

IN RE: PETITION TO DISQUALIFY ATTY. LEONARD DE VERA, ON LEGAL AND MORAL GROUNDS, FROM BEING ELECTED IBP GOVERNOR FOR EASTERN MINDANAO IN THE MAY 31, IBP ELECTIONS

A.C. No. 6052. December 11, 2003

Ponente: TINGA, J.

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TINGA, J.:

This is a Petition[1] filed by Attys. Oliver Owen L. Garcia, Emmanuel Ravanera and Tony Velez, mainly seeking the disqualification of respondent Atty. Leonard De Vera "from being elected Governor of Eastern Mindanao" in the 16th Intergrated Bar of the Philippines ("IBP") Regional Governors' elections. Petitioner Garcia is the Vice-President of the Bukidnon IBP Chapter, while petitioners Ravanera and Velez are the past President and the incumbent President, respectively, of the Misamis Oriental IBP Chapter.

The facts as culled from the pleadings of the parties follow.

The election for the 16th IBP Board of Governors ("IBP Board") was set on April 26, 2003, a month prior to the IBP National Convention scheduled on May 22-24, 2003. The election was so set in compliance with Section 39, Article VI of the IBP By Laws, which reads:

SECTION 39. Nomination and election of the Governors. — At least one month before the national convention, the delegates from each region shall elect the governor of their region, the choice of which shall as much as possible be rotated among the chapters in the region.

Later on, the outgoing IBP Board, in its Resolution[2] No. XV-2003-99 dated April 16, 2003, reset the elections to May 31, 2003, or after the IBP National Convention.

Respondent De Vera, a member of the Board of Directors of the Agusan del Sur IBP Chapter in Eastern Mindanao, along with Atty. P. Angelica Y. Santiago, President of the IBP Rizal Chapter, sent a letter[3] dated 28 March 2003, requesting the IBP Board to reconsider its Resolution of April 6, 2003. Their Motion was anchored on two grounds viz. (1) adhering to the mandate of Section 39 of the IBP By Laws to hold the election of Regional Governors at least one month prior to the national convention of the IBP will prevent it from being politicized since post-convention elections may otherwise lure the candidates into engaging in unacceptable political practices, and; (2) holding the election on May 31, 2003 will render it impossible for the outgoing IBP Board from resolving protests in the election for governors not later than May 31, 2003, as expressed in Section 40 of the IBP By Laws, to wit:

SECTION 40. Election contests. — Any nominee desiring to contest an election shall, within two days after the announcement of the results of the elections, file with the President of the Integrated Bar a written protest setting forth the grounds therefor. Upon receipt of such petition, the President shall forthwith call a special meeting of the outgoing Board of Governors to consider and hear the protest, with due notice to the contending

parties. The decision of the Board shall be announced not later than the following May 31, and shall be final and conclusive.

On April 26, 2003, the IBP Board denied the request for reconsideration in its Resolution No. XV-2003-162.[4]

On May 26, 2003, after the IBP national convention had been adjourned in the afternoon of May 24, 2003, the petitioners filed a Petition[5] dated 23 May 2003 before the IBP Board seeking (1) the postponement of the election for Regional Governors to the second or third week of June 2003; and (2) the disqualification of respondent De Vera "from being elected Regional Governor for Eastern Mindanao Region."

The IBP Board denied the Petition in a Resolution issued on May 29, 2003. The pertinent portions of the Resolution read:

WHEREAS, two specific reliefs are being sought, to wit, first, the postponement of the elections for regional governors and, second, the disqualification of Atty. Leonard de Vera.

WHEREAS, anent the first relief sought, the Board finds no compelling justification for the postponement of the elections especially considering that preparations and notices had already been completed.

WHEREAS, with respect to the disqualifications of Atty. Leonard de Vera, this Board finds the petition to be premature considering that no nomination has yet been made for the election of IBP regional governor.

PREMISES CONSIDERED, the Board hereby resolves, as it hereby resolves, to deny the petition.[6]

Probably thinking that the IBP Board had not yet acted on their Petition, on the same date, May 29, 2003, the petitioners filed the present Petition before this Court, seeking the same reliefs as those sought in their Petition before the IBP.

On the following day, May 30, 2003, acting upon the petitioners' application, this Court issued a Temporary Restraining Order (TRO), directing the IBP Board, its agents, representatives or persons acting in their place and stead to cease and desist from proceeding with the election for the IBP Regional Governor in Eastern Mindanao.[7]

Citing the IBP By-Laws, the petitioners expound on the mechanics for the selection of the IBP officers from the Chapter Officers up to the Regional Governors constituting the IBP Board which is its highest policy-making body, as well as the underlying dynamics, to wit:

IBP Chapter Officers headed by the President are elected for a term of two years. The IBP Chapter Presidents in turn, elect their respective Regional Governors following the rotation rule. The IBP has nine (9) regions, viz: Northern Luzon, Central Luzon, Greater Manila, Southern Luzon, Bicolandia, Eastern Visayas, Western Visayas, Eastern Mindanao and Western Mindanao. The governors serve for a term of two (2) years beginning on the 1st of July of the first year and ending on the 30[th] of June of the second year.

