondent.

Complainant has already made a history of issuing bouncing checks. In the case of Philippine National Bank vs. Sally Bellosillo, CA. G.R. No. 67070-12, involving bouncing checks issued by the complainant, the Court of Appeals found that —

Sally V. Bellosillo was deliberately lying. And a person who is shown to be committing a deliberate falsehood to the court should not be believed.

xxx xxx xxx

xxx The fact that the appellants Bellosillo and Villamora, Sr. issued checks and had caused them to be encashed and the proceeds thereof to

be received by the last endorsees, knowing fully well that they have no sufficient cash deposit, or that they did not intend to, or did not deposit funds sufficient to back up the checks they issued, is substantial basis for their liability to answer for their fraudulent schemes and actions. It is an insult to human decency for these appellants to now unashamedly claim that the successful encashment of the checks was at the risk of their co-defendants Ortiz and that they are not liable for cheating the bank. It is just saying that it is the cheated person who is to blame for allowing himself to be cheated and that the cheater is free from blame. In other words, the said appellants seem to justify their cheating by implying that there would be no cheater if no person allows himself to be cheated, and that the cheater should be rewarded with an impunity of his act. (Exh. "2" of Answer.)

Finally, we are not unmindful of the other imputations leveled against respondent which are mere fangless embellishments to the more demeaning charges already discussed. Thus, the charge for supposed "unwarranted solicitations" in the form of gift certificates, lechon and expensive attaché cases, is negated by complainant's admission that she gave those gifts in appreciation of respondent's concerns for their interest (pp. 5-6 of Complaint). The related charge that respondent requested for, and got, two pianos in 1985 is completely belied by the checks evidencing payment thereof which are dated 1980, 1981 and 1982 (Annexes A-3, A-4 and A-5 of Complaint).

We find no prima facie case against respondent. For this reason, "further investigation is not warranted." (Lacsamana vs. De la Pena, 57 SCRA 22, 23 (1974); also, Requio vs. Dy-Liaco, 75 SCRA 118 (1977). For to subject respondent to further investigation, even in the absence of a prima facie case, will be to unnecessarily prolong his agony, unfairly expose his name and reputation as a lawyer to erroneous conclusions and unfavorable innuendos, the charges that he was unfaithful, even as they were unfounded, being unfortunately not without their adverse effects (Aragon vs. Matol, 30 SCRA 1 (1969). For as the Supreme Court ruled:

"There is this additional point to consider. As Cardozo aptly observed: ~Reputation (in the legal profession) is a plant of tender growth, and its bloom, once lost, is not easily restored. This Court, certainly is not averse to having such risk minimized. Where, as in this case, the good name of counsel was traduced by an accusation made in reckless disregard of the truth, an action prompted by based ingratitude, the severest censure is called for.

"Certainly, this is not easy to say that if a case were presented showing nonfeasance or malfeasance on the part of a lawyer, appropriate disciplinary action would not be taken. This is not such a case however. Respondent, as has been so clearly shown, was in no wise culpable; there is no occasion for the corrective power of this Court coming into play." (Albano v. Coloma, 21 SCRA 411, 420 [1967]).

WHEREFORE, finding no prima facie case to justify a full dress hearing, it is hereby recommended that the present administrative case be dismissed.

In its Resolution^[12] of January 15, 1997, the Court noted the herein assailed Resolution dated March 30, 1996 of the IBP Board of Governors.

On December 3, 1996, the petitioner went to this Court by way of this petition for certiorari challenging the March 30, 1996 Resolution of the IBP Board of Governors. Petitioner imputes grave abuse of discretion on the part of IBP Board of Governors for allegedly not ruling on her several charges against the respondent. Petitioner demands that a full-dress investigation and hearing be conducted because the challenged Resolution of the IBP Board of Governors is biased for the reason alone that the Investigating Commissioner and the respondent are both members of the U.P. Sigma Rho Fraternity.

On July 14, 1997, the Court issued a Resolution^[13] treating the present petition as one filed under Rule 45 of the Rules of Court, and requiring the respondent to file his Comment thereon.

