

**[ ADMINISTRATIVE ORDER NO. 50, November 25, 2002 ]**

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON  
ATTY. ALUDIA P. GADIA, REGISTER OF DEEDS, DAVAO CITY, FOR  
GRAVE MISCONDUCT, WITH FORFEITURE OF ALL RETIREMENT  
PAY AND BENEFITS**

This refers to the administrative complaint against Atty. Aludia P. Gadia, presently the Acting Registrar of Deeds, Mati, Davao Oriental, in her then capacity as Registrar of Deeds of Davao City, which the Land Registration Authority (LRA) formally pursued based on the following findings contained in the pertinent dispositive portion of its Report dated 18 July 2000:

"x x x Moreover, considering that it was established from the records that the Registry only received an amount of P12,023.00 as payment of registration fees x x x, an amount which is notably lower than the sum of money Atty. Gadia received from the representative of DSG and that she signed the titles of DSG without the required payment of capital gains tax, it is respectfully recommended that she be charged administratively for Grave Misconduct. x x x"

The antecedent facts are as follows:

Sometime in March 1999, Atty. Jesus Dureza, representing DSG Sons Group, Inc. (DSG, for brevity), presented for registration before the Registry of Deeds of Davao City, copies of the Conditional Deed of Sale, Special Power of Attorney, and Affidavit of Waiver of Rights and Relinquishment of Interest, all executed in favor of DSG by spouses Antonio and Elsie Diaz, involving properties located in Davao City and covered by Transfer Certificates of Title (TCT) Nos. T-30740 and T-30741 in the name of the Diaz spouses. On 15 March 1999 Atty. Dureza entrusted to respondent Gadia, then Registrar of Deeds for Davao City, the amount of P400,000.00 in payment for the expenses incident to the registration of said properties, for which the latter issued a handwritten receipt. Thereafter, respondent cancelled the foregoing titles and issued in lieu thereof TCT Nos. T-309058 and T-309059 in the name of DSG.

On 10 November 1999, Atty. Ellen D. Veza, counsel for DSG, wrote the LRA inquiring whether or not the documents earlier presented before the Registry of Deeds of Davao City were sufficient to cause the registration of the transfer of the properties. In its reply dated 17 November 1999, the LRA answered in the affirmative and opined that the new titles were regularly issued on the assumption that all the registration fees and taxes have been paid. Antonio Diaz questioned the opinion, stating that the necessary capital gains tax on the transfer of the subject properties had not been paid by DSG. He then requested the immediate investigation of the

irregularities committed by respondent as well as the alleged graft and corruption in the Registry of Deeds of Davao City.

The matter of non-payment of the required capital gains tax was indorsed for comment to the Office of the Registrar of Deeds in Davao City. In her 2nd Indorsement of 6 January 2000, Acting Registrar of Deeds Atty. Florenda F.T. Patriarca informed the LRA that its office had no record of payment of the capital gains tax.

In the meantime, Mr. Diaz filed a complaint before the Office of the Ombudsman for Mindanao against respondent, Atty. Dureza and Francisco Gaisano for alleged violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The complaint was dismissed in a Resolution dated 26 July 2000.

Upon the instructions of LRA Administrator Alfredo R. Enriquez, the Inspection and Investigation Division (IID) conducted an investigation on the complaint of Mr. Diaz.

The result of the investigation, as conducted in the IID Report dated 18 July 2000, shows the following significant findings: *first*, that four (4) days before the issuance of the DSG titles, respondent pulled out the original of TCT Nos. T-30740 and T-30741 from the Vault Section of the Registry; *second*, despite office procedure to record in the Registry's Office Record Book all documents forwarded by the Cashier for examination and cancellation of title before endorsing the same to a Land Registration Examiner for examination, the documents/transaction between DSG and Antonio Diaz involving the subject titles did not pass through the said process and personnel; *third*, respondent signed the titles of DSG without the required payment of capital gains tax; and fourth, the Registry received the amount of only P12,023.00 as payment for registration fees, which is notably lower than the sum of money amounting to P400,000.00 received by respondent from Atty. Dureza.

On the basis of the above Report, respondent was administratively charged with grave misconduct and directed to submit her answer.

In her letter-answer dated 16 September 2000, respondent admitted that Atty. Dureza left with her the amount of P400,000.00 for the payment of transfer and registration fees and for other expenses, but not for capital gain tax; that it was the first time she agreed to such an arrangement and that she merely accommodated Atty. Dureza's request in filing the documents with the Registry because the latter is a fellow lawyer who, at that time, was in a hurry to leave for the Netherlands to represent the country in some negotiations; that she has settled the matter with Atty. Dureza who did not complain about it; that Mr. Diaz has no legal personality to file the complaint against her; that she could not be made responsible for the custody of Mr. Diaz's titles since she did not take them out of the office and that to make her liable for their loss was without any basis at all; and that the complaint of Mr. Diaz that the capital gains tax and documentary stamp tax were not paid was out of order since what was due was just the withholding tax, which had already been paid.

In its Resolution dated 24 September 2001, the LRA limited its discussion on the results of its investigation on respondent only since it has no jurisdiction over private individuals who were implicated in the commission of the alleged irregularities. More specifically, the LRA's findings zeroed in on the issue of respondent's receipt of the amount of P400,000.00 from Atty. Dureza.