

**[ ADMINISTRATIVE ORDER NO. 84, August 28, 1999 ]**

**IMPOSING THE PENALTY OF SIX (6) MONTHS SUSPENSION WITHOUT PAY ON EUGENIO E. UNICA, REGISTER OF DEEDS OF ANTIQUE**

This is an administrative case against Atty. Eugenio E. Unica, Register of Deeds of Antique, for Grave Misconduct.

The case stemmed from the reconstitution of Transfer Certificate of Title (TCT) No. 1057, now TCT No. (1057) RT-738, in the name of Ireneo Grafil and Salvacion Escarlan.

The complaint against respondent states:

"On November 26, 1975, you made it appear that you *motu proprio* reconstituted administratively, pursuant to Sec. 1 of R.A. No. 26, the original of TCT No. 1057 in the name of Ireneo Grafil and Salvacion Escarlan, for which you issued TCT (1057) RT-738 in lieu of the lost original. There appears, however, no petition or deed or other voluntary instrument presented in the registry which necessitated the reconstitution of the said title on said date or earlier, in violation of the provisions of GLRO Circular No. 17, which clearly provides:

x x x    x x x    x x x

"Further verification disclosed that on September 15, 1986 you canceled TCT No. (1057) RT-738 and issued, in lieu thereof, TCT No. T-16463 in the name of Ireneo, Baltazar, Lolita and Milagros, all surnamed Grafil, on the basis of a deed of 'Extra Judicial Settlement and Sale' executed by the Heirs of Salvacion Escarlan on May 16, 1986, which apparently was presented by you as shown by your initials 'E.E.U.' opposite Entry No. 16715 of Primary Entry Book 496; and subsequently, on November 13, 1986, on the basis of the same document, you issued TCT No. T-16504 in the name of Spouses Agustin Tambanillos and Leonora Tesorero.

"It is therefore clear from the foregoing that you caused the reconstitution of the original of TCT No. 1057 not on November 26, 1975 but only on September 15, 1986 when the deed of Extra Judicial Settlement and Sale was presented for registration, in violation of the provisions of R.A. No. 26, as amended by Sec. 110 of P.D. No. 1529."

Formal investigation disclosed that TCT No. 1057 covering a parcel of land located at San Jose, Antique, was issued in the name of spouses Ireneo Grafil and Salvador Escarlan. The latter died intestate in 1947, but the Grafil heirs did not divide the property until May 26, 1986 when they executed an Extrajudicial Settlement and Sale in favor of spouses Agustin Tambanillos and Leonora Tesorero.

In the meantime, on November 26, 1975, Mr. Benedicto Moscoso, Jr., requested the registration of the two (2) deeds of sale affecting the parcel of land covered by TCT 1057 executed by Felipe Moscoso and Teofisto Moscoso in favor of Benedicto Moscoso. Respondent directed his vaultkeeper to check if the original of TCT 1057 was on file (the registry having been gutted by fire in 1957). When he was informed that it was not, respondent instructed his clerk to reconstitute the original of the said title. The registration of the deeds showing the transfer of the land from the registered owners (Ireneo Grafil and Salvacion Escarlan) in favor of Felipe Moscoso and Teofisto Moscoso was not presented.

On 15 September 1986, spouses Agustin Tambanillos and Leonora Tesorero personally appeared before respondent and presented the Extrajudicial Settlement and Sale executed by the Grafil heirs in their favor, together with the supporting documents. Having found the same to be complete and in order, respondent cancelled TCT No. (1057) RT-738 and issued TCT No. 16463 in the name of the Grafil heirs and, thereafter, issued TCT 16504 in the name of Agustin Tambanillos and Leonora Tesorero after registering the same.

In a report dated December 21, 1987, to the Secretary of Justice, Administrator Teodoro G. Bonifacio of the then National Land Titles and Deeds Registration Administration (NLTDRA) recommended that respondent Unica be found guilty of grave misconduct.

In his evaluation of the case, however, then Acting Secretary Eduardo G. Montenegro of Justice found respondent guilty merely of neglect of duty, and, as a penalty, recommended his suspension from office for six (6) months without pay, with the following comments:

"The issue is whether or not respondent's reconstitution of TCT No. 1057 and the subsequent issuance of the reconstituted title constitute grave misconduct.

"The following provisions of Republic Act No. 26 are decisive of the issue:

"Section 5. Petitions for reconstitution from sources enumerated in sections 2(a), 2(b), 3(b), and 1 or 4 (a) of this Act may be filed with the Register of Deeds concerned by the registered owner, his assigns or, other person having an interest in the property. The petition shall be accompanied with the necessary sources for reconstitution and with an affidavit of the registered owner stating, among other things, that no deed or other instrument affecting the property had been presented for registration, or if there be any, the nature thereof, the date of its presentations, as well as the names of the parties, and whether the registration of such deed or instrument is still pending accomplishment, xxx.

"Section 6. The Register of Deeds may *motu proprio* reconstitute a certificate of title from its corresponding owner's duplicate, and, for this purpose may compel the registered owner, or any holding such owner's duplicate to surrender the same to the registry of deeds. After the reconstitution, said owner's duplicate shall be returned to the persons concerned.