

[ADMINISTRATIVE ORDER NO. 147, October 27, 1968]

REMOVING MR. BENJAMIN M. REYES FROM OFFICE AS REGISTER OF DEEDS OF QUEZON CITY

This is an administrative proceeding instituted by the Secretary of Justice against Mr. Benjamin M. Reyes, Register of Deeds of Quezon City, for (a) dereliction of duty, (b) violation of reasonable office regulations, and (c) negligence in the performance of his duties, arising from the latter's administrative reconstitution of an alleged Original Certificate of Title No. 632 of the Registry of Property for the Province of Rizal, originally issued in the name of Eulalio Ragua casado con Rafaela Mercado, as registered owner, and his subsequent registration of documents pertaining to the property registered under it.

Respondent's basis for reconstituting OCT No. 632 was a letter dated January 28, 1965, of one J. Sulpicio R. Alix, who claimed to be part owner of the property covered by the certificate of title to the extent of 248 hectares pursuant to a Deed of Sale dated December 14, 1963, executed by Eulalio Ragua himself. Together with the Owner's Duplicate Certificate of Title, applicant Alix also submitted an affidavit dated January 15, 1965, wherein he declared that he had bought from Eulalio Ragua a portion of the property covered by OCT No. 632; that he had been in possession of OCT No. 632 since December 14, 1963 when it was surrendered to him by the vendor; and that he had no knowledge of any instrument presented or pending registration before the Register of Deeds of Rizal or Quezon City affecting the aforesaid property. Since the applicant J. Sulpicio R. Alix was vendee of a substantial portion of the land covered by the title, the respondent explained, Alix was, for the purpose of Section 5 of Republic Act 26 and the implementing regulations of the General Land Registration Office, now the Land Registration Commission, an assignee of the registered owner, or a person having an interest in the property legally qualified to apply for administrative reconstitution of the original certificate of title. He alleged, further, that before he acted on the application, he checked with the records of his Office and found no deed registered or pending registration affecting the property covered by OCT No. 632. The record shows that the petition for administrative reconstitution was presented to the respondent on January 29, 1965 and was approved on February 1, 1965.

Section 5 of Republic Act 26 entitled "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed" provides inter alia that –

"Petitions for reconstitution x x x may be filed x x x by the registered owner, his assigns, or other persons having an interest in the property. The petition shall be accompanied x x x 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 presentation as well as the names of the parties, and whether the registration of such deed or instrument is still pending accomplishment, x x x." (Underscoring supplied.)

Regulation No. 5 of the implementing GLRO Circular No. 17, dated February 19, 1947, directs that –

"The Register of Deeds shall not entertain any petition for administrative reconstitution, unless the same is accompanied with x x x an affidavit of the registered owner stating among other things that no deed or other instrument affecting the property had been previously presented for registration. x x x." (Underscoring supplied.)

OCT No. 632, on its face, names Eulalio Ragua casado con Rafaela Mercado as registered owner of the property covered thereby. Section 5 of Republic Act 26 expressly directs that petitions for administrative reconstitution of lost or destroyed certificates of title shall be accompanied with an affidavit of the registered owner, while Rule No. 5 of GLRO Circular No. 17, in more peremptory language, commands Registers of Deeds not to entertain any petition for administrative reconstitution unless accompanied with the required affidavit of the registered owner. These legal mandates notwithstanding, the respondent administratively reconstituted OCT No. 632 without the affidavit of Eulalio Ragua, the registered owner.

Rule No. 8 of said GLRO Circular No. 17 also requires that before proceeding with the reconstitution, the Register of Deeds must "ascertain from his records and from the papers presented to him that the certificate of title to be reconstituted was in force at the time of its loss or destruction," and "deny the request for the reconstitution" if he finds that the certificate of title "had already been cancelled before it was lost or destroyed." Prior to the establishment of the Registry of Deeds for Quezon City, wall certificates of title and documents pertaining to real properties located in Quezon City were kept in the Registry of Deeds at Pasig, Rizal. Knowing this fact and to put up a semblance of compliance with said Rule No. 8 of GLRO Circular No. 17, the respondent wrote the Register of Deeds of Rizal on February 1, 1965 and asked "whether the original copy of Original Certificate of Title No. 632 of the record of your office, is available there at." The innocent query drew from the Register of Deeds of Rizal on the same day the matter-of-fact reply that "Original Certificate of Title No. 632 is missing from the Registration Book No. A-7-A of this Registry." Had the respondent been more precise in his letter of inquiry by stating that a petition for administrative reconstitution of OCT No. 632 was pending before him, and inquiring whether the certificate of title to be reconstituted "was in force at the time of its loss or destruction" in view of Rule 8 of GLRO Circular No. 17, he would have elicited the complete and relevant information that said OCT No. 632 had long been cancelled on August 10, 1914. Such was the reply given by the Register of Deeds of Rizal to J.M. Tuason & Co. Inc. on February 9, 1965, or only 8 days after his earlier reply to the respondent. In short, therefore, the respondent administratively reconstituted OCT No. 632 on February 1, 1965, when he ought to have denied the petition for reconstitution since the said title had already been cancelled on August 10, 1914.

GLRO Circular No. 80 (RD-53) dated November 18, 1949, further enjoins that –

"The owner's duplicate certificate x x x presented for reconstitution purposes, should be carefully and thoroughly examined, and if found to