EN BANC

A.M. No. 09-5-2-SC (*In Re: Brewing Controversies in the Elections in the Integrated Bar of the Philippines*)

A.C. No. 8292 (*Attys. Marcial M. Magsino, et al. v. Atty. Rogelio A. Vinluan, et al.*)

Promulgated:

APRIL 11, 2013

x----------x

DISSENTING OPINION

VELASCO, JR., *J.*:

Prefatory Statement

What basically is a simple incident involving nothing more than the execution of the last phase of the Court's final and executory Resolution dated December 14, 2010 on the leadership structure of the IBP has all of a sudden turned into a complex proceeding where said resolution is being revisited and sought to be revised and set aside and new matters are considered. But worse, the adverted decision is claimed to be a mistake, reasons are proffered why it should not be executed as written, and the abandonment of what it perceives to be a flawed ruling based on the faulty recommendations of the Special Committee composed of highly respected retired Justices of the Court is now proposed. Lastly, even the ruling in *Velez v. De Vera*[1] is seen as an erroneous disposition of the rotation issue of the Executive Vice President of the IBP. The better option under the premises, I submit, is first to allow the full implementation of the Court's Decision. The Court can later form a committee to recommend measures to improve the system and then adopt measures and/or promulgate new rules that will prevent perceived matters of confusion and complication.

An open admission that the Court committed errors or made inaccurate findings and dispositions in *Velez* and in the above entitled administrative matters would expose the Court to unnecessary criticism. The reversal or modification of the December 14, 2010 Resolution, without doubt, will cause irreparable damage and extreme prejudice to the Court and the entire judicial institution. Hence, this dissent.

The Case

For resolution of the Court is the "Motion for Leave to Intervene and to Admit the Attached Petition for Intervention" filed by the IBP-Southern Luzon Region (IBP-SLR) on July 24, 2012.

[1] A.C. No. 6697, July 25, 2006, 345 SCRA 496.

Proposed intervening petitioner IBP-SLR seeks to re-open, set aside and nullify the Resolution of this Court dated **December 14, 2010** which declared 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,"* and that the *"one who is not chosen for this term shall have his turn in the next 2011-2013 term."* The said Resolution, which became final in February 2011, was penned by then Chief Justice Renato C. Corona and was concurred in by seven (7) Justices (Teresita J. Leonardo-De Castro, Arturo D. Brion, Lucas P. Bersamin, Roberto A. Abad, Martin S. Villarama, Jr., Jose Portugal Perez and Jose Catral Mendoza). Justice Antonio T. Carpio and the undersigned cast dissenting votes, while Justices Conchita Carpio-Morales (ret.), Antonio Eduardo B. Nachura (now also retired), Diosdado M. Peralta, Mariano C. Del Castillo and Maria Lourdes P. A. Sereno (*now* Chief Justice) inhibited from these consolidated cases.

A YEAR and **FIVE MONTHS after finality of the said December 14, 2010 Resolution** and despite its partial execution with the election, representing Eastern Mindanao Region for the term 2009-2011, of Atty. Roan I. Libarios (Atty. Libarios) as Executive Vice President (EVP), IBP-SLR, represented by Governor Joyas, a non-party to the instant cases, who now wants to resurrect a case in repose.

To recall, *there is not a single decision or resolution of this Court that reversed or annulled its previous final decision that was not based on a motion filed within the fifteen (15)-day period from notice* of said assailed decision. The cases of *Apo Fruits* and *Keppel* are not precedents to the instant cases since the affected parties thereat filed their motions for reconsideration within the 15-day period. Simply put, *Apo Fruits* and *Keppel* were "LIVE" cases when the losing parties sought reconsideration. *Unlike here.*

If the proposition in the *ponencia* that the December 14, 2010 Decision on the EVP issue should be nullified is upheld, this case will be the very first instance where the Court will make a brazen volte-face of its already final and partially executed resolution. Worse, this will be done at the instance of a non-party who does not stand to benefit from the *ponencia* since his region (SLR) had already its turn to field its own EVP. Such a move would set a bad and dangerous precedent and seriously erode the stability of final decisions and resolutions.

Factual Antecedents

In 2009, some high-ranking officers of the Integrated Bar of the Philippines (IBP) filed an administrative case in relation to the leadership and election controversies in the IBP. In that case, docketed as A.C. No. 8292 and entitled *Attys. Marcial M. Magsino, et al. v. Attys. Rogelio A. Vinluan, et al.*, the Court, in an *En Banc* Resolution dated June 2, 2009,

created a **Special (Investigating) Committee**[2] composed of **Justices Carolina C. Griño-Aquino, Bernardo P. Pardo and Romeo J. Callejo, Sr.** to look into the *"brewing controversies in the IBP elections, specifically in the elections of Vice-President for the Greater Manila Region and Executive Vice-President of the IBP itself x x x any other election controversy involving other chapters of the IBP, if any."*

During the Preliminary Conference before the Special Committee, all concerned agreed to focus the investigation on the following issues or concerns:

1. What is the correct interpretation of Section 31, Article V of the IBP By-Laws which provides:

   SEC. 31. Membership. — The membership (of Delegates) shall consist of all the Chapter Presidents and, in the case of Chapters entitled to more than one Delegate each, the Vice-Presidents of the Chapters and such additional Delegates as the Chapters are entitled to. Unless the Vice-President is already a Delegate, he shall be an alternate Delegate. Additional Delegates and alternates shall in proper cases be elected by the Board of Officers of the Chapter. Members of the Board of Governors who are not Delegates shall be members ex officio of the House, without the right to vote.

2. Who was validly elected Governor for the Greater Manila Region?

3. Who was validly elected Governor for Western Visayas Region?

4. Who was validly elected Governor for Western Mindanao Region?

5. Who was validly elected IBP Executive Vice President for the next term?

6. What is the liability, if any, of respondent Atty. Rogelio A. Vinluan under the administrative complaint for "grave professional misconduct, violation of attorney's oath, and acts inimical to the IBP" filed against him by Attys. Marcial Magsino, Manuel Maramba and Nasser Marohomsalic?

As regards the election of the IBP-EVP, the Special Committee cited in its Report and Recommendation dated July 9, 2009 that "Sec. 47, Art VII of the By-Laws, as amended by Bar Matter 491, Oct. 6, 1989, provides that the Executive Vice President shall be chosen by the Board of Governors from among the nine (9) regional governors. The Executive Vice President shall automatically become president for the next succeeding term. The Presidency shall rotate among the nine Regions." The Committee further stated:

> The list of national presidents furnished the Special Committee by the IBP National Secretariat, shows that the governors of the following

[2] Justice *Carolina C. Griño-Aquino* (Ret.), served as Chairperson and Justices *Bernardo P. Pardo* (Ret.) and *Romeo J. Callejo, Sr.* (Ret.), as Members.

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)	Greater Manila	1993-1995
Raul R. Angangco (Makati)	Southern Luzon	1995-1997
Jose Aguila Grapilon (Biliran)	Eastern Visayas	1997-1999
Arthur D. Lim (Zambasulta)	Western Mindanao	1999-2001
Teofilo S. Pilando, Jr. (Kalinga Apayao)	Northern Luzon	2001-2003
Jose Anselmo L. 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.** (Emphasis supplied.)

On December 14, 2010, the Court, by Resolution (December 14, 2010 Resolution), adopted *in toto* the Report and Recommendation of the Special Committee thus created, and disposed of the controversies relating to the IBP elections as follows:

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
>
> 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. (Emphasis supplied.)

On **February 8, 2011**, the Court denied with finality the Motion for Reconsideration of the December 14, 2010 Resolution filed by Atty. Elpidio G. Soriano III.[3]

Pursuant to the December 14, 2010 Resolution, a special election was held to elect the IBP-EVP for the 2009-2011 term where Atty. Libarios of the IBP-Eastern Mindanao emerged as winner.[4] Atty. Libarios eventually assumed the IBP Presidency for the 2011-2013 term.

On April 27, 2011, the IBP Board of Governors requested a clarification from the Court as to the application of the rotational rule in the elections for Governor of the IBP-Western Visayas Region.

On July 27, 2012, the IBP-SLR, represented by Governor Vicente M. Joyas ("Governor Joyas"), filed a *Motion for Leave to Intervene and to Admit the Attached Petition-in-Intervention* seeking a declaration from the Court that the IBP-SLR may field a candidate for the position of IBP-EVP for the 2011-2013 term. In its Petition-in-Intervention, the IBP-SLR contends that the non-assumption of Atty. Vinluan to the IBP-Presidency because of his disqualification pursuant to the December 14, 2010 Resolution denied the IBP-SLR the right to the IBP Presidency for the 2009-2011 term without fault attributable to the region. The petition further underscored that it will take another sixteen (16) years for the region to be entitled to vie for the position of IBP-EVP. The IBP-SLR rued that considering the twelve (12)-year interval between the end of the term of Atty. Raul R. Angangco in 1997 and the year 2009, when Atty. Vinluan was supposed to assume the IBP Presidency, the region will have to wait a total of twenty-eight (28) years before it can be afforded the chance under the

---

[3] *Rollo*, p. 3240.
[4] Id. at 3112.

rotation system to have somebody from the region elected as IBP-EVP and eventually become IBP president.[5]

In response, the IBP-Western Visayas Region (WVR) filed an "*Ex Abundanti Ad Cautelam* Vigorous Opposition/Comment"[6] to the proposed intervention ("Opposition/Comment") asseverating that this Court, in its December 14, 20l0 Resolution, has already declared that "only the Governors of the Western Visayas and Eastern Mindanao Regions have not had their turns as [EVPs]." But since incumbent president Roan I. Libarios was elected EVP for the 2009-2011 term, then it is only IBP-WVR which is qualified to field a candidate for EVP for said term. It also argued that the proposed intervention is improper, filed as it was after the rendition and finality of the December l4, 20l0 Resolution. The IBP-SLR, IBP-WVR adds, is disqualified to field a candidate since it has served as IBP-EVP twice. Lastly, the IBP-WVR points out that, in *Velez v. De Vera*,[7] this Court has held that "the rotation rule pertains in particular to the position of IBP-EVP while the automatic successions rule pertains to the Presidency."

