

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. LIBERATO YAMBAO, CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 80, QUEZON CITY, RESPONDENT.*A.M. No. P-91-593. April 07, 1993*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/23d601b05c23/>**PER CURIAM:**

The then National Bureau of Investigation (NBI) director Alfredo Lim forwarded to the Office of the Court Administrator of this Court a letter dated November 12, 1990 and docketed as A.M. 91-1080 RTC containing a copy of the NBI evaluation/comment as well as the Agent's report and its annexes on the investigation conducted on Liberato Yambao, Jesus Morales, Jaime Anido, et al., with the recommendation that Liberato Yambao, Clerk of Court of the Regional Trial Court of Quezon City, Branch 80, be proceeded against for administrative discipline.

On January 29, 1991, this Court, acting on the aforesated letter, resolved to direct the Office of the Court Administrator to file administrative charges against Atty. Liberato Yambao for falsification of public documents. The complaint was docketed as A.M. P-91-593.

This administrative case originated from the affidavit-complaint^[1] dated July 11, 1990 filed by Joselito P. Garaycay with the NBI against Atty. Liberato Yambao and Jess Morales for Falsification of Public Documents, Theft and Grave Threats. His affidavit-complaint states among others that: On April 17, 1979, he bought lot 23, FLS-2804-D covered by TCT No. 9780 (693) located in Matandang Balara, Quezon City from his uncle Vicente T. Garaycay. In view of the fire that gutted the Quezon City Hall in 1988 where most of the records of the Registry of Deeds were burned, his uncle Vicente T. Garaycay filed an application for reconstitution of said title on August 29, 1988 since the title of the lot was still in his uncle's name although the same was already sold to him. Pursuant to the Order of Reconstitution, a reconstituted title TCT No. RT-1764 (9780)(693) was issued by the Registry of Deeds on February 7, 1990. In accordance with the Deed of Absolute Sale dated April 17, 1979, TCT No. RT-1764 (9780)(693) was cancelled and in lieu thereof TCT No. 12183 was issued in his name. In order to make it easier to sell the said property, he caused the subdivision of lot 23 into 3 lots, lot 23-A, 23-B and 23-C, all of plan PSD-13-013531 which was duly approved by the Department of Environment and Natural Resources (DENR). Consequently, TCT Nos. 14414, 14415 and 14416 were issued in his name on April 18, 1990. He then sold lot 23-A to a certain Lillian Tondjis with a condition that he first fence said lot before full payment could be made. On June 19, 1990, he hired a labor contractor, Mr. Ernesto T. Sala to erect a concrete perimeter fence. However, four days later, a certain Atty. Liberato Yambao, Clerk of Court of the RTC of Quezon City, Branch 80, arrived at the premises and advised the contractor and his laborers to stop constructing the fence claiming that he owned the land where the fence was being erected and showed the laborers the alleged original copy of the title over the subject lot. In return, the contractor showed him a fencing permit issued by the Building Official of Quezon City. On June 30, 1990, a certain Jess Morales together with six (6) armed men went to the premises and manhandled one of the laborers, forcing the other laborers to stop working. On July 3, 1990, Jess Morales together with six (6) armed men returned to the premises and forcibly took the construction implements and materials and

loaded some of them in two (2) vehicles while the others were brought by a certain Jimmy Anido to his house. The incident was reported to the police and Anido was placed under police custody.

The Anti-Organized Crime Division (AOCD) of the NBI, acting on the aforesaid affidavit-complaint of Joselito Garaycay, subpoenaed Jimmy Anido who failed to appear despite due notice.[2]

On August 7, 1990, complainant Joselito Garaycay and respondents Liberato Yambao and Jess Morales confronted each other before the AOCD. Complainant Joselito Garaycay presented and introduced his uncle Vicente T. Garaycay who submitted to the Investigating Agents his Passport,[3] Driver's License[4] and Pension Check and Voucher from the Social Security System[5] as identification credentials. Vicente T. Garaycay also executed a sworn statement[6] stating that the signature appearing in the Deed of Absolute Sale dated February 11, 1986 in favor of Liberato Yambao and Jess Morales was not his signature and that he did not know all other signatures contained therein; that he was not a widower at the time of the alleged sale; that he did not personally know the two alleged buyers namely Liberato Yambao and Jess Morales and that he was not delinquent in paying the taxes relative to said properties.

