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dismissed the petition, and its Resolution of 17 June 1999, which denied the motion for reconsideration, are SET ASIDE. The petition is reinstated and the case is remanded to the appellate court for further proceedings. No costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

Buena, J., is on leave.

THIRD DIVISION

[Adm. Case No. AC-4834. February 29, 2000]

FELICIDAD L. COTTAM, *complainant, vs.* **ATTY. ESTRELLA O. LAYSA,** *respondent.*

SYNOPSIS

Respondent was the legal counsel of Banahaw Lending Corporation to which two parcels of land owned by complainant was mortgaged under a special power of attorney executed by her in favor of Faustino Aledia. Complainant alleged in her complaint that respondent refused to surrender her titles despite full payment of her mortgage obligations and despite the release of the mortgage which respondent herself notarized. Respondent, for her defense, claimed that there was an existing balance of ₱888,750.00 over the second mortgage of the lots executed in favor of respondent's relative who made payments for the release of the first mortgage. Complainant countered that respondent knew that the object of the special power of attorney had been accomplished as she herself notarized the real estate mortgage and that the execution of the second mortgage in favor of respondent's relatives was irregular. The Integrated

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Bar of the Philippines (IBP) Board of Governors, in a resolution, adopted the report and recommendation of the investigating commissioner for the suspension of respondent for one (1) year. The records, however, disclosed that no formal investigation was conducted by the investigating commissioner. This was challenged by herein respondent.

Complaints against lawyers for misconduct are normally addressed to the Court. The complaint is outrightly dismissed if clearly wanting in merit while referral is made to the IBP if further inquiry is necessary for a formal investigation of the case and to afford the parties an opportunity to be heard. Thus, the case is remanded to the IBP for further proceedings.

SYLLABUS

LEGAL ETHICS; ATTORNEYS; COMPLAINT FOR MISCONDUCT; FORMAL INVESTIGATION NECESSARY WHERE EVALUATION CANNOT BE RESOLVED BY MERELY EVALUATING PLEADINGS. — A review of the records would indeed show that no formal investigation was conducted by IBP on the case. Complaints against lawyers for misconduct are normally addressed to the Court. If, at the outset, the Court finds a complaint to be clearly wanting in merit, it outrightly dismisses the case. If, however, the Court deems it necessary that further inquiry should be made, such as when the matter could not be resolved by merely evaluating the pleadings submitted, a referral is made to the IBP for a formal investigation of the case during which the parties are accorded an opportunity to be heard. An *ex parte* investigation may only be conducted when respondent fails to appear despite reasonable notice. The procedures outlined by the Rules are meant to ensure that the innocents are spared from wrongful condemnation and that only the guilty are meted their just due. Obviously, these requirements cannot be taken lightly. The instant administrative case is remanded to the Integrated Bar of the Philippines for further proceedings conformably with the above disquisition and to act on this referral with dispatch.

APPEARANCES OF COUNSEL

Dominguez Delani Dominguez Orsos and Fortuno Law Offices for respondent.

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DECISION

VITUG, *J.*:

Felicidad Lacsamana Cottam has charged Atty. Estrella O. Laysa with gross misconduct and dishonesty.

Complainant averred to be the owner of two (2) parcels of land in Tagaytay City covered by TCT No. T-21247 and No. T-21248. On 28 August 1993, complainant executed a special power of attorney in favor of Faustino J. Aledia, giving the latter authority to mortgage the property. By virtue of the special power of attorney, Aledia, on 20 September 1993, executed a deed of real estate mortgage in favor of Banahaw Lending Corporation to secure a ₱500,000.00 financing. On 16 August 1994, complainant paid in full the mortgage obligation and the Banahaw Lending Corporation, on even date, released the mortgage. Complainant thereupon learned that TCT No. T-21247 and No. T-21248 were still in the custody of respondent lawyer. Atty. Laysa, at first, refused to talk with complainant; later, however, respondent presented complainant with a statement of account of Faustino Aledia (allegedly for Felicidad Lacsamana), as of 16 May 1997, for ₱888,750.00. Respondent then intimated to complainant that she would have to pay the amount before the certificates of title could be released. Respondent, who notarized both the real estate mortgage and the release of the mortgage, was aware that the special power of attorney executed in favor of Aledia was not renewed.

In her comment, Atty. Laysa alleged that she was, from 1979 to 1993, the legal counsel of Banahaw Lending Corporation. As such, she was, among other things, tasked to notarize documents involving transactions of the company with its clients. She admitted the execution of the real estate mortgage. When Aledia defaulted in the secured obligation, the lending corporation instituted foreclosure proceedings over the property. At the time of the foreclosure, Atty. Laysa was no longer the lawyer of the lending corporation. She claimed that she was approached by Aledia to help him look for any party who could help settle

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the mortgage obligation, the complainant being still then in England. Atty. Laysa contacted her sister, Emma O. Laysa, and another relative, Teofila Ambita, who contributed ₱110,000.00 and ₱390,000.00, respectively, to pay the outstanding mortgage obligation. Accordingly, on 10 August 1994, another Deed of Real Estate Mortgage was executed by Aledia in favor of Ambita and Emma Laysa, this time for the sum of ₱650,000.00, the additional ₱150,000.00 being the interest for one (1) year at 30% per annum. When this second mortgage was executed, the special power of attorney issued in favor of Aledia was not yet revoked and was still valid and subsisting. As a result of the arrangement, the foreclosure application initiated by Banahaw Lending Corporation was withdrawn. Initially, Aledia was paying the interests on the loan but he later secretly left the country and went to the United States, forcing respondent lawyer to pay her sister the total amount of ₱110,000.00, and Ambita, the accrued interests on the loan. Atty. Laysa fully apprised complainant of the matter, and suggested that they should go after Aledia if, indeed, complainant had been faithful in paying, through Aledia, her obligation. Complainant then asked respondent lawyer for a statement of the total amount owing from Aledia which she would use to effect his arrest by the Interpol. Atty. Laysa obliged.

