

FIRST DIVISION

[A.C. No. 5119, April 17, 2013]

**ROSARIO BERENGUER-LANDERS AND PABLO BERENGUER,
COMPLAINANTS, VS. ATTY. ISABEL E. FLORIN, ATTY.
MARCELINO JORNALES AND ATTY. PEDRO VEGA, RESPONDENTS.**

D E C I S I O N

REYES, J.:

This is a complaint^[1] for disbarment filed by Rosario BerenguerLanders and Pablo Berenguer (complainants) against herein respondents Isabel E. Florin (Florin), Marcelino Jornales (Jornales) and Pedro Vega (Vega).

The factual antecedents are as follows:

Remedios Berenguer-Lintag, Carlo Berenguer and Belinda Berenguer-Aguirre, Rosario Berenguer-Landers and Pablo Berenguer (Berenguers) are the registered owners of a 58.0649-hectare land in Bibingcahan, Sorsogon, Sorsogon. Sometime in April 1998, a notice of coverage was issued by the Department of Agrarian Reform (DAR) regarding the acquisition of their landholding pursuant to Republic Act No. 6657 or the Comprehensive Agrarian Reform Program (CARP). The Berenguers protested and applied for the exclusion of their land with the DAR and for a notice to lift coverage based on the ground that their landholdings have been used exclusively for livestock pursuant to DAR Administrative Order No. 09.^[2]

On October and November 1998, the DAR Secretary, without acting on the application for exclusion, cancelled the Berenguers' certificates of title on the land and issued Certificates of Land Ownership Award^[3] (CLOAs) in favor of the members of the Baribag Agrarian Reform Beneficiaries Development Cooperative (BARIBAG).

Eventually, DAR Regional Director Percival Dalugdug (Dalugdug) denied their application for exclusion from the CARP's coverage in the Order^[4] dated February 15, 1999 based on the Investigation Report dated February 9, 1999 submitted by the DAR Region V Investigation that said area sought to be excluded is principally devoted to coconuts and not the raising of livestock.^[5]

Aggrieved, the Berenguers filed a **notice of appeal**^[6] with the Secretary of DAR.

While the case was pending appeal, BARIBAG filed a petition^[7] for the implementation of the Order dated February 15, 1999 before the Regional Agrarian Reform Adjudicator (RARAD). This was granted by Florin, as RARAD, in an Order^[8] dated March 15, 1999. Accordingly, Florin directed the issuance and implementation of the Writ of Possession.^[9]

On March 19, 1999, the Berenguers filed a motion for reconsideration,^[10] claiming that they were denied due process as they were not furnished with a copy of BARIBAG's petition for implementation. Florin denied the motion for reconsideration for lack of merit in an Order^[11] dated March 22, 1999.

On March 25, 1999, the Berenguers appealed^[12] to the DAR Adjudication Board (DARAB). BARIBAG, on other hand, filed a Motion for the Issuance of a Writ of Possession.^[13] The Berenguers opposed^[14] the motion saying that the execution would be premature in view of their pending appeal before the DARAB. Nevertheless, BARIBAG still filed a Motion for the Appointment of a Special Sheriff.^[15]

In his Order^[16] dated April 6, 1999, DAR Acting Secretary Conrado S. Navarro denied the Berenguers' appeal.

On April 8, 1999, Florin issued a Resolution,^[17] which granted BARIBAG's Motion for the Appointment of a Special Sheriff and ordered the issuance of the writ of possession prayed for.

On April 13, 1999, the Berenguers filed a motion to set aside^[18] the Resolution dated April 8, 1999, arguing that: the DARAB already acquired jurisdiction over case when they seasonably filed an appeal before it; and that Florin should have waited until the DARAB has decided the appeal. In an Order^[19] dated April 21, 1999, Florin denied the said motion prompting the Berenguers to move for her inhibition^[20] on ground of partiality.

The Berenguers elevated the matter *via* petition for *certiorari* to the Court of Appeals (CA), docketed as CA-G.R. SP No. 51858, which was denied outright on procedural grounds, to wit: (1) copy of the assailed order bears the words "certified true copy" but the name and authority of the person certifying is not indicated as required in SC Circular No. 3-96, and the signature therein is illegible; (2) only one of the petitioners signed the certification on non-forum shopping which is an insufficient compliance of Section 1, Rule 65 of the 1997 Rules of Court; and (3) there is non-exhaustion of administrative remedies as the assailed order of the Regional Director is not directly reviewable by the CA.^[21]

Undaunted, the Berenguers filed a second petition for *certiorari* with the CA, docketed as CA-G.R. SP No. 53174, which questioned the Orders dated March 15, 1999 and March 22, 1999 issued by Florin. The petition was also denied on grounds of lack of jurisdiction and wrong mode of appeal.^[22]

Thus, Florin issued on April 21, 1999 a Writ of Possession^[23] in favor of BARIBAG.

Florin subsequently directed the full implementation of the writ of possession pursuant to Rule 71 of the Rules of Court in spite of the Berenguers' protestations.^[24]

On June 3, 1999, the Berenguers moved to quash^[25] the Writ of Possession, to no

avail.

On August 4, 1999, the complainants filed the instant Complaint^[26] for the disbarment of respondents Florin, Jornales, in his capacity as Assistant Regional Director for DAR, and Vega, in his capacity as DAR Legal Officer V, for allegedly conspiring and confederating in the commission of the following acts:

- A. ATTY. ISABEL E. FLORIN AS REGIONAL ADJUDICATOR KNOWINGLY RENDERING AN UNJUST JUDGEMENT, ORDERS AND RESOLUTIONS ADVERSE AND PREJUDICIAL TO THE INTEREST OF PETITIONERS[;]
- B. ISSUING AN ORDER AND GRANTING A WRIT OF EXECUTION EX-PARTE AND SUBSEQUENTLY ISSUING AND SIGNING THE WRIT OF POSSESSION WITHOUT CERTIFICATION OF FINALITY ISSUED BY THE PROPER OFFICER FULLY KNOWING THAT SHE HAS NO AUTHORITY AND TOTALLY DISREGARDING THE APPLICABLE RULES AND IN CONTRAVENTION WITH THE NEW RULES OF PROCEDURE OF THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD; FURTHER, HIDING THE WRIT OF POSSESSION FROM PETITIONERS INSPITE OF REQUEST FOR A COPY;
- C. REFUSING TO TAKE ACTION ON PLEADINGS FILED BY PETITIONERS THRU COUNSEL AND FAILING AND REFUSING TO CONDUCT A HEARING AS PRAYED FOR BY COUNSEL; FAILING AND REFUSING TO FORWARD THE APPEAL TO THE PROPER APPELLATE BOARD;
- D. UNWARRANTED INTERFERENCE IN LAWYER-CLIENT RELATIONSHIPS TO THE PREJUDICE OF PETITIONERS AND LAWYER; ABUSE OF AUTHORITY TO CITE COUNSEL FOR PETITIONER IN CONTEMPT AND ISSUING AN ORDER OF ARREST WITHOUT HEARING CONTRARY TO THE RULES OF COURT;
- E. ATTY. MARCELINO JORNALES AND ATTY. PEDRO VEGA, INSPITE OF THEIR KNOWLEDGE OF THE ILLEGALITY OF THE WRIT OF POSSESSION, PERSISTED AND ASSISTED IN THE ILLEGAL IMPLEMENTATION OF THE WRIT OF POSSESSION TO THE PREJUDICE OF LEGITIMATE FARMERS AND PETITIONERS[.]^[27]

Florin filed her Comment^[28] stating, among others, that: (1) the writ of possession is anchored on the CLOAs issued by the Register of Deeds, and not on a final and executory decision that would require a certification of finality as prescribed by the DARAB rules; (2) Atty. Federico De Jesus (De Jesus), as Berenguers' counsel, was not furnished with a copy of the writ because it was not yet issued at the time when it was requested; (3) there was no intent to hide the writ; (4) when the writ of possession was finally signed, it was delivered to the sheriff for service and enforcement; (4) it was unfair to impute illegal acts against Vega and Jornales as DAR lawyers in view of the DAR's denial of the motion for a cease and desist order and because of the legal presumption of regularity in the performance of their duty; (5) the petitions for *certiorari* filed with the CA were both dismissed; and (6) the findings of DAR and the issuance of the CLOAs remain undisturbed. Florin also

claimed that it is Atty. De Jesus who wants her disbarred and not the Berenguers.

In a separate Comment,^[29] Vega denied the allegations against him arguing that: (1) the writ of possession is not illegal in the absence of a court order stating its invalidity; (2) he did not participate in the issuance of the writ of possession because he did not appear as the farmers' counsel; (3) the Legal Division he heads has no control or influence over the DARAB; and (4) his presence in the execution of the writ of possession was to ascertain that no violations against any law are committed by the person/s executing the writ.^[30]

Jornales' Comment,^[31] for his part, stated that: (1) the writ has no *prima facie* infirmity; (2) he is not privy to the issuance thereof; (3) he has no supervision and control over the DAR which issued the writ; and (4) he has no authority to determine the writ's validity or invalidity. Jornales admitted, however, that he was in the meeting presided by the PNP Provincial Director of Sorsogon prior to the writ's implementation in his capacity as Regional Assistant Director for Operations of DAR Region V and not as a lawyer. He added that the disbarment complaint against him is not only malicious for lack of legal basis but is also meant to harass and intimidate DAR employees in implementing the CARP.^[32]

After the complainants filed their Consolidated Reply,^[33] the case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

IBP Commissioner Milagros San Juan (Commissioner San Juan) recommended^[34] that Florin be "[s]uspended from the practice of law for three (3) years for knowingly rendering an unjust judgment, Orders and Resolutions adverse and prejudicial to the interests of the Complainants." Commissioner San Juan, meanwhile, recommended that the charges against Jornales and Vega be dismissed for failure of the complainants to substantiate the charges against them.^[35]

Commissioner San Juan's recommendation against Florin is based on the findings^[36] of the CA in its Decision dated December 26, 2000 in CA- G.R. SP No. 53174,^[37] which reads:

The Petition for Certiorari filed by the complainants before the Court of Appeals was treated as a petition for review and the court found the following errors:

"1) Respondent DAR Secretary has no jurisdiction over the subject properties being devoted to pasture and livestock and already classified as residential and industrial land, hence, outside the coverage of Republic Act 6657. (Comprehensive Agrarian Reform Law) The generation and issuance of Certificate of Landownership Award (CLOA) was therefore void;"

2) Being outside the coverage of CARL (Republic Act 6657), respondent Hon. Isabel E. Florin who is exercising delegated jurisdiction from the DARAB has no jurisdiction over Petitioners' Properties as held in *Krus na*

Ligas Farmer's Coop vs. University of the Philippines; G.R. No. 107022[,], 8 December 1992[,], which is squarely in point with the case at bar."

Anent the issue regarding the qualified beneficiaries of the subject land, the Court ruled thus – "Assuming that the lands are indeed agricultural, we cannot understand why the DAR awarded them to members of respondent Baribag and not to the farmers in the area, in violation of Sec. 22 of the CARL x x x."

The court further stated – "We cannot xxx close this discussion without mentioning our observation on the actuations of Regional Agrarian Reform Adjudicator Isabel Florin. Just why she issued a writ of execution and eventually a Writ of Possession in favor of respondent Baribag puzzles us no end. She knew that Baribag is not a party in petitioners' application for exclusion filed with the Office of DAR Regional Director Percival Dalugdug. Obviously, she never acquired jurisdiction over Baribag. She also knew that petitioners appealed to the DAR Secretary from the Order of Regional Director Dalugdug dismissing petitioners' application for exclusion. Clearly, such order was not yet final and executory when she issued the assailed writs of execution and possession. Thus, the writ are [sic] void and would be set aside."^[38]

On May 26, 2006, the IBP Board of Governors adopted Resolution No. XVII-2006-282 modifying the recommended penalty, viz:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for knowingly rendering an unjust Judgment, Orders and Resolutions, adverse and prejudicial to the interest of the complainants, Atty. Isabel F. Florin is hereby **SUSPENDED** from the practice of law for one (1) year. The charges against Atty. Marcelino Jornales and Atty. Peter Vega are **DISMISSED** for failure of the complainants to substantiate the charges against Respondents.^[39]

In her opposition,^[40] Florin averred that: (1) jurisdiction was acquired over BARIBAG at the time it filed a petition for the implementation of the Order dated February 15, 1999; (2) the DARAB has jurisdiction to issue the CLOAs; (3) as RARAD, she has concurrent jurisdiction with DARAB; (4) the Berenguers were not denied due process; and (5) the Berenguers never questioned the regularity of the DAR's acquisition of their landholding nor did they file a petition for the cancellation of the CLOAs issued to BARIBAG.

This Court agrees with the findings of the IBP Board of Governors but modifies the penalty to be imposed.