

EN BANC

[A.C. NO. 4018, March 08, 2005]

**OMAR P. ALI, COMPLAINANT, VS. ATTY. MOSIB A. BUBONG,
RESPONDENT.**

D E C I S I O N

PER CURIAM:

This is a verified petition for disbarment^[1] filed against Atty. Mosib Ali Bubong for having been found guilty of grave misconduct while holding the position of Register of Deeds of Marawi City.

It appears that this disbarment proceeding is an off-shoot of the administrative case earlier filed by complainant against respondent. In said case, which was initially investigated by the Land Registration Authority (LRA), complainant charged respondent with illegal exaction; indiscriminate issuance of Transfer Certificate of Title (TCT) No. T-2821 in the names of Lawan Bauduli Datu, Mona Abdullah,^[2] Ambobae Bauduli Datu, Matabae Bauduli Datu, Mooamadali Bauduli Datu, and Amenola Bauduli Datu; and manipulating the criminal complaint filed against Hadji Serad Bauduli Datu and others for violation of the Anti-Squatting Law. It appears from the records that the Baudali Datus are relatives of respondent.^[3]

The initial inquiry by the LRA was resolved in favor of respondent. The investigating officer, Enrique Basa, absolved respondent of all the charges brought against him, thus:

It is crystal clear from the foregoing that complainant not only failed to prove his case but that he has no case at all against respondent Mosib Ali Bubong. Wherefore, premises considered, it is respectfully recommended that the complaint against respondent be dismissed for lack of merit and evidence.^[4]

The case was then forwarded to the Department of Justice for review and in a report dated 08 September 1992, then Secretary of Justice Franklin Drilon exonerated respondent of the charges of illegal exaction and infidelity in the custody of documents. He, however, found respondent guilty of grave misconduct for his imprudent issuance of TCT No. T-2821 and manipulating the criminal case for violation of the Anti-Squatting Law instituted against Hadji Serad Bauduli Datu and the latter's co-accused. As a result of this finding, Secretary Drilon recommended respondent's dismissal from service.

On 26 February 1993, former President Fidel V. Ramos issued Administrative Order No. 41 adopting *in toto* the conclusion reached by Secretary Drilon and ordering respondent's dismissal from government service. Respondent subsequently questioned said administrative order before this Court through a petition for

certiorari, mandamus, and prohibition^[5] claiming that the Office of the President did not have the authority and jurisdiction to remove him from office. He also insisted that respondents^[6] in that petition violated the laws on security of tenure and that respondent Reynaldo V. Maulit, then the administrator of the LRA committed a breach of Civil Service Rules when he abdicated his authority to resolve the administrative complaint against him (herein respondent).

In a Resolution dated 15 September 1994, we dismissed the petition “for failure on the part of petitioner to sufficiently show that public respondent committed grave abuse of discretion in issuing the questioned order.”^[7] Respondent thereafter filed a motion for reconsideration which was denied with finality in our Resolution of 15 November 1994.

On the basis of the outcome of the administrative case, complainant is now before us, seeking the disbarment of respondent. Complainant claims that it has become obvious that respondent had “proven himself unfit to be further entrusted with the duties of an attorney”^[8] and that he poses a “serious threat to the integrity of the legal profession.”^[9]

In his Comment, respondent maintains that there was nothing irregular with his issuance of TCT No. T-2821 in the name of the Bauduli Datus. According to him, both law^[10] and jurisprudence support his stance that it was his ministerial duty, as the Register of Deeds of Marawi City, to act on applications for land registration on the basis only of the documents presented by the applicants. In the case of the Bauduli Datus, nothing in the documents they presented to his office warranted suspicion, hence, he was duty-bound to issue TCT No. T-2821 in their favor.

Respondent also insists that he had nothing to do with the dismissal of criminal complaint for violation of the Anti-Squatting Law allegedly committed by Hadji Serad Abdullah and the latter’s co-defendants. Respondent explains that his participation in said case was a result of the two subpoenas *duces tecum* issued by the investigating prosecutor who required him to produce the various land titles involved in said dispute. He further claims that the dismissal of said criminal case by the Secretary of Justice was based solely on the evidence presented by the parties. Complainant’s allegation, therefore, that he influenced the outcome of the case is totally unjustified.

