



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

JUANITO K. AMPAGUEY.
Accused.

Crim. Case No.
SB-16-CRM-0131
For: Violation of Sec. 3(e),
R.A. No. 3019, as
amended

Present:
DE LA CRUZ, J., *Chairperson*
ECONG, J. and
CALDONA, J.

PROMULGATED:

January 11, 2019 *Jr*

x

x

DECISION

Econg, J:

Accused **JUANITO KIBATAY AMPAGUEY**, former Register of Deeds of the Registry of Deeds of Baguio City, is charged with violating Section 3, Paragraph (e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act.

The Information¹ reads as follows:

That on 14 April 2010, or sometime prior or subsequent thereto, in Baguio City, Benguet Province and within the jurisdiction of this Honorable Court, accused Juanito Ampaguey y Kibatay, a public officer, being then the Register of Deeds of the Registry of Deeds for Baguio City, Benguet Province, while in the performance of his official functions as such, and taking advantage of his official position, through evident bad faith, manifest partiality or gross inexcusable negligence, did then and there, willfully, unlawfully, criminally and unilaterally cancel private complainant Dr. Dick Lee Ong's Transfer Certificate of Title (TCT) No. T-62576 covering a parcel of land situated in

¹ Information dated March 1, 2016 and filed on March 30, 2016.

Handwritten signature/initials

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Baguio City, Benguet, consisting of Seven Hundred Fifty Five (755) square meters, by issuing TCT No. 018-2010001035 in favor of spouses Ferdinand and Rhighina Samidan, without requiring the presentation of the owner's duplicate copy of TCT No. T-62576, or a court order authorizing him to issue new owner's duplicate certificate in lieu of purported lost TCT No. T-62576, thereby giving unwarranted benefits, advantage or preference to spouses Samidan and causing undue injury to private complainant amounting to the lot's market value in the amount of Php171,500.00 and actual legal expenses in recovering the title from spouses Samidan amounting to Php189,253.64, to private complainant's damage and prejudice.

Accused was arraigned on July 28, 2016 and pleaded not guilty to the charge against him.

During pre-trial,² the parties stipulated on the following facts, as contained in this Court's Pre-trial Order, to wit:

1. The accused admitted that whenever Juanito Kibatay Ampaguey is referred to orally or in writing by the Court, the prosecution and its witnesses, he is the same person being referred to.
2. The accused admitted that he is the Register of Deeds of the Registry of Deeds of Baguio City at the time material to the present case.
3. TCT No. 018-201000010135 was issued on April 14, 2010, under the name of Spouses Ferdinand Samidan and Rhighina Samidan.
4. An Administrative Case for Grave Misconduct docketed as ADM Case No. 12-06 was filed against the accused at the Land Registration Authority.
5. A Resolution dated August 31, 2012 was promulgated in ADM Case No. 12-06 by the LRA, finding the accused guilty of the administrative charge of grave misconduct and imposing a penalty of dismissal from the service pending appeal with the Office of the President.
6. A decision dated May 18, 2015 was rendered in Civil Case No. 7443-R by Presiding Judge Antonio C. Reyes, RTC

² Pre-Trial Order April 3, 2017.

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Branch 61, Baguio City, pending appeal in the Court of Appeals.

During the same pre-trial, the parties proposed the following issues to be resolved:

As proposed by the prosecution:

- Whether the accused, while in the performance of his official functions as Register of Deeds of the Registry of Deeds for Baguio City, Benguet Province, and taking advantage of his official position, through evident bad faith, manifest partiality or gross inexcusable negligence, willfully, unlawfully, criminally and unilaterally cancel private complainant Dr. Dick Lee Ong's TCT No. T-62576 by issuing TCT No. 018-20101035 in favor of spouses Ferdinand and Rhighina Samidan, without requiring the presentation of the Owner's Duplicate Certificate Copy of TCT No. T-62576, or a Court Order authorizing him to issue a new Owner's Duplicate Certificate, thereby giving unwarranted benefits, advantage or preference to spouses Samidan and causing undue injury to private complainant amounting to the lot's market value in the amount of Php171,500.00 and actual legal expenses amounting to Php189,253.64.

As proposed by the defense:

- Whether the accused can be held liable for violation of Section 3(e) of R.A. No. 3019.

SUMMARY OF TESTIMONIAL EVIDENCE

Witnesses for the Prosecution

Arvin P. Hembrador

Arvin P. Hembrador is an Administrative Aide at the Land Registration Authority.³

Through his Judicial Affidavit, he said that he was tasked by the Chief of the Central Records Division to appear before Prosecutor Agunias on October 27, 2017 for the taking of a Judicial Affidavit and to bring the original of LRA Circular No. 3. He identified the Circular which he was required to present as Exhibit "GG".

³ TSN dated April 4, 2018.

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During the hearing relevant to his testimony, his statement was dispensed with following the stipulation of the parties on the authenticity and due execution of the document mentioned in his Judicial Affidavit.⁴ On cross examination, he was asked if LRA Circular No. 3 dated December 6, 1988 had been repealed, reversed, amended or modified,⁵ and he replied that as far as he knows, there had been no changes in the said document.⁶

Joel Mari Martin M. Bigornia

Joel Mari Martin M. Bigornia is the Chief of Docket Division of the Land Registration Authority.⁷

In his Judicial Affidavit, Bigornia was asked if he remembers investigating a verified complaint filed by Dick Lee Ong against accused Ampaguey. He answered in the affirmative, and said he evaluated the documents material to the case as well as asked for the latter's comment. Thereafter, he submitted the report to the Division Chief and was subsequently approved by Administrator Eulalio Diaz III.

When asked about the contention of Ampaguey that there were already precedents during the term of the previous Registers of Deeds wherein provisional Owners Duplicate Copy of Titles were allowed to be issued, he replied that this was a wrong assumption since a case for reconstitution was the proper remedy. If Duplicate Certificates of Titles were lost, the proper proceeding is a petition for re-issuance of title. He also said that pending reconstitution, voluntary or involuntary transactions can be provisionally registered pursuant to LRA Circular No. 3; however, this is different if a title was lost (re-issuance only) since no transaction can be undertaken prior to a final court order directing the Registry of Deeds to re-issue a new copy.

On cross, he was asked of a report referred to in question 9, particularly page 3 of his Judicial Affidavit. He was asked if, after the evaluation of the complaint of Dr. Dick Lee Ong, he thinks that the action taken by Atty. Ampaguey "proceeding with the transaction even without the presentation or surrender of the original duplicate certificate, violated the mandate of PD

⁴ Id., at 9.

⁵ Id., at 10.

⁶ Id., at 11.

⁷ Id., at 12.

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1529.” Bigornia replied in the affirmative. When asked if he thinks the action of the accused violated LRA Circular No. 3, he also replied in the affirmative.⁸

Ellenita G. Gatbunton

Ellenita G. Gatbunton is the Presidential Staff Officer VI at the Malacanang Records Office at the time of the taking of her testimony.⁹

In her Judicial Affidavit dated October 17, 2016 and filed on October 21, 2016, she stated that she produced the authenticated copies of the following documents pursuant to a *subpoena duces tecum* dated October 5, 2016:

- a. Transfer Certificate of Title No. T-62576 (cancelled);
- b. Transfer Certificate of Title No. 018-2010001035;
- c. Report dated January 2, 2012 (M.C. No. 11-177) submitted by Investigator Joel Mari Martin M. Bigornia with its annexes;
- d. Notice dated December 11, 2012 for ADM Case No. 12-06 with attached Resolution dated August 31, 2012 approved by LRA Administrator Eulalio C. Diaz III Ordering the dismissal of Juanito K. Ampaguey for Grave Misconduct.

On cross, she was asked if the records she brought pertain to those filed by Dr. Dick Lee Ong against accused Ampaguey, and she replied in the affirmative.¹⁰ The defense then asked if a Deed of Absolute Sale was included in the documents in the Land Registration Authority, and she replied in the negative.¹¹ There were some queries about the appeal from the Land Registration Authority decision to the Office of the President docketed as OP Case No. 13-A-004, but this matter was stipulated on or admitted by the parties during pre-trial, particularly stipulation number 5.

⁸ *Id.*

⁹ TSN dated April 5, 2017, p. 5.

¹⁰ *Id.*, at 17.

¹¹ *Id.*, at 23.