Respondent Yambao, on the other hand, claimed that the person presented and introduced by complainant as Vicente T. Garaycay was not the person from whom he bought the property. He in turn showed a Voter's Identification Card with No. 2463926, Precinct 21, YCMC Compound, MP, Angono, Rizal of one Vicente T. Garaycay. The photograph appearing on the Voter's ID is different from that of the person introduced by complainant as his uncle.

When confronted with the affidavit of the complainant, respondent Yambao refused to give his comment thereon and asked a copy thereof for him to comment within 10 days from receipt but has not done so.

A certification[7] issued by the Office of the Election Registrar of Angono, Rizal showed that according to the records of the office, Mr. Vicente T. Garaycay was not a registered voter of Precinct 19, 20, 21, 21-A, 22, 23, 38-A all located at Barangay Mahabang Parang, Angono, Rizal. Said certification was issued upon the request of the NBI.

Mr. Romulo D. Florencio executed an affidavit[8] to the effect that he personally knew respondent Yambao; that respondent Yambao, knowing him to be an employee of Adez Realty, informed him sometime in March 1990 that he owns lot 23, FLS-2804-D; that he mentioned the said information to Mr. Ernesto Sala, an officemate, who in turn informed him that lot 23 was owned by Vicente T. Garaycay; that he told respondent Yambao that lot 23 was owned by Vicente T. Garaycay who bought the land from Macaria Lim de Arambulo; that respondent Yambao showed him the original copy of the Deed of Sale allegedly executed in his favor by Vicente T. Garaycay and the original of the Owner's Copy of TCT No. 9780 involving lot 23 both copies of which was in his possession; and that respondent Yambao caused the reproduction (xerox copy) of the two documents which were personally given to him by respondent Yambao.

Said xerox copies of the two documents became the bases for verification conducted by the Office of the Registrar of Deeds of Quezon City and the Land Registration Authority. The verification showed that the two documents were spurious and the signatures of Vicente T. Garaycay appearing on the Deed of Sale were false and forged.

Meanwhile, pursuant to a subpoena duces tecum[9] issued by the AOCD, Atty. Samuel S. Cleofe, Registrar of Deeds of Quezon City, summoned Mr. Viterbo F. Cahilig, Records Officer of said office, who brought with him the genuine Owner's Duplicate Copy of TCT No. 9780 (693)[10] and disclosed the facts how Joselito Garaycay derived title from his uncle Vicente T. Garaycay.[11] He also declared that the Office of the Registry of Deeds has no record of a Deed of Sale executed by Vicente T. Garaycay in favor of Liberato Yambao and Jesus B.

Rodriguez involving lot 23.[12]

Complainant Joselito Garaycay submitted a Certification[13] dated August 28, 1990 issued by the Registrar of Deeds of Quezon City to the effect that per records of the Registry, Vicente T. Garaycay, married to Josefina Vicencio, owner of TCT No. 9780 (693) PR-10606, had executed a Deed of Sale in favor of Joselito P. Garaycay, entered under PE No. 3588/Vol. 2 and inscribed on May 26, 1989 and that a Deed of Sale for the same lot was not executed in favor of Liberato Yambao or Jesus D. Morales.

Ernesto T. Sala executed a sworn statement[14] declaring that: he was hired by Joselito Garaycay to fence the latter's lot; on July 3, 1990, a certain Jaime Anido together with five (5) armed men arrived at the premises and with drawn guns ordered them to stop constructing the fence; said armed men carted away the construction materials and implements and he reported the said incident to the Litex Police Detachment, Fairview Sub-station, Fairview, Quezon City. Said Report[15] was transmitted to the Office of the City Prosecutor of Quezon City.

In an affidavit[16] executed by Ernesto T. Sala, he stated that he and his men continued constructing the fence. On July 26, 1990 Jaime Anido and five (5) men again came and ordered them to stop constructing the fence and carted away the construction materials and implements. This incident was reported to the CAPCOM North Sector, Camp Karingal, Quezon City which referred the matter to the Office of the City Prosecutor of Quezon City for appropriate action.[17]

On the basis of the aforestated findings and investigations conducted, the NBI found sufficient evidence to warrant the filing of two counts of falsification of public documents against respondent Yambao especially when considered in the light of the fact that he had been in possession of the original copies of the questioned documents, has used them, and is presumed to have authored the falsifications, absent a satisfactory explanation.

The NBI likewise found that even if the records do not show that respondent Yambao took advantage of his official position to commit the said falsification, this does not preclude the taking of disciplinary action and the institution of disbarment proceedings against him.

