



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

IN THE MATTER OF THE
BREWING CONTROVERSIES
IN THE ELECTIONS OF THE
INTEGRATED BAR OF THE
PHILIPPINES.

A.M. No. 09-5-2-SC

X ----- X
ATTYS. MARCIAL M. MAGSINO,
MANUEL M. MARAMBA and
NASSER MARAHOMSALIC,
Complainants,

A.C. No. 8292

Present:

SERENO, *CJ.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,*
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ.*

- versus -

ATTYS. ROGELIO A. VINLUAN,
ABELARDO C. ESTRADA,
BONIFACIO T. BARANDON, JR.,
EVERGISTO S. ESCALON, and
REYMUND JORGE A. MERCADO,
Respondents.

Promulgated:

APRIL 11, 2013

X ----- X

RESOLUTION

MENDOZA, *J.*:

The Court, exercising its power of supervision over the Integrated Bar of the Philippines (*IBP*), resolves this matter of the election of the Executive

* No part.

Vice-President (*EVP*) of the Integrated Bar of the Philippines (*IBP*) for the 2011-2013 term.

This administrative matter was triggered by the Petition for Intervention filed by petitioner-intervenor IBP-Southern Luzon Region (*IBP-Southern Luzon*), seeking a declaration that the post of EVP-IBP for the 2011-2013 term be held open to all regions and that it is qualified to field a candidate for the said position.

This matter comes at the heels of the controversies resolved by the Court in its December 4, 2012 Resolution regarding the application of the rotation rule in determining which chapter of the IBP-Western Visayas region (*IBP-Western Visayas*) was qualified to field a candidate for the position of governor. In the said resolution, the Court clarified that the rotation rule was one by exclusion. Similar to this recently resolved controversy, the present dilemma calls for the application of the rotation system at the national level.

The Factual Antecedents

To understand the nature of the controversy and the issues presented for resolution, an examination of the structure of the IBP and its history is in order.

In 1973, the Philippine Bar was integrated¹ to elevate the standards of the legal profession, to improve the administration of justice and to enable it to discharge its public responsibility more effectively.² Governing the IBP was the IBP Board of Governors (*IBP-BOG*), consisting of the governors from each of the nine (9) geographic regions of the archipelago,³ namely: Northern Luzon, Central Luzon, Southern Luzon, Greater Manila, Bicolandia, Eastern Visayas, Western Visayas, Eastern Mindanao, and Western Mindanao.⁴ The governors of the IBP-BOG are, in turn, elected by the House of Delegates which consists of members duly apportioned among the chapters of each region.⁵

At the helm of the IBP is the IBP National President (*IBP-President*),⁶ who is automatically succeeded by the EVP. When the Philippine Bar was first integrated, both the IBP-President and the EVP were elected by the

¹ <http://www.ibp.ph/history.html> (Last visited March 6, 2013).

² <http://www.ibp.ph/mission.html> (Last visited March 6, 2013).

³ IBP By-Laws, Article VI, Sec. 47; see also Section 7, Rule 139-A.

⁴ Section 37, IBP By-Laws in relation to Section 3, Rule 139-A.

⁵ Section 6, Rule 139-A.

⁶ IBP By-Laws, Article VI, Sec. 50.

IBP-BOG from among themselves or from other members of the Integrated Bar,⁷ with the right of automatic succession by the EVP to the presidency for the next succeeding full term. The presidency rotated among all the nine regions in such order as the IBP-BOG had prescribed.⁸ Both the IBP-President and the EVP held a term of one (1) year, with the presidency rotating from year to year among the regions.⁹

On November 1, 1974, the **IBP By-Laws** took effect, providing that the IBP-President and the EVP be chosen by the Board of Governors from among nine (9) regional governors, as much as practicable, on a rotation basis.¹⁰ It was also provided that the IBP-President and the EVP hold office for a term of two (2) years from July 1 following their election until June 30 of their second year in office and until their successors shall have been duly chosen and qualified.¹¹

Later, several amendments in the IBP By-Laws were introduced, among which were the provisions relating to the election of its national officers. In **Bar Matter No. 287**, dated July 9, 1985, the Court approved the recommendation allowing the IBP-President, the EVP and the officers of the House of Delegates to be directly elected by the House of Delegates.¹²

Unfortunately, history recalls that this mode of electing the IBP national officers was marred with unethical politicking, electioneering and other distasteful practices. Thus, on October 6, 1989, the Court in **Bar Matter No. 491**, dated October 6, 1989, ordered: 1] the annulment of the just concluded national elections; 2] the abolition of the system of election of national officers by direct action of the House of Delegates; 3] the restoration of the former system of having the IBP-President and the EVP elected by the IBP-BOG from among themselves, with right of succession by the EVP to the presidency and subject to the rule that “*the position of Executive Vice President of the IBP shall be rotated among the nine (9) IBP regions;*”¹³ 4] the holding of special elections for the election of the first set of IBP-President and EVP;¹⁴ and 5] the appointment of a caretaker board to administer the affairs of the IBP pending the holding of special elections.¹⁵

In the same **Bar Matter No. 491**, the Court ordered the amendment of **Section 47**, Article VII of the IBP By-laws, to read:

⁷ Section 7, Rule 139-A.

⁸ Id.

⁹ Id.

¹⁰ IBP By-Laws, Article VI, Section 47.