Through a resolution dated 26 June 1995,^[11] this Court referred this matter to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation. Acting on this resolution, the IBP commenced the investigation of this disbarment suit. On 23 February 1996, Commissioner Victor C. Fernandez issued the following order relative to the transfer of venue of this case. The pertinent portion of this order provides:

ORDER

When this case was called for hearing, both complainant and respondent appeared.

The undersigned Commissioner asked them if they are willing to have the reception of evidence vis-à-vis this case be done in Marawi City, Lanao

del Sur before the president of the local IBP Chapter. Both parties agreed. Accordingly, transmit the records of this case to the Director for Bar Discipline for appropriate action.^[12]

On 30 March 1996, the IBP Board of Governors passed a resolution approving Commissioner Fernandez's recommendation for the transfer of venue of this administrative case and directed the Western Mindanao Region governor to designate the local IBP chapter concerned to conduct the investigation, report, and recommendation.^[13] The IBP Resolution states:

Resolution No. XII-96-153
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RESOLVED TO APPROVE the recommendation of Commissioner Victor C. Fernandez for the Transfer of Venue of the above-entitled case and direct the Western Mindanao Region Governor George C. Jabido to designate the local IBP Chapter concerned to conduct the investigation, report and recommendation.

Pursuant to this resolution, Atty. Benjamin B. Bernardino, Director for Bar Discipline, wrote a letter dated 23 October 1996 addressed to Governor George C. Jabido, President of IBP Cotabato Chapter requesting the latter to receive the evidence in this case and to submit his recommendation and recommendation as directed by the IBP Board of Governors.^[14]

In an undated Report and Recommendation, the IBP Cotabato Chapter^[15] informed the IBP Commission on Bar Discipline (CBD) that the investigating panel^[16] had sent notices to both complainant and respondent for a series of hearings but respondent consistently ignored said notices. The IBP Cotabato Chapter concluded its report by recommending that respondent be suspended from the practice of law for five years.

On 01 July 1998, respondent filed a motion dated 30 June 1998 praying for the transmittal of the records of this case to the Marawi City-Lanao del Sur Chapter of the IBP pursuant to Resolution No. XII-96-153 as well as Commissioner Fernandez's Order dated 23 February 1996.

Commissioner Fernandez thereafter ordered the investigating panel of IBP Cotabato Chapter to comment on respondent's motion.^[17] Complying with this directive, the panel expressed no opposition to respondent's motion for the transmittal of the records of this case to IBP Marawi City.^[18] On 25 September 1998, Commissioner Fernandez ordered the referral of this case to IBP Marawi City for the reception of respondent's evidence.^[19] This order of referral, however, was set aside by the IBP Board of Governors in its Resolution No. XIII-98-268 issued on 4 December 1998. Said resolution provides:

RESOLVED to DENY the ORDER of Commissioner Victor C. Fernandez for the transmittal of the case records of the above-entitled case to Marawi City, rather he is directed to re-evaluate the recommendation submitted by Cotabato Chapter and report the same to the Board of Governors.^[20]

Prior to the issuance of Resolution No. XIII-98-268, respondent filed on 08 October 1998 a motion praying that the recommendation of the IBP Cotabato Chapter be stricken from the records.^[21] Respondent insists that the investigating panel constituted by said IBP chapter did not have the authority to conduct the investigation of this case since IBP Resolution XII-96-153 and Commissioner Fernandez's Order of 23 February 1996 clearly vested IBP Marawi City with the power to investigate this case. Moreover, he claims that he was never notified of any hearing by the investigating panel of IBP Cotabato Chapter thereby depriving him of his right to due process.

Complainant opposed^[22] this motion arguing that respondent is guilty of laches. According to complainant, the report and recommendation submitted by IBP Cotabato Chapter expressly states that respondent was duly notified of the hearings conducted by the investigating panel yet despite these, respondent did nothing to defend himself. He also claims that respondent did not even bother to submit his position paper when he was directed to do so. Further, as respondent is a member of IBP Marawi City Chapter, complainant maintains that the presence of bias in favor of respondent is possible. Finally, complainant contends that to refer the matter to IBP Marawi City would only entail a duplication of the process which had already been completed by IBP Cotabato Chapter.

