

SECOND DIVISION

[A.C. No. 3825, February 01, 1996]

REYNALDO HALIMAO, COMPLAINANT, VS. ATTYS. DANIEL VILLANUEVA AND INOCENCIO PEFIANCO FERRER, JR., RESPONDENTS.

DECISION

MENDOZA, J.:

This is a complaint for disbarment against Attorneys Daniel Villanueva and Inocencio Ferrer, Jr., for serious misconduct.

The complaint originated from a letter dated April 14, 1992 which complainant Reynaldo Halimao wrote to the Chief Justice, alleging that respondents, without lawful authority and armed with armalites and handguns, forcibly entered the Oo Kian Tiok Compound in Cainta, Rizal, of which complainant was caretaker, on April 4, 1992 at 11:00 A.M. Complainant prayed that an investigation be conducted and respondents disbarred. To the complaint were attached the affidavits of alleged witnesses, including that of Danilo Hernandez, a security guard at the compound, who had also filed a similar complaint against herein respondents.

In its resolution dated July 1, 1992, the Court required respondents to comment.

On August 14, 1992, respondents filed a comment in which they claimed that the complaint is a mere duplication of the complaint filed by Danilo Hernandez in Administrative Case No. 3835, which this Court had already dismissed on August 5, 1992 for lack of merit. They pointed out that both complaints arose from the same incident and the same acts complained of and that Danilo Hernandez, who filed the prior case, is the same person whose affidavit is attached to the complaint in this case.

Respondent Ferrer claimed that he was nowhere near the compound when the incident took place. He submitted affidavits attesting to the fact that he had spent the whole day of April 4, 1992 in Makati with his family.

Additionally, Ferrer claimed that the two complaints were filed for the purpose of harassing him because he was the principal lawyer of Atty. Daniel Villanueva in two cases before the Securities and Exchange Commission. The cases involved the ownership and control of Filipinas Textile Mills (Filtex), which is owned by Villanueva's family and whose premises are the Oo Kian Tiok compound.

This case was thereafter referred to the Integrated Bar of the Philippines for investigation, report and recommendation.

In its Resolution No. XI-94-017 dated January 22, 1994, the Board of Governors of

the IBP dismissed the case against respondents. It acted on the basis of the report and recommendation of Atty. Victor C. Fernandez, Investigating Commissioner, who found that the complaint is barred by the decision in Administrative Case No. 3835 which involved the same incident. Atty. Fernandez noted that in fact the complaints in the two cases were similarly worded.

The Investigating Commissioner held that although the complaint in the prior case was initiated by a security guard (Danilo Hernandez) of the compound while the present case was filed by the caretaker, nevertheless the complainants had substantially the same interest. The Investigating Commissioner observed:

Furthermore, Danilo Hernandez is not a stranger to complainant herein. Both represent the same interest as co-workers in the Oo Kian Tiok Compound. In his letter-complaint, complainant mentions Danilo Hernandez as an employee and his co-worker at the Oo Kian Tiok Compound. Complainant even attached to his complaint the affidavit of Danilo Hernandez that was submitted to the Municipal Trial Court of Cainta, Rizal in support of the criminal complaints (Criminal Cases Nos. MTC-4700 and 4701 (92) filed against respondents herein. In said affidavit (Magkakalakip na Sinumpaang Salaysay) dated April 4, 1992, Danilo Hernandez also mentions the name of complainant as a caretaker of the Oo Kian Tiok Compound. Clearly, the complainant and Danilo Hernandez not only represent the same interest in filing their respective complaints, but have the same complaint against respondents.^[1]

The Commissioner held that for *res judicata* to apply, absolute identity of parties is not required, it being sufficient that there is identity of interests of the parties. In this case, both complainants were present at the compound when the incident allegedly happened, and the acts they were complaining against and the relief they were seeking were the same.

On March 28, 1994, complainant filed a motion for reconsideration of the resolution of the IBP Board of Governors. His motion was referred to the Court in view of the fact that the records of the case had earlier been forwarded to the Court on March 11, 1994.

In his aforesaid motion, complainant contends that by filing a motion to dismiss the complaint in this case, private respondents must be deemed to have hypothetically admitted the material allegations in the complaint and, therefore, private respondents must be deemed to have confessed to the charge of serious misconduct. Hence, it was error for the IBP to dismiss his complaint.

Complainant also contends that by invoking the resolution of this Court in Administrative Case No. 3835, respondents are evading the issues and that Ferrer's defense of alibi is weak and cannot prevail against the direct and positive identification by him and his witnesses. He contends that the resolution in Administrative Case No. 3835 has no bearing upon the present case and that the Investigating Commissioner should have resolved the issues of fact before him.