¹¹ IBP By-Laws, Article VI, Section 50.

¹² See Bar Matter No. 491, p. 31.

¹³ Id. at 32.

¹⁴ Id. at 34-35.

¹⁵ Id. at 35.

SEC. 47. National Officers. - The Integrated Bar of the Philippines shall have a President and Executive Vice President to be chosen by the Board of Governors from among nine (9) regional governors, as much as practicable, on a rotation basis. The governors shall be ex officio Vice President for their respective regions. There shall also be a Secretary and Treasurer of the Board of Governors to be appointed by the President with the consent of the Board. (As amended pursuant to Bar Matter No. 491)

The Executive Vice President shall automatically become President for the next succeeding term. **The Presidency shall rotate among the nine Regions.**¹⁶ [Emphasis supplied]

Following the rotation system just ordered, the following individuals representing the different regions of the IBP served as IBP-President:

1. Eugene Tan (Capiz)	Western Visayas	January 28, 1990-April 1991 ¹⁷
2. Numeriano Tanopo, Jr. (Pangasinan)	Central Luzon	April 1991-June 30, 1991
3. Mervin Encanto (Quezon City)	Greater Manila	1993-1995
4. Raoul R. Angangco (Makati)	Southern Luzon	1995-1997
5. Jose Aguila Grapilon (Biliran)	Eastern Visayas	1997-1999
6.Arthur Lim (Zambasulta)	Western Mindanao	1999-2001
7. Teofilo Pilando, Jr. (Kalinga Apayao)	Northern Luzon	2001-2003
8. Jose Anselmo Cadiz (Camarines Sur)	Bicolandia	2003-2005

On January 27, 1999, in *Velez v. de Vera*,¹⁸ reasoning that the rotation system applied only to the EVP, the Court considered the election of then EVP Leonard De Vera (*De Vera*), representing the Eastern Mindanao region, as **one completing the first rotational cycle** and affirmed the election of Jose Vicente B. Salazar (*Salazar*) of the Bicolandia region as EVP. The Court explained that the rotational cycle would have been

¹⁶ <http://www.ibp.ph/d03.html>.(Last visited: March 9, 2013).
¹⁷ Resigned as IBP-President following charges of favoritism and discrimination; see *In The Matter of the Petition to Remove Atty. Jose A. Grapilon as President, Integrated Bar of the Philippines*, A.C. No. 4826, January 27, 1999 (http://sc.judiciary.gov.ph/jurisprudence/1999/apr99/ac_4826.htm; last visited March 29, 2013).
¹⁸ 528 Phil. 783, 810-812 (2006).

completed with the succession of EVP De Vera, representing Eastern Mindanao as IBP-President. For having misappropriated his clients' funds and committing acts inimical to the IBP-BOG and the IBP in general, De Vera was removed as governor of Eastern Mindanao and as EVP, and his removal was affirmed by the Court.

Thus, Salazar became IBP-President for the 2005-2007 term with Feliciano Bautista (*Bautista*) of Central Luzon as EVP. **The term of Salazar** was the **start of the second rotational cycle**. Bautista eventually succeeded to the IBP presidency with Atty. Rogelio Vinluan (*Vinluan*) as his EVP.

In 2009, however, the national and regional IBP elections were again tainted with numerous controversies, which were resolved by the Court in its **December 14, 2010 Resolution**,¹⁹ in the following manner:

WHEREFORE, premises considered, the Court resolves that:

1. The elections of Attys. Manuel M. Maramba, Erwin M. Fortunato and Nasser A. Marohomsalic as Governors for the Greater Manila Region, Western Visayas Region and Western Mindanao Region, respectively, for the term 2009-2011 are UPHELD;

2. A special election to elect the IBP Executive Vice President for the 2009-2011 term is hereby ORDERED to be held under the supervision of this Court within seven (7) days from receipt of this Resolution with Attys. Maramba, Fortunato and Marohomsalic being allowed to represent and vote as duly-elected Governors of their respective regions;

3. Attys. Rogelio Vinluan, Abelardo Estrada, Bonifacio Barandon, Jr., Evergisto Escalon, and Raymund Mercado are all found GUILTY of grave professional misconduct arising from their actuations in connection with the controversies in the elections in the IBP last April 25, 2009 and May 9, 2009 and are hereby disqualified to run as national officers of the IBP in any subsequent election. While their elections as Governors for the term 2007-2009 can no longer be annulled as this has already expired, Atty. Vinluan is declared unfit to hold the position of IBP Executive Vice President for the 2007-2009 term and, therefore, barred from succeeding as IBP President for the 2009-2011 term;

4. **The proposed amendments to Sections 31, 33, par. (g), 39, 42, and 43, Article VI and Section 47, Article VII of the IBP By-Laws** as contained in the Report and Recommendation of the Special Committee, dated July 9, 2009, are hereby approved and adopted; and

¹⁹ *Rollo*, pp. 2998-3026.

5. The designation of retired SC Justice Santiago Kapunan as Officer-in-Charge of the IBP shall continue, unless earlier revoked by the Court, but not to extend beyond June 30, 2011.

SO ORDERED.