From the members of the newly constituted IBP Board, an Executive Vice President (EVP) shall be chosen, also on rotation basis. The rationale for the rotation rule in the election of both the Regional Governors and the Vice President is to give everybody a chance to serve the IBP, to avoid politicking and to democratize the selection process.

Finally, the National President is not elected. Under the By-Laws, whoever is the incumbent EVP will automatically be the National President for the following term.

Petitioners elucidate that at present, all the IBP regions, except Eastern Mindanao, have had two (2) National Presidents each. Following the rotation rule, whoever will be elected Regional Governor for Eastern Mindanao

Region in the 16th Regional Governors elections will automatically become the EVP for the term July 1, 2003 to June 30, 2005. For the next term in turn, i.e., from July 1, 2005 to June 30, 2007, the EVP immediately before then will automatically assume the post of IBP National President.

Petitioners asseverate that it is in this light that respondent De Vera had transferred his IBP membership from the Pasay, Paranaque, Las Pinas and Muntinlupa (PPLM) Chapter to Agusan del Sur Chapter, stressing that he indeed covets the IBP presidency.[8] The transfer of IBP membership to Agusan del Sur, the petitioners went on, is a brazen abuse and misuse of the rotation rule, a mockery of the domicile rule and a great insult to lawyers from Eastern Mindanao for it implies that there is no lawyer from the region qualified and willing to serve the IBP.[9]

Adverting to the moral fitness required of a candidate for the offices of regional governor, executive vice-president and national president, the petitioners submit that respondent De Vera lacks the requisite moral aptitude. According to them, respondent De Vera was sanctioned by the Supreme Court for irresponsibly attacking the integrity of the SC Justices during the deliberations on the constitutionality of the plunder law. They add that he could have been disbarred in the United States for misappropriating his client's funds had he not surrendered his California license to practice law. Finally, they accuse him of having actively campaigned for the position of Eastern Mindanao Governor during the IBP National Convention held on May 22-24, 2003, a prohibited act under the IBP By-Laws.[10]

After seeking leave of court, respondent De Vera filed on June 9, 2003 a Respectful Comment [11] on the Petition.

In his defense, respondent De Vera raises new issues. He argues that this Court has no jurisdiction over the present controversy, contending that the election of the Officers of the IBP, including the determination of the qualification of those who want to serve the organization, is purely an internal matter, governed as it is by the IBP By-Laws and exclusively regulated and administered by the IBP. Respondent De Vera also assails the petitioners' legal standing, pointing out that the IBP By-Laws does not have a provision for the disqualification of IBP members aspiring for the position of Regional governors, for instead all that it provides for is only an election protest under Article IV, Section 40, pursuant to which only a qualified nominee can validly lodge an election protest which is to be made after, not before, the election. He posits further that following the rotation rule, only members from the Surigao del Norte and Agusan del Sur IBP chapters are qualified to run for Governor for Eastern Mindanao Region for the term 2003-2005, and the petitioners who are from Bukidnon and Misamis Oriental are not thus qualified to be nominees.[12]

Meeting the petitioners' contention head on, respondent De Vera avers that an IBP member is entitled to select, change or transfer his chapter membership.[13] He cites the last paragraph of Section 19, Article II and Section 29-2, Article IV of the IBP By-Laws, thus:

Article II, Section 19. Registration. - xxx Unless he otherwise registers his preference for a particular Chapter, a lawyer shall be considered a member of the Chapter of the province, city, political subdivision or area where his office or, in the absence thereof, his residence is located. In no case shall any lawyer be a member of more than one Chapter.

Article IV, Section 29-2. Membership- The Chapter comprises all members registered in its membership roll. Each member shall maintain his membership until the same is terminated on any of the grounds set forth in the By-Laws of the Integrated Bar, or he transfers his membership to another Chapter as certified by the Secretary of the latter, provided that the transfer is made not less than three months immediately preceding any Chapter election.

The right to transfer membership, respondent De Vera stresses, is also recognized in Section 4, Rule 139-A of the

Rules of Court which is exactly the same as the first of the above-quoted provisions of the IBP By-Laws, thus:

Rule 139-A, Section 4. xxx Unless he otherwise registers his preference for a particular Chapter, a lawyer shall be considered a member of the Chapter of the province, city, political subdivision or area where his office, or, in the absence thereof, his residence is located. In no case shall any lawyer be a member of more than one Chapter.

