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I am mindful of the urgent need to speedily resolve this protest because the term of the Mayoralty position involved is about to end. Accordingly, I urge that we quickly remand this case to the COMELEC, instead of to the RTC, for the conduct of the decryption, printing and recount proceedings, with due notice to all the parties and opportunity for them to be present and to participate during such proceedings. Nothing less serves the ideal objective safeguarded by the Constitution.

IN VIEW OF THE FOREGOING, I vote to **GRANT** the petition for *certiorari*, and to **REMAND** the protest to the Commission on Elections for the decryption of the picture images of the ballots after due authentication, for the printing of the decrypted ballot images, and for the conduct of the recount proceedings using the printouts of the ballot images, with notice to and in the presence of the parties or their representatives.

SPECIAL FIRST DIVISION

[A.C. No. 9259. March 13, 2013]

JASPER JUNNO F. RODICA, *complainant, vs.* **ATTY. MANUEL "LOLONG" M. LAZARO, ATTY. EDWIN M. ESPEJO, ATTY. ABEL M. ALMARIO, ATTY. MICHELLE B. LAZARO, ATTY. JOSEPH C. TAN, and JOHN DOES,** *respondents.*

SYLLABUS

REMEDIAL LAW; ATTORNEYS; DISBARMENT; THE COURT HAS THE DISCRETION EITHER TO PROCEED WITH THE CASE BY REQUIRING PARTIES TO FILE RESPONSIVE PLEADINGS OR TO DISMISS THE SAME OUTRIGHT; CASE AT BAR.— The Court will outrightly dismiss a Complaint for disbarment when on its face, it is

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clearly wanting in merit. Thus, in *International Militia of People Against Corruption & Terrorism v. Chief Justice Davide, Jr.* (*Ret*.) the Court, after finding the Complaint insufficient in form and substance, dismissed the same outright for utter lack of merit. It took the same stand in *Battad v. Senator Defensor-Santiago,* where the disbarment Complaint against respondent therein was *motu proprio* dismissed by this Court after finding "no sufficient justification for the exercise of [its] disciplinary power." In this case, the Court did not dismiss outright the disbarment Complaint. In fact, it even required the respondents to file their respective Answers. Then, after a judicious study of the records, it proceeded to resolve the same although not in complainant's favor. Based on the Complaint and the supporting affidavits attached thereto, and the respective Comments of the respondents, the Court found that the presumption of innocence accorded to respondents was not overcome. Moreover, the Court no longer required complainant to file a Reply since it has the discretion not to require the filing of the same when it can already judiciously resolve the case based on the pleadings thus far submitted. And contrary to complainant's mistaken notion, not all petitions or complaints reach reply or memorandum stage. Depending on the merits of the case, the Court has the discretion either to proceed with the case by first requiring the parties to file their respective responsive pleadings or to dismiss the same outright. Likewise, the Court can proceed to resolve the case without need of informing the parties that the case is already submitted for resolution.

APPEARANCES OF COUNSEL

Marcos Ochoa Serapio & Tan Law Firm for Joseph C. Tan.

R E S O L U T I O N

DEL CASTILLO, *J.*:

For resolution is the Motion for Reconsideration & Motion for Inhibition[1] filed by complainant Jasper Junno F. Rodica of

[1] *Rollo,* pp. 572-579.

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our August 23, 2012 Resolution,[2] the dispositive portion of which reads:

WHEREFORE, premises considered, the instant Complaint for disbarment against respondents Atty. Manuel "Lolong" M. Lazaro, Atty. Edwin M. Espejo, Atty. Abel M. Almario, Atty. Michelle B. Lazaro and Atty. Joseph C. Tan is **DISMISSED.** Atty. Edwin M. Espejo is **WARNED** to be more circumspect and prudent in his actuations.