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Rodil A. Rivera

Atty. Rodil R. Rivera is the acting Register of Deeds of Baguio City.¹²

In his Judicial Affidavit dated October 7, 2016 and filed on October 21, 2016, he was asked of the process in registering transfers of properties, and he stated:

1. The document to be registered, including supporting documents, is first submitted to the Registration Information Officer for checking. The supporting documents are the following:
 - a. Deed of Absolute Sale;
 - b. Owner's Duplicate Copy of the subject;
 - c. BIR Certificate Authorizing Registration;
 - d. Official Receipt proving payment of transfer tax in the local government;
 - e. Real Property Tax Clearance issued by the local government;
 - f. Tax Declaration in the name of the seller or the registered property owner; and
 - g. If any of the parties are represented by another person, a Special Power of Attorney.
2. The documents are forwarded to the Entry Clerk who makes the Entry of the Contract of Sale in the Primary Entry Book/Electronic Primary Entry Book;
3. There will be an assessment of Registration and Information Technology Fees and an Assessment Form will be printed and paid;
4. After payment, the information will be encoded, including the information of the transaction, the parties, the consideration, notarization details, and the details of the BIR-CAR;
5. The examiner then examines all the documents submitted and the proper carry over of the transactions, as well as the requirements of orders, if applicable;
6. The transaction is then approved by the Register of Deeds who, as the witness said, only approves after seeing that all the requirements are complete;

¹² TSN dated June 5, 2017, p. 4.

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7. After approval, the documents are scanned and uploaded in the database;
8. The Owner's Duplicate Copy of the new title will be printed and then signed by the Register of Deeds;
9. The old title is automatically cancelled and the computer marks the old title as cancelled.

The witness was then asked what would happen if the Owner's Duplicate Copy of a title was lost or it cannot be found, and he replied that based on Section 53 in relation to Section 109 of Presidential Decree No. 1529, the Deed of Sale will not be registered.

On cross, Rivera was asked how he knew about this case, and he replied that he learned of it only when he was asked to testify on matters relevant to it.¹³

Delfin D. Ong

Delfin D. Ong is a businessman and the father of the private complainant in this case.¹⁴

In his Judicial Affidavit dated October 6, 2016 and filed on October 21, 2016, he affirmed that Dick Lee Ong, the private complainant in this case, is his son. He came to know Rhighina Samidan as the one who bought his property in Baguio City from an imposter.

He said at one time, he met with Rhighina. She told him that she is the registered owner of the property of his son. She said that she was fooled by certain persons in acquiring the property, particularly one Jennette Ong Buan¹⁵. During the same meeting, he asked for documents proving the transfer of the property under her name and they set another meeting to further discuss the matter.

On their subsequent meeting, Rhighina met with the witness and the latter's lawyer, Atty. Francisco Baraan. Rhighina presented a Special Power of Attorney, Deed of Sale,

¹³ Id., at 8.

¹⁴ TSN dated June 6, 2017, p. 4.

¹⁵ Other witnesses and documents presented mentioned of Jenette Ong or Jennette Ong Abuan.

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Cancellation and Revocation of Deed of Sale, as well as the new title under her name. Rhighina then narrated how she was fooled in acquiring the subject property, how she was able to cause the registration of the same, as well as proposed to buy it directly from Dick Lee Ong to legitimize the acquisition.

The witness was then asked how Rhighina was able to acquire the property, and he replied that an imposter claiming to be Dick Lee Ong was introduced to her by Perla Limliman. Then, Rhighina was met by Jennette Ong Buan who claimed to be Dick Lee Ong's daughter. He said it was through Jennette Ong Buan that Rhighina was able to transfer the title to her own name, since the former had a Special Power of Attorney as well as executed an Affidavit of Loss of the Owner's Duplicate Copy of TCT No. T-62576. He also said that during the meeting, Rhighina said that on the bases of the Special Power of Attorney and Deed of Sale between her and Jennette Ong Buan, she "was able to cause the transfer of the property under her name."

On the proposal to buy the property, the witness said that Rhighina offered the amount of ₱19,500,000.00. Considering that he believed the amount is commensurate to the value of the property, he agreed to the sale. Also, he wanted to avoid the hassle of litigating to reacquire the subject property. The terms of the payment were through postdated checks dated June 20, 2010, July 10, 2010, and July 20, 2010.

However, when the checks were deposited by the witness in Queens Bank, they bounced for the reason of it being drawn against a "Closed Account."

Thereafter, the witness approached Atty. Baraan who said that he will find a way to recover the subject property. Due to Atty. Baraan's appointment to a position in government, the matter was eventually transferred to Atty. Nolan Evangelista who filed cases against Rhighina, Cooperative Bank of Benguet, and the accused Ampaguey.

During cross examination, the witness was asked if he knew Rhighina Samidan, and he answered in the affirmative.¹⁶ He added that they met the first time in Jesus of Nazarene Hospital, and talked about the property covered by TCT No. T-62576 which was in the name of Samidan. He was subsequently shown a title and deed of sale executed by his son, Dick Lee

¹⁶ Id., at 6.

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Ong, in her favor, as well as a special power of attorney given by Dick Lee Ong to Samidan at the office of his lawyer, Atty. Francisco Baraan.¹⁷

Referring to the Deed of Absolute Sale marked as Exhibit "E", the witness was asked if he knew if the amount stated is P800,000.00, and he replied he did not since he only noticed the signatures of Dick Lee Ong and Samidan therein.¹⁸

The defense then asked the witness if it was his and Dick Lee Ong's mutual decision to sell the property, and he replied that it was, and with the advice of their lawyer, they executed a deed of sale sometime in 2010 in favor of Samidan. He said further that he was present during the execution of the said document.¹⁹ The defense then read the provision of the said document stating that the consideration is P19,500,000.00. He affirmed the provision, as well as affirmed when asked by the defense if he agreed to sell the said property in that amount.²⁰

About the payment for the P19,500,000.00, the witness said that it was divided into three (3) checks, which he identified as Exhibit "J". Later on, the defense asked to whom the checks were named to, and he replied it was to his son, Dick Lee Ong.²¹

The parties then stipulated on the authenticity and due execution of Exhibit "I", as well as to the checks marked as Exhibits "J" to "J-2",²² including their dorsal and front portion.²³ The parties also stipulated that the same checks were deposited at Queen Bank, Dagupan Branch.²⁴

The witness was asked, as a final question, if he knew that there were three other entities that filed cases against the Cooperative Bank of Benguet and Rhigina Samidan. He replied in the affirmative, saying that he did not know what happened to these cases subsequently.²⁵

¹⁷ Id., at 12.

¹⁸ Id., at 14.

¹⁹ Id., at 15.

²⁰ Id., at 16.

²¹ Id., at 19.

²² Id., at 24.

²³ Id., at 26.

²⁴ Id., at 26.

²⁵ Id., at 29.

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Frederic Albert Anthony C. Cortes

Frederic Albert Anthony C. Cortes is the Records Officer of the Registry of Deeds of Baguio City.²⁶

In his Judicial Affidavit dated October 13, 2016 and filed on October 21, 2018, he said, in relation to his holding of the position of records officer, he tendered the following documents pursuant to the *subpoena* of Special Prosecutor Agunias:

- a. Transfer Certificate of Title No. T-62576 (cancelled);
- b. Transfer Certificate of Title No. 018-2010001035;
- c. Affidavit of Loss executed by Jennette Ong Abuan annotated on Transfer Certificate of Title No. 018-2010001035 on April 6, 2010;
- d. Deed of Absolute Sale of a Parcel of Land dated April 13, 2010 including all its attachments;
- e. Special Power of Attorney dated August 28, 2007;
- f. Affidavit of Adverse Claim dated April 27, 2010;
- g. Real Estate Mortgage in favor of Cooperative Bank of Benguet annotated on Transfer Certificate of Title No. 018-2010001035 on April 15, 2010;
- h. Notice of Adverse Claim annotated on Transfer Certificate of Title No. 018-2010001035 on June 15, 2010;
- i. Cancellation of Adverse Claim annotated on Transfer Certificate of Title No. 018-2010001035 on June 15, 2010;
- j. Amendment of Mortgage annotated on Transfer Certificate of Title No. 018-2010001035 on June 12, 2010;
- k. Affidavit of Adverse Claim annotated on Transfer Certificate of Title No. 018-2010001035 on November 15, 2010;
- l. Affidavit dated June 15, 2010 executed by Rhighina Samidan;
- m. Affidavit dated September 17, 2010 executed by Rhighina Samidan;
- n. Affidavit dated November 12, 2010 executed by Rhighina Samidan;
- o. Letter-Authorization dated January 26, 2011 signed by Rhighina Samidan;
- p. Letter dated January 26, 2011 regarding the reinstatement of TCT No. T-62576;
- q. Certificate of Sale in favor of Cooperative Bank of Benguet;
- r. Final Certificate of Sale dated January 13, 2013;
- s. Affidavit of Consolidation of Ownership in favor of Cooperative Bank of Benguet.