The House of Delegates of IBP-WVR and the IBP Governors for Eastern Visayas and WV Regions filed their comments[8] on the proposed intervention of IBP-SLR raising basically the same arguments of IBP-WVR in its Opposition/Comment.

By Resolution of December 4, 2012, the Court addressed the issue sought to be clarified by IBP-WVR on the rotational rule with respect to the election of governor of the said region. The Court explained that the rotational rule was one by exclusion such that in the election of the governor of a region, all chapters of the region shall be given the opportunity to have their nominee elected as governor, to the exclusion of those chapters that have already served in the rotational cycle. However, the Court deferred action on the proposed intervention sought by the IBP-SLR and required the IBP Board of Governors (BOG) to file its comment on the petition for intervention. The dispositive portion of the Resolution reads as follows:

> **WHEREFORE**, the Court hereby holds that in the IBP-Western Visayas Region, the rotation by exclusion shall be adopted such that, initially, all chapters of the region shall have the equal opportunity to vie for the position of Governor for the next cycle except Romblon.
>
> The Temporary Restraining Order dated May 3, 2011 is hereby lifted and the IBP-Western Visayas Region is hereby ordered to proceed with its election of Governor for the 2011-2013 term pursuant to the rotation by exclusion rule.
>
> The IBP Board of Governors is hereby ordered to file its comment on the Petition for Intervention of IBP-Southern Luzon, within ten (10) days from receipt hereof.

---

[5] Id. at 3454-3456.
[6] Id. at 3475.
[7] Supra note 1.
[8] *Rollo*, pp. 3569-3584.

SO ORDERED.

In its *Comment* dated January 2, 2013, the IBP BOG prays 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*."[9]

Subsequently, Governor Joyas filed a *Rejoinder*[10] stating that the Special Committee confined its computation of the rotation cycle to the past nine (9) terms of IBP presidents (l99l to 2009) and completely ignored the relevant period l990-l99l when Governor Eugene A. Tan of WV assumed the IBP Presidency. Since Western Visayas had its Governor Tan serving as president (l990-l99l) after the adoption of the rotation rule under Bar Matter No. 491, Governor Joyas then concludes that only Eastern Mindanao was eligible to vie for IBP-EBP for the 2009-2011 term. He also faults the Special Committee in considering WVR as not yet having an IBP-EVP. Based on the past rotation of the presidency, Governor Joyas now prays that IBP-SLR be declared eligible to vie for the position of IBP-EVP cum president for the 20l3-20l5 term *"without prejudice to other regions also vying for the post."*

Issues

I shall endeavor to address the following issues raised in the *ponencia*:

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; (This issue was not presented in the petition-in-intervention but was belatedly raised by IBP-SLR only in its Rejoinder.)

C. Whether IBP-Southern Luzon has already served in the current rotation; *and*

D. Whether the IBP-Western Visayas has already served in the current rotation.

DISCUSSION

First Issue:

Whether the motion for intervention of IBP- SLR can be allowed and admitted

[9] Id. at 3608.
[10] Id. at 3616.

Ruling on the issue in the affirmative, Justice Mendoza declares in his *ponencia* that the Court, exercising its prerogative to relax procedural rules on intervention, is allowing intervention in order to write *finis* to the present dispute and to prevent similar IBP election controversies in the future.

I believe otherwise.

The proposed intervention of IBP-SLR should be denied for the following reasons:

1. IBP-SLR nor Governor Joyas has no legal interest in the subject matter of the litigation.

Neither IBP-SLR nor Governor Joyas has NO LEGAL INTEREST IN THE SUBJECT MATTER OF THE LITIGATION, OR IN THE SUCCESS OF EITHER OF THE PARTIES as required under Sec. 1, Rule 19 of the Rules of Court, which reads:

> SECTION 1. *Who may intervene*. – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervenor's rights may be fully protected in a separate proceeding.

IBP-SLR is not qualified to field a candidate for IBP-EVP for the term 2011-2013 because the BOG had already elected Atty. Raul Angangco of that region as IBP-EVP for the term l993-l995 and, in addition, had also elected a 2nd IBP-EVP in the person of Atty. Vinluan for the term 2009 to 2011. Clearly, the IBP-SLR had already two (2) elected EVPs, thus precluding the election of movant as the 3rd EVP in this present rotation.

Considering that **IBP-SLR can *no longer field a candidate*** for the position of IBP-EVP and ***not qualified*** **to field a candidate for IBP-EVP** for the 2011-2013 term, **IBP-SLR and Governor Joyas have *NO legal interest*** in the matter subject of the assailed December 14, 20l0 Resolution. Ergo, the proposed intervention has no leg to stand on and is patently devoid of merit.

As correctly concluded by Justice Mendoza in his first and second drafts but which conclusion unfortunately was deleted in his third revision, IBP-SLR has NO right to vie for the position of EVP for the term 2011-2013. Thus, he explained:

> The Court rules in the negative. The reason is that IBP-Southern Luzon already had its turn in the current rotational cycle. In its December 14, 2010 Resolution, the Court stated:
>
> x x x x

> With the election of Atty. Raul R. Angangco as EVP-IBP for the 1993-1995 term, and his consequent assumption as IBP president for the 1995-1997 term, it becomes clear that IBP-Southern Luzon already had its turn in the current rotation.
>
> Thus, the disqualification of Atty. Rogelio Vinluan as IBP president would not qualify IBP-Southern Luzon to participate in the forthcoming elections for EVP-IBP, since, as stated in the Court's December 14, 2010 Resolution quoted above, IBP-Southern Luzon was able to serve as IBP-EVP for the 1993-1995 term. The rule was restated in Velez v. De Vera as follows:
>
> > 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.
>
> At any rate, it bears mentioning that with the election and service of Atty. Vinluan of the IBP-Southern Luzon as EVP-IBP for the 2007-2009 term, the purpose of the rotation system to give equal opportunity to all regions of the IBP has already been satisfied.

Moreover, the latest version of Justice Mendoza's *ponencia* **admitted** that:

> With respect to IBP-Southern Luzon, following the ruling in Velez, **it is clear that it already had its turn to serve as EVP** in the Second Rotational Cycle.[11]

Consequently, this finding of Justice Mendoza that IBP-SLR does not have any right to field a candidate for EVP for the 2011-2013 term precludes the Court from entertaining the petition-in-intervention of said region.

2. *IBP-SLR and Governor Joyas are guilty of estoppel.*

The intervention of IBP-SLR was filed ***only*** on July 27, 2012 or MORE THAN A YEAR after Governor Joyas assumed the position of Governor for Southern Luzon on July l, 2011 and *over one (1) year and five (5) months after the judgment of a case* in which intervention is sought has become final and executory.

In view thereof, **Governor Joyas is considered estopped** from questioning the already final and partially executed December 14, 2010 Resolution. As it were, Governor Joyas waited for more than ONE (1) FULL YEAR after assuming the position of SLR Governor before attempting to reopen the already final resolution of the Court. It cannot be denied that

[11] Decision, p. 13.

Governor Joyas was fully aware of the December 14, 2010 Resolution of this Court. Yet, without presenting any justifiable explanation, he did not lift a finger to question the same when he became Governor for Southern Luzon. Based on this factual setting, it is clear that *there is already waiver on his part and the part of IBP-SLR to question the final and executory December 14, 2010 Resolution*.

Also, just like the movants in the aforementioned case of *Chavez*, the IBP-SLR and Governor Joyas *have not offered any explanation for their belated intervention* considering that the December 14, 2010 Resolution and the proceedings leading up to the same were controversial, publicized and known to the movant. Indeed, they could not "feign unawareness" of the said resolution. Worse, the IBP-SLR had every opportunity to intervene before the finality of the December 14, 2010 Resolution but it chose to do so at this very late stage when the proposed intervention can only serve to delay the execution of the Resolution. Hence, because of their unjustified inaction for a considerable period of time, both the IBP-SLR and Governor Joyas are ESTOPPED from questioning said Resolution.

