

MALACANANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 485

DISMISSING MR. FRANCISCO A. RAFIL FROM THE SERVICE AS REGISTER OF DEEDS OF AGUSAN DEL NORTE AND ACTING REGISTER OF DEEDS OF AGUSAN DEL SUR.

This is an administrative case filed by the Acting Commissioner of the Land Registration Commission (now National Land Titles and Deeds Registration Administration) against Mr. Francisco A. Rafil, Register of Deeds of Agusan del Norte and concurrently Acting Register of Deeds of Agusan del Sur, for alleged grave misconduct/dishonesty and violation of reasonable office regulations. The charges were investigated by Atty. Benjamin Flestado of the Inspection and Investigation Division, said Commission.

The case arose from the two letters of then Acting Land Registration Commissioner Federico B. Alfonso, Jr., dated October 19, 1981, and November 19, 1981, respectively, charging respondent as follows:

(I) That as Acting Register of Deeds of Agusan del Sur, respondent (a) incurred a shortage of ₱18,065.88 in his collections for the period from August 26 to December 5, 1980, and failed to produce said funds upon demands made by the Provincial Auditors of Agusan del Sur and Agusan del Norte; (b) failed to carry forward ending balances as the balance of cash on hand at the beginning of the succeeding month in the Registry Cash Books, in violation of Section 36 of the National Accounting and Auditing Manual; (c) did not deposit regularly registry collections with the nearest authorized bank, in violation of COA General Circular No. 130 dated June 16, 1975, which requires collection officers of national funds to deposit their collections with the nearest PNB, PVB, or DBP branch or agency weekly or at anytime such collections reach ₱500.00; and (d) did not submit promptly the record of collections and remittances to the Regional Auditor concerned for audit and certification, in violation of COA Circular

No. 78-78 dated March 7, 1978 (LRC Circular No. 344 dated August 28, 1978) and

(II) That as Register of Deeds of Agusan del Norte, respondent incurred a shortage of ₱16,708.17 in his collections covering the period from September 1 to 25, 1981, and failed to produce said funds upon demands made by the Provincial Auditors of Agusan del Norte and Agusan del Sur.

In his answer, dated December 17, 1981, respondent did not deny the existence of the shortages in the two Registries. With regard to Specification I, respondent alleged that during the audit examination, the amount of ₱18,065.88 was not in the safe of the Agusan del Sur Registry but was kept by him in the safe of the Agusan del Norte Registry for security reasons. According to respondent, not only the regular Agusan del Sur Register of Deeds, but also the Deputy Register of Deeds, and possibly the cash clerk who absconded with some ₱14,000.00, knew the combination of the safe. Respondent further averred that the deteriorating peace and order condition in the two Agusan provinces prevented him from making a regular deposit of his collections with the nearest branch of the Philippine National Bank (PNB) in San Francisco, Agusan del Sur. Shortly after the audit examination, respondent added, floods destroyed the major road arteries in the two provinces, thereby rendering more difficult travel from Agusan del Norte to Agusan del Sur and vice-versa. Thus, he maintained that his non-compliance with the Commission on Audit (COA) regulations were not of his own volition.

In Specification II, respondent claimed that he did not misappropriate the shortage of ₱16,708.17. Elucidating thereon, respondent stated that, before the audit examination he was assured by Arturo Bermoy, whom he designated as vault-keeper in the Agusan del Norte Registry, that everything was alright and that he (Bermoy) was ready for audit anytime. However, during the audit examination, Bermoy was nowhere to be found and thereafter failed to show up in the office.

As his main defense, respondent stressed that he had already restituted the shortages in both Registries.

In the ensuing formal investigation of the case, Domingo Quiambao, former COA Auditing Examiner in Agusan del Sur,

testified that upon instructions of then Provincial Auditor Dionisio Omboy, he and Columba Amparador, Auditing Examiner II, conducted an audit examination of the cash and accounts of respondent and Deputy Register of Deeds Lorenzo de los Reyes covering the period from August 26 to December 5, 1980. Said witness stated that, during the said period, De los Reyes acted as Collecting Clerk, while respondent handled the registry cash collections. Quiambao further declared that, although both were using a common safe, De los Reyes was able to account for all his collections, but respondent could not do so and was in fact found short of ₱18,065.88.

For his part, respondent presented Assistant Fiscal Claudio A. Nistal of Agusan del Norte who corroborated the former's allegations as to the state of lawlessness in and the calamity that struck the Agusan provinces. Respondent admitted, however, that he was able to remit the shortage of ₱18,065.88 only several months after the same was incurred. Moreover, respondent declared that he never deposited for safekeeping his collections in the Agusan del Sur Registry but merely kept them in his residence in Butuan City.