In his comment, respondent Yambao contends that he did not forge the Deed of Sale dated February 11, 1986; in the event that Vicente T. Garaycay who sold the disputed property to him turned out to be an impostor, he having acted in an honest mistake of fact could not be held liable for the crime of falsification; and that he had taken the path of law by filing a civil case for "Quieting of Title and Annulment of Defendant's Fake Title" on April 12, 1991 with the Regional Trial Court of Quezon City, Branch 88, docketed as Civil Case No. Q-91-8455 against complainant Joselito Garaycay.

Respondent Yambao averred that sometime in December, 1985, his "kumpadre" Reynaldo de los Reyes, a real estate agent introduced him to a certain Vicente Garaycay who offered to sell the northern half portion of land for P120,000.00, the other half having been previously sold to one Jesus B. Rodriguez but without any formal documentation yet. He was shown a xerox copy of the Owner's Duplicate copy of TCT No. 9780 (693).

After a week, Vicente Garaycay, together with de los Reyes, came to his residence. Vicente Garaycay brought with him the original TCT No. 9780 (693) which he compared with the xerox copy previously shown him and found that both documents were exactly the same. The three of them went to view the property. He found the location to be ideal for residential purposes and told Vicente Garaycay to come back after two weeks.

After two weeks, Vicente Garaycay and de los Reyes came back. He made a downpayment of P20,000.00 with the balance payable in two weeks. It was also agreed that the deed of sale to be executed on February 11, 1986 will include the portion sold to Jesus B. Rodriguez and that the expenses for documentation shall be borne by him alone. He advised Vicente Garaycay and Jesus Rodriguez to bring with them their residence certificates and other

identification papers like Voter's ID.

He prepared the deed of absolute sale and he copied the description of the land exactly from the original of TCT No. 9780 (693) as given by Vicente Garaycay. He gave the balance of P100,000.00 after which they all went to Atty. Hercules Guzman for the acknowledgment of the deed. Vicente Garaycay, Rodriguez and he signed the document in the presence of the Notary Public and those of the witnesses to the deed.

He forgot to register the deed of sale due to pressing works. When the records of the Register of Deeds of Quezon City were burned and he needed cash, he sold one-half of what he bought to Jesus Morales and forgot all the more about registering the sale.

When he learned that somebody was making constructions on the land he bought, he was again reminded of registering the sale. That in the exercise of his right as co-owner, he verified the reported constructions and informed the police authorities about it. However, he denies any participation in any manner whatsoever in the threatening or manhandling of anybody in connection with the said illegal constructions.

On August 7, 1990 in a meeting at the AOCD of the NBI, complainant Joselito Garaycay introduced to him and Jesus Morales a certain Vicente T. Garaycay, uncle of complainant Joselito Garaycay and alleged owner of the land which he bought. He disclaimed knowing or meeting said person.

After a careful scrutiny of all the records presented to this Court and considering the comment of respondent Yambao, We find that there exists a reasonable ground to warrant the filing of this administrative complaint.

Respondent Yambao wants this Court to believe that he is a victim of a fraudulent sale, hence, the presumption that a possessor of a falsified document is presumed to be the forger thereof cannot apply to him.

We do not agree. The NBI findings show that Transfer Certificate of Title No. 9780 (693) and the alleged signature of Vicente T. Garaycay on the Deed of Sale including the alleged Voter's ID of Vicente T. Garaycay, all in the possession of respondent Yambao are false and forged. This conclusion was arrived at after an exhaustive investigation conducted by the NBI with the cooperation of the Office of the Registrar of Deeds of Quezon City, the Land Registration Authority, the City Assessor of Quezon City, Romulo D. Florencio, Ernesto Tampoya Sala, and the Office of the Election Registrar of Angono, Rizal. On the other hand, respondent Yambao refused and failed to comment on the affidavit-complaint filed by complainant Joselito Garaycay with the NBI.

Considering the findings of falsification by the NBI against respondent Yambao, it was incumbent upon him to present evidence to show that he has not falsified nor caused the falsification of the aforesaid documents. The burden is on him to overcome the presumption that "if a person had in his possession a falsified document and he made use of it (uttered it), taking advantage of it and profiting thereby, the presumption is that he is the material author of the falsification." [18] "In the absence of a satisfactory explanation, one who is found in possession of a forged document and who used or uttered it is presumed to be the forger." [19]

It was easy for him to present the Notary Public who notarized the alleged Deed of Sale to prove the authenticity and due execution of the same or the witnesses who witnessed the alleged transaction or the other vendee, Jesus B. Rodriguez or the alleged buyer of his portion of the land, Jesus Morales. For reasons known only to him, respondent Yambao chose not to do so. Instead he merely incorporated in his comment an alleged affidavit of a certain Reynaldo de los Reyes corroborating his story which We find not worthy of any credence considering that said de los Reyes is a close friend and "kumpadre" of respondent Yambao.