3. *Pinlac v. Court of Appeals*[12] *and the cases cited thereunder are not PRECEDENTS TO the petition at bar.*

The *ponencia* cites *Pinlac* as justification for the Court to relax the procedural rules on intervention. However, it must be pointed out that *Pinlac* is not applicable to and, hence, cannot serve as precedent to the case at bar. In *Pinlac*, the Republic of the Philippines, as intervenor, undoubtedly had legal interest in a five (5)-hectare lot in Quezon City covered by OCT No. 333 where several government buildings, offices and complexes are situated, such as the House of Representatives and the Sandiganbayan, among others.

On the other hand, *IBP-SLR and Governor Joyas have no interest in the matter in litigation*, as admitted by Justice Mendoza in the first and second draft *ponencias* where he found that IBP-SLR already had two (2) EVPs (Angangco and Vinluan) and in the third draft *ponencia* where it was concluded that IBP-SLR already had its turn in choosing the EVP and, hence, is not qualified for the second rotation (p. 13, third draft *ponencia*).

Neither does *Mago v. Court of Appeals*[13] apply to the case at bar. In said case, petitioner Mago filed a Petition for Relief from Judgment/Order and a Motion to Intervene before the trial court *sixty-nine (69) days after he learned of the judgment* and, hence, were denied on that ground. The intervention was allowed as the Court found the intervenors therein as *indispensable parties with such substantial interest in the controversy or subject matter* that a final adjudication cannot be made in their absence without affecting, nay injuring, such interest. The application of rules was

---

[12] G.R. No. 91486, September 10, 2003, 410 SCRA 419.
[13] 363 Phil. 225 (1999).

relaxed to disregard the tardy filing of the petition by nine (9) days to serve the ends of equity and justice based on substance and merit.

This, however, cannot be said of IBP-SLR and Gov. Joyas because, as erstwhile stated, IBP-SLR is already precluded from fielding a candidate for the position of the EVP pursuant to the rotation by exclusion rule.

In addition, the judgment of the RTC in *Mago* has not yet been executed when it was questioned by Mago, et al. unlike the December 14, 2010 Resolution in the instant case.

The cited ***Director of Lands v. Court of Appeals***[14] **is also inapplicable** because, unlike IBP-SLR and Governor Joyas, the intervenors therein had substantial interest in the matter in litigation and, unlike the present case, there was no final and partially executed decision. In that case, Greenfield Development Corporation and Alabang Development Corporation filed their respective motions for intervention. Incidentally, their motions were filed when the petition for certiorari of the Director of Lands was submitted for decision but before this Court rendered any judgment thereon. The Court found that Greenfield and Alabang had interest in the title sought to be reconstituted by private respondent therein because the land covered by the title overlapped and included substantial portions of the land owned by Greenfield and Alabang. Aside from recognizing the movants as indispensable parties to the case, the Court granted the intervention in view of the higher and greater interest of the public in the efficacy and integrity of our land registration system.

In the instant case, however, there appears to be *no higher or greater public interest* which will be served in granting IBP-SLR's intervention. Thus, reliance on the case of *Director of Lands* is misplaced.

Similarly, ***Tahanan Development Corp. v. Court of Appeals***[15] **(*Tahanan*) is not a precedent** to the case at bar. In the said case, Tahanan filed a Petition to Set Aside Decision and Re-Open Proceedings 41 days after the trial court granted the petition for reconstitution of a title covering a parcel of land which overlaps a substantial part of Tahanan's land. This Court held that the trial court committed grave abuse of discretion when it denied Tahanan's "Petition to Set Aside Decision and Re-Open Proceedings," for, while said petition was not captioned as "Motion for Intervention," the allegations of the petition clearly and succinctly averred Tahanan's legal interest in the matter in litigation, which interest is substantial and material, involving the boundaries, possession and ownership of about nine (9) hectares of land covered by the title sought to be reconstituted.

---

[14] G.R. No. 45168, September 25, 1979, 93 SCRA 238

[15] G.R. No. 55771, November 15, 1982, 118 SCRA 273.

Like *Director of Lands*, the intervenors in *Tahanan* had legal interest in the matter in litigation and interposed their plea for intervention *before the execution* of the decision.

4. IBP-SLR can no longer intervene because the December 14, 2010 Resolution is already final and executory, and in fact, had already been PARTIALLY EXECUTED.

The December 14, 2010 Resolution has become FINAL AND EXECUTORY after the Court denied with finality the Motion for Reconsideration of Atty. Elpidio G. Soriano III on February 8, 2011.[16] Thus, the said Resolution has become IMMUTABLE AND UNALTERABLE and is no longer open to any amendment. Once a judgment becomes final, it may not be modified in any respect even if the modification is meant to correct what is perceived to be erroneous conclusions of law and fact.[17]

In *Chavez v. PCGG*,[18] the Court expressly ruled that the intervention sought by the movants can no longer be allowed after its judgment has become final, *to wit*:

> Movants Ma. Imelda Marcos-Manotoc, [et al.] allege that they are parties and signatories to the General and Supplemental Agreements dated December 28, 1993, which this Court, in its Decision promulgated on December 9, 1998, declared "NULL AND VOID for being contrary to law and the Constitution." As such, they claim to "have a legal interest in the matter in litigation, or in the success of either of the parties or an interest against both as to warrant their intervention." They add that their exclusion from the instant case resulted in a denial of their constitutional rights to due process and to equal protection of the laws. x x x x
>
> The motions are not meritorious.
>
> *Intervention Not Allowed*
> *After Final Judgment*
>
> *First*, **we cannot allow the Motion for Leave to Intervene at this late stage of the proceedings. Section 2, Rule 19 of the Rules of Court, provides that a motion to intervene should be filed "before rendition of judgment . . ."** Our Decision was promulgated December 9, 1998, while movants came to us only on January 22, 1999. Intervention can no longer be allowed in a case already terminated by final judgment.
>
> *Second*, they do not even offer any valid plausible excuse for such late quest to assert their alleged rights. Indeed, they may have no cogent reason at all. As Petitioner Chavez asserts, the original petition, which was filed on October 3, 1997, was well-publicized. So were its proceedings, particularly the oral arguments heard on March 16, 1998. Movants have long been back in the mainstream of Philippine political and social life.

---

[16] Id. at 3240.
[17] *Sacdalan v. Court of Appeals*, G.R. No. 128967, May 20, 2004, 428 SCRA 586, 599.
[18] G.R. No. 13071, May 19, 1999, 307 SCRA 394, 398-399.

> Indeed, they could not (and in fact did not) even feign unawareness of the petition prior to its disposition.
>
> *Third*, **the assailed Decision has become final and executory; the original parties have not filed any motion for reconsideration, and the period for doing so has long lapsed. Indeed, the movants are now legally barred from seeking leave to participate in this proceeding.** (Emphasis supplied.)

Verily, *there is NO jurisprudence allowing an intervention by a person who has not shown any legal interest in the matter in litigation after the decision has become final and executory.* Section 2, Rule 19 is explicit that no intervention is allowed after the judgment has become final. **Once finality sets in, what remains to be done is the purely ministerial enforcement and execution of the judgment.**

The former practice under Section 2, Rule 12 was to allow intervention "before or during trial." Subsequently, the Court liberalized the rule even further by allowing intervention before judgment is rendered which is now captured in Section 2, Rule l9 of the Rules of Court. The rationale behind the revised rule is clear – before a decision is rendered, the Court may still allow the introduction of additional evidence by applying the liberal interpretation of the period for trial which may be akin to reopening of trial. Since judgment has not yet been rendered, the issues and subject matter of the intervention may still be resolved and incorporated in the decision; thus, the court is able to dispose of all the issues in the case. However, *after judgment has been rendered*, the court will no longer have the opportunity to conduct a total and exhaustive reassessment of all the issues in the case and the reopening of the case will greatly delay its adjudication. Needless to say, the resurrection of the case will be strictly considered *against* the proposed intervention after the decision is rendered and has become final.

For instance, in *Looyuko v. Court of Appeals*,[19] the motions for intervention were filed after judgment had already been rendered and when the same has become final and executory. Thus, this Court held that intervention can no longer be allowed in a case already terminated by final judgment. Since *intervention is merely a collateral or accessory or ancillary to the principal action*, and not an independent proceeding but rather *a dependent on or subsidiary to the case between the original parties*, when the main action ceases to exist, then there is no pending proceeding wherein the intervention may be based.[20]

Obviously, in the instant case, there is no more pending principal action wherein IBP-SLR may intervene since the Court already rendered a judgment which has since become final and executory. And in this case, it is significant to note that the **December 14, 2010 Resolution has already been *PARTIALLY EXECUTED*** when Atty. Libarios of IBP-Eastern

---

[19] G.R. Nos. 102696, 102716, 108257 & 120954, July 12, 2001, 361 SCRA 150.
[20] Id. at 165-166.

Mindanao was elected as IBP president and, hence, the only remaining ministerial act to be performed is the election of an IBP-EVP from the IBP-WVR for the term 2011 to 2013. **Since the instant case is already in the execution stage, then there is no rhyme or reason why an intervention at this late stage will still be allowed.**

Core Issue:

Whether the IBP-Western Visayas has already served in the current rotation

Of the three remaining issues espoused by the *ponencia*, I find the fourth issue, or the issue on *whether the IBP-Western Visayas (IBP-WVR) has already served in the current rotation* to be the most significant and hence, will be discussed here at length.