Concerning the shortage in the Agusan del Norte Registry Domingo Quiambao affirmed that respondent had fully remitted as of October 23, 1981, the sum of ₱16,708.17 representing the shortage incurred by the latter for the period from September 1 to 25, 1981. On the other hand, respondent sought to shift the blame for the shortage to his vaultkeeper, Arturo Bermoy. When asked why he allowed Bermoy to retain a large amount of collections in his possession, respondent explained that "we have no adding machine and we have to rely on hand-writing and sometimes it takes days to have the accurate amount of collections determined." Further, respondent attributed his failure to remit the registry collections on time to his concurrent assignment as Acting Register of Deeds of Agusan del Sur.

After due evaluation, the investigating officer found respondent guilty of the charges. Regarding Specification I, the investigating officer opined that respondent could, as he should, have deposited the registry collections in some safer place in the locality or made an arrangement with the military authorities or the PNB for proper assistance in remitting his registry collections. He also found as preposterous responder allegation that he had to bring his registry collections to Agusan del Norte and keep them in his house only to bring them back later to Agusan del Sur for alleged deposit and remittance.

With regard to Specification II, the investigating officer ruled that respondent's liability was not the least altered by the fact that Bermoy retained in his possession the unremitted amount of ₱16,708.17. In the investigating officer's judgment respondent assumed the risk when he designated Bermoy, who was occupying the unqualified position of vaultkeeper, as collecting officer despite the presence of a duly appointed Registry Secretary Cash Clerk in the person of Evangeline Dulanias. Thus, respondent had to bear the brunt of responsibility for Bermoy's act.

Considering, however, the well-nigh impossible and exceedingly difficult tasks respondent had to discharge simultaneously as Register of Deeds of Agusan del Norte and Acting Register of Deeds of Agusan del Sur, coupled with the fact that he was eventually able to make good the shortages, the investigating officer recommended that respondent be merely suspended from office for four (4) months without pay.

In his letter to the Minister of Justice, dated May 25, 1983, the Acting Commissioner of Land Registration took exception to the proposed penalty and instead recommended respondent's dismissal from the service. The Justice Minister concurs with the said recommendation.

After going over the records of the case, I agree with the Minister of Justice that respondent deserves a more severe penalty. As accountable officer, respondent has failed to exercise the due diligence expected of him as custodian of public funds and, hence, has evinced his untrustworthiness to remain in the service. What is more, his failure to produce, upon demand, the funds for which he is accountable renders him liable for which he should be penalized accordingly.

Wherefore, and as recommended by the Minister of Justice Mr. Francisco A. Rafil is hereby dismissed from the service as Register of Deeds of Agusan del Norte and as Acting Register of Deeds of Agusan del Sur, effective upon his receipt of a copy of this Order.

Done in the City of Manila this 28th day of May  
in the year of Our Lord, nineteen hundred and eighty-four.

President of the Philippines

By the President:

MANUEL M. LAZARO



OFFICE OF THE PRESIDENT  
OFFICE OF THE PRESIDENTIAL ASSISTANT FOR LEGAL AFFAIRS  
MALACANANG

IN RE: DISMISSAL OF FRANCISCO  
A. RAFIL FROM THE SERVICE  
PER ADMINISTRATIVE ORDER  
NO. 485.

ADM. ORDER NO. 485

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O R D E R

This refers to the petition by Francisco A. Rafil for the reconsideration of Administrative Order No. 485, dated 28 May 1984, dismissing him from the service as Register of Deeds of Agusan del Norte and Acting Register of Deeds of Agusan del Sur, effective upon his receipt of a copy of the same Order.

The issues raised in the instant petition, which are factual in character, as well as the arguments therein, are essentially the same as those threshed out in said Order. We have not encountered any new argument in said petition that can convince us to reverse or modify said Order.

Thus, after considering the allegations contained, the issues raised and the arguments adduced in the herein petition for reconsideration, we find nothing that can sustain it.

WHEREFORE, premises considered, the petition by Francisco A. Rafil for the reconsideration of Administrative Order No. 485, dated 28 May 1984, dismissing him from the service, is hereby DENIED for lack of merit.

SO ORDERED.

Manila, Philippines, September 7, 1984.

By authority of the President:

*Manuel M. Lazaro*  
MANUEL M. LAZARO

Presidential Assistant for Legal Affairs