

SECOND DIVISION

[A.C. No. 5708, November 11, 2005]

BERNARDO A. TADLIP, COMPLAINANT, VS. ATTY. FIDEL H. BORRES, JR., RESPONDENT.

R E S O L U T I O N

TINGA, J.:

Lawyers in government service should be more sensitive in their adherence to their professional obligations under the Code of Professional Responsibility, for their disreputable conduct is more likely to be magnified in the public eye.^[1] The actuations of respondent brought to light in this case bring disrepute not only to his good name, but to the government and to the State. Restoration of public trust cannot ensue without an unequivocal statement from this Court that such behavior will not stand unpunished.

We consider the administrative liability of Atty. Fidel H. Borres, Jr. (respondent), a Provincial Agrarian Reform Adjudicator (PARAD) of the Department of Agrarian Reform Regional Arbitration Board (DARAB) for rendering a blatantly irregular decision.

The facts of the case are as follows:

On 3 October 1987, by virtue of Presidential Decree No. 27 (PD 27), the Ministry of Agrarian Reform issued Original Certificate of Title No. P-106 (OCT No. P-106), Emancipation Patent No. A-028380 to Eusebio E. Arce conveying to him Three Thousand Nine Hundred Eight (3,908) square meters of agricultural land situated in Mambajao, Camiguin. The land was formerly owned by Angel Madarieta.^[2]

Subsequently, on 14 December 1987, a *Deed of Transfer under PD 27* was executed by Angel Madarieta, as represented by his wife, Pelagia Madarieta (Madarieta) and Eusebio E. Arce.^[3] The parties agreed that the land would be given to Arce in consideration of Seven Hundred Fifty (750) kerosene cans of palay.^[4]

Arce died on 23 December 1993. As he was succeeded by two minor daughters ages 5 and 6 years old, herein complainant Tadlip, who is his nephew, assumed the responsibility of tilling the land. Tadlip caused the reallocation of the disputed land through the aid of the Bureau of Legal Assistance, Department of Agrarian Reform, Yuming, Mambajao, Camiguin (BLA-DAR) in a petition dated 9 October 1997 and docketed as DARAB Case No. X-861.^[5]

Respondent, as PARAD of the DARAB, issued an *Order*^[6] dated 3 April 1998 granting the petition of complainant reallocating the land to him and the heirs of Arce.

However, the title to the parcels of land was never transferred to complainant and the heirs of Arce because unknown to them, respondent rendered another *Order*^[7] dated 26 January 1999 canceling the registration of the same OCT No. P-106 and ordering the issuance of a transfer certificate of title *ex parte* in favor of Madarieta in DARAB Case No. X-99-02.

As borne out by the records of the case, Madarieta filed two pleadings on 22 January 1999. The first was a *Petition*^[8] entitled "In the Matter of Cancellation of Original Certificate of Title No. EP-106/Emancipation Patent No. A-028380 and Retention Right" docketed as DARAB Case No. X-99-02. Madarieta based her *Petition* on the ground that she was not able to exercise her right of retention, the land is idle, abandoned, unattended and unproductive and that the late Eusebio Arce did not comply with the agreed monthly amortization as payment for the lot. By the nature of the pleadings filed, Madarieta obviously executed an *ex parte* proceeding. Hence, no attempt was made to implead Tadlip or the Arce heirs, despite the existence of their legal interest over the property and reality that a clear deprivation of such right would ensue should the petition be granted.

The second was a *Complaint*^[9] entitled Pelagia Madarieta v. Heirs of Eusebio Arce/Bernardo A. Tadlip, docketed as DARAB Case No. X-99-04 for Cancellation of Original Certificate of Title No. EP 106 and Retention. In the said complaint, Madarieta substantially alleged the same facts and prayed for the same remedies except that she included one more allegation, that which pertains to the reallocation of the land to complainant.

Complainant alleged that the *Complaint* was filed by Madarieta upon the instruction of respondent, to correct the procedural flaw attending to her initial *Petition*.^[10] Interestingly, complainant also asserts that the filing of the petition and complaint of Madarieta was not simultaneously done albeit it would seem as if they were. According to him, respondent PARAD, after rendering the *Order* dated 26 January 1999, advised Madarieta to file a complaint impleading complainant and the heirs of Arce so as to make it appear that the cancellation of the title of the emancipated land was regular and legal.^[11] In effect, complainant maintains that the filing of the petition and the complaint by Madarieta on 22 January 1999 was not simultaneous but successive,^[12] where after respondent rendered the *Order* for the petition, Madarieta thereafter filed the complaint at a later date but made it appear that the same was also filed on 22 January 1999.

