

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 237

SUSPENDING ATTY. RAMON D. ABAD, REGISTER OF DEEDS OF SAN JUAN, METRO MANILA, FOR A PERIOD OF ONE (1) YEAR WITHOUT PAY

This is an administrative case instituted through a petition, dated July 18, 1989, of Mr. Gilberto M. Paras, a Land Registration Examiner in the Registry of Deeds of San Juan, Metro Manila, against Atty. Ramon D. Abad of the same Registry, for graft and corrupt practices, incompetence and ignorance of the law, and commission or omission of other acts inimical to public service. In the petition, Paras listed the specifications against Abad as follows:

I. Graft and Corrupt Practices

Using the facilities of the Registry of Deeds and his influence as Register of Deeds in directly involving himself in the sale of real estate properties, particularly the Swire Realty and Spouses Kapalungan transactions;

II. Incompetence and Ignorance of the law

Failing to exercise reasonable skill and diligence in consenting to the registration of documents in the China Bank, Arellano/Finland, De Jesus, and the Goldloop Properties, Inc./Robles transactions;

III. Commission or Omission of other acts inimical to Public Service

Under this specification, Paras mentioned Mr. Herminio Disini and Crispino M. Meru, Jr. accounts and cases of nonfeasance, the latter in broad language.

A specification entitled "Administrative Case Filed by Atty. Abad against Jesusa Norieta, Cashier" was deleted.

On August 18, 1989, then Secretary of Justice Sedfrey A. Ordoñez issued Department Order No. 154 creating an Ad Hoc Committee to conduct an investigation/inquiry of the complaint. Abad submitted, on August 21, 1989, his "Comment on the So-called Petition to oust Atty, Ramon D. Abad, Register of Deeds, Metro Manila," to which Paras countered with a Rejoinder dated September 28, 1989.

Paras sought, through a Manifestation and Motion dated September 18, 1989, the relief of Abad as Register of Deeds and the appointment of a

00002-406-D

ORIGINAL FILED IN

substitute to serve in an acting capacity pending the resolution of his petition. The Manifestation and Motion, treated as a Motion for Preventive Suspension, was denied by the Ad Hoc Committee, T.s.n., Session of September 29, 1989, 4; a motion for reconsideration of this denial was likewise filed, Id; 4-5, which was similarly denied, T.s.n., Session of October 5, 1982, 2.

After protracted hearings which started on September 18, 1989 and which lasted to July 3, 1990, Justice Secretary, now Executive Secretary, Franklin M. Drilon, submitted his letter-report to me dated April 29, 1991.

In that letter-report, Secretary Drilon concluded, that:

"In summary, substantial evidence proves the liability of respondent Abad for misconduct and violation of the relevant Civil Service regulation. He can be faulted for misconduct for his overt act of soliciting through the use of the NLTDRA's official stationery - the sale of a parcel of land located within the territorial responsibility of the Registry he heads; his lack of prudence in being a witness to a transaction involving a title certificate which covered land within San Juan; and his intent to disregard or dispense with the requirement of Section 71 of the Property Registration Decree. He violated Section 3, Rule XV of the Revised Civil Service Rules which, without any previous authority from the head of his agency, he required his personnel to perform overtime services;"

and accordingly recommended:

"x x x that Atty. Ramon D. Abad be held liable for misconduct and violation of the pertinent Civil Service regulation and that the penalty of suspension from the service for one (1) year without pay be imposed on him."

As to the specifics of the Paras charges, the Justice Secretary had this to say:

1. On Graft and Corrupt Practices:

"Complainant Paras asserts that respondent Abad violated the Anti-Graft and Corrupt Practices Act, as amended. However, he omits to pinpoint the specific provisions of the said Act which the respondent allegedly violated when he sent the 21 March 1989 letter and signed as witness to the 29 November 1988 Contract to Sell between the Kapalongans and the Danaos. The Anti-Graft and Corrupt Practices Act enumerates eleven (11) acts or omissions of public officers but

complainant Paras fails to indicate under which of the said acts or omissions the aforementioned actuations of respondent Abad fall. Respondent Abad definitely has the right to know the specific provisions of law he allegedly violated to enable him to properly defend himself.

