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THIRD DIVISION

[AC No. 5176. December 14, 1999]
(Formerly CBD-97-492)

RITA DE ERE, *complainant, vs.* **ATTY. MANOLO RUBI,** *respondent.*

SYNOPSIS

Complainant Rita de Ere filed a complaint before the Integrated Bar of the Philippines (IBP) against respondent Atty. Manolo Rubi for gross immorality and gross misconduct. Complainant alleged that respondent's act of cohabiting with her in an illicit manner, and taking advantage of her situation, when she was in her darkest and decisive moments, on the pretext of assurance and representation which all turned out to be false, makes him unfit to be a member of the legal profession who must uphold the highest degree of morality, integrity and reputation. Respondent chose to be silent and did not file an answer to the complaint. Complainant, on the other hand, filed a Motion to Withdraw Petition. The IBP Commissioner recommended the indefinite suspension of respondent. The IBP Board of Governors adopted and approved the recommendation of the Investigating Commissioner.

The Supreme Court did not sustain the recommendation of the IBP. According to the Court, there was no basis for the IBP's ruling that respondents' failure to file an answer constituted an admission of the averments in the Complaint because the Rules of Court does not authorize the IBP to treat respondent's silence as an admission of complainant's allegations. The Court stressed that an administrative case against a lawyer such as the present case which justifies the imposition of the appropriate penalty, including suspension and disbarment, must be established with convincing proof because the said penalties are the most severe forms of disciplinary action and their consequences are beyond repair. The Court set aside the resolution of the IBP Board of Governors recommending the indefinite suspension of respondent and remanded the case to the IBP for further investigation.

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SYLLABUS

1. **LEGAL ETHICS; DISCIPLINARY ACTIONS AGAINST LAWYERS; AN ADMINISTRATIVE CHARGE AGAINST A LAWYER MUST BE ESTABLISHED WITH CONVINCING PROOF.** — The legal profession exacts from its members the highest standard of morality. In other words, lawyers must conduct themselves beyond reproach at all times. "More specifically, a member of the Bar and officer of the court is not only required to refrain from adulterous relationships or keeping of mistresses but must also so behave himself as to avoid scandalizing the public by creating the belief that he is flouting those moral standards." A violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair. Hence, an administrative charge against a lawyer must be established with convincing proof.

2. **ID.; ID.; ID.; THE INTEGRATED BAR OF THE PHILIPPINES' RULING THAT RESPONDENT LAWYER'S FAILURE TO FILE AN ANSWER CONSTITUTED AN ADMISSION OF THE AVERMENTS IN THE COMPLAINT HAS NO BASIS.** — In the present case, no evidence was received by the IBP to justify its recommendation. As noted earlier, it relied merely on the allegations in the Complaint, which respondent was deemed to have admitted by his failure to file an answer. In this light, we cannot sustain such recommendation. There was no basis for the IBP's ruling that respondent's failure to file an answer constituted an admission of the averments in the Complaint. The consequence of failure to file an answer was clearly laid down in the August 21, 1997 IBP Order, which stated that "the Commission will consider you in default and this case shall be heard *ex parte*." This Order is also in consonance with Section 8, Rule 139-B of the Rules of Court, which provides that the investigation shall proceed *ex parte* upon failure of the respondent to file an answer or to appear in the proceedings. Implicit is the need for further investigation, for nothing in the Rules of Court authorizes the *IBP* to treat respondent's silence as an admission of the complainant's allegations. Clearly, his purported admission cannot justify the IBP recommendation.

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3. ID.; ID.; ID.; COMPLAINANT'S WITHDRAWAL DOES NOT WRITE *FINIS* TO THE PROCEEDINGS AND DOES NOT RENDER THE INTEGRATED BAR OF THE PHILIPPINES POWERLESS TO CONDUCT THE INVESTIGATION. — We rule that the IBP erred in relying solely on the allegations in the Complaint and proceeding no further. We reiterate that it has the duty to go on with the investigation upon failure of respondent to file the required answer. Thus, complainant's withdrawal does not write *finis* to the present proceedings. Section 5 of Rule 139-B clearly provides that "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 case." Administrative cases against lawyers, after all, are *sui generis*, for they involve no private interest. "x x x Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken for the purpose of preserving courts of justice from the official ministration of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant or the person who called the attention of the court to the attorney's alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice.x x x" Moreover, complainant's withdrawal does not render the IBP powerless to conduct the investigation. Indeed, it is authorized to issue subpoena to compel the appearance of persons and witnesses before it. Moreover, refusal to obey its subpoena shall be dealt with as contempt of court.

D E C I S I O N

PANGANIBAN, *J.*:

Disciplinary actions against lawyers cannot be abated by the complainant's withdrawal of charges or refusal to prosecute. Likewise, the failure to answer a complaint is not equivalent to an admission of the allegations therein. In both instances — withdrawal of charges and failure to answer — the Integrated Bar of the Philippines (IBP) is duty-bound to continue with the investigation, hear the evidence and submit a recommendation/ judgment as may be warranted by the established facts and the law.

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The Case and the Facts

In a Complaint dated July 24, 1997 filed before the Integrated Bar of the Philippines, Rita de Ere charged Atty. Manolo Rubi with gross immorality and gross misconduct. The pertinent portions of the Complaint read:

"3. Petitioner's acqu[ai]ntance with the respondent traces its origin as early as September 1991 when she (petitioner) was facing multiple criminal charges of estafa and violation of Batas Pambansa Blg. 22, then pending in the Regional Trial Court, Branch 19, Manila, where respondent serves as the Branch Clerk of Court, and in other sala.

"4. Respondent's good Samaritan attitude in personally assisting and facilitating petitioner's release on bail and other legal maneuvers, through his connections and influence saved and alleviated her (petitioner) from all legal predicaments.

"5. Respondent's magnanimity, care and sympathy towards petitioner was not without any hidden meaning. It later turned into a whirlwind courtship, which surprise[d] and puzzle[d] the latter, considering his (respondent) background as a family man.

"6. Despite resistance and apathy of petitioner, respondent's concern [for] petitioner became more manifest and convincing when he started staying and spending his after-office-hours in her residence, showing and making petitioner believe that he [was] separated [from] his wife coupled with his assurance to take the necessary steps to annul his marriage and that of petitioner to legalize and justify whatever relationship he may have with the petitioner.

"7. Relying on his assurance and representation, petitioner finally settled into a relationship with him, [the two of them] staying and living together as husband and wife, such that even petitioner's children considered him as their step-father and her relatives as their brother-in-law.

"8. For years, petitioner and respondent openly and publicly lived as husband and wife, attending and gracing special occasions hosted by friends and relatives, until on one late evening, respondent's wife, suddenly and surprisingly entered her restaurant-residence and thereat assaulted and inflicted her injuries.

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"9. Petitioner discovered that by reason of the aforesaid incident all the assurance and representations of respondent [were] all lies and in vain. It turned out that contrary to his representations to petitioner, he still maintain[ed] a relationship with his wife and his family.

"10. [In spite] of the above incident, respondent continuously, persistently and openly bothered and troubled petitioner and insisted [on maintaining] his illicit acts.

"11. Respondent's acts of openly and publicly cohabiting with a woman in an illicit manner, and taking advantage of her situation, when she was in her darkest and decisive moments, on the pretext of assurance and representation which all turned out to be false, makes him unfit to be a member of the legal profession who must uphold the highest degree of morality, integrity and reputation."[1]

In an Order dated August 21, 1997, IBP Commissioner Plaridel Jose directed respondent to submit an answer to the Complaint within ten days from notice.[2]

Shortly afterwards, on August 25, 1997, complainant filed a Motion to Withdraw Petition, which was received by the IBP and by the respondent on September 1, 1997.

Meanwhile, the aforecited IBP Order was received by respondent on September 15, 1997, but he failed to file an answer.

Thereafter, relying solely on the allegations in the Complaint without conducting further investigations, Commissioner Jose submitted to the IBP a Report dated October 30, 1997, recommending the indefinite suspension of respondent as follows:

"A reading of the complaint will show damaging allegations of facts which the respondent never bothered to deny and x x x the substance and circumstances contained in the complaint will show the truth of the complainant's allegation not only because it contains [a] narration of facts against the respondent but because no woman in her right mind will state that she cohabited with another man openly and publicly until the respondent's wife suddenly and surprisingly

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[1] *Rollo*, pp. 1-3.

[2] *Rollo*, p. 6.

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entered her restaurant-residence and thereat assaulted and inflicted her injuries.

"In a long line of decision[s], this Commission [has laid] down the rule that a motion to dismiss or [a] withdrawal of complaint hardly deserves consideration as [a] proceeding of this nature cannot be interrupted or terminated by reason of desistance, settlement, compromise, restitution, withdrawal of charges or failure of the complainant to prosecute the same.

"Likewise, it was ruled that any person not necessarily the aggrieved party may bring to the court's attention the misconduct of any lawyer and corresponding action can be taken regardless of lack of interest of the aggrieved concerned if the facts and circumstances so warrant. The power of disciplining lawyers — officers of the court — may not be cut short by a compromise or withdrawal of the charges.

"This Commission could not find or discern any ulterior motive or purpose to completely disregard petitioner's allegations in her sworn complaint.

"x x x x x x x x x

"Considering that the respondent ch[o]se to be silent on the seriousness of the allegations against him, his silence is a clear indication of admitting the facts alleged by the complainant."[3]

On September 16, 1998, this Court received from the IBP Board of Governors a Notice of Resolution which reads:

"Please take notice [that] on December 13, 1997 a resolution was passed by the Board of Governors of the Integrated Bar of the Philippines in the above-entitled case the original of which is now on file in this office, quote:

"RESOLUTION NO. XIII-97-166
CBD Case No. 97-492
Rita De Ere vs.
Atty. Manolo Rubi

"RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the

[3] *Rollo*, pp. 11-12.

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> above-entitled case, herein made part of this Resolution/ Decision as Annex 'A', and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Respondent Atty. Manolo Rubi is *SUSPENDED INDEFINITELY* from the practice of law considering that he ch[o]se to be silent on the seriousness of the allegations against him, which silence is a clear indication of admitting the facts alleged by the complainant."[4]

This Court's Ruling

We disagree with the recommendations of the IBP. The case should be remanded for further proceedings.

Investigation of Administrative Cases

The legal profession exacts from its members the highest standard of morality. Thus, the Code of Professional Responsibility mandates:

"Rule 1.01. — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

"Rule 7.03. — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession."

In other words, lawyers must conduct themselves beyond reproach at all times.[5] "More specifically, a member of the Bar and officer of the court is not only required to refrain from adulterous relationships or the keeping of mistresses but must also so behave himself as to avoid scandalizing the public by creating the belief that he is flouting those moral standards."[6]

A violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are

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[4] *Rollo*, p. 8.

[5] *In re: Arthur M. Cuevas Jr.*, 285 SCRA 59, 63, January 27, 1998.

[6] *Tolosa v. Cargo,* 171 SCRA 21, 26, March 8, 1989, per Feliciano, *J.*

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imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair. Hence, an administrative charge against a lawyer must be established with convincing proof.[7]

In the present case, no evidence was received by the IBP to justify its recommendation. As noted earlier, it relied merely on the allegations in the Complaint, which respondent was deemed to have admitted by his failure to file an answer.

In this light, we cannot sustain such recommendation. There was no basis for the IBP's ruling that respondent's failure to file an answer constituted an admission of the averments in the Complaint. The consequence of failure to file an answer was clearly laid down in the August 21, 1997 IBP Order, which stated that "the Commission will consider you in default and this case shall be heard *ex parte*."[8] This Order is also in consonance with Section 8, Rule 139-B of the Rules of Court, which provides that the investigation shall proceed *ex parte* upon failure of the respondent to file an answer or to appear in the proceedings. Implicit is the need for further investigation, for nothing in the Rules of Court authorizes the IBP to treat respondent's silence as an admission of the complainant's allegations.

Clearly, his purported admission cannot justify the IBP recommendation.

Further Investigation Necessary

Prescinding from the foregoing discussion, it follows that the IBP erred in relying solely on the allegations in the Complaint and proceeding no further. We reiterate that it has the duty to go on with the investigation upon failure of respondent to file the required answer.

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[7] *Santiago v. Bustamante*, 76 SCRA 527, April 29, 1977; *In re: Atty. De Guzman*, 55 SCRA 291, January 21, 1974.

[8] *Rollo*, p. 6.

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Thus, complainant's withdrawal does not write *finis* to the present proceedings. Section 5 of Rule 139-B clearly provides that "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 case." Administrative cases against lawyers, after all, are *sui generis*, for they involve no private interest.

"x x x Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken for the purpose of preserving courts of justice from the official ministration of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant or the person who called the attention of the court to the attorney's alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice. x x x"[9]

Moreover, complainant's withdrawal does not render the IBP powerless to conduct the investigation. Indeed, it is authorized to issue subpoena to compel the appearance of persons and witnesses before it. Moreover, refusal to obey its subpoena shall be dealt with as contempt of court.

WHEREFORE, the Report of the IBP is hereby *SET ASIDE*. The IBP is directed to *PROCEED* with the investigation of the case and to submit a recommendation/judgment as the evidence and the law may warrant.

SO ORDERED.

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

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[9] *Tajan v. Cusi,* 57 SCRA 154, 159, May 30, 1974, per Antonio, *J.* See also *In re: Atty. Brillantes*, 76 SCRA 1, 12-13, March 2, 1977.