He stated that he has possession of the original copies of letters b, d, g, j, q, r, and s above. He only had the vault copy of Exhibit "C" or TCT No. T-62576. For TCT No. 018-2010001035, he has the Owner's Duplicate Copy. For Exhibit "H", the original

²⁶ TSN dated September 11, 2017, p. 3

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Affidavit of Adverse Claim of Dr. Dick Lee Ong, he said the physical copy could not be found in the files. He was able to find its electronic copy, since it was immediately scanned and uploaded in the database upon presentation.

As for the letter marked as Exhibit "L" dated June 14, 2010, he only has a photocopy. When asked about the Affidavit dated June 15, 2010 executed by Rhighina Samidan, Affidavit dated September 17, 2010, Affidavit dated November 12, 2010, Letter-Authorization dated January 26, 2011, all executed by Rhighina Samidan, as well as the letter dated January 26, 2011 regarding the reinstatement of TCT No. T-62576 which are marked as Exhibits "P-2", "P-5", "P-8", "W", "X", and "DD", he replied that the only original document he had at hand is the Affidavit of Adverse Claim dated November 15, 2010 marked as Exhibit "P". All other documents are photocopies. For Exhibits "W", "X" and "DD", he said they cannot be found despite efforts to locate them.

Finally, he attested that Exhibits "C", "D", "E" series, "F", "L", "M" series, "N", "O", "P" series, and "R", "S", "T", "U", and "V" series were certified true copies existent at the Registry of Deed of Baguio City.

During his testimony, the parties stipulated on the following:

1. That the witness is presently the records officer of the Registry of Deeds of Baguio City;
2. That as part of his duties, he has custody of physical documents annotated and entered in the title;
3. That he has custody of the originals of the following documents: Exhibits E to E-17, F, M to M-5, N, O, P, R, S, T, U, and V;
4. That he has the original vault copy of Exhibit 6, that despite diligent efforts, he cannot locate the copy of Exhibit H, W, X and DD;
5. That he cannot produce the original Exhibit L, P-2, P-5, P-8, since the copies submitted to their office, as receiving copies, are photocopies;

6. That he will identify documents relative thereto and testify as to the other material allegations.²⁷

The parties also stipulated on the due execution of Cortes' Judicial Affidavit.²⁸

On cross, the witness was asked if he has personal knowledge of this case, and he replied in the negative, stating that he was made a witness for being the mere custodian of documents enumerated above.²⁹

Rodrigo D. Detablan

Rodrigo D. Detablan is an Administrative Aide VI assigned at the Records Section, Office of the Ombudsman-Luzon. In his Judicial Affidavit dated October 14, 2016 filed on October 21, 2016, he testified on Exhibit "FF", and attested on the receipt of the Counter-Affidavit of Respondent Ampaguey by the Office of the Ombudsman-Luzon.

Felimon L. Marcelino

Felimon L. Marcelino, Jr. is the Administrative Officer and OIC-Deputy Registry of Deeds of Baguio City at the time material to this case up to the taking of his testimony.³⁰

In his Judicial Affidavit dated November 2, 2016 and received on November 4, 2016, he identified Exhibits "C", "D", "E" and series, "F", "H", "L", "M" to "P", "R" to "V", and "DD" as electronic copies of the documents on file with the Registry of Deeds of Baguio City.

He said that Exhibit "DD" or the Affidavit of Loss dated April 6, 2010, was presented to him ahead of Exhibits "C", "E" and series, "F", "N", and "O" based on the date of annotation on the Transfer Certificate of Title No. T-62576 and carried over to Transfer Certificate of Title No. 018-2010001035. After examination of this Exhibit "DD", he said he recommended the denial of the registration because there was no Special Power of Attorney given to the affiant by the registered owner.

²⁷ Id., at 4.

²⁸ Id., at 11.

²⁹ Id., at 14.

³⁰ TSN dated September 11, 2017.

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However, he said that the Register of Deeds approved the registration of the Affidavit of Loss, identifying Exhibits "C", "E", "F", "N" and "O" as the relevant documents. He then said that upon examining these documents, he observed from the Assessment Form, Payment Form, and the Registration Application Form, that there were no Duplicate Certificate of Title submitted. He personally verified the same and confirmed the missing document.

Thereafter, he made a handwritten notation on the Assessment Form and Payment Order stating the fact that he recommended the transaction be denied. He simultaneously encoded his remarks in the computer database.

The witness then said that the accused approved the provisional registration of the property despite having no request for the same.

After a while, a Real Estate Mortgage between the new registered owners and the Cooperative Bank of Benguet was registered. To this transaction, he recommended registration. When asked why he recommended dissimilarly to his earlier recommendation, he replied that the first recommendation was already overruled by Ampaguey and that it was already a fact that a new title had already been issued.

Thereafter, the Real Estate Mortgage, Certificate of Sale, Notice of Extrajudicial Foreclosure of Real Estate Mortgage, Final Certificate of Sale, as well as Affidavit of Consolidation of Ownership were presented to him for registration. He recommended denial of the registration of these documents since there was an existing Notice of Adverse Claim dated November 17, 2010.

During his cross examination, he was confronted with question number 28 in his Judicial Affidavit, wherein he stated that there was no letter-request for provisional registration. The defense then asked what he meant by his answer in question number 29, where he said he recommended the provisional registration on the vault copy of the title. He replied that there is another document which was annotated aside from the Deed of Sale marked as Exhibit "O". After the notation, the Affidavit of Loss, Deed of Absolute Sale, and Special Power of Attorney of

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Jeanette Ong were presented to him. Thereafter, he affirmed the issuance of a new title, TCT No. 018-2010001035.³¹

The witness further said that the encoder made the title, one Maria Jesusa Villanueva. Thereafter, the copy of the title was sent to an examiner and then an encoder. He said he found defects in it, in that the duplicate Owner's Copy of the title was not presented. He indicated the finding in the assessment form.³²

Marcelino was then asked if he recommended provisional registration, and he replied in the negative.³³ He said he recommended it being put on "hold".³⁴ When asked if he saw the title, he replied he saw it in the database.³⁵ It was confirmed later that he did not see the duplicate hard copy of the title then, and it was the first time he saw the same when he made his Judicial Affidavit pertinent to this case.³⁶

Considering that the title of the document was printed with his recommendation of putting it on hold, the witness was asked if he objected to it. He said that he did not have time to re-examine it since it was already approved by the Register of Deeds.³⁷

Moving to a related point, the defense asked Marcelino why he recommended the registration of the real estate mortgage on the title but denied the registration of the Certificate of Sale dated December 15, 2011. He merely affirmed the fact of affirmative recommendation, and stated that the one who approved the annotation was Atty. Felipe, the one who succeeded Atty. Ampaguey.³⁸

For the annotation of adverse claims, he said there were two (2). He said he approved the first, which was made by Dick Lee Ong.³⁹ This was also cancelled in June 2010, which was prompted by the letter of Atty. Baraan stating that his client and

³¹ *Id.*, at 14.

³² *Id.*, at 17.

³³ *Id.*, at 19.

³⁴ *Id.*, at 21.

³⁵ *Id.*, at 23.

³⁶ *Id.*, at 24.

³⁷ *Id.*, at 27.

³⁸ *Id.*, at 31.

³⁹ *Id.*, at 32.

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the Samidans have “arrived at an agreement [pertaining to] the property in question.”⁴⁰

When asked if he is aware of the Deed of Absolute Sale dated April 2010, he said he was not. Upon asking of other transactions, he said he is aware of another, the Notice of Lis Pendens with EPEB 22001976.⁴¹ He clarified later that he does not know the details of the transaction, but merely saw the same in the title.⁴² When asked who signed the approval of the registration of this Lis Pendens, he replied it was Atty. Guerrero Felipe.⁴³

Felipe B. Guanzo

Felipe B. Guanzo is the Assistant Land Registration Examiner of the Register of Deeds of Baguio City.⁴⁴

In his Judicial Affidavit dated October 12, 2016 and filed on October 21, 2016, he said he was Administrative Aide III in the Registry of Deeds of Baguio since March 2003.

When asked if he remembers one Rhighina Samidan, he replied that he met her with one Tessie Dagasen when she asked for the requirements of transfers of titles. In the next couple of weeks, Rhighina returned to the Registry of Deeds with his husband, Ferdinand Samidan.

