

MALACAÑANG
MANILA
BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 334

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH
FORFEITURE OF ALL THE BENEFITS UNDER THE LAW OF ATTY.
ARTEMIO B. CANA, SR., REGISTER OF DEEDS FOR CAVITE**

This refers to the administrative complaint filed by the National Bureau of Investigation against Atty. Artemio B. Cana, Sr., Register of Deeds for Marikina (formerly Register of Deeds for Cavite), for dishonesty and grave misconduct.

Record shows that the alleged anomalous and fraudulent acts/conduct complained of was committed by respondent during his tenure/stint as Register of Deeds for Cavite in relation to the transfer of a parcel of land consisting of 289,662 sq.m., located at Dasmariñas, Cavite, covered by Transfer Certificate of Title (TCT) (11760) RT-19813, and formerly owned by Serapio Cuenca. The latter sold the subject property on December 1, 1987 to Florinda Estrada who, after payment by Serapio Cuenca of the capital gains tax and documentary stamps tax and with the issuance of the corresponding BIR Certificate Authorizing Registration No. 954131 by the BIR, was issued TCT No. 630341. Subsequently, Estrada sold the same property to the Philippine Communications Satellite Corporation (Philcomsat, for brevity) on August 2, 1996 for a consideration of P50,000,000.00 which sale was inscribed on TCT 630341 on August 7, 1996. The vendor, Estrada, paid the amount of P1,448,310.00 as capital gains tax, as evidenced by a Return Application for Certificate Authorizing Registration, and the amount of P434,505.00 for documentary stamps tax. However, as can be gleaned from TCT 630341 it was made to appear under Entry No. 124 that the amount of P2,500,000.00 was paid as capital gains tax. On the same day, August 7, 1996, the property was transferred in the name of Philcomsat which was issued TCT No. 649189.

In charging respondent for grave misconduct, the National Bureau of Investigation (NBI) alleges that the government lost a substantial amount of revenue because of the non-payment of capital gains taxes by Estrada relative to the sale of the subject property to Philcomsat. Likewise, the government suffered substantial loss of revenue when title to the property was transferred from Serapio Cuenca to Florinda Estrada by reason of the payment of deficient taxes. The revenue losses could not have happened without the active participation and intercession of respondent who, as Register of Deeds for Cavite, used his office, power, authority and influence

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in having the property transferred from Serapio Cuenca to the latest owner, Philcomsat, knowing fully well that the proper taxes had not been paid as the required documents to have the property transferred were not presented.

As regards the charge of dishonesty, complainant alleges that while respondent was in possession of some documents relative to the sale of the subject property when he directed his subordinate employee to cause the transfer thereof from Estrada to Philcomsat, the said documents, however, do not appear to have been duly recorded much less filed with the Office of the Register of Deeds of Cavite. Also, respondent made it appear that the BIR issued a CAR when actually there was none.

In support of its complaint, the NBI presented as witnesses respondent's subordinate employees at the Office of the Register of Deeds of Cavite, namely: Josesito B. Vidallon, Orlando Arbolante, Celso Maligalig, Rene Almario, Rodel F. Rojas, Bernardo Pau and Jeanette Eclar, whose uncontroverted testimonies clearly established that respondent personally directed the preparation of the new title transferring the subject property from Florinda Estrada to its new owner, Philcomsat, without having the same pass thru the regular office procedure and even without the submission of all the documentary requirements/pre-requisites necessary before the title to the subject property could be transferred to its new owner. Likewise, it was confirmed that respondent presented to Vidallon some documents for inscriptions relative to the sale transaction in question which documents were in turn given back to respondent but the same could no longer be located.

In exculpation, respondent denies the accusation. He avers that he never conspired with Estrada nor with anybody to have the subject property transferred in the name of Philcomsat without paying the proper taxes. His duty is only ministerial if the buyer and seller present all the documents and clearances required by law and have paid the corresponding local and national taxes or fees. He has no control over the documents at the Office of the Register of Deeds of Cavite for the said documents are being kept by the vault keeper or the records custodian. He cited the testimony of one of his subordinate employees to the effect that TCT No. 11760 was taken by a certain Atty. Enrique Basa of the Land Registration Authority (LRA) Investigation Division for transmission to the NBI. He thus claims that there is a big possibility that these titles and supporting documents relative to the subject property are in the hands of other persons.

Further, respondent cited the resolution of the fact finding committee created by LRA Administrator Reynaldo Y. Maulit exonerating him from any

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liability. He further claims that there has never been an inventory of documents, titles and records in the Office of the Register of Deeds of Cavite when he assumed office thereat and he does not have any idea or liability as to the loss of titles and other pertinent documents. Finally, he stressed that when he assumed the position of Register of Deeds for Cavite, he instituted reforms to rectify anomalous office transactions which act made some people uncomfortable who could have retaliated by filing malicious accusations and presenting spurious evidence against him.

