

[ADMINISTRATIVE ORDER NO. 106, January 18, 1994]

IMPOSING ON DIMATIMPOS MINDALANO, FORMER REGISTER OF DEEDS OF LANAO DEL SUR, A FINE EQUIVALENT TO HIS SEVEN (7) MONTHS SALARY TO BE DEDUCTED FROM WHATEVER RETIREMENT AND OTHER BENEFITS HE MAY RECEIVE FROM THE GOVERNMENT

This is an administrative case against Atty. Dimatimpos Mindalano, former Register of Deeds of Lanao del Sur, for gross neglect of duty.

In the evening of August 16, 1985, burglars entered the Registry of Deeds, Marawi City, resulting in the loss of the registry's collection in the amount of P31,844.50, which the collecting clerk, Subosubo Malawi, failed to remit to the local branch of the Philippine National Bank.

As an offshoot of the above incident, the Administrator of the National Land Titles and Deeds Registration Administration (NLTDRA) charged Mindalano with gross neglect of duty. The charge sheet reads as follows:

"On 1 August 1984, upon your assumption as Acting Register of Deeds of Marawi City, the Office of City Auditor conducted an audit examination of the cash and account of the Registry and the unremitted amount of P21,065.25 was discovered in the possession of Subosubo Malawi, the designated collecting clerk. In addition to this amount, Malawi had also in his possession the amount of P15,366.25 representing registry collection for the period of 1 August 1984 to 16 August 1985.

"Malawi did not remit or deposit all his registry collections, as required by Joint Circular No. 1-81 dated 1 January 1981 of COA and Department of Finance, except on 17 October 1984, in the amount of P1,486.50; and on 20 January 1985, in the amount of P3,100.50, resulting in their loss.

"Section 104 of P.D. 1445, otherwise known as the Government Auditing Code of the Philippines, provides:

'Section 104. Records and reports required by primarily responsible officers. The head of any agency or instrumentality of the National Government. . . shall exercise the diligence of a good father of a family in supervising accountable officer under his control to prevent the incurrence of loss of government funds or property, otherwise he shall be accountable therefor.'

"In view thereof, you are hereby charged with, and directed to show cause in writing and under oath within seventy-two (72) hours from receipt hereof why no administrative disciplinary action should be taken

against you for Gross Neglect of Duty for your failure to exercise supervision in safeguarding registry collections as mandated by the existing regulations, particularly Section 104 of P.D. 1445.”

Forthwith, respondent filed his answer. During the investigation of the case, respondent opted to submit a memorandum and, thereafter, submitted the case for resolution based on the records.

In his report of May 2, 1991, the Investigator designate recommended, with the concurrence of the NLTDR Administrator, that respondent be adjudged guilty of the charge, observing that:

- a. the unremitted collection of Malawi was brought to respondent’s attention upon his assumption of duties as Acting Register of Deeds of Marawi City, but the latter did not exercise the required diligence necessary to ensure the timely and regular remittance of registry collections as required under Section 104, Presidential Decree (PD) No. 1445; and
- b. the loss of the unremitted amount when the registry office was burglarized on August 16, 1985, could have been averted had respondent been vigilant as supervisor of the collecting clerk.

Then Acting Justice Secretary Eduardo Q. Montenegro, in his letter-report of May 6, 1992, stated:

“Respondent Mindalano denied the charge in his Answer dated 15 September 1988 wherein he alleged, among others, that on the same day (1 August 1984) he came to know of the unremitted amount he immediately issued a memorandum order to the collecting clerk to remit immediately without delay the amount of P21,065.25. One week thereafter he issued another memorandum again requiring Mr. Malawi to remit the said amount. Allegedly, thereafter, a series of memoranda were issued by him directing Mr. Malawi to remit collections in his possession.

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We find the allegations of respondent not credible.

He could have issued, as he claims, a memorandum on the very same day he assumed his duties as Acting Register of Deeds of Marawi City since (1) his first memo appears to have been issued on 3 September 1984. Said memo begins with ‘[h]aving assumed office as City Register of Deeds x x x’, and (2) the memorandum dated 1 August 1985 could not have been 1 August 1984 as claimed by respondent – since the said memo states ‘[i]n the interest of the public service, you are again reminded of your duties as Cash Clerk.’ If this were his first memo, then he would not remind Mr. Malawi again of his duties. The words of the memoranda apparently do not jibe with the allegations in his Answer dated 15 September 1988 that:

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It appears that respondent issued his first memorandum dated 3 September 1984 to Mr. Malawi more than one month after he assumed