During the subsequent weeks of transferring the subject title, Rhighina met with the Entry Clerk, Divina Abenes. Guanzo said that Abenes doubted the authenticity of the Owner's Duplicate Copy shown to her. When Guanzo examined the said duplicate copy, he also said that he thought the document was fake, “because the color of the paper is different from authentic titles.” He said that when the said fake title was spotted, it was captured and put inside a vault. Thereafter, the witness said he called up Conchita Jouet whom he met previously. Conchita asked him who presented the fake title and when he said it was the spouses Samidan, she said that she will go to the Registry of Deeds immediately since they are her “pamangkins.”

⁴⁰ Id., at 36.0

⁴¹ Id., at 40.

⁴² Id., at 43.

⁴³ Id.

⁴⁴ TSN dated June 5, 2018.

[Handwritten signature]

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Upon arrival, Conchita talked to the Samidans. The day after, a certain Dante Bernardo went to the office and caused the registration of the Deed of Absolute Sale of two parcels of land which covered the land under the name of Dick Lee Ong. The witness said Bernardo wanted to cause the registration of the unregistered land only. He then asked the Deputy Register of Deeds, Jose Vicente Angeles, if the document is registrable since the intention of Bernardo is only the registration of the untitled land and not the one subject of the owner's duplicate copy which was confiscated. Mr. Angeles said that it was registrable.

After several weeks, Rhighina and Dagasen returned to the office and explained they were fooled since they already paid for the value of the land. The witness advised them to transact with the true registered owner. Samidan replied that she learned that Dick Lee Ong was in China, but his daughter, Jennette Ong Buan, was in Baguio. She said that she already talked to Jennette Ong Buan and that the only way for Jennette to go back to China is to sell the property. He then said to Samidan that if the title was lost, then they should file an Affidavit of Loss and file a Petition in Court for reconstitution. He then referred them to Ampaguey.

The witness then learned that the title printer, Art Padlan, printed a Transfer Certificate of Title covering the subject property in favor of Rhighina and Ferdinand. He later learned that the subject property was mortgaged with the Cooperative Bank of Benguet. He further said that on another day, Dagasen went to the office and informed him that the real owner is Dick Lee Ong who was in Pangasinan and that he has a copy of TCT No. T-62576. He told her to fix the matter already since Ampaguey had already issued the new title to Samidan without the owner's duplicate title.

Later on, Samidan and Atty. Baraan met at the office of Ampaguey. The Owner's Duplicate Copy of the Transfer Certificate of Title No. T-62576 was presented, as well as the Deed of Absolute Sale, and the Cancellation of Adverse Claim.

The witness said that the Register of Deeds of Baguio City at that time was accused Juanito Ampaguey.

The defense asked the witness if he knew Rhighina Samidan, and he replied in the affirmative. He said she met with

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her sometime on or before April 2010 with one Dagasen.⁴⁵ He said she asked him what are the requirements for the transfer of titles, and he gave her a list. Samidan did not present to him the documents in the list. Thereafter, he referred Samidan and Dagasen to Ampaguey, who was still the Register of Deeds of Baguio City.⁴⁶

Upon being asked further on the transaction, he said that after the conversation with the Register of Deeds, there was a "transfer made of the title involved." He further stated that he "came to know in the computer that after their conversation, probably a day or days after that, there was already [a] transfer made of the Transfer Certificate of Title of Dick Lee Ong to Samidan."⁴⁷ He said that he learned of these thing through one Mr. Padlan, the Printer in the office.⁴⁸ Upon being asked further, he replied that the transfer involved a sale of the land with TCT No. 62576 "in the name of certain Dick Lee Ong in favor of Rhighina Samidan x x x."⁴⁹

When asked further on his knowledge insofar as this case is concerned, he replied that the Samidans mortgaged the property to a cooperative bank. He came to know of the transaction since a bank employee, Jay Pudlos, came to register the document.⁵⁰ He referred Pudlos to the Entry Clerk, and he had no participation to the transaction thereafter.⁵¹

The witness then said that after the release of the title where the mortgage was annotated, the companion of Samidan, Dagasen, called by phone that they already found the real owner, and that they are in the process of negotiation. He replied to Dagasen to "fix the matter because Atty. Ampaguey already issued a new title in favor of Samidan without the owner's duplicate of title presented."⁵² He said that the conclusion of the negotiation is that the lawyer of Dick Lee Ong as well as the Samidans came to an agreement to surrender the owner's duplicate copy of the title to Atty. Ampaguey. He said that the Samidans and Atty. Baraan arrived at the office and surrendered the owner's copy of the title together with the

⁴⁵ Id., at 12.

⁴⁶ Id., at 13.

⁴⁷ Id., at 15.

⁴⁸ Id.

⁴⁹ Id., at 18.

⁵⁰ Id., at 24.

⁵¹ Id., at 25.

⁵² Id.,

cancellation of the adverse claim and an original copy of the Deed of Sale.⁵³

After a few weeks, Atty. Baraan called the witness telling the latter not to cancel the title (the one surrendered by Dick Lee Ong) because he "has to get it back."⁵⁴ He said that the title was not cancelled, and that Samidan and Baraan went to his office since the check paid by Samidan bounced.

Dick Lee Ong

Dick Lee Ong is the private complainant in this case and the Medical Director of Jesus of Nazarene Medical Hospital.⁵⁵

In his Judicial Affidavit, the witness was asked why he filed the complaint affidavit which initiated this case, and he replied that it is because the accused caused the transfer of TCT No. 018-2010001035 under Rhighina Samidan's name, without his knowledge "on the basis of spurious and falsified documents and without requiring the surrender of the owner's duplicate copy which was in [his] possession." When asked how he came to know of the transfer, he replied that one Tessie Dagasen introduced herself to him in April 2010. Dagasen said she wanted to help her sister, Rhighina, who was victimized by an impostor who sold to her a land in Baguio City. Dagasen said they became suspicious of the identity of the registered owner and they found out the person they thought was Dick Lee Ong was an impostor.

Upon learning of this, he was shocked since the Owner's Duplicate of TCT No. 62576 was with him and the said property was not sold nor mortgaged. He told Dagasen that he had to inform his father, Delfin Ong, since he was not familiar with the property and directed her to come back with Rhighina to clarify and discuss the matter.

Thereafter, after about a week, Rhighina and Dagasen came to where he worked, Jesus of Nazarene General Hospital. When they arrived, they were entertained by his father, Delfin Ong. Dagasen and Rhighina presented several documents and agreed on another date to meet with their lawyer, Atty. Francisco Baraan. They also narrated that a new Transfer

⁵³ Id., at 26.

⁵⁴ Id., at 28.

⁵⁵ TSN dated June 4, 2018.

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Certificate of Title was issued in the name of Spouses Ferdinand and Rhighina Samidan, that they learned that the property was for sale from a certain Perla Limliman who said she was the housemaid of Dick Lee Ong, and that the same Limliman said that the property was mortgaged to one "Cathy" for PhP377,000.00.

He then instructed Atty. Baraan to verify the status of the property, and it was found out that TCT No. 62576 was cancelled. The witness then filed a Notice of Adverse Claim on April 28, 2010.

During the next meeting, at Lenox Hotel, Dagupan City, Atty. Baraan was present as well as Rhighina. During the meeting, Rhighina said she was fooled twice in acquiring the property, first by an impostor claiming to be Dick Lee Ong introduced to her by Limliman, and second by Jennette Ong Abuan who claimed to be the daughter of Dick Lee Ong. The impostor Dick Lee Ong had a daughter by the name of Jennette Ong Abuan who claimed she had a Special Power of Attorney to sell the property, and the Cancellation or Revocation of Deed of Absolute Sale of Two Parcels of land dated April 14, 2010.

The witness was then shown Exhibits "F" and "G", and he observed that the signatures therein are not his as well as his address being a former address. Exhibit "G", he narrated, is a Contract of Sale dated March 20, 2010 involving the same property. However, it was revoked due to lack of consideration and Exhibit "E" is the Contract of Sale which became the basis of the cancellation of TCT No. T-62576 and was presented by Rhighina to him and the Register of Deeds of Baguio City. He said all the documents are fictitious and fraudulent because he has no daughter named Jennette Ong Buan, the signatures therein are not his, and the IDs attached are of different people.

When asked why they considered subsequently selling the property to Rhighina, he said that he believed in good faith that her representations were true and that she was likewise a victim. He also wanted to avoid litigation. The Contract to Sell was entered on June 14, 2010 (Exhibit "I") in the amount of PhP19,500,000.00 divided into three installments through postdated checks (Exhibits "J" to "J-2").