Clarifying that it was upon the invitation of the officers and members of the Agusan del Sur IBP Chapter that he transferred his IBP membership, respondent De Vera submits that it is unfair and unkind for the petitioners to state that his membership transfer was done for convenience and as a mere subterfuge to qualify him for the Eastern Mindanao governorship.[14]

On the moral integrity question, respondent De Vera denies that he exhibited disrespect to the Court or to any of its members during its deliberations on the constitutionality of the plunder law. As for the administrative complaint filed against him by one of his clients when he was practicing law in California, which in turn compelled him to surrender his California license to practice law, he maintains that it cannot serve as basis for determining his moral qualification (or lack of it) to run for the position he is aspiring for. He explains that there is as yet no final judgment finding him guilty of the administrative charge, as the records relied upon by the petitioners are mere preliminary findings of a hearing referee which are recommendatory in character similar to the recommendatory findings of an IBP Commissioner on Bar Discipline which are subject to the review of and the final decision of the Supreme Court. He also stresses that the complainant in the California administrative case has retracted the accusation that he misappropriated the complainant's money, but unfortunately the retraction was not considered by the investigating officer. Finally, on the alleged politicking he committed during the IBP National Convention held on May 22-24, 2003, he states that it is baseless to assume that he was campaigning simply because he declared that he had 10 votes to support his candidacy for governorship in the Eastern Mindanao Region and that the petitioners did not present any evidence to substantiate their claim that he or his handlers had billeted the delegates from his region at the Century Park Hotel.[15]

On July 7, 2003, the petitioners filed their Reply[16] to the Respectful Comment of respondent De Vera who, on July 15, 2003, filed an Answer and Rejoinder. [17]

In a Resolution[18] dated 5 August 2003, the Court directed the other respondent in this case, the IBP Board, to file its comment on the Petition. The IBP Board, through its General Counsel, filed a Manifestation[19] dated 29 August 2003, reiterating the position stated in its Resolution dated 29 May 2003 that "it finds the petition to be premature considering that no nomination has as yet been made for the election of IBP Regional Governors." [20]

Based on the arguments of the parties, the following are the main issues, to wit:

(1)

whether this Court has jurisdiction over the present controversy;

(2)

whether petitioners have a cause of action against respondent De Vera, the determination of which in turn requires the resolution of two sub-issues, namely:

(a)

whether the petition to disqualify respondent De Vera is the proper remedy under the IBP By-Laws; and

(b)

whether the petitioners are the proper parties to bring this suit;

(3)

whether the present Petition is premature;

(4)

assuming that petitioners have a cause of action and that the present petition is not premature, whether respondent De Vera is qualified to run for Governor of the IBP Eastern Mindanao Region;

Anent the first issue, in his Respectful Comment respondent De Vera contends that the Supreme Court has no jurisdiction on the present controversy. As noted earlier, respondent De Vera submits that the election of the Officers of the IBP, including the determination of the qualification of those who want to serve the IBP, is purely an internal matter and exclusively within the jurisdiction of the IBP.

The contention is untenable. Section 5, Article VIII of the 1987 Constitution confers on the Supreme Court the power to promulgate rules affecting the IBP, thus:

Section 5. The Supreme Court shall have the following powers:

....

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and the legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. (Emphasis supplied)

Implicit in this constitutional grant is the power to supervise all the activities of the IBP, including the election of its officers.

The authority of the Supreme Court over the IBP has its origins in the 1935 Constitution. Section 13, Art. VIII thereof granted the Supreme Court the power to promulgate rules concerning the admission to the practice of law. It reads:

SECTION 13. The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repealed as statutes, and are declared Rules of Courts, subject to the power of the Supreme Court to alter and modify the same. The Congress shall have the power to repeal, alter or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in

the Philippines.

The above-quoted sections in both the 1987 and 1935 Constitution and the similarly worded provision in the intervening 1973 Constitution[21] through all the years have been the sources of this Court's authority to supervise individual members of the Bar. The term "Bar" refers to the "collectivity of all persons whose names appear in the Roll of Attorneys." [22] Pursuant to this power of supervision, the Court initiated the integration of the Philippine Bar by creating on October 5, 1970 the Commission on Bar Integration, which was tasked to ascertain the advisability of unifying the Philippine Bar. [23] Not long after, Republic Act No. 6397 [24] was enacted and it confirmed the power of the Supreme Court to effect the integration of the Philippine Bar. Finally, on January 1, 1973, in the per curiam Resolution of this Court captioned "In the Matter of the Integration of the Bar to the Philippines," we ordained the Integration of the Philippine Bar in accordance with Rule 139-A, of the Rules of Court, which we promulgated pursuant to our rule-making power under the 1935 Constitution.

The IBP By-Laws, the document invoked by respondent De Vera in asserting IBP independence from the Supreme Court, ironically recognizes the full range of the power of supervision of the Supreme Court over the IBP. For one, Section 77 [25] of the IBP By-Laws vests on the Court the power to amend, modify or repeal the IBP By-Laws, either *motu proprio* or upon recommendation of the Board of Governors of the IBP. Also in Section 15, [26] the Court is authorized to send observers in IBP elections, whether local or national. Section 44 [27] empowers the Court to have the final decision on the removal of the members of the Board of Governors.