Right off, it is my considered view that this issue should be resolved in the **negative**. Necessarily, ***IBP-WVR should be considered as the only region which can vie for the position of the IBP EVP for the 2011-2013 term,*** or what is left of it.

The "*rotation by exclusion rule"* in the election of IBP-EVP was introduced in Bar Matter No. 491, *In the Matter of the Inquiry into the 1989 Elections of the Integrated Bar of the Philippines*.[21] In that case, the Court annulled the election of the national officers of the IBP held on June 3, 1989 and directed the holding of special elections for the Governors of each of the nine (9) IBP Regions and subsequent thereto, the election of the IBP national president and IBP-EVP. This is embodied in the Court's *per curiam* Resolution of October 6, l989, the *fallo* of which pertinently reads:

> It has been mentioned with no little insistence that the provision in the 1987 Constitution (Sec. 8, Art. VIII) providing for a Judicial and Bar Council composed of seven (7) members among whom is "a representative of the Integrated Bar," x x x may be the reason why the position of IBP president has attracted so much interest among the lawyers. The much coveted "power" erroneously perceived to be inherent in that office might have caused the corruption of the IBP elections. To impress upon the participants in that electoral exercise the seriousness of the misconduct which attended it and the stern disapproval with which it is viewed by this Court, and to restore the non-political character of the IBP and reduce, if not entirely eliminate, expensive electioneering for the top positions in the organization x x x the Court hereby ORDERS:
>
> 1. The IBP elections held on June 3, 1989 should be as they are hereby annulled.
>
> 2. The provisions of the IBP By-Laws for the direct election by the House of Delegates (approved by this Court in its resolution of July 9, 1985 in Bar Matter No. 287) of the following national officers:

[21] October 6, 1989, 178 SCRA 398.

(a) the officers of the House of Delegates;
(b) the IBP president; and
(c) the executive vice-president.

be repealed, this Court being empowered to amend, modify or repeal the By-Laws of the IBP under Section 77, Art. XI of said By-Laws.

3. The **former system of having the IBP president and [EVP] elected by the Board of Governors (composed of the governors of the nine (9) IBP regions) from among themselves (as provided in Sec. 47, Art. XII, Original IBP By-Laws) should be restored**. **The right of automatic succession by the [EVP] to the presidency upon the expiration of their two-year term (which was abolished by this Court's resolution dated July 9, 1985 in Bar Matter No. 287) should be as it is hereby restored.**

4. **At the end of the president's two-year term, the [EVP] shall automatically succeed to the office of president. The incoming board of governors shall then elect an [EVP] from among themselves. The position of [EVP] shall be rotated among the nine (9) IBP regions. One who has served as president may not run for election as [EVP] in a succeeding election until after the rotation of the presidency among the nine (9) regions shall have been completed; whereupon, the rotation shall begin anew.**

5. Section 47 of Article VII is hereby amended to read as follows:

> *'Section 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.'*

6. Section 33(b), Art. V, IBP By-Laws, is hereby amended as follows:

> *'(b) The President and Executive Vice President of the IBP shall be the Chairman and Vice-Chairman, respectively, of the House of Delegates. The Secretary, Treasurer, and Sergeant-at-Arms shall be appointed by the President with the consent of the House of Delegates.'*

7. Section 33(g) of Article V providing for the positions of Chairman, Vice-Chairman, Secretary, Treasurer and Sergeant-at-Arms of the House of Delegates is hereby repealed.

8. Section 37, Article VI is hereby amended to read as follows:

> *'Section 37. Composition of the Board. – The Integrated Bar of the Philippines shall be governed by a Board of Governors consisting of nine (9) Governors from the nine (9) regions as delineated in Section 3 of the*

> *Integration Rule, on the representation basis of one (1) Governor for each region to be elected by the members of the House of Delegates from that region only. The position of Governor should be rotated among the different Chapters in the region.'*
>
> 9. Section 39, Article V is hereby amended as follows:
>
> *'Section 39. Nomination and election of the Governors. – At least one (1) month before the national convention the delegates from each region shall elect the Governor for their region, the choice of which shall as much as possible be rotated among the chapters in the region.'*
>
> 10. Section 33(a), Article V is hereby amended by adding the following provision as part of the first paragraph:
>
> *'No convention of the House of Delegates nor of the general membership shall be held prior to any election in an election year.'*
>
> 11. Section 39 (a), (b), (1), (2), (3), (4), (5), (6), and (7) of Article VI should be as they are hereby deleted.
>
> All other provisions of the By-Laws including its amendment by the Resolution *en banc* of this Court of July 9, 1985 (Bar Matter No. 287) that are inconsistent herewith are hereby repealed or modified.
>
> 12. Special elections for the Board of Governors shall be held in the nine (9) IBP regions within three (3) months after the promulgation of the Court's resolution in this case. Within thirty (30) days thereafter, the Board of Governors shall meet at the IBP Central Office in Manila to elect from among themselves the IBP national president and executive vice-president. In these special elections, the candidates in the election of the national officers held on June 3, 1989, particularly identified in Sub-Head 3 of this Resolution entitled "Formation of Tickets and Single Slates," as well as those identified in this Resolution as connected with any of the irregularities attendant upon that election, are ineligible and may not present themselves as candidate for any position.
>
> 13. **Pending such special elections, a caretaker board shall be appointed by the Court to administer the affairs of the IBP**.
>
> The Court makes clear that the dispositions here made are without prejudice to its adoption in due time of such further and other measures as are warranted in the premises.
>
> SO ORDERED. (Emphasis ours.)

Accordingly, to administer the affairs of the IBP pending the election of its national officers, the Court ordered the creation of the IBP *Caretaker Board*.[22] Immediately after its constitution, the IBP Caretaker Board

[22] Composed of former Justice Felix Q. Antonio, as Chairperson, and former Justices Efren I. Plana and Bienvenido Ejercito, as member, per *October 19, 1989 Resolution* of this Court.

conducted and administered the simultaneous election of Governors for each of the nine (9) IBP Regions.[23]

A week thereafter, the then newly-constituted IBP BOG ***directly elected*** *Atty. Eugene A. Tan (Atty. Tan), then IBP-WVR Governor*, as Acting IBP National President, to serve for the remainder of the supposed 1989-1991 term or from January 1990 to April 1991. The 1989-1991 term pertained to that of President Violeta Calvo-Drilon of Greater Manila Region. Elected with Atty. Tan was *Atty. Numeriano G. Tanopo, Jr. (Atty. Tanopo), the Governor from the IBP-Central Luzon Region, who was to assume the position of EVP-IBP* pursuant to paragraph 4 of the *fallo* of Bar Matter No. 491. When Atty. Tan resigned before the expiration of his term as IBP president, Atty. Tanopo became Acting President but eventually assumed the position of national president for the term 1991-1993 in accordance with the IBP By-Laws.

It is on the basis of these factual antecedents that IBP-SLR, through Atty. Joyas, insists that IBP-WVR was already represented and was given the opportunity to serve as IBP national president in the person of Atty. Tan. Hence, IBP SLR insists that IBP WVR is no longer qualified to vie for IBP EVP.

The *ponencia* of Justice Mendoza would sustain the position of IBP-SLR, a posture I am inclined to disagree with for the following reasons:

(1) The December 14, 2010 Resolution has already become final, immutable and unalterable.

Through their proposed intervention, IBP-SLR would like the Court to scuttle IBP-WVR's entitlement to field a candidate for IBP-EVP for the 2011-2013 term for the reason that the Special Committee erred when it failed to consider the election of Tan as temporary or interim IBP-president in l990. It may be conceded, for argument, that an error was committed by the Special Committee, but such error, if that be the case, was peremptorily adopted by the Court in its own final December 14, 20l0 Resolution.[24]

It is a fundamental legal principle that a final decision is immutable and unalterable, and may no longer be modified in any respect, whether it be made by the court that rendered it or by the highest court of the land.[25] Litigation must at some time end. Even at the risk of occasional errors, public policy dictates that once a judgment becomes final, executory and unappealable, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. Unjustified delay in

---

[23] Selected members of the Judiciary were designated as Chairpersons and Members of the Board of Election Commissioners for each of the nine (9) IBP Regions, wherein Justice Reynato Puno (then of the Court of Appeals) was designated National Coordinator.

[24] The following voted in favor of the December 14, 2010 Resolution: Former Chief Justice Renato C. Corona, Associate Justices Teresita J. Leonardo-De Castro, Arturo D. Brion, Lucas P. Bersamin, Roberto A. Abad, Martin S. Villarama, Jr. Jose Portugal Perez and Jose Catral Mendoza.

[25] *Sacdalan v. Court of Appeals*, supra note 17.

the enforcement of a judgment sets to naught the role and purpose of the courts to resolve justiciable controversies with finality.[26]

As explained in *Aliviado v. Procter and Gamble*,[27] the doctrine of immutability of judgment is grounded on fundamental considerations of public policy and that adherence to said principle must be maintained by those who exercise the power of adjudication. The Court said that:

> It is a **hornbook rule that once a judgment has become final and executory, it may no longer be modified in any respect**, **even if the modification is meant to correct an erroneous conclusion of fact or law**, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land, as what remains to be done is the purely ministerial enforcement or execution of the judgment.
>
> The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional errors, the judgment of adjudicating bodies must become final and executory on some definite date fixed by law. The Supreme Court reiterated that the doctrine of immutability of final judgment is adhered to by necessity notwithstanding occasional errors that may result thereby, since litigations must somehow come to an end for otherwise, it would even be more intolerable than the wrong and injustice it is designed to correct.
>
> In *Mocorro, Jr. v. Ramirez*, we held that:
>
> > A definitive final judgment, however erroneous, is no longer subject to change or revision.
> >
> > A decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write finis to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred." (Emphasis supplied.)