Due to the sale, the witness submitted a letter dated June 14, 2010 cancelling the adverse claim dated April 28, 2010 to



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the Registry of Deeds of Baguio City (Exhibit "L") as well as an affidavit from Rhighina (Exhibit "P"). However, the postdated checks issued by Rhighina bounced, due to the account being closed. He then asked Atty. Baraan to go the Registry of Deeds of Baguio and asked for the reinstatement of the title. He then said Ampaguey refused to reinstate the subject title, and told them to file a case to annul the new title. His father, Delfin Ong, then called Rhighina and asked for another affidavit to be submitted to the Registry of Deeds for the reinstatement of the old title (Exhibit "P-5"). The affidavit was then submitted to the Registry of Deeds, which refused to reinstate the old title. Another more detailed affidavit was issued by Rhighina, and the Registry of Deeds still refused to reinstate the old title Exhibit "P-7"), to add the detail that the property was already mortgaged to the Cooperative Bank of Benguet in the amount of PhP15,000,000.00. It appears that the property was also foreclosed as could be seen in the Notice of Extra-Judicial Foreclosure of Real Estate Mortgage, Real Estate Mortgage, Amendment of Real Estate Mortgage, Certificate of Sale, and Affidavit of Consolidation of Ownership (Exhibits "M", and "R" to "V").

The witness then wrote Cooperative Bank of Benguet to inform them that the spouses Samidan used a void title to obtain a loan from the bank (Exhibit "Q"). He also submitted a letter dated January 26, 2011 prepared and signed by Samidan authorizing him to cause the annotation of another letter bearing the same date similarly prepared and signed by her.

Finally, he said that he filed another case of Declaration of Nullity of Transfer Certificate of Title No. 010-2010001035 as well as administrative case against Ampaguey in the Land Registration Authority.

On cross, the defense directed the witness to TCT No. T-62576. He said that the first time he learned that the title was transferred to the spouses Ferdinand and Rhighina Samidan in April 2010,⁵⁶ he was allegedly approached by Tessie Dagasen who talked to him because she had "a problem."

After about a week, the witness met with Dagasen and Rhighina Samidan at the hospital. During the meeting, he asked Dagasen to show proof that she bought the property already. She showed a Deed of Sale from one Jennette Buan,

⁵⁶ *Id.*, at 13.

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who was engaged with Rhighina Samidan.⁵⁷ She told her that she was victimized by a certain group of perpetrators claiming to be Dick Lee Ong, an impostor, who was introduced to them by Perla Limliman.⁵⁸ He said he did not believe the story at first, but was shown a Special Power of Attorney to represent him in the transaction.⁵⁹ He said that he did not agree to the said Special Power of Attorney in the past.⁶⁰

During the second meeting, Atty. Baraan was present. He advised the witness to annotate an adverse claim on TCT No. 018-2010001035, which was clarified as Annex "D".⁶¹ Furthermore, during the second meeting, the parties agreed to enter into a contract of sale. When asked if he intended to sell it, he answered in the affirmative, stating that it was under his father's name although he is the owner.⁶²

The witness was then confronted with the Deed of Sale in the amount of Php19,500,000.00.⁶³ He affirmed that he was paid three postdated checks, which were received by his father with his presence.⁶⁴

Subsequently, Atty. Baraan annotated an adverse claim dated April 28, 2010. Though quite confusing in the questioning, the defense was able to establish that after the cancellation of the lien with number 2010001967 dated June 15, 2010, and on the next day, the sale was filed with the Register of Deeds.⁶⁵

The witness was then confronted with Civil Case No. 7443-R, lodged in the Regional Trial Court of Baguio City in 2010 for the declaration of nullity of Transfer Certificate of Title No. T-018-2010001035. It appears that the case was filed by Dick Lee Ong, against Ferdinand Samidan, Rhighina Samidan, Cooperative Bank of Benguet, Jennette Ong Abuan, Juanito Kibatay Ampaguey and Philip Doe. However, Jennette Ong Abuan was subsequently dropped.⁶⁶ The decision of the Regional Trial Court favored Dick Lee Ong, although an appeal

⁵⁷ Id., at 18.

⁵⁸ Id.

⁵⁹ Id., at 19.

⁶⁰ Id., at 20.

⁶¹ Id., at 22.

⁶² Id., at 25.

⁶³ Id., at 26.

⁶⁴ Id., at 27.

⁶⁵ Id., at 28.

⁶⁶ Id., at 32.

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is still pending with the Court of Appeals.⁶⁷ Upon being asked why the Register of Deeds of Baguio did not comply with the Order of the Regional Trial Court to declare null and void TCT No. T-0182010001035, he replied he did not know.⁶⁸ When asked if he knows if the Register of Deeds was held liable in the decision, he replied in the affirmative, reading a portion of the subject decision.⁶⁹

Pertaining to the administrative complaint, the witness affirmed that the case was docketed as Administrative Case No. 12-06⁷⁰, which was already decided upon. Though the witness said that he did not know if it is still pending, the counsel for the defense testified on his behalf that it is still pending.⁷¹

The witness was then asked if he indicated in the complaints he filed, of which there were three including the instant case, that the three (3) checks for the payment of the property in question bounced. The relevant portions in the said complaints were then pointed out.⁷²

WITNESS FOR THE DEFENSE

Accused Juanito K. Ampaguey

In his Judicial Affidavit dated October 27, 2016, Juanito K. Ampaguey said that he met the spouses Samidan and Jennette Ong Abuan sometime in April 6, 2010 at the Registry of Deeds in Baguio City where they presented to him a deed of sale, affidavit of loss, special power of attorney and a petition for issuance of new title for purposes of registration.⁷³ They also presented to him TCT No. 62576, the BIR Certificate of Registration and the transfer tax payment.⁷⁴

He said that after receiving the documents, they were presented to the cashier for payment.⁷⁵ After, they were transmitted to the examiner, Felimon Marcelino, Jr. then to the

⁶⁷ Id., at 35.

⁶⁸ Id., at 36.

⁶⁹ Id., at 40.

⁷⁰ Id., at 44.

⁷¹ Id., at 44-45.

⁷² Id., at 52-54.

⁷³ TSN dated August 28, 2018 (p.m.), p. 16.

⁷⁴ Id., at 18.

⁷⁵ Id., at 20.

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Deputy Register of Deeds, Atty. Vicente Jose Angeles. Lastly, the documents were submitted to his office. Upon receipt, he transferred them to the person in charge of preparing the title.⁷⁶ After, the examiner checked the title and this was then submitted to the Deputy Register of Deeds for his initial. According to the accused, he allowed the issuance of the new title because all the documents were presented, the fees were paid and there was precedence made by previous Registers of Deeds.⁷⁷ Previous Registers of Deeds issued titles even without the presentation of the owner's duplicate. In this case, the title was transferred to Mrs. Samidan.⁷⁸

On June 14, 2010, Atty. Francisco Baraan, lawyer of Dick Lee Ong, went to his office and presented to him a letter indicating that Dick Lee Ong had a favorable arrangement with the spouses Samidan involving the subject property and requested that the Adverse Claim annotated in the title be withdrawn.⁷⁹

In his Judicial Affidavit, witness said that Atty. Baraan also gave him a copy of the Deed of Absolute Sale dated April 13, 2010 executed by both parties. Thereafter, he was served with summons by the RTC Branch 7, Baguio City regarding a civil case filed by Dick Lee Ong against him, spouses Samidan, Cooperative Bank of Benguet, Jenette Ong Abuan and Philip "Doe" were dropped as defendants.

During the cross, he said that he was appointed Register of Deeds in 2003 and remained as such until his retirement in 2013.⁸⁰

He said that it was not the first time that an instrument was presented to his office for registration involving TCT No. T-62576.⁸¹ In March 2010, his office captured a fake title when several persons attempted to register a deed of absolute sale allegedly signed by a certain Dick Lee Ong in favor of spouses Samidan.⁸² But according to the witness, he assumed this time that it was lost because TCT T-62576 was the vault copy from his office.⁸³

⁷⁶ *Id.*, at 21.

⁷⁷ *Id.*, at 22.

⁷⁸ *Id.*, at 23.

⁷⁹ *Id.*, at 24.

⁸⁰ *Id.*, at 32.

⁸¹ *Id.*, at 33.

⁸² *Id.*

⁸³ *Id.*, at 34.

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When asked if the examination, the payment of fees, the entry in the electronic primary entry book are reflected in the computer system in his office, he answered in the affirmative. This system is called the LARES, Land Registration System. All the actions taken are reflected in the LARES.⁸⁴

When shown Exhibit HH, witness affirmed that examiner Felimon Marcelino recommended the denial after examination of the affidavit of loss.⁸⁵ When shown Exhibit II or the Deed of Absolute Sale which is a computer printout from the LARES, he affirmed that there was a recommendation for denial yet he approved the same.⁸⁶ When presented the Special Power of Attorney which was presented along with the Deed of Absolute Sale, he affirmed that the technical description appearing in the former document does not refer to the documents subject of the Deed of Absolute Sale. Witness explained that the location therein is residence section only and it is not the same property.⁸⁷ In this SPA, the area mentioned was 245 square meters while in the Deed of Absolute Sale, it is 755 square meters.