On the basis of its power of supervision over the IBP, the Supreme Court looked into the irregularities which attended the 1989 elections of the IBP National Officers. In Bar Matter No. 491 entitled "In the Matter of the Inquiry into the 1989 Elections of the Integrated Bar of the Philippines" the Court formed a committee to make an inquiry into the 1989 elections. The results of the investigation showed that the elections were marred by irregularities, with the principal candidates for election committing acts in violation of Section 14 of the IBP By-Laws. [28] The Court invalidated the elections and directed the conduct of special elections, as well as explicitly disqualified from running thereat the IBP members who were found involved in the irregularities in the elections, in order to "impress upon the participants, in that electoral exercise the seriousness of the misconduct which attended it and the stern disapproval with which it is viewed by this Court, and to restore the non-political character of the IBP and reduce, if not entirely eliminate, expensive electioneering."

The Court likewise amended several provisions of the IBP By-Laws. First, it removed direct election by the House of Delegates of the (a) officers of the House of Delegates; (b) IBP President; and (c) Executive Vice-President (EVP). Second, it restored the former system of the IBP Board choosing the IBP President and the Executive Vice President (EVP) from among themselves on a rotation basis (Section 47 of the By-Laws, as amended) and the automatic succession by the EVP to the position of the President upon the expiration of their common two-year term. Third, it amended Sections 37 and 39 by providing that the Regional Governors shall be elected by the members of their respective House of Delegates and that the position of Regional Governor shall be rotated among the different chapters in the region.

The foregoing considerations demonstrate the power of the Supreme Court over the IBP and establish without doubt its jurisdiction to hear and decide the present controversy.

In support of its stance on the second issue that the petitioners have no cause of action against him, respondent De Vera argues that the IBP By-Laws does not allow petitions to disqualify candidates for Regional Governors since what it authorizes are election protests or post-election cases under Section 40 thereof which reads:

SECTION 40. Election contests. – Any nominee desiring to contest an election shall, within two days after the announcement of the results of the elections, file with the President of the Integrated Bar a written protest

setting forth the grounds therefor. Upon receipt of such petition, the President shall forthwith call a special meeting of the outgoing Board of Governors to consider and hear the protest, with due notice to the contending parties. The decision of the Board shall be announced not later than the following May 31, and shall be final and conclusive.

Indeed, there is nothing in the present IBP By-Laws which sanctions the disqualification of candidates for IBP governors. The remedy it provides for questioning the elections is the election protest. But this remedy, as will be shown later, is not available to just anybody.

Before its amendment in 1989, the IBP By-Laws allowed the disqualification of nominees for the position of regional governor. This was carefully detailed in the former Section 39(4) of the IBP By-Laws, to wit:

SECTION 39 (4) Disqualification proceedings. — Any question relating to the eligibility of a candidate must be raised prior to the casting of ballots, and shall be immediately decided by the Chairman. An appeal from such decision may be taken to the Delegates in attendance who shall forthwith resolve the appeal by plurality vote. Voting shall be by raising of hands. The decision of the Delegates shall be final, and the elections shall thereafter proceed. Recourse to the Board of Governors may be had in accordance with Section 40.

The above-quoted sub-section was part of the provisions on nomination and election of the Board of Governors. Before, members of the Board were directly elected by the members of the House of Delegates at its annual convention held every other year.[29] The election was a two-tiered process. First, the Delegates from each region chose by secret plurality vote, not less than two nor more than five nominees for the position of Governor for their Region. The names of all the nominees, arranged by region and in alphabetical order, were written on the board within the full view of the House, unless complete mimeographed copies of the lists were distributed to all the Delegates.[30] Thereafter, each Delegate, or, in his absence, his alternate voted for only one nominee for Governor for each Region.[31] The nominee from every Region receiving the highest number of votes was declared and certified elected by the Chairman.[32]

In the aftermath of the controversy which arose during the 1989 IBP elections, this Court deemed it best to amend the nomination and election processes for Regional Governors. The Court localized the elections, i.e, each Regional Governor is nominated and elected by the delegates of the concerned region, and adopted the rotation process through the following provisions, to wit:

SECTION 37: Composition of the Board. — The Integrated Bar of the Philippines shall be governed by a Board of Governors consisting of nine (9) Governors from the nine (9) regions as delineated in Section 3 of the Integration Rule, on the representation basis of one Governor for each region to be elected by the members of the House of Delegates from that region only. The position of Governor should be rotated among the different chapters in the region.

SECTION 39: Nomination and election of the Governors. — At least one (1) month before the national convention the delegates from each region shall elect the governor for their region, the choice of which shall as much as possible be rotated among the chapters in the region.

The changes adopted by the Court simplified the election process and thus made it less controversial. The grounds for disqualification were reduced, if not totally eradicated, for the pool from which the Delegates may choose their nominees is diminished as the rotation process operates.

The simplification of the process was in line with this Court's vision of an Integrated Bar which is non-political[33] and effective in the discharge of its role in elevating the standards of the legal profession, improving the administration of justice and contributing to the growth and progress of the Philippine society.[34]

The effect of the new election process convinced this Court to remove the provision on disqualification

proceedings. Consequently, under the present IBP By-Laws, the instant petition has no firm ground to stand on.

