

MALACAÑANG
Manila

ADMINISTRATIVE ORDER NO. 69

IMPOSING UPON FORMER COMMISSIONER RUFINO V. MIJARES OF THE COMMISSION ON THE SETTLEMENT OF LAND PROBLEMS THE PENALTIES OF CANCELLATION OF CIVIL SERVICE ELIGIBILITY AND FORFEITURE OF ALL LEAVE CREDITS AND RETIREMENT BENEFITS, AS WELL AS DISQUALIFICATION FOR RE-EMPLOYMENT AND/OR REINSTATEMENT IN THE GOVERNMENT SERVICE, AS ACCESORY PENALTIES TO DISMISSAL FROM THE SERVICE FOR CAUSE.

This refers to the administrative case initiated by the Department of Justice (DOJ) against Commissioner Rufino V. Mijares, Commission on the Settlement of Land Problems (COSLAP), for grave misconduct, for allegedly receiving marked money in the amount of Thirty Thousand Pesos (P30,000.00) as consideration for assisting a certain Salud Sabado in the expeditious resolution of the latter's ejectment case pending before the Court of Appeals and/or expeditious resolution of her case for annulment of title pending with the COSLAP.

As found by the DOJ, the facts of the case are as follows:

"Ms. Salud Sabado is a respondent in a case for ejectment pending before a Manila Regional Trial Court (RTC). Sometime in 1997 and during the pendency of her case before the Manila RTC, she read a newspaper advertisement claiming that respondent is in a position to help poor people involved in land disputes. When Ms. Sabado approached respondent, the latter advised her to file a countersuit for cancellation of title before the COSLAP. Respondent even referred her to a certain Frederico Aguilar (a non-lawyer) for legal assistance. Notwithstanding respondent's advice, Ms. Sabado lost her case at the Manila RTC. Upon advice of respondent, she subsequently filed an appeal before the Court of Appeals.

When the Appellate Court rendered an adverse decision, Ms. Sabado again sought respondent's guidance on the proper action to take. Respondent intimated to Ms. Sabado that she might have to shell-out a considerable amount for a reconsideration of the Appellate Court's ruling.

With the adverse ruling, Ms. Sabado followed-up the status of her case for cancellation of title pending before the COSLAP which proved futile. In one of her visits, Ms. Sabado chanced upon a fellow client who intimated that the reason why probably she is not being attended to at the COSLAP is her failure to give 'grease money'.

Exasperated and alarmed at the 'cold treatment' she is getting from respondent, Ms. Sabado sought the assistance of Col. Rodolfo Azurin, Jr., of the Traffic Management Group-Special Operation Division (TMG-SOD). A plan was hatched for PO2 Rosalie Santos of the TMG to accompany Ms. Sabado and meet respondent on 10 April 2000 at the COSLAP, in order to establish whether there is sufficient basis to support Ms. Sabado's complaint.

Upon arriving at the COSLAP, Ms. Sabado introduced PO2 Santos as her sister married to a wealthy Japanese, who just arrived from Japan and who is willing to shoulder the expenses relative to Ms. Sabado's land problem. While respondent never demanded any money, respondent nevertheless assured them that he is willing to help and advised them to return on 14 April 2000 for a conference.

Armed with the report of PO2 Santos and another complaint (an affidavit dated 23 March 2000 of a certain Roger Dap-og claiming that respondent demanded P10,000.00 from him for favorable resolution of a case pending with COSLAP) on file with the PAOCTF, Col. Azurin decided to conduct an entrapment operation against respondent.

On her own volition, Ms. Sabado returned to COSLAP in the morning of 12 April 2000 to see respondent. Respondent who then had a previous engagement, requested Ms. Sabado to return that afternoon (4:00 p.m.). Ms. Sabado immediately called up PO2 Santos and subsequently went to the TMG-SOD. She was in turn referred to the Presidential Anti-Organized Crime Task Force (PAOCTF) for the preparation of the P30,000.00 marked money to be used in the entrapment operation.

