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Ref. No. 01CRD00-198  
(Please cite in your reply.)

21 June 2001

MEMORANDUM

To : All City/Municipal Civil Registrars

Subject: C/MCRS ARE UNDER THE DIRECTION AND SUPERVISION OF THE CIVIL REGISTRAR GENERAL, AND C/MCRS ARE AUTHORIZED TO ADMINISTER OATHS (DOJ Opinion No. 26, Series of 2001)

Attached is a copy of Opinion No. 26, S 2001 which was issued by the Secretary of Justice on 17 May 2001. Here are the salient points from this opinion:

1. The Local Government Code of 1991 did not amend or repeal Section 2 of Act No. 3753 pertaining to the powers and duties of the Civil Registrar General. The Civil Registrar General continues to exercise the power of "direction and supervision" over the City/Municipal Civil Registrars. The Secretary of Justice defined "supervision" as *overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or steps as prescribed by law to make them perform these duties.* On the other hand, "direction" was defined as *an instruction or series of instructions for doing something; a command; authoritative instruction; information as to the method, route, etc.; and in another sense, it is nearly synonymous with instruction.*
2. The power of City/Municipal Civil Registrars to administer oath as provided in Section 12(g) of Act No. 3753 still exists. This power is sufficiently within the purview of the general clause in Section 479 of the Local Government Code of 1991 which states that the local civil registrar shall "[E]xercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance". However, as stated in the Civil Registry Law, the power of local civil registrars to administer oath shall be limited to civil registry matters and the same must be free of charge.

CARMELITA N. ERICTA  
OIC-Civil Registrar General

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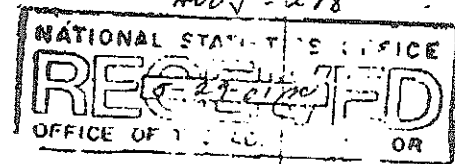
Republika ng Pilipinas  
KAGAWARAN NG KATARUNGAN  
Department of Justice  
Manila



OPINION NO. 26, S. 2001

MAY 17 2001

Administrator Tomas F. Africa  
Civil Registrar General  
National Statistics Office  
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S i r:

Subject of herein request for opinion are the following queries, to wit:

1. Whether or not the power to control and supervise local civil registry offices in the country by the Civil Registrar General has been removed by Section 479 of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code of 1991. In connection therewith, are City/Municipal Registrars no longer under the control and supervision of the Civil Registrar General? and
2. Whether or not the City/Municipal Civil Registrars can still perform their duty to administer oath.

The first query, it appears, was precipitated by the view expressed by some quarters that Section 479 of the Local Government Code of 1991, which defines the "Qualifications, Powers and Duties" of the local civil registrar, repealed Act No. 3753, otherwise known as the Civil Registry Law of the Philippines.

It is the contention of that Office, however, that Section 479 of the Local Government Code of 1991 repealed only Section 12 of the Civil Registry Law which pertains to the duties of local civil registrars and not Section 2 which pertains to the powers and duties of the Civil Registrar General.

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"Supervision", on the other hand, as defined in the case of *Mondano vs. Silvosa*, 97 Phil. 143 (1955), means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or steps as prescribed by law to make them perform these duties, while "direction" is an instruction or series of instructions for doing something; a command (*Webster's New Dictionary and Roget's Thesaurus*); authoritative instruction; information as to the method, route, etc. (*Webster's New International Dictionary [Second Edition]*); and in another sense, it is nearly synonymous with instruction (*Bouvier's Law Dictionary*).

Applying the aforequoted definitions to the instant case, the Civil Registrar General cannot modify, reverse or annul the acts and decisions of the city or municipal civil registrars for that would be an exercise of the power of control which he does not possess. What he can do only is to see to it that the city or municipal civil registrars perform their duties in accordance with existing laws, rules and regulations on civil registration. And this is completely in line with the powers expressly granted to the Civil Registrar General under Section 2 of the Civil Registry Law, which is the "power to give orders and instructions to the City/Municipal Registrars with reference to the performance of their duties as such" and "to report any violation... and all irregularities, negligence or incompetency of the City/Municipal registrars to the City/Municipal Mayors... who shall take the proper disciplinary action against the offenders". To stress, it is the city or municipal mayor concerned, acting upon the report of the Civil Registrar General, who shall take disciplinary action against any local civil registrar found to have violated the provisions of the Civil Registry Law (see Sec. 2, Act 3753, as amended).