Respondent De Vera likewise asseverates that under the aforequoted Section 40 of the IBP By-Laws, petitioners are not the proper persons to bring the suit for they are not qualified to be nominated in the elections of regional governor for Eastern Mindanao. He argues that following the rotation rule under Section 39 of the IBP By-Laws as amended, only IBP members from Agusan del Sur and Surigao del Norte are qualified to be nominated.

Truly, with the applicability of Section 40 of the IBP By-Laws to the present petition, petitioners are not the proper parties to bring the suit. As provided in the aforesaid section, only nominees can file with the President of the IBP a written protest setting forth the grounds therefor. As claimed by respondent De Vera, and not disputed by petitioners, only IBP members from Agusan del Sur and Surigao del Norte are qualified to be nominated and elected at the election for the 16th Regional Governor of Eastern Mindanao. This is pursuant to the rotation rule enunciated in the aforequoted Sections 37 and 38 of the IBP By-Laws. Petitioner Garcia is from Bukidnon IBP Chapter while the other petitioners, Ravanera and Velez, are from the Misamis Oriental IBP Chapter. Consequently, the petitioners are not even qualified to be nominated at the forthcoming election.

On the third issue relating to the ripeness or prematurity of the present petition.

This Court is one with the IBP Board in its position that it is premature for the petitioners to seek the disqualification of respondent De Vera from being elected IBP Governor for the Eastern Mindanao Region. Before a member is elected governor, he has to be nominated first for the post. In this case, respondent De Vera has not been nominated for the post. In fact, no nomination of candidates has been made yet by the members of the House of Delegates from Eastern Mindanao. Conceivably too, assuming that respondent De Vera gets nominated, he can always opt to decline the nomination.

Petitioners contend that respondent de Vera is disqualified for the post because he is not really from Eastern Mindanao. His place of residence is in Parañaque and he was originally a member of the PPLM IBP Chapter. He only changed his IBP Chapter membership to pave the way for his ultimate goal of attaining the highest IBP post, which is the national presidency. Petitioners aver that in changing his IBP membership, respondent De Vera violated the domicile rule.

The contention has no merit. Under the last paragraph of Section 19 Article II, a lawyer included in the Roll of Attorneys of the Supreme Court can register with the particular IBP Chapter of his preference or choice, thus:

Section 19. Registration. -

....

Unless he otherwise registers his preference for a particular Chapter, a lawyer shall be considered a member of the Chapter of the province, city, political subdivision or area where his office or, in the absence thereof, his residence is located. In no case shall any lawyer be a member of more than one Chapter. (Underscoring supplied)

It is clearly stated in the afore-quoted section of the By-Laws that it is not automatic that a lawyer will become a member of the chapter where his place of residence or work is located. He has the discretion to choose the particular chapter where he wishes to gain membership. Only when he does not register his preference that he will become a member of the Chapter of the place where he resides or maintains his office. The only proscription in registering one's preference is that a lawyer cannot be a member of more than one chapter at the same time.

The same is provided in Section 29-2 of the IBP By-Laws. In fact, under this Section, transfer of IBP membership is allowed as long as the lawyer complies with the conditions set forth therein, thus:

SECTION 29-2. Membership — The Chapter comprises all members registered in its membership roll. Each member shall maintain his membership until the same is terminated on any of the grounds set forth in the By-Laws of the Integrated Bar, or he transfers his membership to another Chapter as certified by the Secretary of the latter, provided that the transfer is made not less than three months immediately preceding any Chapter election.

The only condition required under the foregoing rule is that the transfer must be made not less than three months prior to the election of officers in the chapter to which the lawyer wishes to transfer.

In the case at bar, respondent De Vera requested the transfer of his IBP membership to Agusan del Sur on 1 August 2001. One month thereafter, IBP National Secretary Jaime M. Vibar wrote a letter^[35] addressed to Atty. Amador Z. Tolentino, Jr., Secretary of IBP PPLM Chapter and Atty. Lyndon J. Romero, Secretary of IBP Agusan del Sur Chapter, informing them of respondent De Vera's transfer and advising them to make the necessary notation in their respective records. This letter is a substantial compliance with the certification mentioned in Section 29-2 as aforequoted. Note that De Vera's transfer was made effective sometime between August 1, 2001 and September 3, 2001. On February 27, 2003, the elections of the IBP Chapter Officers were simultaneously held all over the Philippines, as mandated by Section 29-12.a of the IBP By-Laws which provides that elections of Chapter Officers and Directors shall be held on the last Saturday of February of every other year.^[36] Between September 3, 2001 and February 27, 2003, seventeen months had elapsed. This makes respondent De Vera's transfer valid as it was done more than three months ahead of the chapter elections held on February 27, 2003.

Petitioners likewise claim that respondent De Vera is disqualified because he is not morally fit to occupy the position of governor of Eastern Mindanao.