---

[26] *Sps. Heber & Charlita Edillo v. Sps. Dulpina*, G.R. No. 188360, January 21, 2010, 610 SCRA 590, 602.

[27] G.R. No. 160506, June 6, 2011, 400 SCRA 650, 409-410.

The doctrine of immutability of judgments protects the substantive rights of the winning party. Just as the losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of the case. The Court expounded on this postulate in *Judge Angeles v. Hon. Gaite*:

> **The doctrine of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final on some definite date fixed by law.** [x x x x]
>
> In *Peña v. Government Service Insurance System* (G.R. No. 159520, September 19, 2006, 502 SCRA 383), we held that:
>
> > x x x it is axiomatic that final and executory judgments can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land. Just as the losing party has the right to file an appeal within the prescribed period, so also the winning party has the correlative right to enjoy the finality of the resolution of the case.
> >
> > x x x x
> >
> > The rule on finality of decisions, orders or resolutions of a judicial, quasi-judicial or administrative body is "*not a question of technicality but of substance and merit,*" the underlying consideration therefore, being the protection of the substantive rights of the winning party. Nothing is more settled in law than that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. (citing *Sacdalan v. Court of Appeals*, 428 SCRA 586, 599 (2004)[28] (Emphasis supplied.)

In *Banogon v. Zerna*,[29] the Court reminded litigants and lawyers that the time of the judiciary is too valuable to be wasted to evade the operation of a final decision. The Court explained, thus:

> Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.
>
> There should be a greater awareness on the part of litigants that the time of the judiciary, much more so of this Court, is too valuable to be

[28] G.R. No. 176596, March 23, 2011, 646 SCRA 309, 326-327.
[29] No. L-35469, October 9, 1987, 154 SCRA 593, 597.

> wasted or frittered away by efforts, far from commendable, to evade the operation of a decision final and executory, especially so, where, as shown in this case, the clear and manifest absence of any right calling for vindication, is quite obvious and in-disputable.

The immutability of judgments doctrine, to be sure, admits of several exceptions, to wit: (1) correction of clerical errors; (2) *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision which render its execution unjust and inequitable.[30] The Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the other party will not be unjustly prejudiced thereby.[31]

A careful review of the circumstances surrounding this case reveals that none of the foregoing exceptions warranting the relaxation of the doctrine of immutability of judgments or any circumstance analogous to the said exceptions is present in this case. Moreover, absolutely nothing transpired after the finality of the December 14, 2010 Resolution which would render its execution unjust and inequitable. It should, thus, be respected in its entirety.

(2) Atty. Tan's term should not be considered as the turn of IBP Western Visayas at the IBP leadership.

My reasons:

First*, Atty. Tan must be considered a mere *acting president who served during the *transition period* and *before* the actual implementation of the rules on *rotation by exclusion.*

This is clear under *Section 8 of Rule 139-A of the Rules of Court* which provides:

> **Section 8. *Vacancies*. — In the event the President is absent or unable to act, his 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 during the remainder of the term of the office thus vacated. 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 until the next succeeding election or during the period of disability.**

---

[30] *Sacdalan v. Court of Appeals*, supra note 17.

[31] *Apo Fruits Corporation and Hijo Plantation, Inc. v. Land Bank of the Philippines*, G.R. No. 164195, October 12, 2010, 632 SCRA 727, 761.

> The filling of vacancies in the House of Delegates, Board of Governors, and all other positions of Officers of the Integrated Bar shall be as provided in the By-Laws. **Whenever the term of an office or position is for a fixed period, the person chosen to fill a vacancy therein shall serve only for the unexpired term.**

Corollary thereto, *Section 11 of the IBP By-Laws* likewise states:

> **Section 11.** *Vacancies.* - Except as otherwise provided in these By-Laws, whenever the term of office or position, whether elective or appointive, is for a fixed period, **the person chosen to fill a vacancy therein shall serve only for the unexpired portion of the term.**

From the foregoing, it is clear that in case of vacancy in the position of the IBP President, the **person who shall act as Acting President** would only **serve during the remainder of the term.**

For instance, for the term 1985-1987, on March 1986, when then IBP President Simeon M. Valdez of Northern Luzon resigned in the middle of his term, then EVP Vicente D. Millora of IBP Central Luzon immediately served as *acting president* for the remainder of Atty. Valdez's term. When Atty. Millora also resigned in March 1987, or before the term ended, this writer, as then Governor for Southern Luzon, was elected by the BOG as acting President and assumed office in that capacity until the remainder of the term ending June 30, 1987. In all these cases, the tenure of Atty. Millora of Central Luzon and that of this writer representing Southern Luzon as acting IBP presidents were not considered a new term for their respective regions for the position of EVP. The term 1985-1987 was specifically the term for and was accordingly charged against Northern Luzon.

The precedent that obtained during the 1985-1987 term of Atty. Valdez finds application to the case at bar. Atty. Tan was elected to fill the vacancy which was supposedly for Atty. Drilon of Greater Manila Region for the 1989-1991 term and with the understanding that, pursuant to the Rules, Atty. Tan would only serve for the *unexpired portion of the 1989-1991 term*. In effect, Atty. Tan served as **Acting President** for the remainder **of a term which was *the turn of IBP Greater Manila Region*** from which Atty. Drilon belongs. After Atty. Tan resigned, EVP Tanopo of Central Luzon succeeded as Acting President pursuant to Section 8, Rule 139-A of the Rules until the end of Atty. Drilon's term on June 30, 1987. Thus, the tenure of Atty. Tan as Acting President for 1 year and 2 months during the 1989-1991 term of Atty. Drilon cannot in anyway be considered as the term of Western Visayas.

Furthermore, the remainder of the said term is **still part of the previous term** which, technically, is a term existing ***before*** Bar Matter 491 took into effect and, thus, ***prior*** to the full implementation of the rotation by exclusion scheme.

It must likewise be recalled that Atty. Tan's election as acting IBP national president was an *aftermath* of the nullification of the 1989 IBP elections, the subject matter of *Bar Matter No. 491*. At that time, there was a vacuum in the position of national president and the Court found it necessary to create a *Caretaker Board* to administer the affairs of the IBP until a new set of national officers shall have been elected.

Regardless of whether this case is an administrative matter or not, the doctrine of immutability of judgments should be applied. The public has to be sure the right to believe and feel secure that any decision or resolution of this Court will attain finality at some definite time. If this Court will just shun the doctrine because of this case being a "mere" administrative matter, then a dangerous precedent will be set and the public at large can no longer feel secure in whatever pronouncement this Court makes. In truth, administrative cases can and do affect a broad group of people. Example of this is the instant case and all other IBP-related matters previously discussed. Lawyers are members of the IBP and the result of this case will eventually have a large impact on how they will handle their current and future cases and how they will deal with and perceive this Court and other courts.

Since Atty. Tan became acting national president *by virtue of a special election* and *due to special circumstances*, Atty. Tan must be considered an *interim* president who served during the *transition period* and *before* the actual implementation of the rules on *"rotation by exclusion"* for the EVP and *"automatic succession"* for the position of national president. Atty. Tan was elected as acting national president for the remainder of what would have been the 1989-1991 term of then president-elect Atty. Violeta C. Drilon of the Greater Manila Region because precisely there was no IBP president at that time.

Bar Matter No. 491 would also reveal that Atty. Tan's election as a *transition president* cannot be considered as an implementation of the rotation. *It is the election of Atty. Tanopo as EVP which must be considered as the beginning of the sequence* under the new rotation scheme for EVPs. The conclusion that the election of Atty. Tanopo as EVP started the rotation finds mooring in the very directive of this Court in par. 4 of the *fallo* in *Bar Matter No. 491*, which reads:

> The incoming board of governors shall then elect an Executive Vice President from among themselves. The position of Executive Vice President shall be rotated among the nine (9) IBP regions.

Analyzing the Court's disposition in that case, if this Court indeed meant that the election of Atty. Tan will be the beginning of the rotation, then *it could have so stated* and *could have limited the succeeding election of the EVPs to the other eight IBP Regions*, thus effectively excluding the IBP-WVR in the subsequent election for EVPs. The *fallo* does not say so and no interpretation is needed when the disposition of the Court is clear and unambiguous. This is further bolstered by the fact that during the elections

for the 2005-2007 term, the IBP Board of Governors allowed the then Governor of IBP Western Visayas, Atty. J.B. Jovy C. Bernabe, to vie for the position of EVP. He eventually lost to Atty. Feliciano M. Bautista who was elected EVP for said term.

Second*, the *"rotation by exclusion" rule pertains in particular to the position of IBP-EVP,* NOT to the position of the *IBP Presidency.

