



RAMON RANDY C. LADAGA,
Complainant,

-versus-

CLARINE P. TOBIAS,
Respondent.

} **IPV Case No. 10-2011-00031**

} **For: Infringement of Copyright**
} **and Damages**

X-----X

NOTICE OF DECISION

TAPALES PRODON & WEE-TOE HIO

Counsel for the Complainant
LG-07 Cityland Tower 1, Dela Costa
Corner Valero Street, Salcedo Village
Makati City

CLARINE P. TOBIAS


Respondent
Memorecall Study Center
Ateneo Avenue, Naga City

GREETINGS:

Please be informed that Decision No. 2013 - 03 dated March 26, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, March 26, 2013.

For the Director:


ATTY. EDWIN DANILO A. DATING
Director III
Bureau of Legal Affairs



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Decision No. 2013- 03

DECISION BASED ON COMPROMISE AGREEMENT

RAMON RANDY C. LADAGA ("Complainant") filed on 27 December 2011 a complaint for Copyright Infringement with Damages against CLARINE P. TOBIAS. The alleged infringement of copyright relates to a college entrance examination reviewer entitled "Brain Train College Admission Test Reviewer" with Complainant as the author under Copyright Certificate of Registration and Deposit No. A 2005-1953 issued on 17 October 2006 by the National Library.

On 09 January 2012, this Bureau issued a Notice requiring Respondent to file her Answer. The Respondent filed her Answer on 09 March 2012.

In compliance to Office Order No. 154, s. 2010 ("*Rules of Procedure for IPO Mediation Proceedings*") and Office Order No. 197, s. 2010 ("*Mechanics for IPO Mediation Settlement Period*"), this Bureau issued on 14 May 2012 the Order of Referral to Mediation.

On 16 October 2012, the ADR Services of this Bureau submitted a Mediator's Report indicating a failure of mediation and thus, is returning the case to the Bureau for further proceedings. On 23 October 2012, a Notice of Preliminary Conference was issued by this Bureau. During the preliminary conference on 17 January 2013, counsels for both parties manifested that they are submitting their Compromise Agreement. They jointly moved to reset the case to 14 March 2013 to await the clearing of the Check Payments and thereafter, both parties will jointly move for the approval of the Compromise Agreement. On 20 March 2013, the parties in open court manifested that they are filing a Joint Motion to Approve Attached Compromise Agreement and moved that a judgment be rendered based on their Compromise Agreement, the pertinent portions of which read, as follows:

"1. Upon the execution of this agreement, the Second Party shall:

- a. Pay and tender to the First Party the total amount of PESOS FOUR HUNDRED THOUSAND and 00/100 (P400,000.00), by way of personal checks (hereinafter collectively referred to as "Check Payments") as follows:

Bank & Check No.	Amount	Due Date
BPI-Family No. 0133162	P200,000.00	January 17, 2013
BPI-Family No. 0133161	200,000.00	February 28, 2013
TOTAL	400,000.00	

- b. The First Party hereby acknowledges receipt in hand of the above-mentioned checks.
- c. The Second Party warrants full and complete payment of the above-enumerated checks upon presentment for payment on their respective due dates.

2. The Second Party confirms and undertakes that she will not create, use, utilize, sell, dispose or distribute, in any manner, the Memorecall Reviewers that are the subject of this Case, or any other review materials or works of the First Party that form part of the records of this Case. The Second Party undertakes to destroy all existing copies of the First Party's Brain Train Reviewer in their possession, if any, in whatever form.

3. Upon the clearance and full payment of the face value of the Check Payments tendered by the Second Party to the First Party, the First Party shall sign, verify and execute a "Motion to Withdraw" the appeal/petition for review filed with the Department of Justice (DOJ) with NPS Docket No. INV-09H-1930, entitled "Ladaga vs. Tobias" (hereinafter "DOJ Case").

3.1. By virtue of this agreement, the Second Party is hereby authorized by the First Party to file the above-mentioned "Motion to Withdraw" with the DOJ praying for the withdrawal, dismissal and termination of the DOJ Case.

3.2. The First Party warrants that whenever necessary, the Second Party he shall execute any and all pleadings and legal papers to withdraw, dismiss or terminate the said DOJ Case, but all costs and expenses that may be incurred therefor, including the filing of such pleadings and papers with the DOJ, shall be exclusively borne by the Second Party.

4. Regardless of the action of the Department of Justice in the DOJ Case, the First Party hereby unconditionally declares that he is voluntarily waiving his right to prosecute the DOJ Case and except to cause the withdrawal, dismissal and termination of the DOJ Case, the First Party will not participate in any manner or capacity in the said DOJ Case.

5. The First and Second Party hereby confirm that by virtue of this agreement, they forever waive, discharge, quit-claim, and release each other from any suit, action, counterclaim or cross-claim, concerning the subject matter of this Case (IPV Case No. 10-2011-00031) and the DOJ Case entitled "Ladaga vs. Tobias (NPS Docket No. INV-09H-1930)."

6. Since the consideration of this Agreement is yet to be fully paid, the parties agree to hold in abeyance the trial of this case and jointly move for the deferment of the proceedings until after the clearance and payment of the full value of the Check Payments. The parties also agree to request for a resetting of the proceedings to March 14, 2013 (after the payment of the full value of the Check Payments). On March 14, 2013,

provided that the Check Payments have been duly cleared and paid by the bank, it shall be the mandatory obligation of the First Party to:

6.1 Bring and submit to the Second Party or his counsel or representative the duly signed "Motion to Withdraw" to be filed in the DOJ Case. Xxx

6.2 Bring and submit to the Second Party or his counsel a duly signed "Joint Motion to Approve this Compromise" and submit the same for the approval of this Honorable Office. Xxx

6.3 In case of the inability by the First Party to comply with any of the above stated obligations on the above-mentioned date, the First Party hereby constitutes and appoints the Second Party as his to Approve Compromise Agreement" in the DOJ Case and in this Case, respectively.

6.4 Notwithstanding the foregoing, upon the payment and clearance of the Check Payments, the First Party hereby voluntarily desists, withdraws, and abandons further prosecution or action in this Case.

7. Upon the approval of this Compromise Agreement, the Case shall be deemed dismissed and terminated."

This Bureau finds that the Agreement has been duly entered into by the parties with the terms and conditions thereof not contrary to law, morals, good custom, public order or public policy.

In this regard, an approved Compromise Agreement shall have the effect of a decision or judgment on the case and shall be enforced in accordance with the pertinent rules of Intellectual Property Office of the Philippines and the Rules of Court. (Sec. 5, Office Order No. 154, s. 2010)

WHEREFORE, premises considered, the parties' COMPROMISE AGREEMENT is hereby APPROVED. Accordingly, the Compromise Agreement having the force and effect of a decision or judgment, the parties are hereby enjoined to comply with the terms and conditions set forth therein.

SO ORDERED.

Taguig City, 26 March 2013.


Atty. NATHANIEL S. AREVALO
Director IV, Bureau of Legal Affairs