He said that when Mrs. Samidan went to his office, he knew that she wanted to obtain a loan of PhP15million from the Cooperative Bank of Benguet. He later learned that the petition was dismissed.⁸⁸

When asked what he meant by precedence from previous Register of Deeds, he explained that the former Register of Deeds, Atty. Ernesto Diomampo, allowed the issuance of title even without the presentation of the owner's duplicate copy. This has been the practice of his office.⁸⁹

Witness said that since the system is computerized, once the title is cancelled and he approves the same, a new title is automatically issued and printed out. The date of registration is the date of the entry in the electronic primary entry book, not the date of approval by the witness.⁹⁰

When asked if he learned that the owner's duplicate certificate of title was actually in possession of Dick Lee Ong

⁸⁴ Id., at 35.

⁸⁵ Id., at 37.

⁸⁶ Id., at 38.

⁸⁷ Id., at 39.

⁸⁸ Id., at 40-41.

⁸⁹ Id., at 41-42.

⁹⁰ Id., p. 42.

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only after he issued the new title, he answered in the affirmative. This new TCT cannot be cancelled *motu proprio* without a court order.⁹¹

In the re-direct examination, he recalled the incident when a title was presented to be a copy of TCT T-62576 and which his office captured. He said that such copy was a duplicate original which means it had the marking of the owner's duplicate copy. He cannot remember the first time it was presented to him. But he said it was not presented by Mrs. Samidan but by other persons.⁹² This happened before the presentation of the Deed of Sale and the Affidavit of Loss. When such copy or fake title was presented to them, they confiscated it in accordance with the Memorandum Circular of the Department of Justice so that it will no longer be used for other purposes.⁹³ He clarified that the duplicate copy he described earlier was fake.⁹⁴

On re-cross, he said that in order to issue an owner's duplicate original, a petition for issuance of a new owner's duplicate must be filed before the Regional Trial Court.⁹⁵ His office requires that the petition be received by the Clerk of Court. In this case, a duplicate original of the petition was presented to his office which had a stamp received by the Office of the Clerk of Court. His office no longer requires the receipt of the filing fee.⁹⁶ His office no longer verifies if the petition has been granted or denied and by the time that they are furnished with a copy of the decision, a new owner's copy based on the petition had already been issued. He said that if the court denies the petition, his office will then require the new owner to file a cancellation of the title.⁹⁷ In this case, when he learned that the case was dismissed, he did not cause the annotation or registration of the dismissal of the petition reasoning that they have no authority to *motu proprio* annotate.⁹⁸

When asked if he verified and inquired why the SPA was in favor of one Jenette Ong while the one who executed the Deed of Sale was one Janet Ong Abuan and in the next page, it mentioned a Jenette Ong Abuan, he said that he overlooked and did not notice these discrepancies. When asked if he looked for

⁹¹ *Id.*, at 43.

⁹² *Id.*, at 45.

⁹³ *Id.*, at 46-47.

⁹⁴ *Id.*, at 47.

⁹⁵ *Id.*, at 49.

⁹⁶ *Id.*, at 50.

⁹⁷ *Id.*, at 51.

⁹⁸ *Id.*, at 52.

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a more recent power of attorney since the one presented to him was already three years old, he answered in the negative.⁹⁹ When asked how many times he had allowed the registration of a Deed of Absolute Sale of a parcel of land without requiring the presentation of the owner's copy of the title, he said that it was his first time. He said that he did not know how many times the precedent he mentioned happened but he knows only of one case.¹⁰⁰ He said that he just relied on the precedent instead of following the law.¹⁰¹

SUMMARY OF DOCUMENTARY EVIDENCE

Both the prosecution and the defense also submitted in evidence their documentary exhibits, as follows:¹⁰²

A. For the prosecution

Exhibits	Brief Description
A and series	Complaint-affidavit dated August 4, 2011 consisting of 20 pages including the cover page and the annexes thereto
B	Photocopy of Owner's duplicate copy of Transfer Certificate of Title No. T-62576
C	Electronic copy of Transfer Certificate of Title No. T-62576 with the stamp "Cancelled" on every page
D	True electronic copy of Transfer Certificate of Title No. T-018-2010001035
E to E-17	Deed of Absolute Sale of a Parcel of Land dated April 13, 2010 between Dick Lee Ong represented by Jennette Ong Abuan and Spouses Ferdinand B. Samidan and Rhighina G. Samidan, with related documents
F	Special Power of Attorney dated August 28, 2007
G	Photocopy of cancellation or revocation of Deed of Absolute Sale of Two Parcels of land dated April 14, 2010
H	Affidavit of Adverse Claim dated April 27, 2010 executed by Dick Lee Ong
I	Photocopy of Deed of Absolute Sale dated June 14, 2010 between Ferdinand G. Samidan and Rhighina Samidan and Dr. Dick Lee Ong
J to J-2	Photocopy of RCBC Checks in the amount of PhP19,500,000.00 payable to the Order of Dr. Dick Lee Ong
K to K-2	Queen Bank Debit Advice
L	Letter dated June 14, 2010 addressed to Atty. Juanito K. Ampaguey, Register of Deeds, Baguio City
M to M-5	Notice of Extrajudicial Foreclosure of Real Estate Mortgage with related documents
N	Registration and Application Form, with presenter's name Rhighina G. Samidan
O	Assessment and Payment Order Form with EPEB No. 2010001199 dated April 14, 2010
P	Affidavit of Adverse Claim dated November 15, 2010

⁹⁹ Id., at 53-54.¹⁰⁰ Id., at 55.¹⁰¹ Id., at 56.¹⁰² Pre-Trial Order dated April 3, 2017.

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P-2	Affidavit dated June 15, 2010 by Rhighina Samidan
P-5	Affidavit dated September 17, 2010
P-8	Affidavit of Rhighina G. Samidan dated November 12, 2010
Q	Photocopy of letter dated November 17, 2010 addressed to Cooperative Bank of Benguet signed by Dick Lee Ong
R	True electronic copy of Real Estate Mortgage dated April 15, 2010 between Cooperative Bank of Benguet and Ferdinand B. Samidan and Rhighina G. Samidan
S	Amendment of Real Estate Mortgage dated July 12, 2010 between Cooperative Bank of Benguet and Spouses Ferdinand B. Samidan and Rhighina G. Samidan
T	Certificate of Sale dated December 14, 2011 issued to the Cooperative Bank of Benguet consisting of 3 pages
U	Final Certificate of Sale dated January 3, 2013 issued to the Cooperative Bank of Benguet
V	Affidavit of Consolidation of Ownership dated January 3, 2013
W	Letter dated January 26, 2011 addressed to Atty. Juanito K. Ampaguey signed by Rhighina G. Samidan
X	Letter dated January 26, 2011 addressed to Atty. Juanito Ampaguey signed by Rhighina Samidan regarding the reinstatement of TCT No. 62576
Y to Y-4	Report dated January 2, 2012 addressed to Hon. Eulalio C. Diaz III submitted by Investigator Joel Mari Martin Bigornia
Y-5 to Y-11	Verified Complaint dated March 2, 2011
Y-12 to Y-13	Transfer Certificate of Title No. T-62576 (Owner's Duplicate Certificate) in the name of Dick Lee Ong
Y-14	Affidavit of Rhighina Samidan dated June 15, 2010
Y-15 to Y-17	Affidavit of Rhighina Samidan dated September 17, 2010
Y-18	Affidavit of Rhighina Samidan
Y-19 to Y-42	Comment dated August 25, 2011 of respondent Juanito K. Ampaguey including the attachment thereto
Z	Notice dated December 11, 2012, re ADM Case No. 12-06 for Grave Misconduct signed by Michael C. Superable, Acting Chief, Inspection and Investigation Division
Z-1 to Z-8	Resolution dated August 31, 2012 re ADM Case No. 13-06 for Grave Misconduct
AA to AA-10	Decision dated May 18, 2015 of Regional Trial Court First Judicial Region, Branch 61, Baguio City, in Civil Case No. 7443-R
BB-1 to BB-8	Various Official Receipts of filing fees and legal expenses
CC	Service Record of Juanito Kibatay Ampaguey
CC-1	Letter of Appointment dated December 9, 2012
CC-2 to CC-5	Personal Data Sheet of Juanito Kibatay Ampaguey
DD	Affidavit of Loss dated April 6, 2010 executed by Jennette Ong Abuan
EE, EE-2, EE-4	Counter-Affidavit of Juanito K. Ampaguey dated April 13, 2012
EE-5 to EE-22	Attachments to the Counter-Affidavit
FF	Photocopy of logbook entry on p. 53
FF-1	Pleading No. 354 L-C-11-0523-H of Ampaguey
GG	Land Registration Authority Circular No. 3 dated December 6, 1988
HH to HH-5	Computer printout of Trace Transaction of EPEB No. 2010001100
II to II-5	Computer printout of Trace Transaction of EPEB No. 2010001199
JJ	Computer printout of Trace Transaction for EPEB No. 2010001223
KK	Computer printout of Trace Transaction for EPEB No. 2010001390

