

**MOISES M. MASPIL, AND YOLANDA LAGMAN, COMPLAINANTS, VS.
FERNANDO R. ROMERO, CLERK OF COURT, COURT OF FIRST
INSTANCE, BAGUIO CITY, RESPONDENT.**

A.M. No. P-44. September 30, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

This administrative case presents a glaring example of how private individuals can harass and persecute public officials for their own private and personal ends without being sincerely concerned with the interest of the public service, and of how the power of administrative action may be utilized to deprive said officials of their freedom of action in the exercise of their legitimate rights as private citizens. We do not deny the citizen's right to denounce recreant public officials if their incompetence or lack of integrity or qualification may adversely affect the public service, but We certainly frown upon the practice of some misguided citizens to subvert the noble ends for which administrative discipline is designed which is to purge the public service of undesirable officials.

Respondent Fernando R. Romero, then Clerk of Court, Court of First Instance of Baguio City, who has retired from the service since June, 1973, was charged in two "Very Urgent Complaints" of substantially the same nature by Moises M. Maspil and Yolanda Lagman, alleged president and member, respectively, of the Holy Ghost Hills Subdivision Proper Vigilantes Neighborhood Association, Inc., of said city relative to their conflicting claims over a parcel of public land, designated as Lot No. 27, within the Holy Ghost Subdivision of Residential Section "B", Baguio City. This controversy is not a proper subject matter for administrative action against a public official as it has nothing to do with his competence, integrity or performance of his duties, and it should have been brought as a civil action before the courts to settle and adjudicate the conflicting claims of the parties over the land involved.

But to set the record straight, Hon. Feliciano Belmonte of the Court of First Instance of Baguio and Benguet, Branch II, proceeded with the investigation of this case and heard the evidence for both parties for the sole purpose of determining if the respondent, as a public official, had committed any abuse or utilized his office for any ulterior or improper purpose.

The uncontroverted facts as found by the Investigator are as follows:

On August 1, 1951, one Atty. Ramon L. Resurreccion filed with the Bureau of Lands office in Baguio City a townsite sales application (V-723) for a parcel of land situated in Residential Section "B", Baguio, which parcel of land applied for is the same as that in dispute in this case; that the application was accepted and given due course but on February 20, 1954, Atty. Resurreccion in a sworn statement submitted to the Bureau of Lands office in Baguio, relinquished and transferred his rights and interests over the land covered by his sales application (V-723) to respondent Atty. Fernando R. Romero who in turn filed his application for the same land; that on the basis of Atty. Resurreccion's waiver, the then District Land Officer, Juan Antonio, accepted and gave due course to respondent's application (No. V-3444) on March 8, 1954; that in a subsequent order issued by the Director of

Lands on July 23, 1954, the application (V-3444) of respondent was considered unnecessary and revoked it and ordered all pertinent papers to be incorporated with the original Townsite Sales Application No. 723 (previously that of Atty. Resurreccion), and allowing respondent to continue as applicant-successor-in-interest of his predecessor, Atty. Resurreccion; that in order to take possession of the land and introduce improvements thereon, respondent applied for a provisional permit from the Bureau of Lands which was granted on August 3, 1965, whereupon he filled its precipitous portion thereof with earth; that on July 24, 1967, respondent was given a provisional permit (Exhibit 1) to construct a residential building on the lot, but as he was advised (Exh. 1-a) by the Office of the City Engineer of Baguio that the soil was unstable, he desisted from continuing with the construction; that when the soil was ready for building construction and the respondent had acquired the means to construct his house, he began its construction and this is when the complainants filed their charge against him of "conduct unbecoming a government official".

Before 1969 there were claimants-occupants of that area called Holy Ghost Subdivision who agitated for the enactment of a law to exclude it from the public domain so that it could be subdivided and allocated to the occupants; that as a result, Republic Act 6099 was enacted, taking effect on August 1, 1969, and providing that those parcels of land in Residence Section "B", Baguio Townsite, Baguio City, shall be sold to the claimants-occupants in accordance with the provisions of Republic Act 730; that respondent is included as a claimant-occupant within the purview of Republic Act 6099 because he was a possessor-in-good faith of the lot pursuant to a duly issued permit; that Atty. Amador P. Roxas who supervised the re-subdivision of said parcels of land was instructed to respect the rights of the actual occupants of lots, with or without permit; that although respondent was not included in the list of beneficiaries for whom the law (Republic Act 6099) was supposedly enacted, the explanation is that respondent need not be included as one of the beneficiaries since he was an actual occupant of the land with lawful permit long before the law took effect; that respondent's permit of occupancy was renewed and the District Land Officer considered occupant's application subsisting; that respondent's provisional permit to construct a house did not expire because he had already started the construction; that the Investigating Judge had no jurisdiction in the administrative case to determine who between complainant Yolanda Lagman and respondent had a better right over the disputed lot, notwithstanding the voluminous documentary evidence presented by the former to prove a color of title over the disputed lot; that respondent has been a clerk of court, since 1938, having occupied that position for 35 years up to his compulsory retirement, without having been administratively charged except in this case when he was about to bow out of the public service.

The Investigator concluded that "there is nothing unlawful or unjust committed by the respondent when he exercised his right as an ordinary citizen to acquire a piece of public land to build his house on in accordance with law." He also found that respondent during his long years of public service acquired this only lot which became the cause of the administrative charges against him.

It is indeed the height of irony that when respondent was about to end his long years of public service with an apparently unblemished record, his longing to at least have a residence of his own became a hindrance to his well-earned privileges when it served as basis for the filing of the charges against him. The identical unfounded charges of complainants Maspil and Lagman must have been principally motivated by their desire to intimidate the respondent into giving up his right to the much coveted disputed lot.

We cannot end this case with a mere condemnation of complainants' acts, which would go unpunished, without stating that respondent who has been so undeservedly and mercilessly maligned and harassed may seek redress for the wrong done to him in another form.

WHEREFORE, as recommended by the Investigator, the complaint is dismissed and this case considered terminated.

SO ORDERED.

Makalintal, C.J., Castro, Teehankee, and Munoz Palma, JJ., concur.
Makasiar, J., is on leave.

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