SO ORDERED.[3]

In her Motion for Reconsideration & Motion for Inhibition, complainant argues that this Court unfairly ignored the supporting affidavits attached to the Complaint and that this Court should expressly declare whether it is lending credence to said affidavits or not and why.[4]

Complainant next claims that this Court deviated from usual practice and procedure when it proceeded to resolve the disbarment Complaint after the separate Comments of the respondents have been filed without giving her the opportunity to file a Reply. She also faults the Court for deciding the case without first declaring the same to have already been submitted for resolution. To her, this constitutes denial of due process.[5]

Lastly, complainant asserts that this Court's reference to her Affidavit supposedly executed on July 21, 2011 as 'un-notarized' was misplaced. She also insists that the Court's observation that the withdrawal of pending cases should not have been limited "to the RTC case,"[6] is erroneous considering that there were no other pending cases to speak of at that time. She also maintains that the Court erroneously gave the impression that the decision of the Regional Trial Court in Kalibo had already become final.[7]

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[2] *Id.* at 581-598.

[3] *Id.* at 597.

[4] *Id.* at 573.

[5] *Id.* at 573-574.

[6] *Id.* at 621.

[7] *Id.* at 575-576.

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Complainant also prays for the inhibition of the justices who participated in this case in the belief that they have been biased against her.

Complainant's Motion for Reconsideration & Motion for Inhibition are totally bereft of merit.

The Court considered the affidavits of Brimar F. Rodica, Timothy F. Rodica and Atty. Ramon S. Diño in resolving the case.

Contrary to complainant's contention, this Court considered the afore-mentioned affidavits as corroborative evidence of the allegations in the Complaint. Nonetheless, in the proper exercise of its discretion, the Court deemed it unnecessary to restate in its August 23, 2012 Resolution the material facts contained in each affidavit as the same would only be mere reiterations of the summarized allegations in the Complaint. In other words, this Court found no necessity to mention the allegations in each affidavit because they were already spelled out in the Complaint. Besides, this Court is under no obligation to specifically mention in its Decision or Resolution each and every piece of evidence of the parties. It would suffice if the Court's factual findings are distinctly stated and the bases for its conclusions clearly spelled out. The Court can validly determine which among the pieces of evidence it will accord credence and which it will ignore for being irrelevant and immaterial.

Complainant was not denied due process.

Complainant's contention that she was denied due process because she was not allowed to file a Reply deserves scant consideration. This is equally true of complainant's argument that this Court deviated from usual procedure when it resolved the disbarment Complaint without first declaring the case to have been submitted for resolution. The Court will outrightly dismiss a Complaint for disbarment when on its face, it is clearly wanting in merit. Thus, in *International Militia of People Against Corruption & Terrorism v. Chief Justice Davide, Jr.*

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(Ret.)[8] the Court, after finding the Complaint insufficient in form and substance, dismissed the same outright for utter lack of merit. It took the same stand in *Battad v. Senator Defensor-Santiago*,[9] where the disbarment Complaint against respondent therein was *motu proprio* dismissed by this Court after finding "no sufficient justification for the exercise of [its] disciplinary power."[10] In this case, the Court did not dismiss outright the disbarment Complaint. In fact, it even required the respondents to file their respective Answers. Then, after a judicious study of the records, it proceeded to resolve the same although not in complainant's favor. Based on the Complaint and the supporting affidavits attached thereto, and the respective Comments of the respondents, the Court found that the presumption of innocence accorded to respondents was not overcome. Moreover, the Court no longer required complainant to file a Reply since it has the discretion not to require the filing of the same when it can already judiciously resolve the case based on the pleadings thus far submitted. And contrary to complainant's mistaken notion, not all petitions or complaints reach reply or memorandum stage. Depending on the merits of the case, the Court has the discretion either to proceed with the case by first requiring the parties to file their respective responsive pleadings or to dismiss the same outright. Likewise, the Court can proceed to resolve the case without need of informing the parties that the case is already submitted for resolution.

