

## SECOND DIVISION

[ G.R. No. 208264, July 27, 2016 ]

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS. RICO C.  
MANALASTAS, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review on certiorari<sup>[1]</sup> assailing the Decision dated 25 September 2012<sup>[2]</sup> and Resolution dated 1 July 2013<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 114797. The CA reversed and set aside the Decision dated 12 September 2006 of the Office of the Ombudsman, which found Rico C. Manalastas (Manalastas) guilty of gross negligence and imposed on him the penalty of one year suspension without pay.

#### The Facts

This case originated from a complaint for Grave Misconduct filed by Miriam Jane M. Jacinto (Jacinto), Assistant Vice President of BPI Family Savings Bank, Inc. (BPI Family), against Atty. Lorna S. Dee (Dee), Manalastas, and Gilberto M. Paras (Paras), in their capacities as Register of Deeds, Examiner, and Acting Deputy Register of Deeds, respectively, of the Office of the Register of Deeds of San Juan City, Metro Manila.

In the Complaint, Jacinto alleged that sometime in September 2000, Dy Chiu Ha Tiu or Marian Dy Tiu (Marian) applied for a loan in the amount of P20,000,000 with BPI Family. Marian requested that her husband's property located at 19 Lincoln St., West Greenhills, San Juan City be appraised for collateral purposes. The property was registered in the name of Paquito Tiu (Paquito), Marian's husband, and covered by Transfer Certificate of Title (TCT) No. 1035. BPI Family assessed the property at P3 6,072,900. Thereafter, BPI Family approved the loan application of Marian secured by the residential property.

On 25 January 2001, Marian and a certain person whom she introduced as her husband Paquito, signed, executed, and delivered to BPI Family several documents required for the loan. These documents were the Real Estate Mortgage, Loan Agreement, Promissory Note, and Disclosure Statement, as well as the Owner's Duplicate Copy of TCT No. 1035 in the name of Paquito.

On the same day, Reynold Cuasay, BPI Family's bank personnel, brought the Real Estate Mortgage and the other documents to the Office of the Register of Deeds of San Juan City for annotation and registration of the mortgage.

Manalastas, as Examiner of said office, examined the documents and assessed the corresponding fees. After Cuasay paid for the fees, Manalastas entered the mortgage in the Registration Book under Entry No. 4435/T-1035 and affixed his initials on the Real Estate Mortgage. Thereafter, Manalastas endorsed the same document to Paras, as Acting Deputy Register of Deeds. After examination, Paras affixed his initials on the Real Estate Mortgage then endorsed it further to Dee, the Register of Deeds. Finding the documents to have passed through the natural course of registration, Dee also affixed her signature on the Real Estate Mortgage, the Owner's Duplicate Copy of TCT No. 1035, and the Registry Copy of TCT No. 1035, which served as collateral for the loan.

Thereafter, BPI Family released the net proceeds of the loan in the amount of P19,765,093.27 by crediting the Spouses Tiu's Joint Current Account/Savings Account No. 6835-0036-96 which was opened at BPI Family's Commonwealth branch.

On 1 February 2001, the real Paquito Tiu, accompanied by his lawyer, Atty. Deogracias C. Eufemio, went to BPI Family's main office located in Makati City. Paquito informed BPI Family's officers that the signatures of one Paquito Tiu appearing on the loan documents were not his since he was not the same Paquito Tiu who signed them. Paquito presented his Owner's Duplicate Copy of TCT No. 1035 and submitted a Sworn Statement stating that he never signed the loan documents applied for by Marian and that his signatures therein were forged.

BPI Family immediately made a verification with the Office of the Register of Deeds of San Juan City. Upon thorough examination, the Owner's Duplicate Copy of TCT No. 1035 submitted by Marian, although on its face appeared to be real and authentic since the title was in a Land Registration Authority form, turned out to be fake and spurious.

After such discovery, Dee, as Register of Deeds, filed with the Office of the Prosecutor (Pasig City) a case against Marian for falsification of public documents.

Subsequently, BPI Family filed an administrative complaint<sup>[4]</sup> for Grave Misconduct with the Office of the Ombudsman against Dee, Manalastas, and Paras. BPI Family asserted that due to their negligence and dereliction of duties in failing to examine the genuineness and authenticity of TCT No. 1035, the bank was allegedly defrauded in the amount of P16,460,671.63, exclusive of interest and other charges.