Ms. Sabado, together with the combined forces of the TMG-SOD and the PAOCTF, went to COSLAP in the afternoon of 12

April 2000. While Ms. Sabado and PO2 Santos were talking with respondent, inside the latter's office, the members of the arresting team strategically positioned themselves within the COSLAP premises.

After sometime, Ms. Sabado came out of the room. Taking it as the sign that respondent accepted the marked money, Maj. Ricardo G. Dandan, leader of the arresting team, Col. Azurin and SPO4 Tito Tuanggang immediately entered respondent's office. After Maj. Dandan shook respondent's hand, the former announced that the latter was under arrest."

The marked money amounting to Thirty Thousand Pesos (P30,000.00) was recovered from the drawer of respondent's table.

Investigation at the PNP Crime Laboratory revealed that respondent was found positive for ultra-violet fluorescent powder on the dorsal side of the middle and ring fingers of his right hand.

In the light of the above incident, respondent was administratively charged with grave misconduct and immediately placed under preventive suspension.

In exculpation, respondent denies the accusation. He avers that:

- a) he was just set-up through the combined efforts of COSLAP employees led by acting COSLAP Commissioners Lina General and Noel Galarosa and COSLAP Hearing Officers Michael Millora and Wilberto Tolitol. He avers that Attys. General, Millora and Tolitol were at Camp Crame in the evening of 12 April 2000 precisely to help Ms. Sabado, et al., in the preparation of their affidavits; and
- b) while he was found positive for ultra-violet fluorescent powder, the same was only found on the dorsal side of the middle and ring fingers of his right hand, thus arguing that he never received the marked money and that the same was merely slapped on his hand or that his hands may have been contaminated when he shook hands with one of the arresting officers who prepared the marked money.

During the investigation, respondent stood firm on his allegation that he was just a victim of a grand conspiracy to oust him from his present position. To corroborate his allegation, respondent presented as witnesses Jessie Vargas

and Rodrigo Magaling who both testified that at around 3:30 p.m. of 12 April 2000, while they were at respondent's office, they saw two (2) women (later identified as Sabado and PO2 Santos) enter the said office and surreptitiously place an envelope inside respondent's desk and hurriedly leave afterwards. A day after, they learned from Atty. Millora, an employee of COSLAP, that respondent was arrested by PAOCTF for allegedly receiving marked money from the said women.

On the other hand, Sabado and PO2 Santos testified that they met respondent at his office in the afternoon of 12 April 2000. They inquired from respondent the exact amount needed to settle the pending case and the latter replied that they would need a substantial amount. Requested to give an approximate amount, respondent opined that they would need Fifty Thousand Pesos (P50,000.00). PO2 Santos informed respondent that she only had Thirty Thousand Pesos (P30,000.00) at that time. Respondent readily agreed to accept the same.

Prior to the giving of the marked money, respondent allegedly ordered the other visitors in his office to immediately leave the room. After the visitors have gone out, PO2 Santos placed the envelope containing the marked money on respondent's desk. The envelope was then placed by respondent inside his desk drawer. Upon seeing this, Sabado excused herself and left the room. At this juncture, the combined PAOCTF and TMG operatives entered the room and arrested respondent.

Prosecution witness Inspector Josephine Clemen of the PNP Crime Laboratory testified that respondent was tested positive of the ultra-violet fluorescent powder, the same material found on the eight (8) pieces of P500.00 bills used in the entrapment operation.

After evaluating the evidence on record, then DOJ Secretary Artemio Tuquero found respondent guilty as charged and recommended his dismissal from the service, reasoning as follows:

"As between the two versions: i.e. Ms. Sabado, et al., and respondent, this Office believes that the former is more credible.

Majority of respondent's evidence and testimony are self-serving and thus deserve scant consideration. His allegation that it may have been Ms. Sabado and PO2 Santos who 'planted' the evidence prior to their meeting is far incredible to believe. In the

supposed corroborative testimony of Mr. Jessie Vargas who allegedly saw PO2 Santos place the envelope containing marked money inside respondent's desk prior to the entrapment, Mr. Vargas described the incident in this wise:

CHAIRMAN:

Noong nakita n'yo yong dalawang babae doon sa loob ng kwarto, meron pa bang ibang tao na nandoon sa kwartong yon?