Also, contrary to complainant's contention, this Court is not mistaken in its reference to complainant's July 21, 2011 Affidavit as "un-notarized." The said Affidavit which was attached to the Complaint as Annex "A" consists only of nine pages with no accompanying jurat. The mention made by the complainant in page 1 of her Complaint that the July 21, 2011 was "acknowledged before Notary Public Joan Ibutnande and entered as Doc. 83, Page 18, Book No. VI, Series of 2011"[11] could not

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[8] 541 Phil. 188 (2007).

[9] A.C. No. 8519, February 22, 2010.

[10] *Id.*

[11] *Rollo,* p. 1.

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take the place of the jurat itself as written in the Affidavit. Similarly, this Court finds no merit in complainant's argument that the Court's observation that "the withdrawal should not have been limited to the RTC case as it appears that there are other cases pending with other tribunals and agencies,"[12] is erroneous. She claims to be unaware of any other case pending in other tribunals and agencies. However, this contention is belied by complainant's own declaration in her Sworn Affidavit which was incorporated in her Complaint, *viz.*:

x x x x x x x x x

1. Sometime in 2010, I filed a civil case against Hillview Marketing Corporation, Stephanie Dornau and several others, regarding recovery of possession of [a] certain area that was lost on my property, the illegal encroachment on my property x x x, for recovery of damages and as indemnity x x x captioned as *JASPER J. F. RODICA vs. HILL VIEW MARKETING CORPORATION, et al.* and docketed as Civil Case No. 8987, and assigned at the Regional Trial Court Branch VI of [Kalibo] Aklan;

2. Earlier on, in 2009, I have also filed a case with the HLURB against Hillview Marketing Corporation/its officers, for unfair/ irregular real estate business practices, refund for the purchase price regarding the sale of the Boracay property made to me by Hillview, and some other matters.

x x x x x x x x x[13]

Moreover, in the Answer[14] filed by Atty. Joseph Tan (Atty. Tan) and Atty. Paolo Deston relative to CBD Case No. 12-3360 pending before the Integrated Bar of the Philippines, copy of which was attached to Atty. Tan's Manifestation,[15] several cases were mentioned.[16] Thus, we wonder how complainant could claim to be unaware of them.

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[12] *Id.* at 621.

[13] *Id.* at 2.

[14] *Id.* at 532-554.

[15] *Id.* at 529-531.

[16] a) *Rodica v. Hillview Marketing Corporation, Inc., et al.*, HLURB Case No. R-VI-REM-040709-003, *id.* at 535;

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The Motion to Inhibit is denied for lack of basis.

"[An] inhibition must be for just and valid reason. The mere imputation of bias or partiality is not enough ground x x x to inhibit, especially when the charge is without basis."[17] In this case, complainant's imputation that her Complaint was decided by the magistrates of this Court with extreme bias and prejudice is baseless and clearly unfounded.

WHEREFORE, the Motion for Reconsideration & Motion for Inhibition are **DENIED** for lack of merit.

No further pleadings or motions shall be entertained in this case.

SO ORDERED.

Leonardo-de Castro (Acting Chairperson),[*] *Bersamin, Villarama, Jr.,* and *Perlas-Bernabe,*[**] *JJ.,* concur.

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b) *Rodica v. Hillview Marketing Corporation, Inc., et al.*, Civil Case No. 8987, Regional Trial Court, Kalibo, Aklan, *id.* at 536;

c) G.R. No. 199108, *id.*;

d) I.S. Nos. INV-11-G-00341, 00342, 00343, 00351, 00352, 00362 and 00363, *id.* at 537;

e) I.S. Nos. INV-12C-00098, INV-12A-00010, INV-12A-00011, INV-12A-00012, INV-12C-00098, INV-12C-00107 and INV-11G-00350, *id.* at 538.

[17] *Spouses Hizon v. Spouses dela Fuente,* 469 Phil. 1076, 1081 (2004).

[*] Per Special Order No. 1226 dated May 30, 2012.

[**] Per Special Order No. 1227 dated May 30, 2012.