

ADMINISTRATIVE ORDER NO. 131

EXONERATING REGISTER OF DEEDS FRANCISCO G. ROMERO OF CALOOCAN CITY AND IMPOSING ON REGISTER OF DEEDS VICENTE N. COLOYAN OF CEBU CITY A FINE EQUIVALENT TO HIS ONE (1) MONTH'S SALARY TO BE DEDUCTED FROM WHATEVER BENEFITS HE MAY RECEIVE FROM THE GOVERNMENT

This refers to Administrative Case No. 87-1 against Registers of Deeds Francisco G. Romero of Caloocan City and Vicente N. Coloyan of Cebu City (now retired) for gross negligence.

The case stemmed from the complaint, dated 2 August 1986, filed by the spouses Primitivo and Rosa Marcelo, charging respondents with gross negligence.

ADMINISTRATIVE CHARGE AGAINST FRANCISCO G. ROMERO

As stated in the show-cause order, dated 9 January 1987, gross negligence was allegedly committed by respondent Romero as follows:

"On 18 November 1980, as then Acting Register of Deeds of Quezon City [respondent Romero] issued TCT No. 273827 in the names of Pelagia P. Ebro and Manuel P. Ebro, Jr. on the basis of 'Deed of Extra Judicial Settlement of the Intestate Estate of the deceased Manuel S. Ebro' executed by Pelagia P. Ebro and Manuel P. Ebro, Jr. on 17 May 1979, in lieu of TCT No. 13278 in the name of Manuel P. Ebro, Jr. Upon verification, it was discovered that the supposed original of TCT No. 13278 on file was not stamped or marked cancelled thereby misleading the succeeding Acting Register of Deeds, Vicente Coloyan, into believing that the said title was still in force and uncanceled xxx."

In his answer, dated 30 January 1987, Romero denied the charge against him and alleged that (a) the original of TCT No. 13278 as well as its owner's duplicate copy were duly stamped "CANCELLED" and attested to by Messrs. Concepcion Pobre, Antonio Vasquez and the Register of Deeds himself, Atty. Samuel Cleofe; (b) even assuming that TCT No. 13278 was not stamped "CANCELLED" its cancellation, under normal condition, is manifest at the back thereof pursuant to the last entry appearing in its memorandum of encumbrances; (c) in this particular case, the page of the original TCT No. 13278 wherein the last annotation signed by him (Romero) appears was detached from the corresponding registration book and could no longer be found; and (d) this was perhaps



2003-06-04

the real reason why then Acting Register of Deeds Vicente Coloyan was misled.

Anent the allegation that TCT No. 13278 is of doubtful authenticity because the title form used was Form 109-D, Romero explained that it was the practice at that time (1950) to utilize Judicial Form No. 109-D whenever the registry ran short of forms for the original copies; that during that period, title forms were not accountable and did not bear serial numbers; and that he recalls having questioned the practice of using said forms but since the previous registers of deeds also admitted various transactions presented to them for registration during the 30-year period of the existence of the title, he found it unnecessary to further take up the issue.

Based on the Investigation Report, dated 19 November 1990, of Hearing Officer Benjamin N. Bustos of the Land Registration Authority (LRA, formerly National Fund Titles and Deeds Registration Administration or NLTDRA), respondent Romero's failure to properly mark or stamp TCT No. 13278 "CANCELLED" created the false impression that it was still in force, thereby misleading his successor in office, respondent Coloyan, into registering the documents affecting the very same title.

Consequently, in his letter to the Secretary of Justice dated 5 May 1991, the LRA Administrator recommended that Romero be found guilty of simple negligence and meted the penalty of fine equivalent to his two (2) months' salary.

After review, the Justice Secretary in his letter dated 7 September 1992, found Romero not liable for negligence, for the following reasons: (a) there is nothing in the record to show that Romero failed to exercise due diligence in the performance of his duties in connection with the cancellation of TCT No. 13278; (b) TCT No. 273827, which cancelled TCT No. 13278, bears the annotation of the extra-judicial settlement that was duly annotated and approved by Atty. Romero and initialled by Land Registration Examiner Adolfo Magallanes and typist Garcia; (c) when the Register of Deeds signed the new title (TCT No. 273827), the presumption was that the old title (TCT No. 13278), were presented already with the annotation of extra-judicial settlement and the word "CANCELLED" stamped on both copies.

After going over the records of the case, I concur with the findings of the Secretary of Justice.

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Romero did not fail to use such care expected of a reasonably prudent man. On the contrary, he had done his duty conformably with the standards established by law. Thus, it would be the height of injustice to attribute or to hold Romero liable for an Act which he had otherwise done with care and prudence.

