

SECOND DIVISION

[A.C. No. 4673, April 27, 2001]

**ATTY. HECTOR TEODOSIO, PETITIONER, VS. MERCEDES NAVA,
RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This is a complaint filed against petitioner Atty. Hector Teodosio for having allegedly represented clients with conflicting interests in violation of Rule 15.01 of the Code of Professional Responsibility.

Respondent Mercedes Nava alleged that petitioner acted as counsel for Melanie Batislaong in several cases^[1] in various branches of the Iloilo City Regional Trial Court while acting as counsel for Letecia Espinosa and Ma. Gilda Palma in cases^[2] filed by them against Melanie Batislaong and herself, respondent Mercedes Nava.

In his comment, petitioner admits that Melanie Batislaong, Letecia Espinosa, and Ma. Gilda Palma are indeed his clients with respect to the cases mentioned by respondent. He denies, however, that his clients' interests are conflicting and contends that his clients in fact have a common interest against respondent Nava. According to him, Nava used to be the manager of Batislaong's lending business and, in that capacity, dealt with several borrowers, including Espinosa and Palma. Due to acts of mismanagement allegedly committed by Nava, Batislaong, then represented by Atty. Eugenio O. Original, sued Nava for accounting and damages (Civil Case No. 21417). In turn, Nava charged Batislaong (Criminal Case Nos. 79688 and 44181) and Espinosa and Palma (I.S. Nos. 2200-93 and 2068-93) with estafa.

While the complaints against them were pending preliminary investigation, Espinosa and Palma hired petitioner's services in seeking the annulment of certain trust receipt agreements allegedly falsified by Nava, on the basis of which the criminal complaints against them were filed. As a result, petitioner filed on behalf of Espinosa and Palma Civil Case Nos. 21511 and 21493 against Nava and Batislaong for annulment of contract and damages. Petitioner claims that he impleaded Batislaong as Nava's co-defendant because Espinosa and Palma wanted to settle the balance of the amount they had borrowed from Batislaong through Nava but they were unsure whether the payment should be made to Nava or Batislaong as the two had parted ways. Both were, therefore, impleaded so that they could interplead who between them should receive the payment. Petitioner claims that it was only after he had filed these cases that Batislaong offered to hire him as her counsel not only in the civil case she had filed against Nava (Civil Case No. 21417) but also in the two estafa cases, Criminal Case Nos. 79688 and 44181, filed against her by Nava. Petitioner claims that he agreed to represent Batislaong in these cases only after he had explained to her the nature of the complaints filed by Espinosa and Palma against her and Nava in Civil Case Nos. 21511 and 21493.^[3]

Petitioner submitted affidavits executed by Batislaong, Espinosa, and Palma stating that they have no complaints in the way petitioner handled their cases and that each of them was aware that the other was represented by petitioner. Petitioner further submitted another set of affidavits executed by Espinosa and Palma stating in detail the extent of their knowledge of petitioner's involvement in Batislaong's cases as well as the basis of their consent for him to act as their common counsel.

[4]

Respondent assails the affidavits of Batislaong, Espinosa, and Palma on the ground that they were notarized by a lawyer from petitioner's law firm and that they do not bear the data as to the residence certificates of the affiants. In addition, respondent claims that petitioner failed to ask the court to declare Batislaong in default despite the latter's failure to answer the complaints filed by Espinosa and Palma, and contends that this is proof of petitioner's bias for her (Batislaong).^[5] In response, petitioner claims that there was no need to declare Batislaong in default in Civil Case Nos. 21511 and 21493 because Nava, in her Answer, had disclaimed any interest in the offer of payment of Palma and Espinosa, making the necessity for the defendants to interplead moot and academic as the money would logically be paid to Batislaong.^[6]

The Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation. In a report, dated June 23, 1998, IBP Commissioner Milagros V. San Juan recommended the dismissal of the complaint for lack of merit.^[7] However, the IBP Board of Governors, in Resolution XIII-99-23 of February 23, 1999, found petitioner guilty of violation of Rule 15.03 of the Code of Professional Responsibility and ordered him suspended from the practice of law for one year. The Board's resolution reads:

RESOLUTION NO. XIII-99-23

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RESOLVED to SUSPEND Atty. Hector Teodosio for ONE (1) YEAR from the practice of law for representing litigants with CONFLICTING INTERESTS.

[8]

IBP Governor for Eastern Visayas, Kenny A.H. Tantuico, dissenting, adopted the report and recommendation of Commissioner San Juan in view of the consent given by respondent's clients.

On April 13, 1999, petitioner filed a motion to set aside IBP Resolution XIII-99-23. The Court referred the motion to the IBP which, on December 11, 1999, issued Resolution XIV-99-286, affirming the Board's original Resolution XIII-99-23.

After receipt of IBP Resolution XIV-99-286, the Court resolved to treat petitioner's motion to set aside the questioned IBP resolution as his petition for review thereof and required respondent to file comment. In lieu of comment, respondent filed a manifestation stating that the points raised in petitioner's motion were mere

reiterations of what he had already stated in his prior pleadings.^[9] Petitioner filed a Reply to respondent's manifestation.^[10] We now deal with the issues raised in the petition for review.

First. Petitioner points out that the IBP Board ordered him suspended from the practice of law without stating the facts and the law on which its decision is based. On the other hand, although the report of the investigating commissioner contains findings, her recommendation was for the dismissal of the complaint against petitioner for lack of merit. Petitioner contends that even the commissioner's report is of doubtful validity since she failed to schedule any hearing on the case before she submitted her report to the Board of Governors.^[11] The pertinent provisions of Rule 139-B of the Rules of Court on the IBP's investigation of disbarment complaints, the report of its investigator, and the review of the latter's findings by the Board of Governors, state:

SEC. 8. *Investigation.* $\frac{3}{4}$ Upon joinder of issues or upon failure of the respondent to answer, the Investigator shall, with deliberate speed, proceed with the investigation of the case. He shall have the power to issue subpoenas and administer oaths. The respondent shall be given full opportunity to defend himself, to present witnesses on his behalf and be heard by himself and counsel. However, if upon reasonable notice, the respondent fails to appear, the investigation shall proceed *ex parte*.

. . . .

SEC. 10. *Report of Investigator.* $\frac{3}{4}$ Not later than thirty (30) days from termination of the investigation, the Investigator shall submit a report containing his findings of fact and recommendations to the IBP Board of Governors, together with the stenographic notes and the transcript thereof, and all the evidence presented during the investigation. The submission of the report need not await the transcription of the stenographic notes, it being sufficient that the report reproduce substantially from the Investigator's personal notes any relevant and pertinent testimonies.

. . . .

SEC. 12. *Review and decision by the Board of Governors.* $\frac{3}{4}$ (a) Every case heard by an investigator shall be reviewed by the IBP Board of Governors upon the record and evidence transmitted to it by the Investigator with his report. The decision of the Board upon such review shall be in writing and shall clearly and distinctly state the facts and the reasons on which it is based. It shall be promulgated within a period not exceeding thirty (30) days from the next meeting of the Board following the submittal of the Investigator's report.

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case,