Attempts to seek reconsideration of the Court's resolution were denied by the Court in its Resolution, dated February 8, 2011.²⁰

Despite *Bar Matter No. 491* and *Velez*,²¹ which recognized the operational fact that the rotation was from the position of President to that of the EVP, Section 47 was not immediately amended to reflect the official position of the Court. It was only amended through the *December 14, 2010 Resolution*.²² **Section 47** of the IBP By-Laws now reads:

Sec. 47. National Officers. – The Integrated Bar of the Philippines shall have a President, an Executive Vice President, and nine (9) regional Governors. **The Executive Vice President shall be elected on a strict rotation basis** by the Board of Governors from among themselves, by the vote of at least five (5) Governors. The Governors shall be *ex officio* Vice President for their respective regions. There shall also be a Secretary and Treasurer of the Board of Governors.

The violation of the rotation rule in any election shall be penalized by annulment of the election and disqualification of the offender from election or appointment to any office in the IBP.

In the special elections that were held thereafter, Roan I. Libarios (*Libarios*), representing IBP-Eastern Mindanao Region, was elected EVP and he later on succeeded as president.

On April 27, 2011, the IBP-BOG, acting on the letter of then Gov. Erwin M. Fortunato (*Fortunato*) of IBP-Western Visayas requested that the Court provide guidance on how it would proceed with the application of the rotational rule in the regional elections for governor of IBP-Western Visayas.²³

²⁰ Id. at 3240-3242.

²¹ *Velez v. de Vera*, supra note 18.

²² *Rollo*, pp. 2998-3026.

²³ Id. at 3282-3286.

On December 4, 2012, the Court issued a resolution²⁴ addressing the issues with respect to the election of governor for IBP-Western Visayas. In clarifying that the *rotational rule* was one *by exclusion*, the Court explained that in the election of governor of a region, all chapters of the region should be given the opportunity to have their nominees elected as governor, to the exclusion of those chapters that had already served in the rotational cycle. Once a rotational cycle would be completed, all chapters of a region, except the chapter which won in the immediately preceding elections, could once again have the equal opportunity to vie for the position of governor of their region. The chapter that won in the immediately preceding election, under the rotational cycle just completed, could only vie for the position of governor after the election of the first governor in the new cycle.

The Current Controversy

Earlier, on July 27, 2012, IBP-Southern Luzon filed its *Motion for Leave to Intervene and to Admit the Attached Petition In Intervention*²⁵ and the subject *Petition In Intervention*,²⁶ seeking a declaration that the post of EVP for the 2011-2013 term be held open to all regions and that it be qualified to nominate a candidate for the position of EVP for the 2011-2013 term.

The Petition in Intervention was, in turn, opposed by Fortunato,²⁷ who insisted that IBP-Western Visayas was the only region that could vie for the position of EVP for the 2011-2013 term.

In the December 4, 2012 Resolution, the Court deferred its action on the intervention sought by the IBP-Southern Luzon and required the IBP-BOG to submit its comment.²⁸

In its Comment, dated January 2, 2013, the IBP-BOG prayed that the “*IBP-Southern Luzon be allowed to nominate a candidate for EVP for the 2011-2013 term, without prejudice to the right of other regions except IBP-Eastern Mindanao, to do the same.*”²⁹

The opposition of Fortunato to the subject petition in intervention of IBP-Southern Luzon was joined by his successor, Marlou B. Ubano (*Ubano*), Gov. Manuel L. Enage, Jr. of IBP-Eastern Visayas,³⁰ and the

²⁴ Id. at 3522-3532.

²⁵ Id. at 3450-3453.

²⁶ Id. at 3454-3460.

²⁷ Id. at 3475-3486.

²⁸ Id. at 3531.

²⁹ Rollo, p. 3608

³⁰ Id. at 3587-3596.

members of the House of Delegates of IBP-Western Visayas.³¹ Nasser A. Marohomsalic (*Marohomsalic*),³² one of the original parties in this case, Gov. Leonor Gernoa-Romeo³³ of IBP-Bicolandia, and the IBP-BOG³⁴ likewise filed their respective comments.

Position of IBP-Southern Luzon

In support of its bid to qualify in the election for EVP for the 2011-2013 term, IBP-Southern Luzon takes the following positions:

- In view of the Court's resolution to bar its representative, Vinluan, from succeeding as IBP-President for the 2009-2011 term, the IBP-Southern Luzon was effectively deprived of its right to the IBP presidency.³⁵
- With the election of Eugene A. Tan as IBP-President (January 29, 1990-April 1991), IBP-Western Visayas should no longer be allowed to field a candidate in the forthcoming election for EVP.³⁶
- As he was just elected on January 5, 2013, Ubano cannot be considered qualified to seek the position of EVP *cum* IBP-President due to his lack of experience.³⁷

Position of IBP-Western Visayas

For its part, IBP-Western Visayas advances the following arguments in support of its position that it is the only region qualified to field a candidate for EVP for the 2011-2013 term:

- The Petition in Intervention of IBP-Southern Luzon should not be entertained as it would be contrary to Section 2, Rule 19, it being filed following the finality of the December 14, 2010 Resolution of the Court.³⁸

³¹ Id. at 3572-3584.

³² Id. at 3544-3553.

³³ Id. at 3599-3602.

³⁴ Id. at 3607-3613.

³⁵ Id. at 3455.

³⁶ Id. at 3616-3617.

³⁷ Id. at 3620-3622.

³⁸ Id. at 3490.