In *Bar Matter No. 491*, this Court disposed:

> 4. At the end of the President's two-year term, the Executive Vice-President shall automatically succeed to the office of president. The incoming board of governors shall then elect an Executive Vice-President from among themselves. **The position of Executive Vice-President shall be rotated among the nine (9) IBP regions.** One who has served as president may not run for election as Executive Vice-President in a succeeding election until after the rotation of the presidency among the nine (9) regions shall have been completed; whereupon, the rotation shall begin anew.

Also, *Velez v. De Vera*,[32] penned by Justice Minita V. Chico-Nazario, enunciated that the rule on ***"rotation by exclusion" pertains in particular to the position of IBP-EVP*** and the ***IBP Presidency is merely a result of the automatic succession*** of the IBP-EVP to the Presidency, thus:

> 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. (Emphasis supplied.)

Further echoing the foregoing pronouncements, this Court, in its **December 14, 2012 Resolution,** ordered:

> 4. The **proposed amendments** to Section 31, 33, par. (g), 39, 42 and 43, Article VI and **Section 47, Article VI 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***. (Emphasis supplied.)

In relation thereto, the *Report and Recommendation of the Special Committee dated July 9, 2009* provides:

> F. That in view of the fact that **the IBP no longer elects its President**, because the Executive Vice-President automatically succeeds the President at the end of his term, **Sec. 47, Article VII of the By-Laws should be amended** by **deleting the provision for the election of the President**. Moreover, for the strict implementation of the rotation rule, the

[32] Supra note 1, at 398.

Committee recommends that there should be a sanction for its violation, thus:

> Sec. 47. National Officer. – 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 the election or appointment to any office in the IBP.

By virtue of the foregoing amendments, it is already an **established** rule that the "**rotation rule applies to the position of the IBP EVP**" and *NOT to the election of national president* because the EVP *merely assumes* the position of the national president after the latter's term has expired. It is, therefore, clear as day that the national president is not elected by the IBP Board of Governors under the *rotation by exclusion* rule, and, hence, does not participate in the rotation. Whatever is sometimes described as a "rotation of the presidency" actually means the rotation of the EVPs, which necessarily results in the rotation of the national presidents.

***Third*, to be considered a *complete turn* at the IBP Leadership, one must *first* be elected as EVP for the current term *before* he or she can serve as national president for the next term.**

With respect to the IBP Presidency, Section 47 of the IBP By-Laws provides the mandatory process of: **first**, *election of a Governor as EVP* and **second**, *automatic succession* to the office of IBP president *after* serving as EVP for the immediately preceding term. This means that for ***a turn in the rotation* to be *complete*, one must *first* be elected as EVP for the current term *before* he or she can serve as national president for the next term.**

This process **must be satisfied *in strict sequence*** in order to consider that a specific IBP region had already *completed* its turn at the IBP leadership under the rotation by exclusion rule. As a consequence, under ordinary circumstances, a complete turn at IBP leadership is equivalent to *two years of service as EVP* for the immediately preceding term *plus* another *two years of service as IBP national president.*

Hence, following the same line of thought and considering that Atty. Tan of the WVR did not become EVP in the immediately preceding term before he assumed office as IBP president, the start of the sequence or rotation should be reckoned from the time Atty. Tanopo, then Governor of IBP Central Luzon, became EVP, and that the turn of IBP Central Luzon

was *deemed completed* when Atty. Tanopo became national president in 1991-1993. This was aptly reflected in the July 2009 Report and Recommendations of the *Special Committee which deemed it appropriate to start the rotation with Atty. Tanopo* and *not* with Atty. Tan.

Apparently, ALL *of the other eight regions already had their complete turns at the IBP leadership* **except** for IBP-WVR. From the term of Atty. Tanopo until the present term of Atty. Libarios, *ALL of the eight regions* were given the opportunity to serve as *EVP during the immediately preceding term before they were able to assume office as IBP national president*.

This is, however, *not true* in the case of Atty. Tan ***as he was directly elected*** by the then IBP Board of Governors. **Atty. Tan was not elected as IBP-EVP** for the immediately preceding term before assuming office as IBP president and, in fact, **only IBP WVR has yet to have its turn for the IBP-EVP as a mandatory stepping stone to the IBP Presidency**.

In all, the IBP EVP-to-IBP Presidency route prescribed under the IBP By-Laws was not, in the case of Atty. Tan, accomplished. Hence, there is *no reason to conclude that IBP-Western Visayas had already completed its turn under the rotation by exclusion rule.* Since the other eight IBP regions have already completed their respective turns, **the preordained conclusion is that IBP-Western Visayas is the ninth region and, therefore, the only region left entitled to vie for EVP in the current rotation**.

Lastly, the IBP top leadership structure provides for a ***two-year stint for the EVP*** and ***another two years for the national president***.

From the context of **fairness** and under the objective of operationalizing the spirit and intention of the "rotation by exclusion rule" **to give each and every region a chance at the IBP leadership**, it would be **unfair** to consider Atty. Tan's tenure of just *one year and three months* as *equal* to the accumulated term of ***four years of service*** **which has already been accorded to all of the other eight regions**. The fact that Atty. Tan resigned while serving as interim IBP president is immaterial because *even if he did not resign, his tenure would still be less than two years* and, hence, less than the tenure *already* given to the other eight regions. This is clearly unfair for IBP-Western Visayas and definitely prejudicial to the interests of the lawyer-members of that region as it will be tantamount to deprivation of their right to elect an EVP, who will eventually become the regular national president.

Thus, fair play demands that **IBP-Western Visayas** be afforded no less than the opportunity to sit as IBP-EVP for the term 2011-2013 and as IBP president thereafter, ***before*** the position of the EVP may be made open to other regions.

(3) There is no reason to doubt the correctness of this Court's December 14, 20l0 Resolution.

As earlier adverted, the Court in its ***December 14, 2010 Resolution*** adopted the findings of the Special Committee created to investigate, analyze and make recommendations on *brewing controversies* which tainted the 2009 IBP Elections. These findings, as contained in the committee's *Report and Recommendation,* are reproduced anew:

> III. *Rulings of the Court*
>
> x x x x
>
> In the conduct of the unified election of the incoming EVP, the following *findings and recommendations of the Committee shall be adopted*:
>
> **THE ROTATION OF THE PRESIDENCY AMONG THE REGIONS—**
>
> Sec. 47, Art. VII of the By-Laws, as amended by Bar Matter 491, Oct. 6, 1989, provides that the ***Executive Vice President shall be chosen by the Board of Governors from among the nine (9) regional governors. The Executive Vice President shall automatically become President for the next succeeding term*.** The Presidency shall rotate among the nine Regions.
>
> 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)	Greater Manila	1993-1995
Raul R. Anchangco (Makati)	Southern Luzon	1995-1997
Jose Aguila Grapilon (Biliran)	Eastern Visayas	1997-1999
Arthur D. Lim (Zambasulta)	Western Mindanao	1999-2001
Teofilo S. Pilando, Jr. (Kalinga Apayao)	Northern Luzon	2001-2003
Jose Anselmo L. 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**.
>
> Accordingly, a special election shall be held by the present nine-man IBP Board of Governors to elect the EVP for the remainder of the term of 2009-2011, which shall be presided over and conducted by IBP Officer-in-Charge Justice Santiago Kapunan (Ret.) within seven (7) days from notice.[33] (Emphasis ours.)

From the foregoing, it is clear that the special election to be held by the IBP BOG is for the election of the EVP for the 2009-2011 term, and that *only the nominees of the IBP-WVR and IBP Eastern Mindanao were qualified to vie for the position of EVP*. As aptly observed by the Special Committee in its Report:

> j. x x x **Inasmuch as for the past nine (9) terms, *i.e.*, since the 1991-1993 term, the nominees of the Western Visayas and Eastern Mindanao Regions have not yet been elected Executive Vice President of the IBP, the special election shall choose only between the nominees of these two (2) regions who shall become the Executive Vice President for the 2009-2011 term in accordance with the strict rotation rule.**[34] (Emphasis ours.)

Thus, the three-man Special Committee correctly concluded that "**the one who is not chosen for 2009-2011 term shall have its turn in the next 2011-2013 term**."

The *ponencia*, however, contends that the Special Committee in this Court's *December 14, 2010 Resolution* failed to take into account the *Velez* ruling and, in the process, committed two "inaccuracies," thus:

> Apparently, the report of the Special Committee failed to take into account the ruling in *Velez* 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 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 service was 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 government of the Eastern Mindanao Region should be elected as Executive Vice-President for the 2009-2011 term."

---

[33] *In the Matter of the Brewing Controversies in the Election in the Integrated Bar of the Philippines*, A.M. No. 09-5-2-SC, December 14, 2010, 638 SCRA 1, 27, 35-36.

[34] Id. at 15.