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LL	Computer printout of Trace Transaction for EPEB No. 2010001986
MM	Computer printout of Trace Transaction for EPEB No. 2010002316
NN	Computer printout of Trace Transaction for EPEB No. 2010003940
OO	Computer printout of Trace Transaction for EPEB no. 201004245

B. For the defense:

<u>Exhibit</u>	<u>Brief Description</u>
1	Cancelled TCT No. T-62576 in the name of Dick Lee Ong
2 and 2-a	Special Power of Attorney executed by Dick Lee Ong in favor of Jennette Ong dated August 287, 2007
2-b	Electronic copy of Special Power of Attorney
2-c	Same as Exhibit F of the prosecution
2	Deed of Absolute Sale executed by Dick Lee Ong represented by Jennette Ong Abuan in favor of spouses Ferdinand and Rhighina Samidan
3	Same document as Exhibit E to E-4 of the prosecution
4, 4-A to 4-D	TCT No. 018-2010001035 in the name of Spouses Ferdinand and Rhighina Samidan
5	Petition for issuance of new Owner's Copy of TCT No. T-62576 in lieu of the lost copy and docketed as LRC Case No. 1954-
6	Letter dated June 14, 2010 of Atty. Francisco Baraan III to Atty. Juanito K. Ampaguey
7	Deed of Absolute Sale dated June 14, 2010 executed by Dick Lee Ong and Spouses Samidan
8	Complaint for Declaration of Nullity of TCT No. 018-2011 entitled Dick Lee Ong versus Spouses Ferdinand Samidan and Rhighina Samidan, Cooperative Bank of Benguet, Jennette Ong Abuan, Juanito Kibatay Ampaguey and Philip Doe, docketed as Civil Case No. 7443-R
9	Answer of accused in Civil Case No. 7443—R dated November 4, 2011
10	Verified Answer of Cooperative Bank of Benguet in Civil Case No. 7443-R dated November 9, 2011
11	Amended Answer with Affirmative/Special Defenses, Compulsory Counterclaim and Cross-Claim of Cooperative Bank of Benguet, dated November 28, 2011
12	Order dated December 3, 2012 issued in Civil Case No. 7443-R
13	Reserved marking for Certificate of Pendency of Civil Case No. 7443-R (Certification dated November 22, 2016 from the Clerk of Court V, RTC Br. 61, Baguio City)
14	Reserved marking for Certificate of Pendency regarding the Registration of Affidavit of Consolidation of Title on foreclosed property covered by TCT No. 0108-201000035 before the Land Registration Authority (Certification dated November 22, 2016 from the Records Officer 1, Registry of Deeds, Baguio City)
15	Same as Exhibit E-6
16	Same as Exhibit E-7
17	Same as Exhibits AA to AA-10
18	Certificate of Pendency
19	Same as Exhibit DD

FACTS

The facts of this case appear to be straightforward, and does not deviate substantially with the findings of Branch 61 of the Regional Trial Court of Baguio City for the Declaration of Nullity of Transfer Certificate of Title No. T-018-20110001035 of the Registry of Deeds of Baguio City (Annex "AA" to "AA-10").

Sometime in April 2010, a certain Tessie Dagasen went to Jesus Nazarene General Hospital at Lingayen, Pangasinan looking for the private complainant, Dick Lee Ong. After ascertaining that he was indeed Dick Lee Ong, Dagasen informed him that her sister, Rhighina Samidan, was victimized by con-artists who sold to the latter the property covered by TCT No. T-62576, which was owned by Dick Lee Ong.

Dick Lee Ong then called his father, Delfin Ong, who advised Dagasen to bring Rhighina as well as all related documents in a subsequent meeting. After a couple of days, Dagasen and Rhighina met with Dick Lee Ong and his father, Delfin. During the meeting, Rhighina narrated that she came to know of the private complainant's property from a certain Perla Limliman who approached her and claimed that she was the housemaid of Dick Lee Ong. Limliman showed Rhighina a copy of TCT No. 62576 and told her that Dick Lee Ong was selling the property. Limliman further said that the property was mortgaged to one "Cathy" for PhP375,000.00.

During the same meeting, Rhighina told Delfin that a new title, TCT No. T-018-2010001035 was issued to her by Juanito Ampaguey, the Register of Deeds of Baguio City, even if the Owner's Duplicate Copy was not presented during the process of the transfer. Rhighina also showed to Dick Lee Ong and Delfin other documents of the bogus transaction, and requested them to legitimize her acquisition of the property.

With Rhighina's offer, the private complainant and Delfin suggested that they meet again in the presence of a lawyer to discuss the matter. This meeting happened a week after at the office of Atty. Francisco Baraan III in Lenox Hotel, Dagupan City. At this instance, Rhighina divulged that she was already fooled twice throughout the time she acquired the subject property. First was with one who claimed he was Dick Lee Ong and second was with a Jennette Ong, who represented herself as the daughter of Dick Lee Ong. She said that a Jennette Ong even presented a Special Power of Attorney dated August 28,

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2007 authorizing her to sell the property. Rhighina showed to Dick Lee Ong and Delfin a Deed of Sale dated April 13, 2010 she entered into with a Jennette Ong Abuan, as well as the Cancellation or Revocation dated April 14, 2010 cancelling the first Deed of Sale that was executed on March 20, 2010.

Eventually, Rhighina proposed to buy the property from Dick Lee Ong and Delfin in the amount of Php19,500,000.00 but to be paid in three (3) installments by way of postdated checks. Rhighina said she will be back to hand them the checks since she was in a hurry to go back to Baguio City.

Dick Lee Ong and Delfin sought the opinion of Atty. Baraan on what to do under the circumstances. Atty Baraan advised them to seek the cancellation of the new transfer certificate of title which cancelled TCT No. T-62576, but in the meantime, they were advised that it was best to make a Notice of Adverse Claim and have it annotated in the new title, which they did on April 28, 2010.

On June 14, 2010, Rhighina came back to the office of Atty. Baraan and finalized the transaction that would have supposedly legitimized her acquisition over the subject property. It was their understanding that should any of the checks be dishonored for any reason, the transaction would be cancelled without the need of going to court. Consequently, Rhighina issued three postdated RCBC checks, with the agreement that a deed of sale shall be executed only after full payment of the purchase price, and with the agreement that the Notice of Adverse Claim dated April 28, 2010 annotated in the new title be cancelled, which Dick Lee Ong did, believing in good faith in the dealings.

However, the first post-dated check in the amount of Php10,000,000.00 was dishonored, and it was agreed that Dick Lee Ong inform Rhighina that the transaction will be cancelled.

Dick Lee Ong then worked on the cancellation of the new title. During the process, it was discovered that Rhighina mortgaged the property for Php15,000,000.00 with the Cooperative Bank of Benguet. With this discovery, Dick Lee Ong and Delfin were constrained to call Rhighina and they agreed to meet on September 17, 2010.

In the office of Atty. Baraan, Rhighina executed an affidavit reciting the events that led to the issuance of the new title in her and her husband's name. At another instance, on November

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12, 2010, Rhighina returned to Pangasinan to execute a more detailed affidavit.

Dick Lee Ong executed an Affidavit of Adverse Claim on November 15, 2010, attaching thereto the affidavits executed by Rhighina Samidan.

Thereafter, a communication was made by Dick Lee Ong to the Cooperative Bank of Benguet about the nullity of the new title mortgaged to it by Rhighina. The communication was through a letter dated November 17, 2010, with the affidavits of Rhighina attached thereto.

Also, the private complainant asked Rhighina to request the Register of Deeds of Baguio City to have the new title cancelled, and the latter executed an authorization and request in private complainant's favor for him to deliver to Ampaguey the request for the cancellation of the new title and the reinstatement of the original title, which request was denied.