In a Decision dated 12 September 2006, the Office of the Ombudsman found Dee, Manalastas, and Paras guilty of gross negligence and imposed on them the penalty of one year suspension without pay. The Office of the Ombudsman declared that the government officials were grossly negligent in the performance of their official functions when they failed to distinguish the discrepancies between the owner's duplicate copy of title presented for registration and the original copy of the title on file with their office. The dispositive portion of the Decision states:

WHEREFORE, herein public respondents Rico S. Manalastas, Gilberto M. Paras, and Atty. Lorna Salangsang Dee, are hereby meted the penalty of ONE (1) YEAR SUSPENSION WITHOUT PAY in accordance with number (2), Section 25, Republic Act No. 6770<sup>[5]</sup> in relation to Section 10(b) of

x x x x

SO ORDERED.<sup>[6]</sup>

Since Paras retired from government service in October 2003, his penalty of suspension was rendered moot and academic. Dee and Manalastas filed their separate motions for reconsideration which were denied by the Office of the Ombudsman in an undated Order.<sup>[7]</sup>

Manalastas then filed an appeal<sup>[8]</sup> with the CA. In a Decision<sup>[9]</sup> dated 25 September 2012, the CA reversed the ruling of the Office of the Ombudsman. The CA ruled that Manalastas enjoys in his favor the presumption of regularity in the performance of his official duty and **BPI** Family failed to discharge the burden of proving otherwise. The CA added that no liability could attach to Manalastas in a registration procured through fraud unless he is a party to such fraud. If the real Paquito Tiu did not appear to contest the loan and the mortgage then the forgery would not have been discovered, bolstering Manalastas's claim that he had acted in good faith in his dealings with the documents presented before him for registration. Moreover, the CA declared that the proximate cause of **BPI** Family's loss was its failure to discover the forgeries in the documents as well as the real identity of the impostor husband. The dispositive portion of the Decision states:

WHEREFORE, the appeal is GRANTED. The Decision dated September 12, 2006 of the Office of the Ombudsman in OMB-C-A-03- 0386-J is REVERSED and SET ASIDE. Accordingly, petitioner Rico C. Manalastas is EXONERATED. Thus, he should be paid his backwages corresponding to the period of his illegal suspension.

SO ORDERED.<sup>[10]</sup>

BPI Family filed a Motion for Reconsideration which was denied by the CA in a Resolution<sup>[11]</sup> dated 1 July 2013.

Hence, the instant petition filed by the Office of the Ombudsman.

### **The Issue**

The issue for our resolution is whether the CA erred in exonerating Manalastas for negligence in failing to determine the genuineness of the owner's duplicate copy of the title attached to the real estate mortgage sought to be annotated with the Office of the Register of Deeds of San Juan City.

### **The Court's Ruling**

The petition lacks merit.

Petitioner contends that Manalastas fell short of his duties and responsibilities as

Examiner of the Office of the Register of Deeds for failing to determine the genuineness of the owner's duplicate copy of TCT No. 1035 when referred to him for examination in the annotation and registration of the real estate mortgage. Petitioner maintains that there is substantial evidence to hold Manalastas administratively liable for negligence since it is expected of Manalastas to exercise utmost caution in the examination of documents related to registration. Here, the owner's duplicate copy of TCT No. 1035 sought to be annotated and registered is an "authenticated copy." Petitioner insists that the loanable amount with BPI Family involved P20,000,000; thus, Manalastas should have been more circumspect in examining the genuineness of the said document.

Manalastas, on the other hand, contends that the owner's duplicate copy of TCT No. 1035 attached to the real estate mortgage presented to him purported and appeared to be authentic and there was no patent defect or irregularity on its face. Manalastas asserts that the falsification of the title, which was an almost exact replica of the original, must have been professionally done that reasonable care would not have immediately detected such misrepresentation. Manalastas maintains that registration was effected because there was no defect or irregularity on the face of the document which would cause a person in his position to deny such registration.

In the present case, Manalastas was found guilty of gross negligence for failing to discover the falsity of the owner's duplicate copy of title attached to the real estate mortgage submitted by BPI Family to the Office of the Register of Deeds. The Office of the Ombudsman ruled that BPI Family had adequately established Manalastas's negligence by substantial evidence. The relevant portions of the Ombudsman's Decision dated 12 September 2006 state:

Considering that the Owner's Duplicate Copy of Title No. 1035 attached to the Real Estate Mortgage being sought to be annotated, is in an authenticated form only, that fact should have put the respondents on guard and therefore, each respondent should have been more vigilant by exerting effort in comparing and verifying its authenticity by looking into its minute details vis-a-vis the original copy on file with them.

xxx [I]t is noted that, the BANK has no means of knowing whether or not a title is genuine except upon verification from the Office of the Registry of Deeds as custodian of the original copies of the transfer certificates of title. Lamentably, it is in this wise that respondents were grossly negligent in the performance of their official functions when they failed to distinguish the discrepancies between the owner's duplicate copy of title being presented for registration and the original copy of the title on file with their office.<sup>[12]</sup>

However, the CA, in reversing the decision of the Ombudsman, held that the primary reason why BPI Family went to the Office of the Register of Deeds was to have the real estate mortgage registered and annotated and not to verify the authenticity of the owner's duplicate copy of title. Prior to such registration, BPI Family already approved the loan. The relevant portions of the Decision dated 25 September 2012