- With the term of current IBP-President Libarios coming to an end, IBP-Western Visayas is the only region left qualified to field a candidate for EVP, pursuant to the December 14, 2010 Resolution of the Court.³⁹
- The IBP Southern Luzon had already taken its turn in the rotation system following the election of Vinluan as EVP (2007-2009) and Raoul R. Angangco (*Angangco*) who also served as EVP during the 1995-1997 term.⁴⁰
- The election of Eugene Tan cannot be considered as part of the current rotation as he was elected following the special elections held as a result of the October 6, 1989 Resolution of the Court.

Synthesized, the core issues that must be addressed for the resolution of the Court are the following:

- A. Whether the motion for intervention of IBP-Southern Luzon can be allowed and admitted.**
- B. Whether the first rotational cycle was completed with the election of Atty. Leonard De Vera.**
- C. Whether IBP-Southern Luzon has already served in the current rotation.**
- D. Whether the IBP-Western Visayas has already served in the current rotation.**

The Motion for Intervention
Should be Allowed and Admitted

There is no dispute that the Constitution has empowered the Supreme Court to promulgate rules concerning “the integrated bar.”⁴¹ Pursuant thereto, the Court wields a continuing power of supervision over the IBP and its affairs like the elections of its officers. The current controversy has been precipitated by the petition in intervention of IBP-Southern Luzon, praying that the election of the EVP for the 2011-2013 term be opened to all and that it be considered as qualified to field a candidate for the said position.

³⁹ Id. at 3492-3493.

⁴⁰ Id. at 3493-3494.

⁴¹ Section 5(5), Article VIII of the 1987 Constitution.

In the exercise of its continuing supervisory power, the Court is allowing the matter to be raised as an issue because it has not yet been squarely settled, as will be pointed out later on. Moreover, it is not only an exercise of its constitutional and statutory mandated duty, but also of its symbolic function of providing guiding principles, precepts and doctrines⁴² for the purpose of steering the members of the bench and the bar to the proper path.

It should be noted that this is merely an *administrative matter, a bar matter* to be specific, where technical rules are not strictly applied. In fact, in administrative cases, *there is no rule regarding entry of judgment*. Where there is no entry of judgment, *finality* and *immutability* do not come into play. On several occasions, the Court has *re-opened administrative cases and modified its decisions that had long attained finality* in the interest of justice. A recent example is *Talens-Dabon v. Judge Arceo*,⁴³ where the Court lifted the ban against the disqualification of the respondent from re-employment in government. In *Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Clemency*,⁴⁴ the Court granted clemency so the respondent could transfer to a higher position. In *Petition for Judicial Clemency of Judge Irma Zita v. Masamayor*,⁴⁵ the respondent was given judicial clemency for her past administrative offenses so she could apply for a lateral transfer.

At any rate, granting that technical rules are strictly applied in administrative matters, the Court can exercise its power and prerogative to suspend its own rules and to exempt a case from their operation if and when justice requires it. “The power to suspend or even disregard rules of procedure can be so pervasive and compelling as to alter even that which this Court itself had already declared final.”⁴⁶

The First Rotational Cycle Already Completed

As earlier recited, Section 47 of the IBP By-Laws was amended in the December 14, 2010 Resolution⁴⁷ of the Court to read as follows:

⁴² *Salonga v. Pano*, 219 Phil. 402 (1985).

⁴³ A.M. No. RTJ-96-1336, November 20, 2012.

⁴⁴ A.M. No. 07-7-17-SC, September 19, 2007, 533 SCRA 534.

⁴⁵ A.M. No. 12-2-6-SC, March 6, 2012, 667 SCRA 467.

⁴⁶ *Keppel Cebu Shipyard, Inc. v. Pioneer Insurance and Surety Corporation*, G.R. No. 180880-81, September 18, 2012.

⁴⁷ *Rollo*, pp. 2998-3026.

Sec. 47. National Officers. – The Integrated Bar of the Philippines shall have a President, an Executive Vice President, and nine (9) regional Governors. **The Executive Vice President shall be elected on a strict rotation basis by the Board of Governors from among themselves, by the vote of at least five (5) Governors. The Governors shall be ex officio Vice President for their respective regions. There shall also be a Secretary and Treasurer of the Board of Governors.**

The violation of the rotation rule in any election shall be penalized by annulment of the election and disqualification of the offender from election or appointment to any office in the IBP.

From the above, it is clear that the amendment was effected to underscore the shift of the rotation from the position of president to that of EVP. The purpose of the system being to ensure that all the regions will have an equal opportunity to serve as EVP and then automatically succeed as president.

As previously mentioned, in *Velez*,⁴⁸ the Court stated that the rotation system applies to the election of the EVP only and considered **the service of then EVP De Vera**, representing the Eastern Mindanao region, as having **completed the first rotational cycle**. For said reason, the Court affirmed the election of Salazar of Bicolandia as EVP. The Court explained that the rotation cycle with respect to the presidency would have been completed with the succession of EVP De Vera as IBP-President. The specific words used in *Velez*⁴⁹ were:

In Bar Matter 491, it is clear that it is the position of IBP EVP which is actually rotated among the nine Regional Governors. The rotation with respect to the Presidency is merely a result of the automatic succession rule of the IBP EVP to the Presidency. Thus, the rotation rule pertains in particular to the position of IBP EVP, while the automatic succession rule pertains to the Presidency. The rotation with respect to the Presidency is but a consequence of the automatic succession rule provided in Section 47 of the IBP By-Laws.

