

[ADMINISTRATIVE ORDER NO. 69, April 11, 2003]

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 tatter was under arrest."

The marked money amounting to Thirty Thousand Pesos (P30,000.00) was recovered from the drawer of respondents 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 Talitol. 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 at., and respondent, this Office believes that the former is more credible.

Majority of respondent's evidence and testimony are self-serving and in us 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:

Meron 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 nandodoon 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.