ADMINISTRATIVE CHARGE AGAINST VICENTE N. COLOYAN

On 17 July 1984, as then Acting Register of Deeds of Quezon City, [Atty. Coloyan] registered a "Notice of Levy upon Real Estate Property" date 16 July 1984, executed by the Deputy Sheriff of Quezon City, enclosing therein a copy of the Writ of Execution also dated 16 July 1984 issued by the Branch Clerk of Court, in connection with the same Civil Case No. Q-40427 entitled Primitivo Marcelo, et al. versus Pelagia Ebro, et al. filed with the RTC of Quezon City Branch 102 and later, or on 25 October 1984 [Atty. Coloyan] also registered the certificate of Sale dated 19 October 1984 issued by the Deputy Sheriff of Quezon City with the same Civil Case No. Q-40427 both affecting Certificate of Title No. 13278 in the name of Manuel B. Ebro. Upon verification, it was discovered that TCT No. 13278 was already cancelled by former Deputy Register of Deeds Francisco Romeo on 18 November 1980 and, in lieu thereof, issued TCT No. 273827 in the names of Pelagia P. Ebro and Manuel P. Ebro, jr. on the basis of the 'Deed of Extra Judicial Settlement of the Intestate Estate of the deceased Manuel S. Ebro' executed by Pelagia P. Ebro and executed by Pelagia P. Ebro and Manuel P. Ebro, Jr. on 17 May 1979.

Coloyan, in his answer, dated 4 February 1987, averred that:

". . . . [A]t the time the notice of levy was annotated under P.E. No. 8997, TCT No. 13278 was free from any annotation that it was already cancelled. As what can be seen from the original copy of TCT No. 13278, the page immediately preceding the annotation of the questioned levy contains the initial of the member of the LRC Inventory Team who inventoried the title on 9 February 1981 as well as the annotation requiring an HSRC Clearance for TCT No. 13278. x x x x

"It is well to state that all titles issued in this Registry prior to February 1981 contain an initial by a member of the LRC Inventory Team at the bottom of the last page of the particular title involved. Now, assuming that the title was cancelled on 18 November 1980 by virtue of the settlement of estate of Manuel Ebro, the initial of the LRC Inventory Team member should have been placed after this last transaction. Thus, in the instant case, there is no way for the undersigned to determine whether the title was already cancelled considering that on its face as well as based on its subsequent annotations there is no indication whatsoever of its actual status. On the other hand, the title appears to be valid and existing. This contention is bolstered by the fact that on 31 August 1984, Mr. Concepcion Pobre, former Acting Deputy Register of Deeds issued a certified true copy of the original TCT No. 13278 which showed that the title was existing and was not yet cancelled as of said date x x x ."

Coloyan's negligence, in the LRA Administrator's opinion, was even more apparent when he allowed the registration on 17 July 1984, of the "Notice of Levy" in Civil Case No. Q-40427 affecting the cancelled TCT No. 13278. According to Administrator Teodoro, had Coloyan maintained a correct recording of all documents registered by him, he could have discovered his earlier registration on 18 November 1983 and 28 May 1984 of the documents with Entry Nos. 4723 and 4820 affecting TCT No. 273827, which was a direct transfer from TCT No. 13278.

The LRA Administrator recommended that Coloyan be found guilty of gross negligence and fined in an amount equivalent to three (3) months' salary, with a warning that repetition of the same or similar violation will be dealt with severely.

The Justice Secretary observed:

"On the other hand, respondent Coloyan's sole defense is that at the time the notice of levy was annotated under P.E. 8997 (on 17 July 1984), TCT 13278 was free from any annotation that it was already cancelled. (Record p. 139); He stresses that the member of the LRC Inventory Team who inventoried the title on 9 February 1981 placed his initials on the page immediately preceding the annotation indicating that as of that date,

the title was valid and existing; That from these circumstances, respondent Coloyan concludes that 'somebody' affixed the word "**cancelled**" on the face of TCT 13278 only after the Notice of Levy and the Certificate of Sale were annotated therein (i.e. after 17 July 1984), and that the additional sheet which was supposed to contain the annotation of the cancellation of title was detached inadvertently before 9 February 1981 x x x " (Underscoring supplied).

"Respondent Coloyan, as head of the Registry, has the duty and responsibility of ensuring that public documents in his custody are safe. If indeed 'somebody' did tamper with TCT 13278 without his knowledge, it is his duty to investigate the circumstances surrounding the tampering of the titles and find out the person/s responsible therefor. His admission that somebody affixed the word 'cancelled' on the face of TCT No. 13278 after 17 July 1984 and his failure to undertake the necessary steps to find out how it was effected and who carried it out, which duty was incumbent upon him, makes him liable. Regardless therefore of the truth of his allegation, he cannot escape liability for his negligence."

Coloyan allowed the registration of the Notice of Levy and the Certificate of Sale both issued in connection with said Civil Case No. Q-40427 on the cancelled TCT No. 13278 without prior verification. As Register of Deeds, it was incumbent upon him to keep a correct recording of all the documents registered by him.

The Secretary of Justice recommends that Coloyan be found guilty and fined in an amount equivalent to his four (4) months' salary pursuant to Civil Service Commission Memorandum Circular No. 8, Series of 1970, which was then in force when the acts in question were committed.

However, I find Coloyan's act amounting only to simple negligence. The fine should thus be reduced accordingly.

WHEREFORE, respondent Francisco Romero is hereby exonerated of the charge of Gross negligence, respondent Vicente N. Coloyan (now retired) is hereby found **GUILTY** of simple negligence and **FINED** in an amount equivalent to his one (1) month's salary to be deducted from whatever benefits

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he may receive from the government.

DONE in the City of Manila, Philippines, this day 30th of May in the year of Our Lord Nineteen Hundred and Ninety-Four.

By the President:



TEOFISTO T. GUINGONA, JR.
Executive Secretary