In the case at bar, the rotation rule was duly complied with since upon the election of Atty. De Vera as IBP EVP, **each of the nine IBP regions had already produced an EVP and, thus, the rotation was completed**. It is only unfortunate that the supervening event of Atty. de Vera's removal as IBP Governor and EVP rendered it impossible for him to assume the IBP Presidency. The fact remains, however,

⁴⁸ *Velez v. de Vera*, supra note 18.

⁴⁹ *Id.*

that the rotation rule had been completed despite the non-assumption by Atty. de Vera to the IBP Presidency.

The notion that the ruling in *Velez*⁵⁰ should not be considered at all by the Court because it is barred by the Omnibus Motion Rule deserves scant consideration. It may have been earlier overlooked, but the Court is not barred from *motu proprio* taking judicial notice of such judicial pronouncement, pursuant to its continuing supervisory powers over the IBP.

The Second Rotational Cycle

While there may have been no categorical pronouncement in *Velez* that the second rotational cycle started with the election of Salazar as EVP, it cannot be denied that it was so. With the *Velez* declaration that the election of De Vera as EVP completed the first cycle, there can be no other consequence except that the term of EVP Salazar commenced a new rotational cycle. From the records, it appears that the following had already served **as EVP** in the Second Rotational Cycle:

1. Jose Vicente Salazar	Bicolandia	2005
2. Feliciano M. Bautista	Central Luzon	2005-2007
3. Rogelio Vinluan	Southern Luzon	2007-2009
4. Roan L. Libarios	Eastern Mindanao	2009-2011

As there were only four (4) regions which had served as EVP, there are still five (5) other regions which have not yet so served. These regions are:

- 1. Northern Luzon
- 2. Greater Manila Area
- 3. Eastern Visayas
- 4. Western Visayas
- 5. Western Mindanao

Needless to state, Western Visayas is not the only region that can vie for EVP for the 2011-2013 term. This answers the query of Fortunato.

⁵⁰ Id.

With respect to IBP-Southern Luzon, following the ruling in *Velez*,⁵¹ it is clear that it already had its turn to serve as EVP in the Second Rotational Cycle.

The Special Committee failed to take into account the Velez ruling

In arriving at its December 14, 2010 Resolution,⁵² the Court then was confronted with limited issues. Among those were: **1]** the validity of the election of Nasser A. Marohomsalic as governor of the IBP-Western Mindanao Region; **2]** the validity of the election of Manuel M. Maramba as governor for the Greater Manila Region for the term 2009-2011; **3]** the validity of the election of Erwin M. Fortunato as governor for Western Visayas Region for the term 2009-2011; and **4]** the validity of the elections for EVP for the 2009-2011 term presided by then IBP-President Bautista. The four issues were intertwined since the validity of the elections presided by IBP-President Bautista was questioned on the alleged lack of quorum, as it was attended by Marohomsalic, whose own election was then also being questioned.

With those limited issues resolved, the Court directed that special elections should be held for the election of EVP for the remaining 2009-2011 term “to heal the divisions in the IBP and promote unity by enabling all the nine (9) governors-elect to elect the EVP in a unified meeting called for that purpose.”⁵³ In ordering the special elections to be conducted, the Court took into account the report of the Special Committee as follows:

The list of national presidents furnished the Special Committee by the IBP National Secretariat, shows that the governors of the following regions were President of the IBP during the past nine (9) terms (1991-2009):

Numeriano Tanopo, Jr. (Pangasinan) --- Central Luzon ----- 1991-1993

Mervin G. Encanto (Quezon City) ----- Manila ----- 1993-1995

Raoul R. Angangco (Makati) ----- Southern Luzon ----- 1995-1997

Jose Aguila Grapilon (Biliran) ----- Eastern Visayas ----- 1997-1999

Arthur D. Lim (Zambasulta) ----- Western Mindanao--1999-2001

⁵¹ Id.

⁵² *Rollo*, pp. 3021-3022.

⁵³ Id. at 2998-3026.

Teofilo S. Pilando, Jr. (Kalinga-Apayao)-Northern Luzon ---- 2001-2003

Jose Anselmo I. Cadiz (Camarines Sur) –Bicolandia ----- 2003-2005

Jose Anselmo I. Cadiz (Camarines Sur) –Bicolandia -----2005-Aug 2006

Jose Vicente B. Salazar (Albay) ----- Bicolandia ---- Aug. 2006-2007

Feliciano M. Bautista (Pangasinan) ----- Central Luzon ----- 2007-2009

Only the governors of the Western Visayas and Eastern Mindanao regions have not yet had their turn as Executive Vice President cum next IBP President, while Central Luzon and Bicolandia have had two (2) terms already.

Therefore, either the governor of the Western Visayas Region, or the governor of the Eastern Mindanao Region should be elected as Executive Vice-President for the 2009-2011 term. The one who is not chosen for this term, shall have his turn in the next (2011-2013) term. Afterwards, another rotation shall commence with Greater Manila in the lead, followed by Southern Luzon, Eastern Visayas, Western Mindanao, Northern Luzon, Bicolandia, Central Luzon, and either Western Visayas or Eastern Mindanao at the end of the round.⁵⁴

Apparently, the report of the Special Committee failed to take into account the ruling in *Velez*⁵⁵ that the service of then EVP Leonard De Vera, representing the Eastern Mindanao region, **completed the first rotational cycle**.