Not only did respondent Yambao miserably fail to dispute such presumption but major contradictions and inconsistencies exist in his comment filed with this Court as well as in his complaint for Quieting of Title and

Annulment of Fake Document filed with the Regional Trial Court of Quezon City.

Respondent, in his comment, averred that "the original of TCT No. 9780 (693) which he (Vicente Garaycay) delivered to me is genuine and authentic." But, in his complaint, he states that "(i)n other words, two titles of the same property existed, namely: one issued on June 14, 1944 to Vicente Garaycay bearing Transfer Certificate Title No. 9780 x x x and second, a latter fake title bearing Transfer Certificate of Title No. 9780 (693) x x x." [20]

Moreover, in the same comment, he stated that he was shown a xerox copy of TCT No. 9780 (693) by Vicente Garaycay when the latter first went to him. A week later, he was shown the original copy of TCT NO. 9780 (693) when he asked to see the original of TCT No. 9780. He allegedly compared the two and found them to be exactly the same. [21]

In effect, he asseverates that TCT No. 9780 and TCT No. 9780 (693) are one and the same, the former being the xerox copy of the latter. However, in his complaint he maintains that TCT No. 9780 (693) is a fake title and that TCT No. 9780 is the genuine title.

Respondent Yambao's contradictory stands may be said to be the result of his ardent desire to exculpate himself at any cost to the extent of contradicting himself.

A casual comparison of the two Transfer Certificates of Title shows that the two cannot be considered to be the same for there exists patent and clear differences between the two. Firstly, the number given to each title is different. Secondly, the personal circumstance of Vicente Garaycay in TCT No. 9780 was torn while in TCT No. 9780 (693) the same is intact. Thirdly, the annotation contained in TCT No. 9780 (693) does not appear in TCT No. 9780.

In addition thereto, this Court cannot accept respondent Yambao's defence that he forgot to register the alleged sale for more than five years up to the present because of pressing work. We take note of the fact that the Register of Deeds of Quezon City is located in the same building where respondent Yambao holds office. It is only very recently that the Regional Trial Courts were transferred to another building. But just the same, the office of the Register of Deeds is located within the same compound.

All the circumstances taken together led this Court to believe that he either has knowledge of the falsity of TCT No. 9780 (693) or that he falsified or caused the falsification of the same. In both cases, he tried to profit from the falsification.

Time and again this Court has stressed that the conduct of everyone connected with the dispensation of justice, from the judges to the most junior of clerks, must at all times be characterized with propriety and decorum and be above suspicion. [22]

In the case at bar, respondent Yambao failed to live up to the demanding standards required of him.

Accordingly, the Court resolved to DISMISS respondent LIBERATO YAMBAO from the service for serious misconduct, with prejudice to re-employment in any branch of the government service, including government-owned or controlled corporations. All retirement benefits or privileges to which respondent may be entitled, are hereby DECLARED FORFEITED without prejudice to his receiving the money value of his leave credits, and return of his GSIS premiums and medicare fees.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Campos, Jr., and Quiason, JJ., concur.

Griño-Aquino, J., on leave.

- [1] Annex "B".
- [2] Annex "H".
- [3] Annex "C".
- [4] Annex "C-1".
- [5] Annex "C-2".
- [6] Annexes "C-10" to "C-11".
- [7] Annex "I".
- [8] Annex "D".
- [9] Annex "F".
- [10] Annex "F-7" to "F-8".
- [11] Annex "F-3" to "F-7".
- [12] Annex "F-1".
- [13] Annex "G".
- [14] Annex "E-1-3".
- [15] Annex "E-4-5".
- [16] Annex "E-9-10".
- [17] Annex "E-7-8".
- [18] *People vs. Sandaydiego*, 81 SCRA 120, 141 (1978).
- [19] *Ibid.*, citing *People vs. Caragao*, 30 SCRA 993 (1969).
- [20] Comment, p. 3.
- [21] *Ibid.*, p. 16.
- [22] Comment, pp. 1-2.
- [22] *Del Rosario vs. Bascar, Jr.*, 206 SCRA 678 (1992); *Callejo, Jr. vs. Garcia*, 206 SCRA 491, (1992).

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