During the formal investigation, the Revenue District Officer David Alarcon of the Bureau of Internal Revenue was subpoenaed to shed light in the investigation. RDO Alarcon issued a certification to the effect that on August 7, 1996 the amounts of ₱434,493.00 and ₱1,468,310.00. documentary and capital gains tax, respectively, were paid by Florinda Estrada to the BIR. The certification likewise states that no other amount was paid by Florinda Estrada and that no Certificate Authorizing Registration (CAR) was ever issued by the BIR authorizing the Register of Deeds to transfer the title of the subject property from Florinda Estrada to Philcomsat. Respondent, despite being furnished a copy of the said certification, failed to refute the same.

Senior State Prosecutor Theodore M. Villanueva was directed to conduct a formal investigation of the instant administrative complaint. Although respondent was given the opportunity to present controverting evidence, his counsel, in a motion dated February 25, 1997, submitted the case for resolution and waived their right to a formal investigation. Upon evidence on record, SSP Villanueva found respondent liable for dishonesty and grave misconduct and recommended respondent's dismissal from the service with forfeiture of benefits under the law.

After a careful evaluation on the record of the case, the Secretary of Justice found respondent administratively liable for the offense charged and recommended respondent's dismissal from the service with forfeiture of benefits under the law.

We concur.

Relative to the charge of grave misconduct, complainant's evidence clearly shows that respondent had a direct and active participation in the transfer of the subject property from Florinda Estrada to Philcomsat which we find anomalous under the following circumstances, to wit: 1) the said transfer was undertaken without passing thru the regular office procedure, i.e., the documents relative thereto should have been presented and examined by a land registration examiner in order that all the necessary

17

documentary requirements/pre-requisites would have been checked and verified and cross-checked and cross-verified with their office copies on file; 2) the transfer was made even without the BIR Certificate Authorizing Registration (CAR), a required and vital document to have title/ownership to a piece of land transferred; and, (3) that there was a substantial deficiency in the amount paid as capital gains tax. This anomalous transfer of the subject property undertaken by respondent constitutes grave misconduct because not only did it result in revenue loss to the government but also undermined the integrity of the government's torrens title system.

As regards the charge of dishonesty, respondent failed to controvert complainant's evidence that when respondent directed Vidallon to cause the transfer of the title of the subject property from Estrada to Philcomsat, respondent presented some documents relative thereto but nowhere from the records and vault of the Office of the Register of Deeds of Cavite could the said documents be found. Also, respondent made it appear that the BIR issued a CAR when in truth and in fact there was no CAR issued. Respondent's denial of being in possession of the said documents constitutes dishonesty on his part considering the positive and uncontroverted evidence that respondent had the documents and the same were returned to him (respondent) after he (Vidallon) caused the transfer of the subject property from Estrada to Philcomsat.

Moreover, we find untenable respondent's claim that as Register of Deeds his duty is only ministerial. It should be stressed that respondent's duty as Register of Deeds becomes ministerial only upon compliance with all the requisites for registration. It is his bounden duty under the law to exercise diligence and dedication to the service to protect the integrity of the government's torrens title system. When respondent affixed his signature on the TCT, he assured the general public, under his oath of office, that all the documentary requirements, taxes and fees were met. However, in the subject transaction, respondent wantonly disregarded the standard office procedure in causing its transfer from Florinda Estrada to Philcomsat. By such act of disregard, respondent's inordinate interest in the transfer of the subject property becomes evident and suspicious. In fact, such interest was further underscored when the transfer was made even without the corresponding CAR from the BIR which is a document vital to the said transfer.

Needless to state, respondent's claim of having been exonerated by the fact finding committee created by LRA Administrator Reynaldo Y. Maulit deserves scant consideration. Worthy of note is the fact that the said inquiry was only in relation to the transfer of the subject property from Serapio Cuenca to Florinda Estrada and not the transfer from Florinda

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Estrada to Philcomsat, the subject of inquiry in the instant administrative complaint.

Indeed, respondent's reprehensible act of dishonesty and grave misconduct not only undermined the public faith in the government's torrens title system, it also caused substantial revenue loss to the government. While we are aware of the repercussions in meting the extreme penalty of respondent's dismissal from the service, we, however, cannot countenance the anomalous transfer of the subject property which prejudiced the government, thus, meriting no further compassion.

WHEREFORE, premises considered, Atty. Artemio B. Cana, Sr., Register of Deeds for Marikina (former Register of Deeds for Cavite) is hereby found liable for dishonesty and grave misconduct. Consequently, his dismissal from the service with forfeiture of all benefits under the law is hereby imposed, effective fifteen (15) days after his receipt of a copy of this Order pursuant to Book VII, Section 15 of the Administrative Code of 1987.

DONE in the City of Manila, this 30th day of April in the year of Our Lord, Nineteen Hundred and Ninety-Seven.



By the President:



RUBEN D. TORRES
Executive Secretary