MR. VARGAS:

Merong po akong katabi doon pero mga tulog sila.

CHAIRMAN:

Mga ilan ang kasama mo doon?

x x x

MR. VARGAS:

Mga apat po kami.

x x x

CHAIRMAN:

Maliban sa kanila? (referring to PO2 Santos and Ms. Sabado)

MR. VARGAS:

Maliban po sa kanila.

CHAIRMAN:

So, anim kayong lahat?

MR. VARGAS:

Opo.

X X X

CHAIRMAN:

Magkagayon pa man, anim kayong nandoodon sa loob ng kwarto. Sa inyong anim ay meron pa ring dalawang tao na naglakas loob na lumapit sa lamesa ni Commissioner Mijares at ilagay doon yong sobre, ganoon ba ang gusto mong palabasin?

MR. VARGAS:

Ganoon nga po.'

(see p. 36-38 of T.S.N. for 13 July 2000 hearing)

Ordinary and normal experience dictates that for one to do an illicit act, such as 'planting evidence', the same should be done as discreetly as possible and out of sight of other people or strangers. Stated differently, if indeed PO2 Santos placed the envelope containing the marked money inside respondent's desk, she should have been careful enough, as an experience police officer, to have done the same surreptitiously.

Respondent tries to place in issue the PNP-Crime Lab findings that even if he was found positive for ultra-violet fluorescent powder, the same was only found on the dorsal side of the middle and ring fingers of his right hand thus arguing that he never received the marked money and that the same was merely slapped on his hand or that his hand may have been contaminated when he shook hands with one of the arresting officers who prepared the marked money. (see p. 27 of T.S. N. for 13 July 2000 hearing).

When asked to explain this apparent discrepancy, Maj. Dandan, leader of the arresting team opined that it was possible that respondent may have wiped his hands prior to the laboratory examination, thus negating the presence of UV powder on his right palm.

In her testimony relative to the nature of the ultra violet fluorescent powder, Police Inspector Josephine Clemen, the forensic chemist who examined respondent after the entrapment, gave the following explanation:

CHAIRMAN:

No(w), in so far the hand is concerned, when you say that it can be transferred, you say that by just wiping your hand and washing. Now supposed I wipe my hand, will there be (any) residue left on my hand or is it a complete transfer?

INSPECTOR CLEMEN:

It depends on the degree how you wash your hand.

CHAIRMAN:

No(t) just wiping(?)

INSPECTOR CLEMEN:

The reaction, Sir, is only physical, when you, let wipe it with some kind of a cotton or wash your hand, there is a possibility that this UV powder will be gone from your hand.

CHAIRMAN:

It will be removed?

INSPECTOR CLEMEN:

Yes, Sir, it will be removed.

CHAIRMAN:

So there is a possibility that it can be removed?

INSPECTOR CLEMEN:

Yes, Sir because the reaction is only physical.

CHAIRMAN:

Physical? So it can be removed through physical means.

INSPECTOR CLEMEN:

Yes, Sir.

CHAIRMAN:

Wiping? Washing?

INSPECTOR CLEMEN:

Yes, Sir.'

(see p. 18-20 of T.S.N. for 04 September 2000 hearing)

From its very nature, we can see that the ultra violet fluorescent powder is not a full-proof means of determining whether a suspect did or did not receive the marked money. Its presence or absence does not, in any way, affect the categorical declaration of Ms. Sabado and PO2 Santos that respondent actually received the marked money.

In his last ditch effort to escape liability, respondent would like to make it appear that the masterminds of the supposed

entrapment were the four ranking COSLAP officials who conspired in trying to oust respondent from office. Such specious argument likewise deserves scant consideration. Except for the speculative argument that Ms. Sabado hails from Naga City, where Atty. General allegedly hails from (which Atty. General has vehemently denied by saying that she is from Masbate), this Office does not find any logical and evidently connection between and among the said officials that would cast doubt on the motive, intention or integrity of the members of the arresting team. Suffice it to say, that respondent has failed to overcome the presumption of regularity in the performance of one's duty, which the law accords to the members of the arresting team.