In any event, the *Petition*, despite its obvious flaws, was decided by respondent in favor of Madrieta just four (4) days after it had been filed. Thus, OCT No. P-106 was ordered cancelled even before Tadlip or the heirs of Arce had any possible opportunity to be heard.

Complainant discovered this fact only when the DARAB-Camiguin furnished the BLA-DAR a copy of the *Order* in DARAB Case No. X-99-02 on 25 February 1999. Complainant filed an Urgent Motion for Reconsideration^[13] but this was denied by respondent in an *Order*^[14] dated 19 March 1999. As if complainant's travails in the hands of respondent were not enough, respondent also rendered on 17 May 1999 a *Decision*^[15] on the *Complaint* in DARAB Case No. X-99-04 also adverse to

complainant.

Matters were aggravated when Madarieta filed a motion for execution pending appeal on 25 May 1999.^[16] The same was granted by respondent on 11 June 1999^[17] despite the vehement opposition^[18] of complainant who cited procedural irregularities according to the DARAB Rules of Procedure, particularly the rule that any motion for execution of the decision of the Adjudicator pending appeal shall be filed with the DARAB, and not the adjudicator.^[19]

Hence, on 20 March 2002, complainant filed this instant administrative complaint. On 7 August 2002, this Court required respondent to comment on the complaint.

Respondent, in his comment dated 9 December 2002, denied all the accusations hurled against him. He related that complainant filed an "appeal and certiorari" case relative to the land dispute but instead of waiting for the result, the latter filed another case before the Ombudsman and subsequently this administrative case.

In a resolution dated 19 February 2003, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The IBP found that respondent violated Canon I of the Code of Professional Responsibility by disregarding and failing to apply the specific provisions of the 1994 New Rules of Procedure^[20] (DARAB Rules) in disposing of DARAB Case Nos. X-99-02 and X-99-04 and recommended that respondent be suspended from the practice of law for a period of two (2) months with a warning that a repetition of the same or similar act will be dealt with more severely.^[21]

We agree with the findings of the IBP but hold that the recommended penalty is quite slight for the infractions done by respondent.

This Court cannot delve into the factual or legal questions raised by complainant. We can only rule on its administrative aspect. However, for us to fully dispose of the case, the multiple violations of respondent must be subjected to scrutiny and scorn.

Respondent is not only a lawyer practicing his profession, but also a provincial adjudicator, a public officer tasked with the duty of deciding conflicting claims of the parties. He is part of the quasi-judicial system of our government. Thus, by analogy, the present dispute may be likened to administrative cases of judges whose manner of deciding cases was similarly subject of respective administrative cases.

To hold the judge liable, this Court has time and again ruled that the error must be "so gross and patent as to produce an inference of ignorance or bad faith or that the judge knowingly rendered an unjust decision."^[22] It must be "so grave and on so fundamental a point as to warrant condemnation of the judge as patently ignorant or negligent."^[23] Otherwise, to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that the judge erred, would be nothing short of harassment and that would be intolerable.^[24]

However, it has also been held that when the law violated is elementary, the failure

to know or observe it constitutes gross ignorance of the law. The disregard of established rule of law which amounts to gross ignorance of law makes a judge subject to disciplinary action.^[25]

In *Pesayco v. Layague*,^[26] the Court had the opportunity to declare that:

A judge must be acquainted with legal norms and precepts as well as with procedural rules. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law. . . . Basic rules of procedure must be at the palm of a judge's hands.^[27]

Needless to say, respondent was sorely remiss in his duties as the PARAD of Camiguin in the disposition of cases filed by Madarieta.