We are not convinced. As long as an aspiring member meets the basic requirements provided in the IBP By-Laws, he cannot be barred. The basic qualifications for one who wishes to be elected governor for a particular region are: (1) he is a member in good standing of the IBP;^[37] (2) he is included in the voter's list of his chapter or he is not disqualified by the Integration Rule, by the By-Laws of the Integrated Bar, or by the By-Laws of the Chapter to which he belongs;^[38] (3) he does not belong to a chapter from which a regional governor has already been elected, unless the election is the start of a new season or cycle;^[39] and (4) he is not in the government service.^[40]

There is nothing in the By-Laws which explicitly provides that one must be morally fit before he can run for IBP governorship. For one, this is so because the determination of moral fitness of a candidate lies in the individual judgment of the members of the House of Delegates. Indeed, based on each member's standard of morality, he is free to nominate and elect any member, so long as the latter possesses the basic requirements under the law. For another, basically the disqualification of a candidate involving lack of moral fitness should emanate from his disbarment or suspension from the practice of law by this Court, or conviction by final judgment of an offense which involves moral turpitude.

Petitioners, in assailing the morality of respondent De Vera on the basis of the alleged sanction imposed by the Supreme Court during the deliberation on the constitutionality of the plunder law, is apparently referring to this Court's Decision dated 29 July 2002 in *In Re: Published Alleged Threats Against Members of the Court in the Plunder Law Case Hurlled by Atty. Leonard De Vera*.^[41] In this case, respondent De Vera was found guilty of indirect contempt of court and was imposed a fine in the amount of Twenty Thousand Pesos (P20,000.00) for his remarks contained in two newspaper articles published in the *Inquirer*. Quoted hereunder are the pertinent portions of the report, with De Vera's statements written in italics.

PHILIPPINE DAILY INQUIRER Tuesday, November 6, 2001

Erap camp blamed for oust-Badoy maneuvers

Plunder Law

De Vera asked the Supreme Court to dispel rumors that it would vote in favor of a petition filed by Estrada's lawyers to declare the plunder law unconstitutional for its supposed vagueness.

De Vera said he and his group were "greatly disturbed" by the rumors from Supreme Court insiders.

Reports said that Supreme Court justices were tied 6-6 over the constitutionality of the Plunder Law, with two other justices still undecided and uttered most likely to inhibit, said Plunder Watch, a coalition formed by civil society and militant groups to monitor the prosecution of Estrada.

"We are afraid that the Estrada camp's effort to coerce, bribe, or influence the justices- considering that it has a P500 million slush fund from the aborted power grab that May-will most likely result in a pro-Estrada decision declaring the Plunder Law either unconstitutional or vague," the group said.[42]

PHILIPPINE DAILY INQUIRER

Monday, November 19, 2001

SC under pressure from Erap pals, foes

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"People are getting dangerously, passionate.. emotionally charged." said lawyer Leonard De Vera of the Equal Justice for All Movement and a leading member of the Estrada Resign movement.

He voiced his concern that a decision by the high tribunal rendering the plunder law unconstitutional would trigger mass actions, probably more massive than those that led to People Power II.

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De Vera warned of a crisis far worse than the "jueteng" scandal that led to People Power II if the rumor turned out to be true.

"People wouldn't just swallow any Supreme Court decision that is basically wrong. Sovereignty must prevail."
"[43]

In his Explanation submitted to the Court, respondent De Vera admitted to have made said statements but denied to have uttered the same "to degrade the Court, to destroy public confidence in it and to bring it into disrepute." [44] He explained that he was merely exercising his constitutionally guaranteed right to freedom of speech.

The Court found the explanation unsatisfactory and held that the statements were aimed at influencing and threatening the Court to decide in favor of the constitutionality of the Plunder Law. [45]

The ruling cannot serve as a basis to consider respondent De Vera immoral. The act for which he was found guilty of indirect contempt does not involve moral turpitude.

In *Tak Ng v. Republic of the Philippines* [46] cited in *Villaber v. Commission on Elections*, [47] the Court defines moral turpitude as "an act of baseness, vileness or depravity in the private and social duties which a man owes his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man, or conduct contrary to justice, honesty, modesty or good morals." [48] The determination of whether an act involves moral turpitude is a factual issue and frequently depends on the circumstances attending the violation of the statute. [49]

In this case, it cannot be said that the act of expressing one's opinion on a public interest issue can be considered as an act of baseness, vileness or depravity. Respondent De Vera did not bring suffering nor cause undue injury or harm to the public when he voiced his views on the Plunder Law.[50] Consequently, there is no basis for petitioner to invoke the administrative case as evidence of respondent De Vera's alleged immorality.

On the administrative complaint that was filed against respondent De Vera while he was still practicing law in California, he explained that no final judgment was rendered by the California Supreme Court finding him guilty of the charge. He surrendered his license to protest the discrimination he suffered at the hands of the investigator and he found it impractical to pursue the case to the end. We find these explanations satisfactory in the absence of contrary proof. It is a basic rule on evidence that he who alleges a fact has the burden to prove the same.[51] In this case, the petitioners have not shown how the administrative complaint affects respondent De Vera's moral fitness to run for governor.