Moreover, respondent's argument that the COSLAP does not exercise jurisdiction over the case of Ms. Sabado for cancellation of title and as such she should not have expected any positive relief from the COSLAP, only worked to the disadvantage of respondent. Based on Ms. Sabado's testimony, it was respondent who advised her as early as 1997 to file a countersuit for cancellation of title with the COSLAP. As COSLAP Chairman, he should not have counseled Ms. Sabado to file such useless action. His bad faith is further aggravated by the fact that even after the lapse of three years, he still failed to act on Ms. Sabado's useless action. Such inaction serves to support Ms. Sabado's belief that respondent was waiting for 'something' to finally act on the matter.

On the other hand, the testimony of Ms. Sabado, PO2 Santos, Major Dandan, and Col. Azurin, taken as a whole materially dovetails with each other leading to no other conclusion than that respondent actually took the marked money."

In his letter of April 26, 2001, then DOJ Secretary Hernando Perez interposed no objection to the findings and recommendation of his predecessor.

After a careful review of the records of this case, this Office concurs with the above findings and recommendation of the DOJ.

Without doubt, respondent failed to controvert the straightforward and unwavering accusation of Sabado that he demanded money from the latter in exchange for a favorable resolution of her case. It is highly insulting to one's

intelligence to believe that (1) Sabado would give such a huge sum of money to respondent without the latter demanding it; (2) that PO2 Santos, an experienced police officer, would place inside respondent's desk the envelope containing the marked money, in plain view of respondent's visitors; (3) that Attys. General, Galarosa, Millora and Tolitol have all conspired to oust him from his present position and take over his position where neither of them expressed or showed interest in his position; (4) that the PAOCTF operatives would take part in a grand scheme to frame respondent when they are presumed under the law to have acted in the regular performance of their official duty; and (5) that Sabado would concoct a story against the respondent when she has no known penchant for indiscriminately filing suits of whatever nature against any public official. What is evident from the records is that respondent put the squeeze on Sabado to produce money in exchange for a favorable resolution of her case and that the former accepted the marked money given by PO2 Santos.

Among the acts constituting corrupt practices under the Anti-Graft and Corrupt Practices Act (*Republic Act No. 3019, as amended*) is the receiving of any money or benefit by a public officer in connection with any transaction between the government and a private party (Section 3[b]). For a public servant to accept money and other payments from parties he assists in the course of the performance of his duties is inimical to the best interest of the service, as his office would be tainted with suspicion (*Tan vs. Herras, 195 SCRA 1*). It has oft been repeated by this Office that the conduct and behavior of every public official must at all times be characterized with propriety and decorum for they are the epitome of integrity, uprightness and honesty (*Llanes vs. Borja, 192 SCRA 288*). It is patent from this case that respondent did not only use his office to serve his nefarious activities but altogether tainted the integrity of COSLAP to which he owes fealty and the obligation to keep at all times unsullied and worthy of the people's trust. He does not, therefore, deserve to remain in the government service and should accordingly be removed therefrom.

We, however, note that respondent has not reported for work since April 2000 nor informed COSLAP of his whereabouts. Concededly, the imposition upon him of the penalty of dismissal from the service would be plain supererogation or vain superfluity.

Be that as it may, the government is not left without recourse against respondent who should be made to account for his transgression. And the remedy therefore is to impose upon respondent the accessory penalties to dismissal from the service. Under Section 9, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987),

the penalty for dismissal shall carry with it the cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification for reemployment in the government service.

WHEREFORE, and as recommended by the Secretary of Justice, former Commissioner Rufino V. Mijares, Commission on the Settlement of Land Problems, is hereby found guilty of grave misconduct and imposed upon him the accessory penalties of cancellation Civil Service eligibility and forfeiture of all leave credits and retirement benefits, as well as disqualification for reemployment and/or reinstatement in the government service.

Done in the City of Manila this 11th day of April in the year of Our Lord, two thousand and three.

By authority of the President:


ALBERTO G. ROMULO
Executive Secretary