

Office of the President
of the Philippines
Malacañang

ADMINISTRATIVE ORDER NO. 50

**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**

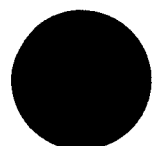
This refers to the administrative complaint against Atty. Aludia P. Gadia, presently the Acting Registrar of Deeds, Mati, Davao Oriental, in her then capacity as Registrar of Deeds of Davao City, which the Land Registration Authority (LRA) formally pursued based on the following findings contained in 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 ₱12,023.00 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 ₱400,000.00 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.

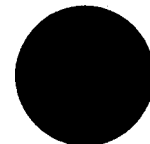
The matter of non-payment of the required capital gains tax was indorsed for comment to the Office of the Registrar of Deeds in Davao City. In her 2nd Indorsement of 6 January 2000, Acting Registrar of Deeds Atty. Florenda F.T. Patriarca informed the LRA that its office had no record of payment of the 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 contained 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 ₱12,023.00 as payment for registration fees, which is notably lower than the sum of money amounting to ₱400,000.00 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 ₱400,000.00 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 ₱400,000.00 from Atty. Dureza.

Circular No. 95-09 dated 8 August 1995 prohibits all Registrars of Deeds from performing "other related works" in the registration of deeds and documents, thus:

"TO : All Registrars xxx of Deeds xxx

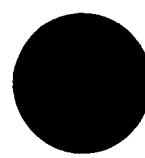
Subject : Prohibition in the Performance of 'other related works' in the registration of deeds and documents and other matters relative to one's functions.

xxx

Such services may consist, but not limited to the so-called 'package deal' where the interested party entrusts to the official or employee the payment of the capital gains, documentary stamps xxx and other fees, xxx."

Clearly, the above prohibition applies to respondent who is prohibited from receiving any money for whatever purpose related to the performance of her functions. Her act, in the guise of lending assistance to a fellow lawyer, was the very act that the said circular seeks to deter and punish in order to safeguard the integrity of the Registry from public perception of corruption.

Moreover, in its findings, the LRA ruled that respondent received the aforesaid amount in connection with a transaction over which she had to officially act upon. The LRA deems that no other reasonable inference can be had on the issue of the ₱400,000.00

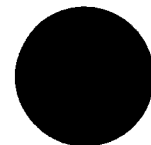


except that it was for the benefit of the respondent, considering further that the records are bereft of information that the difference between the amount received and what was actually paid has been returned by the respondent. It was observed that the variance between the amount received by respondent ₱400,000.00 and the sum of ₱12,023.00, which was actually received by the Registry, *"has no clear purpose, at least as far as the registration fees, transfer fees and other expenses are concerned because it is notably lower than the amount required for the latter. This 'other expenses' could be for that amount xxx which should approximate to ₱387,977.00. In the ordinary course of transactions similar to the instant case, however, there is nothing that will represent this amount"*. In view of the respondent's admission that the payment of taxes was not part of and beyond the contemplation of the parties, the LRA deduced that this amount was probably bribe money or the so-called "facilitation fee", by reason of which *"respondent pulled out on 18 March 1999 the original TCT Nos. T-30740 and T-30741 from the Vault Section of the Registry."* According to the LRA, although the reason for such action cannot be conclusively ascertained, it was clear that *"respondent indeed pulled them out and circumstances tend to suggest that it was apparently for no good reason except to facilitate its cancellation preparatory to the transfer of the ownership of the property to DSG."* Additionally, in connection with the original owner's copy of the subject titles, which were missing in the files of the Registry *"no other logical presumption can be had on the matter except that it strongly connects with the finding that respondent pulled the original registry copies of the titles."*

Accordingly, the LRA found respondent administratively liable for grave misconduct and recommended her dismissal from the service.

The Secretary of Justice agrees with the above findings and recommendation of the LRA.

After due consideration of the evidence on record, this Office finds that respondent's actuations have indeed cast serious doubts not only the integrity of the Registry, in general, but also on the regularity in the performance of the functions of her office, in particular. Respondent's act was an outright violation of Circular No. 95-09 dated 8 August 1995. There appears to be no reasonable justification for her to receive the money entrusted by Atty. Dureza under the circumstances in which it was given to her, especially in the light of an official instruction from the LRA Administrator directing all Registrars of Deeds to refrain from rendering certain services that undoubtedly open opportunities or give rise to graft and corruption. Respondent's explanation for deviating from the standard policies and procedures implemented in the recording, examination, and registration of documents in the Registry is not persuasive and does not minimize the adverse implications of such actions as far as public perception is concerned. Her failure to account for the balance between the actual payment made to the Registry in the amount



of ₱12,023.00 and the sum of ₱400,000.00 that she received from Atty. Dureza has further aggravated her infraction.


From the foregoing, substantial evidence obtains to establish the commission by respondent of grave misconduct in the performance of her official functions deserving no less than the maximum sanction. The penalty for grave misconduct, even if committed for the first time, is dismissal from the service (*paragraph 3, Section 52 (A), Rule IV of Resolution No. 991936 dated 31 August 1999 of the Civil Service Commission*).

The dismissal of erring government employee for grave misconduct and conduct prejudicial to the best interest of the service is justified in the face of the strong evidence against her (*Ponferrada v. Relator, 181 SCRA 698 [1990]*).

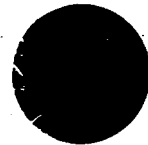
WHEREFORE, premises considered, and as recommended by the Department of Justice, respondent Atty. Aludia P. Gadia is hereby found administratively liable for Grave Misconduct and meted the penalty of DISMISSAL from the service with forfeiture of all retirement pay and benefits.

Done in the City of Manila, Philippines, this 25th day of November 2002.

By the President:


ALBERTO G. ROMULO
Executive Secretary






PGMA Holgram # 16684