In any case, Act No. 3753, as amended, a special law, is not among the laws expressly and explicitly repealed by Section 534 of the Local Government Code of 1991, a general law. This can only mean that there was no such intent on the part of the legislature to abrogate the power of direction and supervision of the Civil Registrar General over local civil registrars in the country. For if repeal of particular or specific law or laws is intended, the proper step is to so express it (*Agujetas vs. Court of Appeals*, 261 *don* 17). Neither is there an implied repeal. It is a well-settled rule of statutory construction that repeals of statutes by implication are not favored (*Ruben E. Appalo, Statutory Construction [Third Edition]*, p. 322, citing *Valdez vs. Tuason*, 40 Phil. 943 [1920]; *Phil. American*

"SECTION 2. Civil Registrar-General: His duties and powers. - The Administrator of the National Statistics Office shall be the Civil Registrar General and shall enforce the provisions of this Act. The Administrator of the National Statistics Office, in his capacity as Civil Registrar General, is hereby authorized to prepare and issue regulations for carrying out the purposes of this Act, and to prepare and order printed the necessary forms for its proper compliance. In the exercise of his functions as Civil Registrar General, the Administrator of the National Statistics Office shall have the power to give orders and instructions to the City/Municipal Registrars with reference to the performance of their duties as such. It shall be the duty of the Administrator of the National Statistics Office to report any violation of the provisions of this Act and all irregularities, negligence or incompetency of the city/municipal civil registrars to the City or Municipal Mayors, as the case may be, who shall take the proper disciplinary action against the offenders.

"SECTION 3. City/Municipal Civil Registrars. - The City/Municipal Civil Registrar appointed by the City/Municipal Mayor shall be under the direction and supervision of the Civil Registrar General." (Emphasis supplied)

The power of "control and supervision" is not the same as the power of "direction and supervision", which is the power expressly granted by the Civil Registry Law (see Sec. 3, supra) to the Civil Registrar General over the City/Municipal Civil Registrars.

"Supervision and control" means and shall include authority ~~to~~ or regulation to a subordinate; direct the performance of duty; restrain the commission of acts; review, approve, reverse or modify acts and decisions of subordinate officials or units; determine priorities in the execution of plans and programs; and prescribe standards, guidelines, plans and programs (Section 38[1], Chapter 7, Book IV, E.O. NO. 292, otherwise known as the Administrative Code of 1987).

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It is stated that if it were true that the Civil Registrar General has no more power to control and supervise local civil registry offices, there would be chaos in the implementation of the laws on civil registration as there would be no more single and higher authority to give uniform orders and instructions to them, and to enforce the provisions of the Civil Registry Law; that in such a case, the 1,607 City/Municipal Registrars would be having his or her own rules and regulations governing civil registration in his or her local government unit, thereby creating the possibility, that one vital event may not be acceptable for registration in one municipality, but a similar vital event can be registered in another municipality. It is the belief of that Office that removing or diminishing the power of the Civil Registrar General "to control and supervise" local civil registry offices was never intended by Congress in enacting the Local Government Code of 1991.

The second query, on the other hand, was raised in view of the absence of an express provision in the Local Government Code of 1991 allowing local civil registrars to administer oath. It is the position of that Office, however, that local civil registrars can still administer oath based on the provisions of the Family Code which expressly or impliedly give such authority to them. Cited in particular is Article 24 which expressly authorizes the local civil registrar to administer oath to all interested parties mentioned therein.

The crux of the first query lies on whether the Civil Registrar General exercises supervision and control over local civil registrars.

We answer in the negative. Section 479 of the Local Government Code of 1991 did not remove the power "to control and supervise local civil registrars" from the Civil Registrar General, because there was nothing to remove in the first place.

Obviously, the first query reflects a misreading or misapprehension of Act No. 3753 entitled "An Act to Establish a Civil Register". It must be stressed that even under the said ACT, the Civil Registrar General has only "direction and supervision" over local civil registrars and not "control and supervision" as claimed. The Civil Registry Law, as amended, is clear and categorical:

*Management Co., Inc. vs. Phil. American Management Employees Assn.*, 49 SCRA 194 [1973]; *Villegas vs. Subido*, 41 SCRA 190 [1971], *En Juvos vs. People*, 120 SCRA 750 [1995]. The presumption against implied repeal is stronger when, of two laws, one is special, and the other general, as obtaining in the instant case; and this rule applies even though the terms of the general act are broad enough to include the matter covered by the special statute (*Ibid.*, citing *Manila Railroad Co. vs. Rafferty*, 40 Phil. 224 [1919]; *Commissioner of Internal Revenue vs. Court of Appeals*, 207 SCRA 487 [1992]).

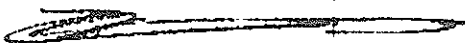
Anent the second query, we believe that the power of local civil registrars to administer oath as provided in Section 12(g) of the Civil Registry Law still exists. Section 12(g) provides:

"SECTION 12. Duties of local civil registrars -  
Local Civil Registrars shall x x x (g) administer oaths, free of charge, for civil register purposes."

The power of local civil registrars to administer oath under the aforequoted provision is sufficiently within the purview of the general clause in Section 479 of the Local Government of 1991 which states that the local civil registrar shall "[E]xercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance" (see par [3]). However, as stated in the Civil Registry Law (see Sec. 12(g), *supra*), the power of local civil registrars to administer oath shall be limited to civil registry matters and the same must be free of charge.

Please be guided accordingly.

Very truly yours,

  
HERNANDO B. PEREZ  
Secretary