In her reply to the comment, complainant asserted that respondent was aware that the object of the special power of attorney had already been accomplished. She considered incredible the allegation of respondent that the second mortgage contract was executed four (4) days from the discharge of the first mortgage, adding that the balance owing to the lending corporation was only ₱394,015.72 which was paid through the money sent by complainant to Aledia. She could not thus understand why the second mortgage was for ₱650,000.00. Complainant claimed that she learned of the second mortgage, as well as the supposed payment made by respondent to the second mortgagees, only after the filing of this case. Finally, complainant argues that, assuming a default on her part, respondent lawyer, nevertheless, should have taken steps to foreclose the second mortgage if only to protect the interest of the mortgagees.

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In the Court's resolution of 22 June 1998, the Court referred the case to the Integrated Bar of the Philippines ("IBP") for investigation, report and recommendation. Commissioner Milagros V. San Juan, in her report, dated 08 December 1998, recommended that respondent lawyer be suspended from the practice of law for one (1) year and that her appointment as Notary Public be revoked. The IBP Board of Governors, in its Resolution No. XIII-99-161, adopted and approved the Report and Recommendation of the Investigating Commissioner.

When Atty. Laysa learned of the resolution of the IBP Board of Governors, she promptly sought a reconsideration thereof. Respondent lawyer averred that no formal investigation had at all been held by the IBP and the report of the Investigating Commissioner was issued without affording respondent lawyer a right to be heard.

A review of the records would indeed show that no formal investigation was conducted by IBP on the case.

Complaints against lawyers for misconduct are normally addressed to the Court. If, at the outset, the Court finds a complaint to be clearly wanting in merit, it outrightly dismisses the case. If, however, the Court deems it necessary that further inquiry should be made, such as when the matter could not be resolved by merely evaluating the pleadings submitted, a referral is made to the IBP for a formal investigation of the case during which the parties are accorded an opportunity to be heard. An *ex parte* investigation may only be conducted when respondent fails to appear despite reasonable notice. Hereunder are some of the pertinent provisions of Rule 139-B of the Rules of Court on this matter; *viz*:

"SEC. 3. *Duties of the National Grievance Investigator.* — The National Grievance Investigators shall investigate all complaints against members of the Integrated Bar referred to them by the IBP Board of Governors.

"x x x x x x x x x.

"SEC. 5. *Service or dismissal.* — If the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served

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upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

"No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.

"x x x x x x x x x.

"SEC. 8. *Investigation.* — 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.*

"The Investigator shall terminate the investigation within three (3) months from the date of its commencement, unless extended for good cause by the Board of Governors upon prior application.

"Willful failure to refusal to obey a subpoena or any other lawful order issued by the Investigator shall be dealt with as for indirect contempt of Court. The corresponding charge shall be filed by the Investigator before the IBP Board of Governors which shall require the alleged contemnor to show cause within ten (10) days from notice. The IBP Board of Governors may thereafter conduct hearings, if necessary, in accordance with the procedure set forth in this Rule for hearings before the Investigator. Such hearing shall as far as practicable be terminated within fifteen (15) days from its commencement. Thereafter, the IBP Board of Governors shall within a like period of fifteen (15) days issue a resolution setting forth its findings and recommendations, which shall forthwith be transmitted to the Supreme Court for final action and if warranted, the imposition of penalty."

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The procedures outlined by the Rules are meant to ensure that the innocents are spared from wrongful condemnation and that only the guilty are meted their just due. Obviously, these requirements cannot be taken lightly.

WHEREFORE, the instant administrative case is REMANDED to the Integrated Bar of the Philippines for further proceedings conformably with the above disquisition and to act on this referral with dispatch.

SO ORDERED.

Melo (Chairman), Panganiban, Purisima, and *Gonzaga-Reyes, JJ.*, concur.

EN BANC

[Adm. Matter No. MTJ-98-1153. February 29, 2000]

MAGDALENA M. HUGGLAND,* *complainant, vs.* **JUDGE JOSE C. LANTIN,** *respondent.*

SYNOPSIS

On November 14, 1997, a news item appeared in Manila Bulletin concerning the arrest by NBI agents of Judge Jose Lantin, presiding Judge of the Municipal Trial Court of San Felipe, Zambales, for allegedly having received marked money amounting to ₱5,000.00 from the complainant in exchange for the cancellation of the hold departure order issued by respondent against her. The Court required the respondent to comment thereon, and thereafter was referred to Justice Narciso Atienza for investigation, report and recommendation. On February 5, 1999, Justice Atienza found respondent guilty of grave and serious misconduct, which would have warranted his dismissal from the service had the investigation not been overtaken by his compulsory retirement. He then recommended that the retirement benefits, privileges and leave credits which respondent may be entitled be forfeited.

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* Also spelled as Hugglan.