

[ADMINISTRATIVE ORDER NO. 131, May 30, 1994]

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 Register 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 Mssrs. 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 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 very same title.

Consequently, in his letter to the Secretary of Justice dated 5 May 1991, the LRA administrator recommend that Romero be found guilty of simple negligence and meted the penalty of fine equivalent to his two 920 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.

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, 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