Thus, it committed **two inaccuracies**. *First*, it erroneously reported that “only the governors of the Western Visayas and Eastern Mindanao regions have not yet had their turn as Executive Vice President.” *Second*, it erroneously considered Central Luzon and Bicolandia as having had two terms each in the First Rotational Cycle, when their second services were for the Second Rotational Cycle.

The unfortunate fact, however, is that the erroneous statements of the Special Committee were used as bases for the recommendation that “either the governor of the Western Visayas Region, or the governor of the Eastern Mindanao Region should be elected as Executive Vice-President for the 2009-2011 term.”

Worse, they were cited by IBP-Western Visayas as bases to oppose the Petition in Intervention of IBP-Southern Luzon, arguing that it would be contrary to Section 2, Rule 19, it being filed following the finality of the December 14, 2010 Resolution⁵⁶ of the Court.

⁵⁴ Resolution, December 14, 2010, id. at 3021-3022.

⁵⁵ *Velez v. de Vera*, supra note 18.

⁵⁶ *Rollo*, pp. 2998-3026.

At any rate, the statement of the Court in its December 14, 2010 Resolution⁵⁷ that “only the governors of the Western Visayas and Eastern Mindanao regions have not yet had their turn as Executive Vice President,” did not pertain to the *lis mota* of the case. Thus, it did not settle anything so as to be deemed a precedent-setting ruling. Those statements, therefore, could not be considered as overturning, vacating and setting aside the ruling in *Velez*⁵⁸ that the service of then EVP De Vera **completed the first rotational cycle**.

The election of Eugene Tan
As IBP President

Much has been said about the election of Eugene Tan as IBP-President. *IBP-Southern Luzon* argues that with his election and service as IBP-President from January 29, 1990 to April 1991, the IBP-Western Visayas should no longer be allowed to field a candidate in the forthcoming elections for the EVP.⁵⁹ *IBP-Western Visayas* counters that his election could not be considered as part of the current rotation as he was elected following the special elections held as a result of the October 6, 1989 Resolution of the Court. It has also been argued that he merely served as Interim President.

As *Velez*⁶⁰ declared that the election of EVP De Vera completed the first rotational cycle, it could only mean that all regions had their respective turns in the first rotational cycle. Thus, in this second rotational cycle, issues as to the nature of his election and service as IBP-President during the First Rotational Cycle are inconsequential.

At any rate, Eugene Tan could not be considered as an interim president. It was Justice Felix Antonio who was designated by the Court as Interim Caretaker until the election of the IBP-President by the elected IBP-BOG. The election of the new President and Executive Vice-President was directed by the Court itself and in no way can it be said that they served on an interim basis. Besides, at that time, under Section 47, the rotation concerned the presidency only. Section 47 was ordered to be amended only in the December 14, 2010 Resolution,⁶¹ despite *Bar Matter No. 491* and *Velez*,⁶² which recognized the operational fact that the rotation was from the position of President to that of EVP.

⁵⁷ *Id.*

⁵⁸ *Velez v. de Vera*, supra note 18.

⁵⁹ *Rollo*, pp. 3616-3617.

⁶⁰ *Velez v. de Vera*, supra note 18.

⁶¹ *Rollo*, pp. 2998-3026.

⁶² *Velez v. de Vera*, supra note 18.

If Eugene Tan served only up to April, 1991, it was not because he served merely in the interim. He served up to that time only because he **resigned**. As reflected in **Bar Matter No. 565**, dated October 15, 1991, Tan resigned as IBP-President when he was charged by several staff members of the IBP in a letter-complaint to the Chief Justice, with favoritism or discrimination in the hiring of officers and employees in the IBP and with extravagant and irregular expenditure of IBP funds. The Court found the acts of Eugene Tan as constituting grave abuse of authority and serious misconduct in office, which would have warranted his removal from office. Considering that he had earlier tendered his resignation as IBP-President and his term of office already expired on June 30, 1991, the Court imposed on him the penalty of severe censure only.⁶³

Moreover, in *A.M. No. 491*, the Court stressed that: “One who has served as President of the IBP may not run for election as EVP-IBP in a succeeding election until after the rotation of the presidency among the nine (9) regions shall have completed; whereupon the rotation shall begin anew.”

Rotation by Exclusion

As clarified in the December 4, 2012 Resolution of the Court, the rotation should be by exclusion. In said resolution, it was stated:

Resolution of the Court

Re: IBP-Western Visayas Region

After an assiduous review of the facts, the issues and the arguments raised by the parties involved, the Court finds wisdom in the position of the IBP-BOG, through retired Justice Santiago M. Kapunan, that at the start of a new rotational cycle "all chapters are deemed qualified to vie for the governorship for the 2011-2013 term without prejudice to the chapters entering into a consensus to adopt any pre-ordained sequence in the new rotation cycle provided each chapter will have its turn in the rotation." Stated differently, the IBP-BOG recommends the adoption of the rotation by exclusion scheme. The Court quotes with approval the reasons given by the IBP-BOG on this score:

⁶³ Cited in A.M. No. 4826, January 27, 1999, *In The Matter of the Petition To Remove Atty. Jose A. Grapilon as President, Integrated Bar of the Philippines*. ([http:// sc.judiciary.gov.ph/ jurisprudence /1999/apr99/ac_4826.htm](http://sc.judiciary.gov.ph/jurisprudence/1999/apr99/ac_4826.htm); last visited March 29, 2013).

