

## SECOND DIVISION

**[ A.M. No. MTJ-00-1338 (Formerly OCA-IPI No. 99-748-MTJ), January 21, 2004 ]**

**ROGELIO R. RAMOS, COMPLAINANT, VS. JUDGE EUSEBIO M. BAROT, PRESIDING JUDGE, 8<sup>TH</sup> MUNICIPAL CIRCUIT TRIAL COURT, BRANCH 2, APARRI-CALAYAN, CAGAYAN, RESPONDENT.**

### RESOLUTION

**QUISUMBING, J.:**

For resolution is the complaint<sup>[1]</sup> dated March 26, 1999, filed before the Office of the Court Administrator (OCA), charging respondent Judge Eusebio M. Barot, Presiding Judge, 8<sup>th</sup> Municipal Circuit Trial Court of Aparri-Calayan, Cagayan, Branch 2, of (a) violations of the Code of Judicial Conduct and (b) Grave Misconduct.

Attached to the complaint was a supporting joint affidavit,<sup>[2]</sup> executed by complainant Rogelio R. Ramos together with one Dominador C. Ramos, alleging that they are the owners, possessors and cultivators of two parcels of land located in Gabun, Lasam, Cagayan. These parcels are covered by Transfer Certificates of Title Nos. 17902-03. Affiants further claim that they likewise cultivated another parcel of land registered in the name of one Romeo Ramos and covered by Transfer Certificate of Title No. 17904. These three parcels of land, according to complainant, formerly formed part of the Estate of Florencio Barot<sup>[3]</sup> but were later covered by Emancipation Patents issued by the Department of Agrarian Reform (DAR).

According to the complaint, on February 26, 1997, certain individuals entered their rice fields and, without authority, harvested the standing rice crops, upon the unlawful orders of one Atty. Nuelino B. Sanchez and respondent judge. Complainant further averred that respondent judge acted as attorney-in-fact for Florencio Barot (now deceased), who was also a claimant to the aforesaid lots, as per Department of Agrarian Reform Adjudication Board (DARAB) Case No. II-464-CAG.97.<sup>[4]</sup>

The Office of the Court Administrator (OCA) required the respondent to comment on the complaint as per 1<sup>st</sup> Endorsement<sup>[5]</sup> dated August 9, 1999.

In his Comment,<sup>[6]</sup> respondent admitted that he did act as attorney-in-fact for his uncle Florencio A. Barot<sup>[7]</sup> and represented the latter in DARAB Cases Nos. 464, 524 to 542-Cag-1997 for Annulment of Emancipation Patents Nos. A-2000750 to A-2000769, filed by Florencio Barot against Dominador Ramos, among others. In a decision<sup>[8]</sup> dated December 8, 1997, the Regional Adjudicator rendered judgment in favor of Florencio Barot and ordered the cancellation of the Certificates of Land Transfer and the Emancipation Patents issued in favor of Dominador Ramos and his co-defendants therein.

Respondent, however, denied any participation in the alleged unauthorized harvesting of the rice crops claimed by herein complainant. According to respondent, the administrative complaint filed against him was nothing more than a cheap stunt and a fabrication instigated by one Atty. Edgar Orro, who had a grudge against the Barot family. Respondent claimed that the complainant was merely being utilized as a willing tool of Atty. Orro to ruin respondent's reputation.<sup>[9]</sup>

In a resolution<sup>[10]</sup> dated March 5, 2001, we referred the matter to Executive Judge Antonio Laggui of the Regional Trial Court of Aparri, Cagayan for investigation, report and recommendation. The investigating judge required the parties to submit their respective position papers but only the respondent complied.

In his position paper,<sup>[11]</sup> respondent contended that he did not violate Rules 2.01<sup>[12]</sup> and 2.03,<sup>[13]</sup> Canon 2<sup>[14]</sup> of the Code of Judicial Conduct and was not guilty of grave misconduct as the acts imputed to him were not related to or connected with the performance of his official functions and duties as a member of the judiciary. Instead, he said those acts had to do with the proper execution of his responsibilities and obligations as a private individual, *i.e.*, as attorney-in-fact of his late uncle, Florencio Barot. Furthermore, he stated that two cases for theft filed by complainant against him were dismissed by the Regional State Prosecutor of Region 2, and they only served to show his innocence of the acts imputed against him.<sup>[15]</sup>

On September 28, 2001, the investigating judge rendered his report and recommendation,<sup>[16]</sup> which was received by the Office of the Court Administrator on October 10, 2001. Judge Laggui found that respondent had violated Rule 5.06,<sup>[17]</sup> Canon 5 of the Code of Judicial Conduct.<sup>[18]</sup> Judge Laggui held that while it is true that the acts complained of were not related to respondent's judicial functions, it does not follow that a judge cannot be administratively charged for acts of a private character. He recommended that respondent be ordered to pay a fine of P2,000.00, with a warning that a repetition of the same shall be dealt with more severely. However, he exonerated respondent judge of the charge of Grave Misconduct for lack of merit.

On August 8, 2000, the OCA affirmed the findings of Judge Laggui, but recommended that the fine be increased to P3,000.00.<sup>[19]</sup>

The findings and recommendations of the OCA, based on the report of Executive Judge Laggui, are well taken. That respondent violated Rule 5.06, Canon 5 of the Code of Judicial Conduct is patent. Respondent himself admitted that he acted as one of the attorneys-in-fact for his paternal uncle, Florencio Barot, whom he also represented in DARAB Case No. II-464-Cag. 97. In his position paper, respondent likewise admitted that he continues to act as attorney-in-fact for the children of his deceased uncle.<sup>[20]</sup> Pursuant to his authority as such attorney-in-fact, he entered into two compromise agreements relating to the aforesaid DARAB case.

Being and serving as an attorney-in-fact is within the purview of "other fiduciary" as used in Rule 5.06. As a noun, "fiduciary" means "a person holding the character of a trustee, or a character analogous to that of a trustee, in respect to the trust and confidence involved in it and the scrupulous good faith and candor which it