After the respondent has filed his Comment, petitioner filed her Reply thereto on November 14, 1997.

The petition must be denied.

Petitioner considers the assailed Resolution of the IBP Board of Governors as generally a biased judgment due to her perception that because the Investigating Commissioner, Atty. Plaridel C. Jose, and the respondent are both members of the U.P. Sigma Rho Fraternity, the former must, as a matter of course, favor the latter. In its April 6, 1989 Resolution,^[14] the Court has earlier rejected this erroneous perception when, resolving petitioner's letter for this Court to direct any member of the U.P. Sigma Rho Fraternity to desist from participating in the IBP proceedings on the case against respondent, the Court stated:

Membership in a college fraternity, by itself, does not constitute a ground to disqualify an investigator, prosecutor or judge from acting on the case of a respondent who happens to be a member of the same fraternity. A trial Judge, appellate Justice, or member of this Court who is or was a member of a college fraternity, a university alumni association, a socio-civic association like Jaycees or Rotary, a religion oriented organization like Knights of Columbus or Methodist Men, and various other fraternal organizations is not expected to automatically inhibit himself or herself from acting whenever a case involving a member of his or her group happens to come before him or her for action.

A member in good standing of any reputable organization is expected all the more to maintain the highest standards of probity, integrity, and honor and to faithfully comply with the ethics of the legal profession.

Petitioner next imputes grave abuse of discretion against the IBP Board of Governors for not ruling on her several charges, thereby invoking her theory that her present petition could be treated both as a petition for review under Rule 45 and

a petition for certiorari under Rule 65 of the Rules of Court. But these remedies are mutually exclusive and not alternative or successive; when the first is available, the second cannot be resorted to.^[15] Moreover, we have already stated in our Resolution^[16] of October 13, 1992 that only issues originally pleaded in the complaint, there having been no amendment to it, are the issues to be tried. Accordingly, the alleged other misdeeds of the respondent, namely: attempting to bribe a deportation hearing officer in respect to the Philippine Plaza bombing incident; pocketing of the grease money intended for the above attempted bribery; having abetted the perpetuation of fraud in the case for dissolution of petitioner's conjugal partnership; and receiving privilege from a party whose interest is adverse to that of the petitioner, need not be inquired into nor may this Court re-examine and re-evaluate whatever evidence, if any, has been presented by the petitioner before the IBP Board of Governors.

We now proceed to address petitioner's contentions that the finding of no *prima facie* case against the respondent is contrary to the facts and circumstances disclosed by the records.

Generally, a *prima facie* case consists of that amount of evidence which would be sufficient to counterbalance the general presumption of innocence and warrant a conviction, if not countered and contradicted by evidence tending to contradict it and render it improbable, or to prove other facts inconsistent with it. It is in this context that, in its Resolution of October 13, 1992, the Court directed the IBP Board of Governors to look into whether or not, on the basis of all the records before it, there is *prima facie* case to warrant reception of evidence or if circumstances warrant the outright dismissal of the administrative complaint against the respondent. The challenged Resolution of the IBP Board of Governors shows faithful compliance with this Court's directive.

Contrary to petitioner's allegations that the finding of lack of a *prima facie* case insofar as the charge of massive borrowing of post-dated checks by the respondent is derived solely from speculations and averments unsubstantiated by documentary proof, and also contrary to the nature of the checks submitted by the petitioner, there are telling circumstances found by the Investigating Commissioner which fully and correctly support the contested findings of the IBP Board of Governors. To quote a few of such circumstances:

Complainant claims that when she discovered in late 1986 that "Atty. Saludo had not been funding all the checks since 1984," she issued stop-payment orders and/or reduced account balances. In other words, it took her two (2) years to discover that he was not funding the checks. We find this unbelievable considering that complainant being, as she claims, a business woman. Moreover, by such assertion, she implies that prior to 1984, Atty. Saludo was funding his checks. xxx

Complainant likewise contradicted her foregoing allegations in her verified Reply, in which she made a comparison of the checks which she issued to respondent and vice-versa and she came up with the following comparative analysis:

COMPLAINANT

RESPONDENT