He violated Rule VI of the DARAB Rules, to wit:

SECTION 1. Issuance of Summons, Time to Answer and Submission of Evidence. Upon the filing of the complaint or petition, the hour/time, day, month, and year when it was filed shall be stamped thereon. The corresponding summons and notice of hearing to the adverse party, attaching therewith a copy of such complaint or petition, affidavit and documentary evidence if any, shall be served by personal delivery or registered mail to the defendant or respondent within two (2) days therefrom. The summons and notice of hearing shall direct the defendant or respondent to file an answer to the complaint or petition and submit counter affidavit and other documentary evidence, if any, within a non-extendible period of ten (10) days from receipt thereof furnishing a copy to the petitioner or the complainant. The summons shall also specify the date, time and place of the hearing and order the parties and their witnesses to appear at the scheduled date of hearing. The aforementioned affidavits and counter-affidavits of the witnesses shall take the place of their direct testimony. Failure of any party to submit his affidavits or counter affidavits as herein directed will be interpreted by the Adjudicator or Board as a waiver to present evidence or that he has more evidence to submit and the case could be considered submitted for decision.

Clearly, complainant was a party in interest in the two DARAB cases filed by Madarieta as he stood to be adversely affected by the decision of respondent. Yet, he was never summoned in DARAB Case No. X-99-02, which was decided against him just four (4) days after it was filed. Evidently complainant had no reasonable opportunity to be heard before he was divested of the land over which respondent, just a few months earlier, had affirmed complainant's rights thereto.

It would be absurd to accept the reasoning of respondent that since complainant was not impleaded as a party to DARAB Case No. X-99-02, the latter was not entitled to be notified of the hearing and the eventual disposition of the case. The DARAB Rules requires the joinder of all parties-in-interest whether as defendants or respondents. Parties-in-interest are defined as "(a)ll persons who claim an interest

in the dispute or subject matter thereof adverse to complainant or petitioner, or who are necessary to a complete determination or settlement of the issue involved therein."^[28] Complainant, as the holder of title and possession of the property sought to be reconveyed, is ineluctably a party-in-interest.

Respondent should have dismissed Madarieta's petition for failure to implead complainant, the heirs of Arce, and all others who derive title from them.^[29]

Complainant intimates that the *Complaint* was instituted precisely to cure the defect attending the Petition. The Court cannot conclude definitively that this remedial measure was instigated on the suggestion of the respondent. But assuming this were true, respondent's undue haste in granting the *Petition* just four days after it was filed practically obviated whatever curative effect the *Complaint* may have served, since the relief sought in the latter was the same already granted in the former. Whatever proceedings may have transpired in the hearing of the *Complaint*, these were a redundancy, considering that the relief prayed for had already been granted.

Furthermore, as correctly observed by the IBP Commissioner, complainant's urgent motion for reconsideration may very well be considered by respondent as a motion for intervention and yet respondent denied the same.

Remarkably, respondent, nine months prior to his *Order* dated 26 January 1999, has rendered an *Order* dated 3 April 1998 reallocating the land in question from Arce to complainant. Respondent himself had vested complainant with an interest in the lot with all the rights therewith accompanying the order of reallocation. He, therefore, cannot afterwards deny such right or interest from complainant to defend the latter's claim and subsequently cancel OCT No. P-106 unilaterally. In doing so, complainant's possession, if not ownership of the land has been adversely affected.

Complainant has also alleged that he was able to obtain positive action on his petition for reallocation only after paying the respondent One Thousand (P1,000.00) pesos.^[30] He also categorically states that "there was a rumored pay-off between respondent and the Madarieta Family."^[31] Admittedly through, no other evidence was given to corroborate the alleged "pay-off" and his payment of P1,000.00. Thus, we cannot deem these serious allegations as proven. Still, the dubious nature of the decisions is inescapable, and on that basis administrative liability can ensue.

Compounding respondent's liability is the fact that in granting execution pending appeal, he also disregarded Rule XII of the DARAB Rules, which states:

SECTION 2. Execution pending appeal. Any motion for execution of the decision of the Adjudicator pending appeal shall be filed before the Board, and the same may be granted upon showing good reasons under conditions which the Board may require. (Emphasis ours.)

It is unmistakably stated in unequivocal terms that execution pending appeal must be filed before the Adjudication Board. Respondent violated this rule in rendering an order of execution pending appeal when such authority has been given to the Board alone. Even the respondent cited the said provision of the DARAB Rules in his position paper^[32] and yet it seems that he merely dispensed of the rules and