In an Order dated 15 October 1999,^[23] Commissioner Fernandez directed IBP Cotabato Chapter to submit proofs that notices for the hearings conducted by the investigating panel as well as for the submission of the position paper were duly received by respondent. On 21 February 2000, Atty. Jabido, a member of the IBP Cotabato Chapter investigating panel, furnished Commissioner Fernandez with a copy of the panel's order dated 4 August 1997.^[24] Attached to said order was Registry Receipt No. 3663 issued by the local post office. On the lower portion of the registry receipt was a handwritten notation reading "Atty. Mosib A. Bubong."

On 20 April 2001, Commissioner Fernandez ordered Atty. Pedro S. Castillo, Chairman of the Commission on Bar Discipline for Mindanao, to reevaluate the report and recommendation submitted by IBP Cotabato Chapter. This directive had the approval of the IBP Board of Governors through its Resolution No. XIV-2001-271 issued on 30 June 2001, to wit:

RESOLVED to APPROVE the recommendation of Director Victor C. Fernandez for the Transfer of Venue of the above-entitled case and direct the CBD Mindanao to conduct an investigation, re-evaluation, report and recommendation within sixty (60) days from receipt of notice.^[25]

Meanwhile, Bainar A. Ali, informed the CBD Mindanao of the death of her father, Omar P. Ali, complainant in this case. According to her, her father passed away on 12 June 2002 and that in interest of peace and Islamic brotherhood, she was requesting the withdrawal of this case.^[26]

Subsequently, respondent filed another motion, this time, asking the IBP CBD to direct the chairman of the Commission on Bar Discipline for Mindanao to designate and authorize the IBP Marawi City-Lanao del Sur Chapter to conduct an investigation of this case.^[27] This motion was effectively denied by Atty. Pedro S. Castillo in an Order dated 19 July 2002.^[28] According to Atty. Castillo –

After going over the voluminous records of the case, with special attention made on the report of the IBP Cotabato City Chapter, the Complaint and the Counter-Affidavit of respondent, the undersigned sees no need for any further investigation, to be able to make a re-evaluation and recommendation on the Report of the IBP Chapter of Cotabato City.

WHEREFORE, the Motion to authorize the IBP-Chpater of Marawi City, Zamboanga del Norte is hereby denied. The undersigned will submit his Report to the Commission on Bar Discipline, IBP National Office within ten (10) days from date hereof.

In his Report and Recommendation, Atty. Castillo adopted in toto the findings and conclusion of IBP Cotabato Chapter ratiocinating as follows:

The Complaint for Disbarment is primarily based on the Decision by the Office of the President in Administrative Case No. 41 dated February 26, 1993, wherein herein respondent was found guilty of Grave Misconduct in:

- a) The imprudent issuance of T.C.T. No. T-2821; and,
- b) Manipulating the criminal complaint for violation of the anti-squatting law.

And penalized with dismissal from the service, as Register of Deeds of Marawi City. In the Comment filed by respondent in the instant Adminisitrative Case, his defense is good faith in the issuance of T.C.T. No. T-2821 and a denial of the charge of manipulating the criminal complaint for violation of the anti-squatting law, which by the way, was filed against respondent's relatives. Going over the Decision of the Office of the President in Administrative Case No. 41, the undersigned finds substantial evidence were taken into account and fully explained, before the Decision therein was rendered. In other words, the finding of Grave Misconduct on the part of respondent by the Office of the President was fully supported by evidence and as such carries a very strong weight in considering the professional misconduct of respondent in the present case.

In the light of the foregoing, the undersigned sees no reason for amending or disturbing the Report and Recommendation of the IBP Chapter of South Cotabato.^[29]

In a resolution passed on 19 October 2002, the IBP Board of Governors adopted and approved, with modification, the afore-quoted Report and Recommendation of Atty. Castillo. The modification pertained solely to the period of suspension from the practice of law which should be imposed on respondent – whereas Atty. Castillo concurred in the earlier recommendation of IBP Cotabato Chapter for a five-year suspension, the IBP Board of Governors found a two-year suspension to be proper.

On 17 January 2003, respondent filed a Motion for Reconsideration with the IBP which the latter denied as by that time, the matter had already been endorsed to this Court.^[30]