6. After due deliberation, the Board of Governors agreed and resolved to recommend adherence to the principle of "rotation by exclusion" based on the following reasons:

a) Election through "rotation by exclusion" is the more established rule in the IBP. The rule prescribes that once a member of the chapter is elected as Governor, his chapter would be excluded in the next turn until all have taken their turns in the rotation cycle. Once a full rotation cycle ends and a fresh cycle commences, all the chapters in the region are once again entitled to vie but subject again to the rule on rotation by exclusion.

b) Election through a "rotation by exclusion" allows for a more democratic election process. The rule provides for freedom of choice while upholding the equitable principle of rotation which assures that every member-chapter has its turn in every rotation cycle.

c) On the other hand, rotation by pre-ordained sequence, or election based on the same order as the previous cycle, tends to defeat the purpose of an election. The element of choice – which is crucial to a democratic process – is virtually removed. Only one chapter could vie for election at every turn as the entire sequence, from first to last, is already predetermined by the order in the previous rotation cycle. This concept of rotation by pre-ordained sequence negates freedom of choice, which is the bedrock of any democratic election process.

d) The pronouncement of the Special Committee, which the Supreme Court may have adopted in AM No. 09-5-2-SC, involving the application of the rotation rule in the previous election for GMR may not be controlling, not being one of the principal issues raised in the GMR elections.

7. Thus, applying the principle of 'rotation by exclusion' in Western Visayas which starts with a new rotation cycle, all chapters (with the exception of Romblon) are deemed qualified to vie for the Governorship for 2011-2013 term without prejudice to the chapters entering into a consensus to adopt any pre-ordained sequence in the new rotation cycle provided each chapter will have its turn in the rotation.

The Court takes notice of the predictability of the rotation by succession scheme. Through the rotation by exclusion scheme, the elections would be more genuine as the opportunity to serve as Governor at any time is once again open to all chapters, unless, of course, a chapter has already served in the new cycle. While predictability is not altogether avoided, as in the case where only one chapter remains in the cycle, still, as previously noted by the Court "the rotation rule should be applied in harmony with, and not in derogation of, the sovereign will of the electorate as expressed through the ballot."

Thus, as applied in the IBP-Western Visayas Region, initially, all the chapters shall have the equal opportunity to vie for the position of Governor for the next cycle except Romblon, so as no chapter shall serve consecutively. Every winner shall then be excluded after its term. Romblon then joins the succeeding elections after the first winner in the cycle.⁶⁴

As stated therein, it would be without prejudice to the regions entering into a consensus to adopt any pre-ordained sequence in the new rotation cycle, provided each region would have its turn in the rotation.

As noted by the Court in its December 4, 2012 Resolution, there is a sense of predictability in the rotation by the pre-ordained scheme. Through the rotation by exclusion scheme, the elections will be more genuine, as the opportunity to serve at any time is once again open to all, unless, of course, a region has already served in the new cycle. While predictability is not altogether avoided, as in the case where only one region remains in the cycle, still, as previously noted by the Court “the rotation rule should be applied in harmony with, and not in derogation of, the sovereign will of the electorate as expressed through the ballot.”⁶⁵

**The December 14, 2010
Resolution**

That the Court, in its December 14, 2010 Resolution,⁶⁶ ordered the election of the EVP-IBP for the next term based on the inaccurate report of the Special Committee, is a fact. That cannot be erased. As a consequence thereof, Libarios of IBP-Eastern Mindanao is now the IBP President. He, however, is part of the **second rotational cycle** because 1] in *Velez*⁶⁷ it was categorically ruled that the service of then EVP De Vera, representing the Eastern Mindanao region, **completed the first rotational cycle**; and 2] he could not be part of the first rotational cycle because EVP de Vera of the same region had already been elected as such.

It is to be noted that in the December 14, 2010 Resolution,⁶⁸ the Court did not categorically overturn the ruling in *Velez*.⁶⁹ It merely directed the election of the next EVP, without any reference to any rotational cycle.

⁶⁴ Resolution, dated December 4, 2012, *rollo*, pp. 3004-3005.

⁶⁵ Id. at 3019.

⁶⁶ Id. at 2998-3026.

⁶⁷ *Velez v. de Vera*, supra note 18.

⁶⁸ *Rollo*, pp. 2998-3026.

⁶⁹ *Velez v. de Vera*, Supra note 18.

To declare that the first rotational cycle as not yet completed will cause more confusion than solution. In fact, it has spawned this current controversy. To consider the service of current president, Libarios, as part of the first rotational cycle would completely ignore the ruling in *Velez*.⁷⁰

The Best Option: Open to All Regions

How then do we treat the turns of those who had already served in the second rotational cycle? Shall we treat them as anomalies? As aberrant developments, as Justice Brion puts it?

A remedy is to reconcile the conflicting decisions and resolutions with nothing in mind but the best interest of the IBP. It appears from the pleadings, however, that the differences are irresoluble.

