[ADMINISTRATIVE ORDER NO. 115, April 14, 2000]

IMPOSING THE PENALTY OF DISMISSAL ON SAMUEL C. CLEOFE, FORMER REGISTER OF DEEDS, QUEZON CITY

This refers to the administrative complaint filed by Mr. Crisologo Magaso against Samuel C. Cleofe and Antonio A. Vasquez, former Register of Deeds and Deputy Register of Deeds of Quezon City, respectively, for, among others, violation of pertinent rules and regulations governing land titling by conspiring in extending extraordinary accommodation to a certain Edgar Timbol thru the hasty, irregular and illegal issuance/release of Transfer Certificate of Title (TCT) No. N-185088 in the latter's name.

After a formal investigation, Land Registration Authority (LRA) Administrator Alfredo Enriquez found respondents guilty of grave misconduct and recommended the penalty of dismissal, with forfeiture of benefits, based on the Report of Hearing Officer Atty. Gener C. Endoma dated October 8, 1998. However, respondent Vasquez not being a Presidential appointee, he is removed from the scope of the disciplining authority of this Office.

Upon review, the Secretary of Justice, recommended that: "respondent Samuel C. Cleofe, Register of Deeds of Quezon City, be found guilty of Grave Misconduct and that the penalty of dismissal from the service be imposed against him", stating in his letter-report dated March 19, 1999, as follows:

> "On 24 April 1997, Edgar Timbol presented for registration a Deed of Absolute Sale dated 10 June 1996 executed by Lucia Zayas in his favor, covering Lot 5-A of the subdivision plan (LRC) Psd-63040 with an area of 4,737 square meters situated at Bahay Toro, Tandang Sora, Quezon City, accompanied by the following documents:
>
> 1. Xerox Copy of TCT No. 259059 in the name of Lucia V. Zayas;
> 2. Tax Declaration No. C-011-09386 in the name of Lucia V. Zayas;
> 3. Capital Gains Tax Return/Application for Certificate Authorizing Registration;
> 4. Certificate Authorizing Registration No. 9388643 B;
> 5. Authority to Accept Payment; and
> 6. Official Receipt No. 0085987.

The said land has been the subject of three (3) separate petitions for reconstitution of titles filed with the LRA Reconstitution Division, to wit:

1. Petition No. 6691 dated 20 January 1994 filed by Abelardo Garcia as Attorney-in-fact of spouses Daniel Casabar and Rufina Reyes for reconstitution of TCT No. 258660;

2. Petition No. 6691 dated 22 February 1994 filed by Lucia V. Zayas for the reconstitution of TCT No. 259059, which was accompanied by a Deed of Absolute Sale dated 24 July 1979 where the supposed signatures of spouses Casabar and Reyes appear as vendors in favor of Lucia V. Zayas as vendee;
3. Petition No. 7194 dated 1 August 1994 filed by complainant Crisologo Magaso for the reconstitution of TCT 258660, which was accompanied by a Deed of Absolute Sale dated 21 January 1980 where the signatures of spouses Casabar and Reyes appear as vendors in favor of Magaso and Salvacion Rafanan as vendees. This was however withdrawn by Magaso on 27 December 1994.

Spouses Casabar and Reyes denied having sold the subject land to either Zayas or Magaso in two separate Joint Affidavits both dated 16 January 1997.

The Land Registration Authority denied the petitions for reconstitution of TCT No. 258660 and TCT No. 259059 based on the existence of the two (2) titles covering the same land until the issue is settled by the claimants.

On the same date (24 April 1997) at 2:20 p.m., respondents provisionally registered the Deed of Sale by annotating the same under Entry No. 4073/T-259050-PR-43569 of TCT No. 259059 with a notation "title to be issued upon the reconstitution of the original title."

On 21 November 1997, Mr. Timbol personally presented Administrative Order for Reconstitution of TCT No. 259059, together with the accomplished but unattested reconstituted original and reconstituted owner's duplicate of TCT No. 259059. On the basis thereof, respondents prepared TCT No. 185088, using Judicial Form 109 with Serial No. 5001765.

In the Report Consumption of Judicial Form 109 and 109-D for the month of November 1997, Serial No. 5001765 was reported as 'Used.' Later, however, in the Report Consumption for the month of March 1998, the same form was reported as "Spoiled."

According to respondents, they withheld the issuance of the said title which was only partially accomplished since 'the hand-carrying of the reconstitution order and reconstituted titles by the very person in interest which has never been done before and extremely dangerous for such sensitive documents, incited some doubts in the minds of the Registry officers.' Hence, respondents asked Mr. Timbol to get a certificate of finality for the reconstitution of TCT No. 259059 from the Reconstitution Division of the LRA. In utter dismay, Mr. Timbol allegedly withdrew the documents that were presented on the pretext that he would need the same in securing the required certificate. When the latter failed to return, respondents marked the partially accomplished title (TCT No. 185088) as 'Spoiled' which was reflected in its March 1997 Consumption Report. Allegedly, the same was not reported earlier since the title had been misfiled by the Records Officer.

On the other hand, complainant avers that TCT No. 185088 was in fact signed, issued and released to Mr. Timbol. According to complainant, the misfiling of the spoiled form by the Records Officer is unworthy of belief. As a matter of fact, Mr. Timbol allegedly used the title in obtaining a tax declaration of the property in his name from the Assessor's Office of Quezon City and in a pleading he filed with the Quezon City Regional Trial Court.

The principal issues to be resolved in this case are (1) whether or not there was an irregularity in the provisional registration made by respondents; and (2) whether or not TCT No. 185088 was in fact issued/released to Mr. Timbol.

There is no dispute that the documents presented together with the Deed of Sale for provisional registration were those enumerated earlier which did not include proof that an application or petition has been filed for the reconstitution of the certificate of title subject of the transaction required under LRA Circular No. 3 dated 6 December 1988. As correctly observed by the LRA in its recommendation, on that 'ground alone, provisional registration of the instrument should have been denied at once.'

While we agree that Registers of Deeds need not go beyond the face of the instrument in determining its authenticity and, therefore, respondents are not expected to have detected upon presentation that the Deed of Sale was not notarized by a commissioned Notary Public; yet, an experienced and careful examiner could have easily detected that the Authority to Accept Payment and Certificate Authorizing Registration presented in this case were falsified. Comparison of these documents with the original of which they should be familiar would show that –

1. the texture of the papers of the aforementioned documents presented in this case is different from the original which is smoother;
2. the black mark opposite the serial number of the Authority to Accept payment in this case does not leave a tracing mark on the skin which ought to be the case if the same were genuine;
3. the seal of the BIR in this case is bland pink which should be reddish-pink if it were original; and
4. the dorsal portion for Machine Validation of payment in the Authority to Accept Payment in this case does not produce a carbon for immediate reproduction and impression of the entries therein in the duplicate and triplicate copies, as in the case of the original.

Records also show that there are actually two sets of xerox copies of certificates of title on file with the Registry. All the provisional registrations/annotations on both titles were signed by respondent Cleofe. TCT Nos. 259059 in the name of Lucia V. Zayas with the provisional registration of the following transactions:

1. Entry No. 4073 – Sale executed by Lucia V. Zayas in favor of Edgar M. Timbol dated 10 June 1996, inscribed on 24 April 1997;
2. PE-6794 – Notice of Lis Pendens, Civil Case No. Q-97-30263, inscribed on 9 June 1997;