As regards the new title, the Cooperative Bank of Benguet caused the foreclosure of the mortgage on December 15, 2011. Since there was no bidder, the Certificate of Sale was issued to the Cooperative Bank of Benguet. Since no redemption was made during the period allowed by law, an Affidavit of Consolidation was executed by the said bank, which was however refused registration.

ISSUE

Did the prosecution establish the elements of Section 3, Paragraph (e) of Republic Act No. 3019, as amended?

RULING

Section 3, Paragraph (e) of Republic Act No. 3019, as amended, has the following elements:

1. the offender is a public officer;
2. the act was done in the discharge of the public officer's official, administrative or judicial functions;
3. the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and

4. the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.¹⁰³

The first element above, that the accused is a public officer, was stipulated on by the parties in the Pre-Trial Order dated April 3, 2017.

The second element is also present, in that the acts were done in the discharge of the accused's functions as the Registrar of Deeds, Baguio City, pursuant to the above enumeration. Particularly, the issuance of TCT No. 018-201000010135 on April 14, 2010 under the name of Spouses Ferdinand Samidan and Rhighina Samidan is a direct corollary of the position of being the Register of Deeds of a certain location.

The third element of Section 3 (e) of R.A. No. 3019 is the decisive point in this case.

In various Supreme Court cases, it was held that: the said "element may be committed in three ways, i.e., through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of any of these three in connection with the prohibited acts mentioned in Section 3(e) of R.A. No. 3019 is enough to convict."¹⁰⁴ In this case, the information alleges the three ways or manner that accused allegedly committed the offense charged.

"'Partiality' is synonymous with 'bias' which 'excites a disposition to see and report matters as they are wished for rather than as they are.' 'Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.' 'Gross negligence' has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."¹⁰⁵

¹⁰³*Sison v. People*, G.R. Nos. 170339 and 170398-403, 9 March 2010, 614 SCRA 670, 679.

¹⁰⁴*Id.*

¹⁰⁵*Id.*

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In this case, the showing of manifest partiality, evident bad faith or gross inexcusable negligence boils down to one question: Did accused Ampaguey cause the issuance of TCT No. 018-201000010135 and the cancellation of TCT No. 62576 without being presented the necessary requirement of an Owner's Duplicate Copy of the latter title? Based on the evidence presented, the answer is in the affirmative.

The prevailing law on the matter is relatively clear. Presidential Decree No. 1529 or the Property Registration Decree of 1978 which states that:

Section 53. *Presentation of owner's duplicate upon entry of new certificate.* No voluntary instrument shall be registered by the Register of Deeds, unless the owner's duplicate certificate is presented with such instrument, except in cases expressly provided for in this Decree or upon order of the court, for cause shown.

The production of the owner's duplicate certificate, whenever any voluntary instrument is presented for registration, shall be conclusive authority from the registered owner to the Register of Deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him, in favor of every purchaser for value and in good faith.

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. After the entry of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.

Section 109. *Notice and replacement of lost duplicate certificate.* In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

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Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

From the above, it could be seen from Section 53 that if there is a voluntary transfer as in this case, in a conveyance of a property through a deed of absolute sale, the presentation of the owner's duplicate certificate is required. If it cannot be produced, Section 109 states that "a sworn statement of the fact of such loss or destruction may be filed" and "upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate." In other words and summarizing these provisions, for voluntary transfers, an Owner's Duplicate Copy is a necessary requirement. If it cannot be produced, no transfer can be made. If a property owner wants to pursue the sale, he must first ask for another copy of the lost title, and such could only be done after filing a court petition and receiving a favorable action thereafter.

In this case, it is clear that accused Ampaguey derogated from the clear mandate of the law – a law which had been in existence since 1978. In his Counter Affidavit dated April 13, 2012 and received by the Ombudsman on April 24, 2012, he admitted allowing the issuance TCT No. 018-201000010135 and cancelling TCT No. 62576 without being presented the necessary requirement of an Owner's Duplicate Copy. In paragraph 11 thereof, he said that "[i]n good faith and believing that he will be helping a distressed registrant" he "decided to issue a new title, TCT No. 018-2010001035, to the spouses Samidan; that the owner's copy of TCT No. T-62576 was not presented because it was reported lost per the Affidavit of Loss annotated as Entry No. 2010001100 on TCT No. T-62576 x x x."

When accused Ampaguey testified and was asked by the Court, he confirmed that indeed the presentation of the duplicate original is a requirement for the registration of a sale and the subsequent registration, and, absent the same, an Order from a court of competent jurisdiction was required.

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Justice De La Cruz:

Q: How many times have you allowed the registration of a deed of absolute sale of a parcel of land without requiring the party to present the owner's copy of the title?

The witness:

A: That was the first time, your Honor.

Q: No more?

A: No more.

Q: How about the precedent that you mentioned, how many times did it happen?

The witness:

A: I do not know, but I only knew one case, your Honor.

Justice De La Cruz:

Q: And was that Register of Deeds a subject of a complaint, administrative case?

A: No, your Honor.

Q: Because there were no other transactions involved in the property?

A: Yes, your Honor.

Justice Econg:

Q: The precedent was also the Register [of Deeds] of Baguio?

The witness:

A: Yes, your Honor.

Q: But this was not done by you? By your predecessor?

A: Yes, your Honor.

Justice De La Cruz:

Q: But you know the requirements of the law? That incident is not in accordance with existing laws?

The witness:

A: Yes, your Honor.

Justice Econg:

Q: Because how should the transfer be made if you are going to do it in accordance with law?

The witness:

A: Because of that precedent, your Honor.

Justice De La Cruz:

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Q: You mentioned that that precedent is not in accordance with law. Why did you not follow the law instead of following that transaction?

A: I just relied on the precedent.

Q: You just chose to rely on the precedent rather than following the law?

A: Yes, your Honor.¹⁰⁶

Later in his testimony, this was clarified when he stated that what he meant by precedent is the act of the previous Register of Deeds of Baguio City, he explained that the former Register of Deeds, Atty. Ernesto Diomampo, who allowed the issuance of title even without the presentation of the owner's duplicate copy. But, an act committed by a predecessor that is against the existing law on land registration could never make his action correct or even legal.

In the documentary and testimonial evidence presented, there is nothing apparent that would point to accused Ampaguey's interest or benefit in the transaction. His statement in his Counter Affidavit that he thought he was merely helping a "distressed registrant" since, as could be seen in paragraph 10 thereof, the Samidans pleaded to him because their loan with the Cooperative Bank of Benguet will be cancelled, appears to be true. However, such justification still constitutes manifest partiality even if there is no evidence that he profited or benefited from the transaction. Such act is still a blatant affront to the clear instruction of the law and could be gleaned as gross inexcusable negligence, satisfying the third element of the crime.

The fourth element is likewise present in this case. The act of the accused caused undue injury to Dick Lee Ong for the market value of his lot and actual legal expenses in recovering the title, as alleged in the Information. It is also true that in Art. 100 of the Revised Penal Code, persons who are found to be criminally liable are also held to be civilly liable.

In this case, the prosecution was able to present receipts to establish the legal expenses or the amount spent for recovering the property of private complainant, Dick Lee Ong.¹⁰⁷ However, no proof of the market value of the property was presented. Market value of the property could have been determined through the tax declaration of the property, for

¹⁰⁶ TSN dated August 28, 2018, pp. 54-56.

¹⁰⁷ Exhibits BB to BB-8 with a total amount of PhP188,366.00.

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example, or an appraisal report from any appraiser. But, none of these were presented.

WHEREFORE, the Court finds the accused, **Juanito K. Ampaguey, GUILTY** beyond reasonable doubt of the charge against him. Applying the Indeterminate Sentence Law¹⁰⁸, the accused is sentenced to suffer an indeterminate penalty of imprisonment of Six (6) years and One (1) Month as minimum to Eight (8) Years, as maximum and perpetual disqualification from holding public office.¹⁰⁹

Moreover, pursuant to Article 100 of the Revised Penal Code, accused Ampaguey is held liable to pay the private complainant, Dick Lee Ong, Php 188, 366.00 or the amount of the legal expenses in recovering the subject property.


SO ORDERED.

Quezon City, Metro Manila, Philippines.


GERALDINE FAITH A. ECONG
Associate Justice

WE CONCUR:


EFREN N. DE LA CRUZ
Associate Justice
Chairperson


EDGARDO M. CALDONA
Associate Justice

¹⁰⁸ Act No. 4103, as amended by Act No. 4225, states in Section 1 that if the offense is punished by a special law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (Indeterminate Sentence Law)

¹⁰⁹ R.A. No. 3019, provides:

Section 9 (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained.



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ATTESTATION

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


EFREN N. DE LA CRUZ
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