"The foregoing notwithstanding, respondent Abad can be held liable for misconduct in relation to the same incidents. In his 21 March 1989 letter on the NLTDR official stationery addressed to the Swire Realty Corporation, he informed the addressee to 'feel free to come over for negotiation.'

fd
 "The provisions of Section 32, Chapter 9, Book I of the Administrative Code of 1987 requires all public officers and employees to serve with utmost responsibility and integrity. Section 32 expressly requires the conduct of a public servant to be above suspicion. By his actuation, respondent Abad has manifested his irresponsibility and deficiency in integrity. His overt act of soliciting through the use of the NLTDR's official stationery the sale of land located within the territorial responsibility of the Registry he heads and of taking advantage of information he undoubtedly has acquired by reason of his office obviously corresponds to a conflict of interests which adversely affects the faithful performance of his duties.

"Respondent Abad's response to the allegations on his 21 March 1989 letter of solicitation that no law prohibits offering to negotiate a sale of real estate and that the Government could have benefited through revenues had the negotiation pushed through manifests his irresponsibility and insensitivity to the demands of the position he holds. True, no law prescribes any person from offering to negotiate a sale of real property. However, the respondent overlooks that he is no ordinary person. He holds the position of Register of Deeds charged with functions related to the registration of lands situated within his area of responsibility and transactions involving the same.

"In the case of respondent Abad's signing as a witness to the 29 November 1988 Contract to Sell between the Kapitalungan and the Danaos, again, no law prohibits him from being a witness to such a transaction. However, prudence should have impelled him to abstain from doing so, considering that the title certificate subject of the contract covered land within San Juan. For, if any question as to the registrability of the contract had been raised, he would have compromised his position as Register of Deeds."

II. On Incompetence and Ignorance of the Law

"a. Respondent Abad required the payment of the annotation fees only in connection with the registration of four (4) Deeds of Assignment executed by the China Banking Corporation in favor of different assignees of four (4) condominium units and of the respective Affidavits of Consolidation executed by the assignees, although the said Deeds and Affidavits should have also been subject to the payment of documentary stamps, transfer taxes and registration fees.

"On the matter, the records indicate that respondent Abad did not insist on his stand. After the Commission on Audit found an under assessment, he sent a letter dated 9 May 1988 to the Bank apprising it of the deferment of the processing of the Deeds of Assignment due to the nonpayment of the required registration fees, documentary stamps and transfer taxes. Eventually, the Bank paid its deficiencies. Thereafter, the Deeds of Assignments and the Affidavits of Consolidation were registered and the new title certificates were released.

ba
 "At the minimum respondent Abad erred in his appreciation of the requirements for the transaction involved. He cannot be faulted with incompetence. Incompetence implies such palpable lack of adequate ability and fitness for the satisfactory performance of official duties. He cannot be said to be completely ignorant of the statutory provisions, rules and regulations governing the procedures and processes on transactions in his Registry.

"b. Respondent Abad insisted on the registration of the Deed of Absolute Sale dated 4 April 1989 executed by Mr. Juan Marcos Arellano and his five (5) children in favor of the Finland Realty Corporation of two (2) parcels of lands notwithstanding that the properties being conjugal and Mr. Arellano's spouse having already died, no settlement of the estate had been presented and the estate and transfer taxes and registration fees for the estate settlement had not been paid. Subsequently, however, the parties involved presented the required Affidavit of Adjudication of the Estate of the Decedent Anselma Juliana J. Arellano dated 5 June 1989 and paid the necessary taxes and fees.

"In this instance, the Locator Slip dated 3 July 1989 prepared by Land Registration Examiner Carmencita Yumul and the Locator Slip dated 4 July 1989 accomplished by complainant Paras which Locator Slips contain the remarks and recommendations of the Land Registration Examiner or Examiners who processed the documents both attached to the 4 April 1989 Deed of Absolute Sale

do not substantiate the complainant's allegation that respondent Abad insisted on the registrability of the said Deed notwithstanding his awareness of the non-settlement of the estate involved, the non-payment of estate and transfer taxes, documentary stamps and registration fees or the non-publication of such estate settlement. The said Locator Slips do not indicate any statement that would either caution respondent Abad of the non-registrability of the Deed of Absolute Sale or of the alleged deficiencies appurtenant to the said document.

bl

"c. Respondent Abad refused the registration of the Absolute Deed of Assignment/Sale dated 16 May 1989 executed by Ms. Imperial Sy de Jesus for and in behalf of Ms. Rowena T. Sy de Jesus by virtue of the Special Power of Attorney dated 25 July 1988 granted her by her daughter Rowena in favor of Mr. Herbert T. Sy de Jesus of Rowena's 1/3 undivided interest in a condominium unit covered by Condominium Certificate of Title No. 3758 on the ground that 'the agent must likewise place the name of the principal on top of her typewritten name.' Even though complainant Paras and a lawyer of the Law Division of the Land Registration Authority opined that placing the name of the principal on top of her typewritten name was not necessary, for the authority of the agent to sign arose from the Special Power of Attorney, respondent Abad insisted on his stand. Ms. Imperial Sy de Jesus had no recourse but to comply so that the transaction could be registered.

