

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

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

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-3825/>

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.

Respondents filed an Opposition to the motion for reconsideration. As a preliminary matter, they argue that the motion for reconsideration is a mere scrap of paper, because it is not provided for in Rule 139-B of the Rules of Court, and that what complainant should instead have done was to appeal to this Court.

Rule 139-B states in pertinent part:

§12. Review and decision by the Board of Governors.

....

c) If the respondent is exonerated by the Board or the disciplinary sanction imposed by it is less than suspension or disbarment [such as admonition, reprimand, or fine] it shall issue a decision exonerating respondent or imposing such sanction. The case shall be deemed terminated unless upon petition of the complainant or other interested party filed with the Supreme Court within fifteen (15) days from notice of the Board's resolution, the Supreme Court orders otherwise.

Although Rule 139-B, § 12(c) makes no mention of a motion for reconsideration, nothing in its text or in its history suggests that such motion is prohibited. It may therefore be filed within 15 days from notice to a party.

Indeed, the filing of such motion should be encouraged before resort is made to this Court as a matter of exhaustion of administrative remedies, to afford the agency rendering the judgment an opportunity to correct any error it may have committed through a misapprehension of facts or misappreciation of the evidence.[2]

Considering, however, that complainant's motion for reconsideration was filed after the IBP had forwarded the records of this case to this Court, it would be more expedient to treat it as complainant's petition for review within the contemplation of Rule 139-B, §12(c).

Now with regard to complainant's argument that it was error for the Investigating Commissioner to dismiss the complaint against respondents because, by filing a motion to dismiss, respondents are deemed to have admitted the allegations of the complaint against them, suffice it to say that the rule that a motion to dismiss is to be considered as a hypothetical admission of the facts alleged in the complaint applies more particularly to cases in which the ground for dismissal is the failure of the complaint to state a cause of action. When it appears on the face of the complaint that the plaintiff is not entitled to any relief under the facts alleged, the defendant may file a motion to dismiss hypothetically admitting the facts alleged in the complaint.[3] By filing such a motion, the defendant in effect says that even assuming the facts to be as alleged by the plaintiff, the latter has failed to prove that he has a right which the former has violated.[4]

The rule does not unqualifiedly apply to a case where the defendant files a motion to dismiss based on lack of jurisdiction of the court or tribunal over the person of the defendant or over the subject matter or over the nature of the action; or on improper venue; or on lack of capacity to sue of the plaintiff or on *litis pendentia*, *res judicata*, prescription, unenforceability, or on the allegation that the suit is between members of the same family and no earnest efforts towards a compromise have been made. In such cases, the hypothetical admission is limited to the facts alleged in the complaint which relate to and are necessary for the resolution of these grounds as preliminary matters involving substantive or procedural laws, but not to the other facts of the case.

On the other hand, when a motion to dismiss is based on payment, waiver, abandonment, release, compromise, or other form of extinguishment, the motion to dismiss does not hypothetically, but actually, admits the facts alleged in the complaint, i.e., the existence of the obligation or debt, only that the plaintiff claims that the obligation has been satisfied. So that when a motion to dismiss on these grounds is denied, what is left to be proven in the trial is no longer the existence of the debt but the fact *vel non* of payment by the defendant.

The Investigating Commissioner properly dismissed the complaint in this case on the ground of *res judicata*, it appearing that it involves the same incident and the same cause of action as Administrative Case No. 3825. Indeed, it appears that on August 5, 1995, the First Division of the Court dismissed a similar complaint filed in Administrative Case No. 3835. The resolution reads:

Adm. Case No. 3835 (Danilo Hernandez v. Attys. Daniel Villanueva and Inocencio Pefianco Ferrer, Jr.). - This administrative complaint against Attorneys Daniel Villanueva and Inocencio P. Ferrer, Jr. is the offshoot of a family feud involving the ownership and possession of the Filipinas Textile Mills (Filtex). The contest between Bernardino Villanueva and Daniel Villanueva (probably relatives) for the control of the corporation has escalated into a three-cornered fight when Oo Kian Tiok joined the fray, claiming ownership of the same property by purchase from the Equitable Banking Corporation, mortgage creditor and highest bidder thereof at the mortgage foreclosure sale.

Respondent Daniel Villanueva believes that Bernardino Villanueva is the evil genius behind this complaint for his disbarment filed by a certain Daniel Hernandez. On the other hand, Hernandez claims to be one of several security guards placed by Oo Kian Tiok on the Filtex property. His allegation that the respondents drove him and the other security guards out of the Filtex premises at gun point was denied by the respondents and is not substantiated by independent evidence.

For want of a prima facie showing of professional misconduct on the part of the respondents, the complaint must be dismissed. The three-cornered dispute among respondent Daniel Villanueva, Bernardino Villanueva and Oo Kian Tok [sic] over the possession and ownership of the Filtex property should be litigated and determined in an appropriate judicial action, not in administrative proceedings to disbar Attorney Daniel Villanueva and his counsel, Attorney Inocencio P. Ferrer, Jr.

WHEREFORE, the complaint against respondents Attys. Daniel Villanueva and Inocencio P. Ferrer, Jr. is DISMISSED for lack of merit.

Two motions for reconsideration of this resolution were filed by the complainant therein, both of which were denied, the first one on September 23, 1992 and the second one on November 9, 1992.

While the complainant (Danilo Hernandez) in Administrative Case No. 3835 is different from the complainant in the present case, the fact is that they have an identity of interest, as the Investigating Commissioner ruled. Both complainants were employed at the Oo Kian Tiok Compound at the time of the alleged incident. Both complain of the same act allegedly committed by respondents. The resolution of this Court in Administrative Case No. 3835 is thus conclusive in this case, it appearing that the complaint in this case is nothing but a duplication of the complaint of Danilo Hernandez in the prior case. In dismissing the complaint brought by Danilo Hernandez in the prior case, this Court categorically found "want of a prima facie showing of professional misconduct on the part of the respondents [Attorneys Daniel Villanueva and Inocencio Ferrer, Jr.]".

WHEREFORE, the resolution of the Board of Governors of the Integrated Bar of the Philippines, approving and adopting the report and recommendation of the Investigating Commissioner, is AFFIRMED and the complaint against respondents is DISMISSED.

SO ORDERED.

Regalado (Chairman), Romero and Puno, JJ., concur.

[1] Rollo, Vol. 1, p.101.

[2] Cf *Gonzales v. Santos*, 1 SCRA 1151(1961); *Luzon Stevedoring Co., Inc. v. Court of Industrial Relations*, 8 SCRA 447(1963); *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur*, 32 SCRA 314(1970); *Phil. Advertising Counsellors Inc. v. Revilla, et al.*, 52 SCRA 246(1973); *Siy v. Court of Appeals*, 138 SCRA 536 (1985).

[3] *Garcon v. Redemptorist Fathers*, 17 SCRA 341(1966).

[4] *Ma-ao Sugar Central Co., Inc. v. Barrios*, 79 Phil. 666(1974).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.