These conclusions were seconded by Justice Brion:

> It is to be noted that, the **December 14, 2010 ruling itself has its imperfections** that deepened the deviations from the rotation system instead of setting the system right. For one, **it completely failed to take into account the Court's ruling in Velez.** Also, the Court **erroneously adopted the Special Committee's incomplete computation of the presidential rotational cycle.** Instead of counting the cycle from the presidency of Atty. Eugene Tan of Western Visayas in the 1989-1991 term as Bar Matter 491 dictated, the Court counted the rotation from the Central Luzon Presidency in the 1991-1993 term. This mistaken premise led the Court to conclude that only the Governors of Western Visayas and Eastern Mindanao regions had not yet had their turn as EVP so that the choice of EVP for 2009-2011 term should be solely confined to them. (Emphasis supplied)

Again, I beg to disagree. After a circumspect review of the antecedents that attended the controversies subject of these administrative matters, to my mind, **there was no mistake**, and hence, **I support the accuracy and correctness of the findings of the Special Committee, as adopted by the Court,** based on the following reasons:

First, as discussed earlier, Atty. Tan was elected as **ACTING PRESIDENT** who, as stated in Section 11 of the IBP By-Laws[35] and Section 8 of Rule 139-A,[36] had served ***only for the unexpired portion*** of what could have been the term of Atty. Drilon, representing the IBP Greater Manila Region. To reiterate, Atty. Tan served only for the remainder **of a term which *should have been the turn of IBP Greater Manila Region*** from which Atty. Drilon belongs and not that of Western Visayas. It is likewise significant to note that the remainder of the said term is **still part of the previous term** which, technically, is a term existing ***before*** Bar Matter No. 491 took into effect and ***prior*** to the full implementation of the rotation by exclusion scheme.

To my mind, **it is correct and most logical for the Special Committee to exclude Atty. Tan's presidency as forming part of the rotational process and consider Atty. Tanopo's term as the beginning of the rotation.** This likewise bolsters the fact that Atty. Tan served only as an ACTING PRESIDENT in the interim until the new rule on rotation of EVPs is implemented. Hence, the Western Visayas Region has not yet been accorded the turn to elect its own EVP. Ergo, the Court and the Special Committee are correct in ruling that said region is given the right to elect its EVP either for the term 2009-2011 or the term 2011-2013.

And ***second***, that the Special Committee's Report is accurate would also find support in finding that, at that time, IBP Eastern Mindanao was

---

[35] Section 11. *Vacancies*. - Except as otherwise provided in these By-Laws, whenever the term of office or position, whether elective or appointive, is for a fixed period, **the person chosen to fill a vacancy therein shall serve only for the unexpired portion of the term.**

[36] Section 8. *Vacancies.* — x x x Whenever the term of an office or position is for a fixed period, the person chosen to fill a vacancy therein **shall serve only for the unexpired term**.

also one of the only two remaining IBP regions eligible to field its candidate as EVP. Again, I now conclude that the Special Committee was correct in excluding the term of Atty. De Vera as a complete turn in favor of IBP Eastern Mindanao.

For one, it was undisputed that Atty. Leonard De Vera, though elected as EVP, was removed from office and was not able to assume office as President. This, according to the Court in *Velez*, is an '*unfortunate' and 'supervening event'* which rendered it impossible for Atty. De Vera to assume the IBP Presidency. Thus, in view of the peculiarity of the circumstances surrounding the said removal, it is but fair for the Special Committee not to consider Atty. De Vera's term as a complete turn in favor of IBP Eastern Mindanao.

This is in consonance with the principle enunciated earlier that a turn in the IBP leadership would only be *complete* if the region *would have an EVP for the immediately preceding term and then later assume the position of IBP President.* Since Atty. De Vera was not able to assume the Presidency, his election cannot be considered as a complete turn in favor of IBP Eastern Mindanao. Again the Court and the Special Committee are correct in ruling that the Eastern Mindanao Region has the right to elect the EVP either for term 2009-2011 or the term 2011-2013. This paved the way for the election of Roan Libarios as EVP for the term 2009-2011.

As regards IBP-SLR, it completed its turn *not* when Atty. Vinluan became EVP for the 2009-2011 term because he was not able to assume presidency, *but* during the term when Raul Angangco became EVP for the term 1993-1995 and eventually assumed the IBP Presidency during the term 1995-1997 term. It is likewise for these reasons why IBP-SLR is, therefore, excluded and disqualified from running for the position of EVP for the term 2011-2013. Incidentally, *this also answers the third issue raised in this case*.

Pondering on this logic for inclusion and exclusion in the computation for purposes of the rotation, I find more reasons to adhere to the accuracy of the findings of the Special Committee. On a more important note, it cannot be over-emphasized that the *December 14, 2010 Resolution* was based on the Report of a Special Committee <u>*specifically*</u> commissioned to investigate, analyze and evaluate the *brewing controversies* and intricacies surrounding the IBP elections and the IBP itself. The Committee had for its members retired Justices of the Court with unquestionable competence and knowledge on IBP rules and history and they arrived at their conclusion after receiving testimonies and pieces of evidence adduced by the parties and after a careful and thorough evaluation and calibration of the facts.

In his *ponencia*, Justice Mendoza asserts:

> That the Court, in its December 14, 2010 Resolution, 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 IBP President.[37] (Emphasis supplied)

Consequently, when the majority of the Court adopted the *ponencia* of Justice Mendoza, as seconded by Justice Brion, it will be etched in the history of this Court that, for the first time, **the Court admitted that it committed a enormous blunder or mistake of adopting the findings of the Special Committee** – a mistake which, to my mind, never existed at all.

Also, by succumbing to the view that the Special Committee committed a mistake in its report, and that this Court erred in adopting the same in its December 14, 2010 Resolution, **the Court, in effect, declared that the 2011-2013 term of Atty. Libarios of IBP Eastern Mindanao is null and void**. Inevitably, this Court, in ruling so, likewise declared that **all the acts of Atty. Libarios, in the exercise of his authority as IBP President, are likewise null and void** and, hence, without force and binding effect. *This is clearly an absurd situation.*

Hence, in view of the foregoing, I find that there is no reason to doubt, as does the *ponencia* and the Separate Opinion of Justice Brion, the correctness of the conclusions reached by the Special Committee.

Consequently, for the same reasons and considering the correctness and accuracy of the findings of the Special Committee, it is my opinion that, contrary to the position of the *ponencia* on the second issue, ***the First Rotational Cycle is NOT yet done.***

This is further bolstered by the fact the specific portion of the *Velez* ruling relied upon by the *ponencia* can be considered effectively overturned by this Court's December 14, 2010 Resolution.

The Court's conclusion in *Velez* that "*the rotation was completed*" is, to me, correct in a sense. In fact, this was the position I took and was one of the issues I discussed in my Dissenting Opinion in the Court's *December 14, 2010 Resolution.* However, in the said resolution, the majority, headed by then Chief Justice Renato C. Corona and wholly concurred in by Justices Teresita J. Leonardo-De Castro, Arturo D. Brion, Lucas P. Bersamin, Roberto A. Abad, Martin S. Villarama, Jr., Jose Portugal Perez and member-in-charge Jose Catral Mendoza, decided to abandon this ruling in *Velez* and adopt the findings of the Special Committee. Hence, to my mind, pursuant to the principle that between two apparently conflicting decisions, the latter prevails, I find that this specific part of this Court's ruling in *Velez* had already been overturned. Accordingly, this Court's *December 14, 2010 Resolution* should govern.

It must be also noted that the Court predicated its *Velez* ruling on this consideration: that *"each of the nine IBP regions had already produced an*

---

[37] Decision, p. 18.

EVP." However, as the records and history of the IBP would reveal, during the time *Velez* was decided, ***NOT ALL*** of the nine IBP Regions had actually produced an EVP. By readily adopting the conclusion in *Velez* that "*the rotation was completed*," the *ponencia disregarded the truth* that, since Bar Matter No. 491 or the implementation of the rotation by exclusion scheme, **IBP Western Visayas never had an EVP.** Similar thereto, the *ponencia* likewise failed to recognize that this **was reflected** by this Court's *much later ruling* in its *December 14, 2010 Resolution*.

Nevertheless, whatever misinterpretations or misconceptions were created by *Velez*, these were *clarified* by this Court's *December 14, 2010 Resolution*. In short, this Court had already corrected the situation.

Separate Opinion of Justice Brion

In this view, I also wish to address some of the points raised in the Separate Opinion of J. Arturo D. Brion, where he avers that the rulings of the Court in the *December 14, 2010 Resolution* were made in the exercise of the Court's administrative functions rather than its judicial or adjudicatory functions; that the aforementioned resolution was made in the exercise of the Court's power of supervision and not on the basis of its power of judicial review. Justice Brion also argues that being a continuing regulatory process, rulings of the Court issued under its supervisory power over the IBP are not cast in stone and remain open for review by the Court in light of prevailing circumstances as they develop.

In sum, the Separate Opinion insists that considering that the December 14, 2010 Resolution involves the Court's exercise of supervisory powers over the IBP and not judicial matters, the doctrine of immutability of judgments does not apply.

I beg to disagree.

To my mind, the exercise of the Court's supervisory power over the IBP and its members is two pronged – meaning, it is exercised either through the Court's *rule-making authority* or through its *adjudicatory or judicial power*. Indeed, one is distinct from the other. The Court's rule-making power is dynamic in the sense that the Court may change the rules concerning the IBP as it deems best, necessary, practical and appropriate under the circumstances. On the other hand, the decisions arising from the Court's *adjudicatory or judicial power* cannot be easily changed as they involve a *resolution of the contending rights of parties*, which policy dictates should attain finality and, at some point, must reach an end.