To avoid the endless conflicts, confusions and controversies which have been irritably plaguing the IBP, the solution is to start another rotational round, ***a new cycle, open to all regions***. At any rate, all regions, after the election of Libarios, would be considered as already having its turn in the presidency. This is not to detract from the fact that under Section 47, as amended, and from the pertinent rulings, the position of EVP-IBP is the one being actually rotated, but as stated in the December 14, 2010 Resolution,⁷¹ it will enable the IBP “to start on a clean and correct slate, free from the politicking and the under handed tactics that have characterized the IBP elections for so long.”

Section 47 of the IBP
By-Laws should be further
amended

Whatever the decision of the Court may be, to prevent future wranglings and guide the IBP in their future course of action, Section 47 and Section 49 of the IBP By-laws should again be amended. Stress should be placed on the automatic succession of the EVP to the position of the president. Surprisingly, the automatic succession does not appear in present Section 47, as ordered amended by the Court in the December 14, 2010 Resolution. It should be restored. Accordingly, Section 47 and Section 49, Article VII, are recommended to read as follows:

⁷⁰ Id.

⁷¹ *Rollo*, pp. 2998-3026.

Sec. 47. Election of National President Executive Vice President. – The Integrated Bar of the Philippines shall have a President, an Executive Vice President, and nine (9) regional Governors. The Governors shall be *ex-officio* Vice President for their respective regions.

The Board of Governors shall elect the President and Executive Vice President from among themselves each by a vote of at least five (5) Governors. Upon expiration of the term of the President, the Executive Vice-President shall automatically succeed as President.

Each region, as enumerated under Section 3, Rule 139-A of the Rules of Court, shall have the opportunity to have its representative elected as Executive Vice-President, *provided that*, the election for the position of Executive Vice President shall be on a strict rotation by exclusion basis. A region, whose representative has just been elected as Executive Vice President, can no longer have its representative elected for the same position in subsequent elections until after all regions have had the opportunity to be elected as such. At the end of the rotational cycle, all regions, except the region whose representative has just served the immediately preceding term, may be elected for another term as Executive Vice-President in the new rotational cycle. The region whose representative served last in the previous rotational cycle may be elected Executive Vice-President only after the first term of the new rotational cycle ends, subject once more to the rule on exclusion.

The order of rotation by exclusion shall be without prejudice to the regions entering into a consensus to adopt any pre-ordained sequence in the new rotation cycle provided each region will have its turn in the rotation.

A violation of the rotation rule in any election shall be penalized by annulment of the election and disqualification of the offender from election or appointment to any office in the IBP.

SEC. 49. Terms of office. - The President and the Executive Vice-President shall hold office for a term of two years from July 1 following their election until June 30 of their second year in office and until their successors shall have been duly chosen and qualified.

In the event the President is absent or unable to act, his functions and duties shall be performed by the Executive Vice President, and in the event of the death, resignation, or removal of the President, the Executive Vice President shall serve as Acting President for the unexpired portion of the term. His tenure as such shall not be considered a new turn in the rotation.

In the event of death, resignation, removal or disability of the Executive Vice President, the Board of Directors shall elect among the regions qualified to be elected as Executive Vice President to serve the unexpired portion of the term or period of disability.

In the event of the death, resignation, removal or disability of both the President and the Executive Vice President, the Board of Governors shall elect an Acting President to hold office for the unexpired portion of the term or during the period of disability. Unless otherwise provided in these By-Laws, all other officers and employees appointed by the President with the consent of the Board shall hold office at the pleasure of the Board or for such term as the Board may fix.

**Creation of a permanent
Committee for IBP Affairs**

To further avoid conflicting and confusing rulings in the various IBP cases like what happened to this one, the December 14, 2010 Resolution and *Velez*,⁷² it is recommended that the Court create a committee for IBP affairs to primarily attend to the problems and needs of a very important professional body and to make recommendation for its improvement and strengthening.

WHEREFORE, the Court hereby resolves to:

- 1] **GRANT** the Motion for Leave to Intervene and to Admit the Attached Petition In Intervention;
- 2] **DECLARE** that the election for the position of the EVP for the 2011-2013 term be **open to all regions**.
- 3] **AMEND** Section 47 and Section 49, Article VII of the IBP By-Laws to read as recommended in the body of this disposition.
- 4] **CREATE** a permanent Committee for IBP Affairs.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

⁷² *Velez v. de Vera*, supra note 18.

WE CONCUR:

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
 Chief Justice

I join the Dissenting Opinion of J. Velasco
ANTONIO T. CARPIO
 Associate Justice

I dissent. (Please see Dissenting Opinion)
PRESBITERO J. VELASCO, JR.
 Associate Justice

I concur and also with the separate concurring opinion of Justice Brion. Perito Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

See: Separate Concurring Opinion: Arturo D. Brion
ARTURO D. BRION
 Associate Justice

(No part)
DIOSDADO M. PERALTA
 Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
 Associate Justice

I join the dissent of J. Velasco Jr.
Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
 Associate Justice

Roberto A. Abad
ROBERTO A. ABAD
 Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
 Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
 Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
 Associate Justice

I join the dissent of J. Velasco, Jr.
Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
 Associate Justice

see separate concurring opinion
Marvic Mario Victor F. Leonen
MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice