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[A.M. No. RTJ-06-2017, June 19, 2008]

LT. GEN. ALFONSO P. DAGUDAG (RET.), COMPLAINANT, VS. JUDGE MAXIMO G.W. PADERANGA, REGIONAL TRIAL COURT, BRANCH 38, CAGAYAN DE ORO CITY, RESPONDENT.

D E C I S I O N

PER CURIAM:

This is a complaint for gross ignorance of the law and conduct unbecoming a judge filed by retired Lt. Gen. Alfonso P. Dagudag (Gen. Dagudag), Head of Task Force Sagip Kalikasan, against Judge Maximo G. W. Paderanga (Judge Paderanga), Presiding Judge of the Regional Trial Court, Branch 38, Cagayan de Oro City.

On or about 30 January 2005, the Region VII Philippine National Police Regional Maritime Group (PNPRMG) received information that MV General Ricarte of NMC Container Lines, Inc. was shipping container vans containing illegal forest products from Cagayan de Oro to Cebu. The shipments were falsely declared as cassava meal and corn grains to avoid inspection by the Department of Environment and Natural Resources (DENR).[1]

On 30 and 31 January 2005, a team composed of representatives from the PNPRMG, DENR, and the Philippine Coast Guard inspected the container vans at a port in Mandaue City, Cebu. The team discovered the undocumented forest products and the names of the shippers and consignees:

Container Van No.	Shipper	Consignee
NCLU - 2000492-22GI	Polaris Chua	Polaris Chua
IEAU - 2521845-2210	Polaris Chua	Polaris Chua
NOLU - 2000682-22GI	Rowena Balangot	Rowena Balangot
INBU - 3125757-BB2210	Rowena Balangot	Rowena Balangot
NCLU - 20001591-22GI	Jovan Gomez	Jovan Gomez
GSTU - 339074-US2210	Jovan Gomez	Jovan Gomez
CRXU - 2167567	Raffy Enriquez	Raffy Enriquez
NCLU - 2001570-22GI	Raffy Enriquez	Raffy Enriquez

The crew of MV General Ricarte failed to produce the certificate of origin forms and other pertinent transport documents covering the forest products, as required by DENR Administrative Order No. 07-94. Gen. Dagudag alleged that, since nobody claimed the forest products within a reasonable period of time, the DENR considered them as abandoned and, on 31 January 2005, the Provincial Environment and Natural Resources Office (PENRO) Officer-in-Charge (OIC), Richard N. Abella, issued a seizure receipt to NMC Container Lines, Inc.[2]

On 1 February 2005, Community Environment and Natural Resources Office (CENRO) OIC Loreto A. Rivac (Rivac) sent a notice to NMC Container Lines, Inc. asking for explanation why the government should not confiscate the forest products.[3] In an affidavit[4] dated 9 February 2005, NMC Container Lines, Inc.'s Branch Manager Alex Conrad M. Seno stated that he did not see any reason why the government should not confiscate the forest products and that NMC Container Lines, Inc. had no knowledge of the actual content of the container vans.

On 2, 9, and 15 February 2005, DENR Forest Protection Officer Lucio S. Canete, Jr. posted notices on the CENRO and PENRO bulletin boards and at the NMC Container Lines, Inc. building informing the unknown owner about the administrative adjudication scheduled on 18 February 2005 at the Cebu City CENRO. Nobody appeared during the adjudication.[5] In a resolution[6] dated 10 March 2005, Rivac, acting as adjudication officer, recommended to DENR Regional Executive Director Clarence L. Baguilat that the forest products be confiscated in favor of the government.

In a complaint[7] dated 16 March 2005 and filed before Judge Paderanga, a certain Roger C. Edma (Edma) prayed that a writ of replevin be issued ordering the defendants DENR, CENRO, Gen. Dagudag, and others to deliver the forest products to him and that judgment be rendered ordering the defendants to pay him moral damages, attorney's fees, and litigation expenses. On 29 March 2005, Judge Paderanga issued a writ of replevin[8] ordering Sheriff Reynaldo L. Salceda to take possession of the forest products.

In a motion to quash the writ of replevin,[9] the defendants DENR, CENRO, and Gen. Dagudag prayed that the writ of replevin be set aside: (1) Edma's bond was insufficient; (2) the forest products were falsely declared as cassava meal and corn grains; (3) Edma was not a party-in-interest; (4) the forest products were not covered by any legal document; (5) nobody claimed the forest products within a reasonable period of time; (6) the forest products were already considered abandoned; (7) the forest products were lawfully seized under the Revised Forestry Code of the Philippines; (8) replevin was not proper; (9) courts could not take cognizance of cases pending before the DENR; (10) Edma failed to exhaust administrative remedies; and (11) the DENR was the agency responsible for the enforcement of forestry laws. In a motion to dismiss *ad cautelam*[10] dated 12 April 2005, the defendants prayed that the complaint for replevin and damages be dismissed: (1) the real defendant is the Republic of the Philippines; (2) Edma failed to exhaust administrative remedies; (3) the State cannot be sued without its consent; and (4) Edma failed to allege that he is the owner or is entitled to the possession of the forest products.

In an order[11] dated 14 April 2005, Judge Paderanga denied the motion to quash the writ of replevin for lack of merit.

Gen. Dagudag filed with the Office of the Court Administrator (OCA) an affidavit-complaint[12] dated 8 July 2005 charging Judge Paderanga with gross ignorance of the law and conduct unbecoming a judge. Gen. Dagudag stated that:

> During the x x x hearing, [Judge Paderanga] showed manifest partiality in favor of x x x Edma. DENR's counsel was lambasted, cajoled and intimidated by [Judge Paderanga] using words such as "SHUT UP" and "THAT'S BALONEY."
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> x x x x
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> Edma in the replevin case cannot seek to recover the wood shipment from the DENR since he had not sought administrative remedies available to him. The prudent thing for [Judge Paderanga] to have done was to dismiss the replevin suit outright.
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> x x x x
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> [Judge Paderanga's] act[s] of taking cognizance of the x x x replevin suit, issuing the writ of replevin and the subsequent denial of the motion to quash clearly demonstrates [sic] ignorance of the law.

In its 1st Indorsement[13] dated 1 August 2005, the OCA directed Judge Paderanga to comment on the affidavit-complaint. In his comment[14] dated 6 September 2005, Judge Paderanga stated that he exercised judicial discretion in issuing the writ of replevin and that he could not delve into the issues raised by Gen. Dagudag because they were related to a case pending before him.

In its Report[15] dated 10 July 2006, the OCA found that Judge Paderanga (1) violated the doctrine of exhaustion of administrative remedies; (2) violated the doctrine of primary jurisdiction; and (3) used inappropriate language in court. The OCA recommended that the case be re-docketed as a regular administrative matter; that Judge Paderanga be held liable for gross ignorance of the law and for violation of Section 6, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary;[16] and that he be fined P30,000.

In its Resolution[17] dated 16 August 2006, the Court re-docketed the case as a regular administrative matter and required the parties to manifest whether they were willing to submit the case for decision based on the pleadings already filed. Judge Paderanga manifested his willingness to submit the case for decision based on the pleadings already filed.[18] Since Gen. Dagudag did not file any manifestation, the Court considered him to have waived his compliance with the 16 August 2006 Resolution.[19]

The Court finds Judge Paderanga liable for gross ignorance of the law and for conduct unbecoming a judge.

The DENR is the agency responsible for the enforcement of forestry laws. Section 4 of Executive Order No. 192 states that the DENR shall be the primary agency responsible for the conservation, management, development, and proper use of the country's natural resources.

Section 68 of Presidential Decree No. 705, as amended by Executive Order No. 277, states that possessing forest products without the required legal documents is punishable. Section 68-A states that the DENR Secretary or his duly authorized

representatives may order the confiscation of any forest product illegally cut, gathered, removed, possessed, or abandoned.

In the instant case, the forest products were possessed by NMC Container Lines, Inc. without the required legal documents and were abandoned by the unknown owner. Consequently, the DENR seized the forest products.

Judge Paderanga should have dismissed the replevin suit outright for three reasons. First, under the doctrine of exhaustion of administrative remedies, courts cannot take cognizance of cases pending before administrative agencies. In *Factoran, Jr. v. Court of Appeals*,[20] the Court held that:

> **The doctrine of exhaustion of administrative remedies is basic. Courts**, for reasons of law, comity and convenience, **should not entertain suits unless the available administrative remedies have first been resorted to and the proper authorities have been given an appropriate opportunity to act and correct their alleged errors, if any, committed in the administrative forum**. (Emphasis ours)

In *Dy v. Court of Appeals*,[21] the Court held that a party must exhaust all administrative remedies before he can resort to the courts. In *Paat v. Court of Appeals*,[22] the Court held that:

> This Court in a long line of cases has consistently held that **before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him**. Hence, **if a remedy within the administrative machinery can still be resorted to** by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction **then such remedy should be exhausted first before court's judicial power can be sought. The premature invocation of court's intervention is fatal to one's cause of action**. Accordingly, absent any finding of waiver or estoppel the case is susceptible of dismissal for lack of cause of action. (Emphasis ours)

In the instant case, Edma did not resort to, or avail of, *any* administrative remedy. He went straight to court and filed a complaint for replevin and damages. Section 8 of Presidential Decree No. 705, as amended, states that (1) all actions and decisions of the Bureau of Forest Development Director are subject to review by the DENR Secretary; (2) the decisions of the DENR Secretary are appealable to the President; and (3) courts cannot review the decisions of the DENR Secretary except through a special civil action for *certiorari* or prohibition. In *Dy*,[23] the Court held that all actions seeking to recover forest products in the custody of the DENR shall be directed to that agency -- not the courts. In *Paat*,[24] the Court held that:

> **Dismissal of the replevin suit for lack of cause of action in view of the private respondents' failure to exhaust administrative remedies should have been the proper course of action by the lower court instead of assuming jurisdiction over the case and consequently issuing the writ** [**of replevin**]. **Exhaustion of the remedies in the administrative forum**, being a condition precedent

> prior to one's recourse to the courts and more importantly, being an element of private respondents' right of action, **is too significant to be waylaid by the lower court**.
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> x x x x
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> Moreover, **the suit for replevin is never intended as a procedural tool to question the orders of confiscation and forfeiture issued by the DENR** in pursuance to the authority given under P.D. 705, as amended. Section 8 of the said law is explicit that **actions taken by the Director of the Bureau of Forest Development** concerning the enforcement of the provisions of the said law **are subject to review by the Secretary of DENR and that courts may not review the decisions of the Secretary except through a special civil action for certiorari or prohibition**. (Emphasis ours)

Second, under the doctrine of primary jurisdiction, courts cannot take cognizance of cases pending before administrative agencies of special competence. The DENR is the agency responsible for the enforcement of forestry laws. The complaint for replevin itself stated that members of *DENR's Task Force Sagip Kalikasan* took over the forest products and brought them to the *DENR Community Environment and Natural Resources Office*. This should have alerted Judge Paderanga that the DENR had custody of the forest products, that administrative proceedings may have been commenced, and that the replevin suit had to be dismissed outright. In *Tabao v. Judge Lilagan*[25] -- a case with a similar set of facts as the instant case -- the Court held that:

> The complaint for replevin itself states that the shipment x x x [was] seized by the NBI for verification of supporting documents. It also states that the NBI turned over the seized items to the DENR "for official disposition and appropriate action." x x x To our mind, **these allegations** [**should**] **have been sufficient to alert respondent judge that the DENR has custody of the seized items and that administrative proceedings may have already been commenced concerning the shipment. Under the doctrine of primary jurisdiction, courts cannot take cognizance of cases pending before administrative agencies of special competence**. x x x **The prudent thing for respondent judge to have done was to dismiss the replevin suit outright**. (Emphasis ours)

In *Paat*,[26] the Court held that:

> [T]he enforcement of forestry laws, rules and regulations and the protection, development and management of forest lands fall within the primary and special responsibilities of the Department of Environment and Natural Resources. By the very nature of its function, **the DENR should be given a free hand unperturbed by judicial intrusion to determine a controversy which is well within its jurisdiction. The assumption by the trial court, therefore, of the replevin suit filed by private respondents constitutes an unjustified encroachment into the domain of the administrative agency's prerogative. The doctrine of primary jurisdiction does not warrant a court to**