I am of the opinion that in its December 14, 2010 Resolution, this Court exercised its *adjudicatory functions* as the issues in that case necessarily involved a question of who among the IBP Regions and candidates are eligible to serve as IBP EVP and National President and a

determination of whether there is a necessity to impose disciplinary sanctions against some erring members and officers of the IBP.

As the title of the case would suggest, there were *"brewing controversies"* which required the exercise not only of the Court's supervisory powers over the IBP but also the Court's judicial power to settle actual case or controversies. By *controversy* means a disagreement or dispute, a litigated question, an adversary proceeding in a court of law, a civil action or suit either at law or in equity, a justiciable dispute.[38] It involves an antagonistic assertion of a legal right on one side and denial thereof on the other concerning a real, and not a mere theoretical question or issue.[39]

Verily, in the said Resolution, the Court ordered the amendments to Sections 31, 33 par. (g), 39, 42 and 43, Article VI and Section 47, Article VIII, pursuant to its *rule-making power*. However, these *were merely incidental to the Court's adjudication of the brewing controversies in the IBP.*

In this case, there is no question that actual controversies and concrete disputes were presented before the Court by factions with conflicting legal rights and interests pitted against each other, and demanding specific and conclusive reliefs. It must be remembered that these controversies originated from three (3) separate protests related to IBP elections held in April 2007 and an administrative complaint against erring officers and members. In particular, these protests were on: (1) the elections for the Governor of the IBP Greater Manila Region which involved the adverse interests of Atty. Elpidio Soriano and Atty. Manuel M. Maramba; (2) the elections for the Governor of the IBP Western Visayas which involved the adverse interests of Atty. Cornelio P. Aldon and Atty. Benjamin Ortega on the one hand, and Atty. Erwin Fortunato on the other; and (3) the elections for Governor of IBP Western Mindanao which involved the adverse interests of Atty. Benjamin B. Lanto and Atty. Nasser Marohomsalic. On the other hand, the administrative case was filed by Attys. Marcial M. Magsino, Manuel M. Maramba and Nasser A. Marohmsalic against Attys. Rogelio A. Vinluan, Evergisto S. Escalon, Bonifacio T. Barandon, Jr., Abelardo C. Estrada, and Raymund Jorge A. Mercado for professional misconduct, violation of attorney's oath and acts inimical to the IBP.

Needless to say, the foregoing cases involve assertions of legal rights of individuals in relation to crucial elective positions in the IBP on one side and denials thereof on the other. In resolving these warring interests, the Court had to evaluate and examine facts, interpret the rules governing the IBP, its members and officers, recall and study the IBP's history and structure, consider the report and recommendation of the Special Committee and rule on the rights and interests of the IBP regions and concerned IBP

---

[38] BLACK'S LAW DICTIONARY 379 (9th ed., 2009).
[39] *Philippine Airlines, Inc. v. NLRC*, G.R. No. 120567, March 20, 1998, 287 SCRA 672.

officials and members – all of which were done by the Court not only as an act of supervision over the IBP but, most importantly, to resolve the disputes among the parties. Thus, as far as these issues have been settled and resolved by the Court, they became final and no longer subject to review.

Also, the view set forth in the Separate Opinion to the effect that decisions of the Court in relation to its supervision over the IBP is still subject to review and change is ***unsettling***. If this is true, then what will prevent the Court from setting aside or amending a decision for or against a member of the bar or a decision settling disputes as regards IBP election controversies which were rendered ten or twenty years ago? Does this mean that the Court may thereafter overturn itself and find Atty. Vinluan innocent of the accusations against him and declare him actually fit to hold the position of IBP President for the 2007-2009 term? Further, following the conclusions in the Separate Opinion, may this Court, at any time, change its ruling in Bar Matter 491 rendered in 1989? That issues like these will remain open for review by the Court, as insisted by the Separate Opinion, is, to my view, extremely disturbing.

Moreover, in order to bolster the argument that rulings of the Court issued under its supervisory power over the IBP remain open to review, the Separate Opinion cites that administrative matters involving violations of ethical standards may be reviewed by the Court even years after the promulgation of the decision or resolution upon a petition for clemency by the respondent. Further, said Opinion posits that there were cases when the Court has changed its rulings in administrative matters in instances where there was proof that the petitioner has reformed or suffered enough on account of his or her unethical conduct.

I find the foregoing analogy *misplaced*.

Cases calling for the exercise of this Court's disciplinary powers over lawyers and judges belong to a separate genre. Once the Court renders a decision in a disciplinary action against a member of the bar, such member is either suspended, disbarred or disciplined by some other means after the said decision becomes final and executory upon the lapse of the reglementary period for appeal or reconsideration. *That the Court may thereafter mitigate the sanction imposed or grant clemency or reprieve to the erring bar member does not mean that the decision finding him or her administratively liable did not become final and executory.*

The mitigation or grant of clemency does not mean that the Court is changing its decision finding the bar member liable, rather it is an act of liberality and generosity on the part of the Court upon a showing of reformation of the petitioner. The mitigation of the sanction imposed or the grant of clemency by the Court is *a matter or an issue entirely different* from the issues involved in the administrative case finding the lawyer or judge liable. In a petition for clemency, the petitioner actually admits the unethical behavior committed in the past and prays for the pardon of the Court based

on facts and circumstances entirely different from his defenses in the administrative case and which surface way long after the decision is rendered. In fact, one of the requisites for a grant of judicial clemency or pardon is that there should be a final judgment.

Thus, it is not true those administrative matters involving cases for unethical behavior of members of the bar do not become final and executory and that the doctrine of immutability of judgment does not apply to the same. Rather, the Court in effect affirms its decision but extends its liberality in exceptional circumstances where there is proof that the erring bar member has changed his or her ways or has suffered enough from the consequences of the sanctions imposed.

In view thereof, the doctrine of immutability of judgments clearly applies to this Court's December 14, 2010 Resolution.

Conclusion

It must be recalled that in the 2006 *Velez* case, this Court has ruled that the rotation was already completed. However, in its, December 14, 2010 Resolution, this Court deviated from *Velez* and declared that *only* IBP Eastern Mindanao and Western Visayas have not had their turn at the IBP leadership. Thus, the Court ruled that the rotation after all has not yet been completed contrary to the ruling in *Velez.*

And now, **after the December 14, 2010 Resolution had been become final in February 2011 and partially executed, wherein *IBP Eastern Mindanao had already given and completed its turn*, the *majority* reverted to the *Velez* ruling that the rotation is already complete**; effectively depriving IBP Western Visayas of its clearly stated right pursuant to the December 14, 2010 Resolution. Verily, by following the opinion of the *ponencia*, the Court is now exposed, once again, to charges of FLIP-FLOPPING.

Because of the position now assumed by the majority, the Court would appear to be TRIFLING with the long-settled doctrine of immutability of judgments. In the process, all the final decisions of the Court from its birth up to the present would be amenable to another review and reversal. It opened a Pandora's box, and thus, permit the parties and worse, even non-parties, in final and executed cases, to pray for the reopening of literally hundreds of thousands of final and fully implemented decisions on the pretext that this Court has committed an ERROR in or has MISREAD said cases.

In its Resolution, the majority nullified and disregarded a critical part of the December 14, 2010 Resolution. In a departure from its former holding, *the majority now rules that the IBP-Western Visayas is not the only region that can vie for IBP-EVP for the 2011-2013 term and **that position of IBP EVP is now open to all regions***. This is a **nullification** of the

unequivocal December 14, 2010 Resolution that "*only IBP Eastern Mindanao and IBP Western Visayas are qualified to vie for the EVP position*" in the two remaining terms in the rotation.

In retrospect, the Western Visayas Region was already deprived of its right to have an elected EVP who will eventually assume the IBP Presidency from 1990 when the rotation of the EVP started up to the present time or for more than THIRTY YEARS. With the new cycle, said region may even have to wait for 18 years more which is the total period for a new cycle before it can elect its EVP. All in all, the damage and prejudice to the members of the Western Visayas Region are unquantifiable.

More importantly, by declaring the EVP position open, the majority takes a sudden, but aberrant, turn around and ruled against the final and partially executed December 14, 2010 Resolution by correcting alleged MISTAKES in said judgment. *This is a first.*

One can only imagine the possible irreparable damage and prejudice to the Court and the judicial institution by the rendition of what will be undoubtedly perceived as an amendment to the core of what has been a final and partly executed judgment. The December 14, 2010 Resolution is a fairly recent issuance. The integrity of the Court and the stability of its decisions shall be under attack and scrutiny once again due to the majority's admission that this Court committed mistakes in rendering the December 14, 2010 Resolutions. This will be deeply unsettling and will prejudice the stability and reliability of final judgments of the Court.

To repeat, the essence of the principle of immutability of final judgments is that "once a judgment becomes final, it may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of law and fact."

The members of the Court must strongly adhere to and respect its final and executed decisions. To expose the decisions of this Court to the risk of being reopened or set aside any time would simply make the decisions of this Court a mockery and a farce. If the Court itself will resurrect final and executed decisions, then who and what will stop parties and non-parties from following suit? The potential damage to the institution is unthinkable.

Thus, I vote to deny the motion of IBP-SLR for lack of merit.

PRESBITERO J. VELASCO, JR.
Associate Justice