

[ADMINISTRATIVE ORDER NO. 484, May 28, 1984]

**SUSPENDING ATTY. ROBUSTIANO B. PADAYHAG FROM OFFICE
AS REGISTER OF DEEDS OF ILIGAN CITY FOR TWO (2) MONTHS
WITHOUT PAY**

This is an administrative case filed by the Land Registration Commission (now National Land Titles and Deeds Registration Administration) against Register of Deeds Robustiano Padayhag of Iligan City for alleged grave misconduct/dishonesty and violation of reasonable office regulations. The charges were investigated by Atty. Benjamin A. Flestado of the Inspection and Investigation Division, said Commission, pursuant to the Assignment Order, dated July 2, 1981, of the Acting Land Registration Commissioner.

The case was the offshoot of the letter of the Acting Chairman on Audit, dated October 23, 1980, to the Commissioner of Land Registration recommending that respondent Robustiano Padayhag be relieved of his duties as Register of Deeds of Iligan City and that administrative action be taken against respondent pursuant to Presidential Decree (P.D.) No. 807. In the same communication, the Acting Chairman on Audit likewise urged the relief of and the filing of appropriate charges against Mrs. Marietta Mijares, Senior Clerk in the same Registry.

It appears that in recommending the taking of the above measures, the Acting Chairman on Audit was prompted by the Report of Examination, dated October 11, 1980, of the Officer-in-Charge, City Auditor's Office, Iligan City, showing that respondent had incurred a shortage of P109,959.83 following the audit of his cash and accounts for the period from March 1, 1979 to August 7, 1980. In addition to the cash shortage, the following irregularities in the office of the Iligan City Registry of Deeds were unearthed by the audit team: (1) collections were not remitted regularly; (2) transactions were not recorded daily in the Cashbook; (3) collections were not posted daily in the records of collections; (4) records of collections and remittances were not being submitted regularly; (5) official receipts were not properly issued for collections and in numerical sequence; (6) respondent did not reconcile his cashbook balance with cash at the close of the day; (7) cashbook was not certified by respondent; (8) respondent had no close supervision over his Senior Cash Clerk; and (9) respondent did not report to office regularly.

In his answer, dated December 12, 1980, respondent vehemently denied the charges against him and manifested that he was electing a formal investigation. By way of explanation, respondent averred that (a) it was the Senior Cash Clerk of the Registry, Antonietta Gimena, who was discharging the cash and collection duties of the Registry since 1977, in compliance with the Iligan City Auditor's directive, dated August 8, 1976; (b) it was also the Senior Cash Clerk who performed during the said period such allied duties as remittances, recording of daily transactions and reconciliation of cash book balances with actual cash pursuant to the Iligan City

Auditor's directive, dated August 30, 1976; (c) the submission of reports to the regional auditor was the duty of the City Auditor to whom the Registry's records of collection were regularly submitted; and (d) due to lack of official receipt forms, he had to issue provisional receipts with the consent of the transacting public, which receipts were replaced as soon as the regular receipts were available.

During the formal investigation of the case, Mr. Honorio Pablico, Assistant Auditor of Iligan City, testified that on August 7, 1980, he conducted an audit examination of the cash and accounts of the Register of Deeds of Iligan City wherein he discovered a cash shortage of P119,329.83, later reduced to P109,959.83. Said witness further declared that although the Registry had no Collecting Clerk but only a Senior Cash Clerk in the person of Marietta Mijares who performed the duties of collecting clerk, respondent Register of Deeds remained as the accountable officer under Section 102 of P.D. No. 1445 to whom the former was directly responsible.

Antonietta Gimena, Special Deputy Register of Deeds of Iligan City, also testified that she was the Senior Cash Clerk of the Registry from 1977 to February 1978, but she turned over the responsibilities of collecting clerk to Marietta Mijares on March 1, 1978, after the latter's appointment as Senior Cash Clerk. She affirmed that respondent had nothing to do with the registry collections and that Marietta Mijares was the collecting officer during the period of audit examination from March 1, 1979, to August 7, 1980.

For her part, Marietta Mijares declared that she became Registry Senior Cash Clerk in March 1978, and was such during the audit period from March 1, 1979, to August 7, 1980. Moreover, she stated that she went on leave of absence sometime in July or August 1979 and reported back for work in October 1979. She claimed, however, that from October 1979 to July 23, 1980, she never handled registry collections.

Respondent reiterated his explanations as contained in his letter-answer, dated December 12, 1980. Respondent laid particular emphasis on the twin directives of the City Auditor of Iligan City, dated August 8 and 30, 1976, directing the turnover of all collections to the Registry's Senior Cash Clerk, Antonietta Gimena, and ordering respondent to designate her to collect and remit daily the collections of the Registry, respectively. The two directives were carried out in the memorandum of Commissioner Gregorio Bilog, Jr., of the Land Registration Commission, dated March 23, 1977, decreeing the relief of respondent as collecting officer and his replacement by Gimena. However, Gimena was subsequently promoted to the position of Special Deputy Register of Deeds and thus it was Marietta Mijares who acted as Registry Collecting Officer during the period of audit in question. Hence, respondent maintained that it was Mijares who actually had custody of and was responsible for the missing funds.

Based on the testimonial and documentary evidences presented, the investigating officer found no sufficient evidence to sustain the charge of grave misconduct against respondent. However, for failure to exercise close and proper supervision over his Senior Cash Clerk, Marietta Mijares, respondent was adjudged guilty of negligence in the performance of his duties. Accordingly, the investigating officer recommended that respondent be suspended for one (1) month without pay.

The Land Registration Commissioner concurs with the above findings and recommendation, but the Minister of Justice disagrees as to the proposed penalty