

In his sworn answer, dated March 24, 1988, respondent admitted issuing, without a court directive, a second duplicate of TCT No. T-3872 as a replacement of the certificate of title which was intact, but whose "edges were eaten by termites and appeared mutilated". He asserted, however, that such issuance is not violative of Section 109 of PD 1529, which requires the aforesaid court directive only when a TCT sought to be replaced is lost or destroyed, a fact not obtaining in the case.

With regard to the DBP's Deed of Exchange which he allowed to be registered without proof of payment of, or exemption from, capital gains tax, respondent cited the opinion of the Regional Director of Revenue Region No. 10-B, embodied in a letter dated May 22, 1987, that "no capital gain was realized in the exchange xxx".

Anent the discrepancy between the entries as to the ages of his children appearing in the aforementioned Deed of Assignment and TCT Nos. T-1231 and T-8112, respondent, in his letter to the NLTDR dated February 1, 1988, explained that it was the entry typist (Ms. Echin) who committed the error and that he intended to correct what he regarded as an "honest mistake" at some later date.

As requested by respondent, NLTDR conducted a formal investigation, after which the investigator-designate (Atty. Flestado) submitted his report, dated September 5, 1988. In that report, Atty. Flestado recommended that respondent be adjudged guilty of the charge and be meted the penalty of six (6) months suspension from office and sternly warned. In a paper of October 5, 1988 to the NLTDR Administrator denominated as "Comment", however, Atty. Flestado stated: "I respectfully concede that the proper imposable penalty for respondent is suspension for one (1) year." The NLTDR Administrator, in his letter of November 3, 1988 to the Secretary of Justice, recommended the penalty of one (1) year suspension and stern warning. In turn, then Secretary of Justice Sedfrey A. Ordoñez, in his letter-report to me dated September 19, 1989, likewise recommended a penalty of one (1) year suspension with stern warning, observing:

"The claim by respondent Rocha that, in issuing the second owner's duplicate of TCT No. T-3872, he merely renewed the 'intact and extant' certificate with edges eaten by termites and which 'appeared mutilated' cannot be given consideration. The renewal he invokes resulted in the replacement of the certificate of title involved. Such replacement should have been effected in accordance with the provisions of Section 109.

" In addition, it must be observed that the second owner's duplicate certificate respondent Rocha caused to be issued contains no annotation or memorandum relative to its being a replacement. Furthermore, his signing of the second owner's duplicate certificate of title which bears the date '1st day of April in the year nineteen hundred and seventy-six' as the entry date gives rise to the impression that he issued the same on the said date, when, as a matter of fact, Atty. Luis Calderon, Jr., as then Register of Deeds of Surigao del Norte, issued and signed the original certificate involved and the duplicate thereof.

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" In connection with the registration of the Deed of Exchange between the DBP and the spouses del Castillo even without proof of payment of or exemption from the capital gains tax, such registration was effected without compliance with the requirement of NLTDRA Circular No. 1 dated 11 November 1981 which directs Registers of Deeds to, among others, '[r]egister transfers of real property subject to the Capital Gains Tax xxx or those exempt therefrom only upon presentation of the required Certificate of Clearance or Exemption issued by the authorized BIR officials.'

" It must be noted that, although respondent Rocha allowed the registration on 20 May 1987 of the Deed of Exchange, he still sought the opinion of the Regional Director of Revenue Region No. 10-B on the matter. However, he misread the letter dated 22 May 1987 of the said Regional Director x x x He overlooked the statement of the Regional Director in the said letter that the parties to the exchange should 'file a sworn declaration x x x stating the reason for the exemption from capital gains tax and said sworn statement shall constitute a valid application for the issuance of the required certification for registration of the Deed of Exchange with the Register of Deeds.'

" Anent the discrepancy between the entries as to the ages of his children appearing in the Deed of Assignment and TCT Nos. T-1231 and T-8112, respondent Rocha, on the one hand, insists that xxx the mistake in the certificates involved cannot be imputed to him. On the other hand, Ms. Echin, who typed the entries in TCT Nos. T-1231 and T-8112,

testified that respondent Rocha instructed her to indicate in the said certificates that the said children were both of 'legal age'.

"On the matter, there seems to be no reason for respondent Rocha to wilfully cause the misrepresentation as to the ages of the children in TCT Nos. T-1231 and T-8112, for the said information could be easily verified from the Deed of Assignment which had been entered, recorded and retained by the Registry.

fa "This notwithstanding, the circumstance that respondent Rocha signed the certificates, despite the aforementioned discrepancy, does not speak well of his attention to his duties. x x x Rather than act immediately on the discrepancy, he sought to correct the same only on 3 February 1988 when he filed the appropriate action with the Regional Trial Court at Surigao del Norte. It must be observed that at this time, the fact-finding investigation on the allegations in the 19 November 1987 letter of Mr. Dubduban had already been ongoing.

"All told, we believe that respondent Rocha may be justly held liable for grave misconduct. However, the following circumstances may be considered in the determination of the appropriate penalty:

"(1) This administrative case constitutes the first administrative offense committed by respondent Rocha; and

"(2) His actuations were not tainted with bad faith, evidence thereof being absent. Such actuations proceeded more from his unfamiliarity with all the pertinent provisions of existing laws, rules and regulations applicable to the transactions involved, as he has been in the service for only less than ten (10) months at the time the acts complained of occurred."

The observations and the recommendation of the Secretary of Justice are well taken. I wish to add that the issuance of land titles and the transcription thereof in the Registration Book are among the main duties of a Register of Deeds. They ought to be performed along statutory lines and procedures as property rights are affected thereby. Respondent violated statutory prescription when he issued

a certificate of title in replacement of TCT No. T-3872 without a court order and without as much as annotating thereon that it is a replacement. In net effect, two (2) separate certificates of title cover one and the same parcel of land. The possibility of fraud under this situation cannot be overlooked.

As in the issuance of the aforementioned TCT No. T-3872, respondent issued TCT Nos. 8098 and T-8099 oblivious of legal requirements, in this instance NLTDR Circular No. 1, s. of 1981, relating to the registration of land transfers subject to capital gains.

On the discrepancy between the entries appearing in the Deed of Assignment and TCT Nos. 1231 and T-8112, I particularly note that it came about because of an instruction to the typist to indicate in the certificate that respondent's children are of legal age. The instruction came from respondent no less. On him, like other Register of Deeds, rests the burden at the first instance of preserving the integrity of the land registration system. Respondent's action under the premises is erosive of the system.

WHEREFORE, Atty. Roberto Rocha is adjudged guilty for grave misconduct. Accordingly, and as recommended by the then Secretary of Justice, Atty. Rocha is hereby suspended from office as Register of Deeds of Surigao del Norte for one (1) year without pay and allowances, effective upon receipt of a copy thereof.

Done in the City of Manila, this 9th day of September, in the year of Our Lord, nineteen hundred and ninety-one.

Roberto Rocha

By the President:

Franklin M. Drilon
FRANKLIN M. DRILON
Executive Secretary