

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

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

Ponente: QUISUMBING, J.

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**QUISUMBING, J.:**

For resolution is the complaint[1] dated March 26, 1999, filed before the Office of the Court Administrator (OCA), charging respondent Judge Eusebio M. Barot, Presiding Judge, 8th 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,[2] 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[3] 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.[4]

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

In his Comment,[6] respondent admitted that he did act as attorney-in-fact for his uncle Florencio A. Barot[7] 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[8] 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.[9]

In a resolution[10] 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,[11] respondent contended that he did not violate Rules 2.01[12] and 2.03,[13] Canon 2[14] 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.[15]

On September 28, 2001, the investigating judge rendered his report and recommendation,[16] which was received by the Office of the Court Administrator on October 10, 2001. Judge Laggui found that respondent had violated Rule 5.06,[17] Canon 5 of the Code of Judicial Conduct.[18] 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.[19]

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.[20] 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 requires." [21] A fiduciary primarily acts for another's benefit, pursuant to his undertaking as such fiduciary, in matters connected with said undertaking. When respondent acted as attorney-in-fact for his uncle, Florencio Barot, he likewise undertook to perform all acts necessary to protect the latter's interests. These would include attending scheduled hearings in the DARAB case, among others, as pointed out by OCA. The possibility of a scheduled hearing for the DARAB case conflicting with his own calendared hearings in his sala is not altogether far-fetched. But far worse is the possibility that respondent's official position and stature might have affected the outcome of the DARAB case.

Respondent gives as an excuse the fact that since he attended only one hearing in the DARAB case, particularly the pre-trial conference, he could not have peddled any influence, either as a member of the Bar or of the Judiciary. However, it goes without saying that a judge holds a position in the community that is looked up to with honor and privilege. For this vantage position, an exacting price is imposed, for judges to comport themselves in a manner beyond suspicion or reproach. A judge's private actuations come under scrutiny as much as his public functions, for the citizenry hardly makes a distinction between them.

The Code of Judicial Conduct lays down the guidelines with respect to fiduciary activities that judges may engage

in. The thin line between what is allowed and what is not allowed is set forth in Rule 5.06, and therein made very specific. As a general rule, judges cannot serve as executor, administrator, trustee, guardian or other fiduciary, except if he acts in a fiduciary capacity for the estate, trust or person of a member of his immediate family. The Code defines "immediate family" as being limited to the spouse and relatives within the second degree of consanguinity. Clearly, respondent's paternal uncle does not fall under "immediate family" as herein defined. Hence, his appointment as attorney-in-fact for his uncle is not a valid exception to the rule. As we have held in *Carual vs. Brusola*:<sup>[22]</sup>

The Code does not qualify the prohibition. The intent of the rule is to limit a judge's involvement in the affairs and interests of private individuals to minimize the risk of conflict with his judicial duties and to allow him to devote his undivided attention to the performance of his official functions.

Needless to say, the Code of Judicial Conduct has the force and effect of law. The Code itself provides that judges are enjoined to strictly comply with its provisions.<sup>[23]</sup> Otherwise, a judge may arrogate upon himself the discretion of determining when he may or may not act in a fiduciary capacity.

In this case, respondent should have been more circumspect in accepting the appointment as an attorney-in-fact for his paternal uncle. A judge is expected to be knowledgeable about current laws and jurisprudence. But more than that, he is also expected to know, in significant detail, the ethical rules that govern judicial conduct, both in public and private affairs. He should know, or should have known, the prohibition embodied in the Code of Judicial Conduct. Respondent's failure to do so shows a lack of diligence to keep himself abreast of the responsibilities of a judge. For this alone, he deserves to be sanctioned.

WHEREFORE, respondent Hon. EUSEBIO M. BAROT, Presiding Judge of the Municipal Circuit Trial Court, Branch 2, Aparri-Calayan, Cagayan is found **LIABLE** for violation of Rule 5.06, Canon 5 of the Code of Judicial Conduct. He is hereby **ORDERED** to pay, as recommended by OCA, a **FINE** of P3,000.00, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely. The charge for **GRAVE MISCONDUCT** is **DISMISSED** for lack of merit.

### **SO ORDERED.**

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

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[1] Rollo, pp. 2-3.

[2] Id. at 4-6.

[3] Barut is spelled as Barot in other parts of the record.

[4] Rollo, pp. 22-25.

[5] Id. at 48.

[6] Id. at 50-52

[7] Spelled as Barot in the Comment. See Rollo, p. 50, not Barut.

[8] Rollo, pp. 53-62; See p. 59.

[9] Id. at 51.

[10] Id. at 73.

[11] Id. at 89-108; See p. 106.

[12] Rule 2.01. - A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

[13] Rule 2.03. - A judge shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

[14] Canon 2 - A judge should avoid impropriety and the appearance of impropriety in all activities.

[15] Rollo, pp. 104-105.

[16] Id. at 76-81.

[17] Rule 5.06. - A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the immediate family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of immediate family" shall be limited to the spouse and relatives within the second degree of consanguinity. As a family fiduciary, a judge shall not:

- (1) serve in proceedings that might come before the court of said judge; or
- (2) act as such contrary to Rules 5.02 to 5.05.

[18] Canon 5 -A judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties.

[19] Rollo, pp. 69-71.

[20] Id. at 92.

[21] BLACK'S LAW DICTIONARY Revised (4<sup>th</sup> Ed.) 753, citing *Svanoe vs. Jurgens*, 144 Ill. 507, 33 N.E. 955.

[22] A.M. No. RTJ-99-1500, 20 October 1999, 317 SCRA 54, 64.

[23] CODE OF JUDICIAL ETHICS. Compliance with the Code of Judicial Conduct. - All judges shall strictly comply with this Code.

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