Finally, on the allegation that respondent de Vera or his handlers had housed the delegates from Eastern Mindanao in the Century Park Hotel to get their support for his candidacy, again petitioners did not present any proof to substantiate the same. It must be emphasized that bare allegations, unsubstantiated by evidence, are not equivalent to proof under our Rules of Court.[52]

WHEREFORE, the Petition to disqualify respondent Atty. Leonard De Vera to run for the position of IBP Governor for Eastern Mindanao in the 16th election of the IBP Board of Governors is hereby DISMISSED. The Temporary Restraining Order issued by this Court on 30 May 2003 which enjoined the conduct of the election for the IBP Regional Governor in Eastern Mindanao is hereby LIFTED. Accordingly, the IBP Board of Governors is hereby ordered to hold said election with proper notice and with deliberate speed.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Ynares-Santiago, J., no part.

[1] Rollo, pp. 3-11.

[2] Id. at 104.

[3] Id. at 105-108.

[4] Id. at 109-111.

[5] Id. at 112-121.

[6] Id. at 122.

[7] Id. at 1-2.

[8] Id. at 7.

[9] Ibid.

[10] Rollo, p. 9.

[11] Id. at 46-93.

[12] Id. at 60.

[13] Id. at 61-62.

[14] Id. at 66.

[15] Id. at 87.

[16] Id. at 150-169.

[17] Id. at 175-196.

[18] Id. at 173-174.

[19] Id. at 237-242.

[20] Id. at 238.

[21] Sec. 5(5) Art. X, 1973 Constitution: Promulgate rules concerning pleading, practice, and procedure in all courts, the admission to the practice of law, and the integration of the Bar, which, however, may be repealed, altered, or supplemented by the Batasang Pambansa. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights.

[22] In the matter of the Integration of the Bar of the Philippines, 151 Phil. 132 (1973).

[23] Supreme Court Resolution dated October 5, 1970.

[24] An Act Providing for the Integration of the Philippine Bar and Appropriating Funds Therefor.

[25] SEC. 77. Amendments. — These By-Laws may be amended, modified or repealed by the Supreme Court motu proprio or upon the recommendation of the Board of Governors.

[26] SEC. 15. Supreme Court observer. — The Supreme Court may designate an official observer at any election of the Integrated Bar, whether national or local.

[27] SEC. 44. Removal of Members. – If the Board of Governors should determine after proper inquiry that any of its members, elective or otherwise, has for any reason become unable to perform his duties, the Board, by resolution of the majority of the remaining members, may declare his position vacant, subject to the approval of the Supreme Court.

Any member of the Board, elective or otherwise, may be removed for cause, including three consecutive absences from Board meetings without justifiable excuse, by resolution adopted by two-thirds of the remaining members of the Board, subject to the approval of the Supreme Court.

In case of any vacancy in the office of Governor for whatever cause, the remaining members of the Board shall, by majority vote, elect a successor from among the Delegates coming from the Region concerned to serve as Governor for the unexpired portion of the term.

[28] SEC. 14. Prohibited acts and practices relative to election. - The following acts and practices relative to elections are prohibited, whether committed by a candidate for any elective office in the Integrated Bar or by any other member, directly or indirectly, in any form or manner, by himself or through another person:

(a)

Distribution, except on election day, of election campaign material;

(b)

Distribution, on election day, of election campaign material other than a statement of the biodata of a candidate on not more than one page of a legal size sheet of paper; or causing distribution of such statement to be done by persons other than those authorized by the officer presiding at the elections;

(c)

Campaigning for or against any candidate, while holding an elective, judicial, quasi-judicial or prosecutory office in the Government or any political subdivision, agency or instrumentality thereof;

(d)

Formation of tickets, single slates, or combinations of candidates, as well as the advertisement thereof;

(e)

For the purpose of inducing or influencing a member to withhold his vote, or to vote for or against a candidate, (1) payment of the dues or other indebtedness of any member; (2) giving of food, drink, entertainment, transportation or any article of value, or any similar consideration to any person; or (3) making a promise or causing an expenditure to be made, offered or promised to any person.

[29] Section 33(g). The House (of Delegates) shall elect the members of the Board of Governors at the annual convention every other year.

[30] SEC. 39. Nomination and election of Governors. -

(a) Nominations. -

On the morning of the first day of the convention of the House of Delegates held for the election of Governors, the Delegates from each Region shall choose, by secret plurality vote, not less than two or more than five nominees for the position of Governor for their Region. In no case shall more than one nominee come from the same Chapter, nor may any person be nominated unless he is a duly registered member of a Chapter within the Region.

The list of nominees shall be submitted on the same morning to the Chairman of the House, who shall forthwith read them aloud. The names of all the nominees, arranged by Region and in alphabetical order of surnames, shall be written on a blackboard or blackboards within the full view of the House, unless complete mimeographed copies of the lists are distributed to all the Delegates by the secretariat of the House.

In no case shall any nomination or campaign speech be permitted.