"Complainant Paras hammers upon respondent Abad's imposition that the agent place 'the name of the principal on top of her typewritten name.' True, such imposition caused inconvenience to the agent and resulted only in a redundancy, i.e., the appearance of the 'name' of the principal twice in the Absolute Deed of Assignment/Sale. However, the incident cannot still buttress the charge of respondent Abad being unfit as a Register of Deeds.

"d. Respondent Abad refused to sign and send the Notice of Adverse Claim dated 2 February 1989 addressed to the Gold Loop Properties, Inc., following the filing by the spouses Roberto and Alicia Robles of their Affidavit of Adverse Claim dated 2 February 1989 affecting any transaction involving the parcel of land covered by Transfer Certificate of Title No. 1981-R they mortgaged to

and regulations. Atty. Niceforo Agaton of the Union Bank revealed in his testimony during the investigation that he remained in the San Juan Registry of Deeds until 7:00 o'clock in the evening waiting for the completion of the processing of the new title certificates. Mesdames Carmen Reyes and Marie Dacanay, Records Officer and Clerk I, respectively, of the said Registry, also testified that they performed overtime work to complete such processing upon instructions of the respondent.

"Section 3, Rule XV of the Revised Civil Service Rules provides that only the 'head of any Department or agency may extend the daily hours of work xxx for any or all of the employees under him xxx.' Not being the head of a Department or agency, respondent Abad acted beyond the scope of his powers when, without previous authorization from the Administrator of the Land Registration Authority, he required his personnel to perform overtime services. Respondent Abad's actuation, aside from being violative of the pertinent Civil service regulation, manifests his tendency to give undue preference to certain clients. It should be noted that the personnel of the San Juan Registry of Deeds had been asked to render overtime services only in this instance.

"4. Complainant Paras charges respondent Abad with nonfeasance and alleges that the said respondent did not allow the registration of the petition dated 12 July 1989 filed by Mr. Crispino M. Meru, Jr., seeking the cancellation of an encumbrance appearing on Transfer of Certificate of Title No. 2980-R relating to the usufructuary right of Mr. Edgardo Gavino over a portion of the property subject thereof due to the absence of Mr. Gavino's signature on the said petition. Mr. Meru sought such cancellation due to his desire to sell the property unencumbered. According to the complainant, respondent Abad showed interest in the property and appeared ready to direct such cancellation even without a court order under a 'favorable climate,' i.e., if Ms. Dominadora Ragasa, who filed Mr. Meru's petition, had been a 'broker' or a prospective 'buyer' of the land involved. Complainant Paras presented the sworn statement of Mr. Meru subscribed on 8 August 1989 to support the foregoing allegations.

"The sworn statement of Mr. Meru cannot be accorded serious consideration and credence. During the investigation, Mr. Meru admitted that complainant Paras prepared his statement, that majority of the facts recited came from the said complainant and that the said statement reflected the personal 'wording' of the complainant."

I agree with the Secretary of Justice that Abad is liable for misconduct and violation of the relevant Civil Service regulation and concur as to the recommended penalty of suspension from the service for one (1) year without pay. Abad's actuations in this case go beyond "[t]he basic standard of care and caution invariably required in the public service" (Administrative Order No. 162, April 6, 1990), and I may add, prudence, as the Justice Secretary says, and discretion and considering the circumstances herein, merits the penalty of suspension from the service for one (1) year without pay.

WHEREFORE, Atty. RAMON D. ABAD, Register of Deeds of San Juan, Metro Manila, is hereby found guilty of misconduct and violation of the pertinent Civil Service regulation and, accordingly, suspended from office for a period of one (1) year without pay, effective upon his receipt of a copy of this Administrative Order.

DONE in the City of Manila, this 25th day of September, in the year of Our Lord, nineteen hundred and ninety-one.

Ramon D. Abad

By the President:

Mariano Sarmiento II

MARIANO SARMIENTO II
Deputy Executive Secretary