[31] Section 39(5) Voting. – Voting for Governors shall take place on the afternoon of the first day of the convention, and shall be by secret ballot. Official ballots shall be provided for the purpose. No voting by proxy shall be allowed. Each Delegate, or, in his absence, his alternate shall vote for only one nominee for Governor of each Region.

[32] Section 39 (7) Persons to be declared elected. – Elections shall be determined by plurality vote. The nominee from every Region receiving the highest number of votes shall be declared and certified elected by the Chairman.

In case of a tie vote, the winner shall be determined by lots drawn by the nominees concerned. The Secretary shall keep all the ballots and tally sheets in a locked receptacle where they shall remain, subject to the further orders of the Board of Governors.

[33] Section 4, Article 1, IBP By-Laws. Non-political Bar. – The Integrated Bar is strictly non-political, and every activity tending to impair this basic feature is strictly prohibited and shall be penalized accordingly. No lawyer holding an elective, judicial, quasi-judicial, or prosecutory office in the Government or any political subdivision or instrumentality thereof shall be eligible for election or appointment to any position in the Integrated Bar or any Chapter thereof. A Delegate, Governor, officer or employee of the Integrated Bar, or an officer or employee of any Chapter thereof shall be considered ipso facto resigned from his position as of the moment he files his certificate of candidacy for any elective public office or accepts appointment to any judicial, quasi-judicial, or prosecutory office in the Government or any political subdivision or instrumentality thereof.

[34] Section 2, Article 1, IBP By-Laws. Objectives and purposes.- The following are the general objectives of the Integrated Bar: to elevate the standards of the legal profession, improve the administration of justice, and enable the Bar to discharge its public responsibility more effectively. The purposes of the Integrated Bar include, without being limited to, those specified in the per curiam Resolution of the Supreme Court dated January 9, 1973 ordaining the integration of the Philippine Bar.

[35] Rollo, p. 125.

[36] Section 29-12. Rules governing elections.- The following rules shall govern elections:

(a)

Date and place of elections. – Elections of Officers and Directors shall be held on the last Saturday of February of every other year at such time and place as the Board shall designate, which shall be stated in the notice to be sent to every member by personal delivery or by mail not less than thirty days prior to the elections.

[37] Section 9. Officer defined.- The term "officer" as used in these By-Laws shall include, but not necessarily be limited to, the following: President, Executive Vice President, Governors, Secretary, Treasurer and other national officers of the Integrated Bar, officers and members of the House of Delegates, Chapter officers and directors, commissioners, and members of all national and local committees.

Only members in good standing may become officers, and, unless otherwise provided in these By-Laws, no person who is not a member of the Integrated Bar may become an officer.

Section 20. Members in good standing. – Every member who has paid all membership dues and all authorized special assessments, plus surcharges owing thereon, and who is not under suspension from the practice of law or from membership privileges, is a member in good standing.

[38] Section 29-12.f Eligibility. – No member may be elected to any office whose name is not duly included in the voters' list, or who is disqualified by the Integration Rule, by the By-Laws of the Integrated Bar, or by these by-laws.

Section 29-12© Voters' list. – Not earlier than twenty-five days nor later than fifteen days prior to the elections, the Secretary shall submit to the Board of Officers a list of the names of all the members entitled to vote. The voters' list shall then remain closed and shall not be altered except upon direction of the Board. However, it shall be open to inspection by all members, and upon request, copies thereof shall be furnished to any member upon payment of actual cost.

Any member who is delinquent in the payment of dues or any assessment, including surcharges owing,

twenty-five days prior to the day of the elections, shall be excluded from the voters' list.

[39] Sections 37 and 39, Article VI, IBP By-Laws.

[40] Section 4, Article 1, IBP By-Laws.

[41] A.M. No. 01-12-03-SC, 29 July 2002, 385 SCRA 285.

[42] In Re; Published Alleged Threats Against Members of the Court in the Plunder Law Case Hurlled by Atty. Leonard De Vera, A.M. No. 01-12-03-SC, 29 July 2002, 385 SCRA 285, 287-288.

[43] Id. at 288.

[44] Ibid.

[45] Supra, note 41, at 290.

[46] 106 Phil. 727 (1959)

[47] G.R. No. 148326, 15 November 2001, 369 SCRA 126.

[48] Tak Ng v. Republic of the Philippines, 106 Phil. 727 (1959).

[49] Dela Torre v. Commission on Elections, 327 Phil. 1144, 1151 (1996) citing International Rice Research Institute v. NLRC, GRNo. 97239, 12 May 1993, 221 SCRA 760, and In Re: Victorio Lanuevo, Administrative Case No. 1162, 29 August 1975, 66 SCRA 245.

[50] See Villaber v. Commission on Elections, GR No. 148326, 15 November 2001, 369 SCRA 126, Dela Torre v. Commission on Elections, 327 Phil. 1144, 1151 (1996) and Tak Ng v. Republic of the Philippines, 106 Phil. 727 (1959).

[51] Cortes v. CA, G.R. No. 121772, 13 January 2003.

[52] Coronel v. Constantino, G.R. No. 121069, 7 February 2003.

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