

MALACANANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. LLL

REMOVING MR. SINFOROSO B. ANOTA FROM OFFICE AS PROVINCIAL FISCAL OF SAMAR.

This is an administrative case against Provincial Fiscal Sinforoso B. Anota of Samar who is charged with (1) abuse of authority and dereliction of duty, (2) being unjustly partisan, (3) ignorance and inefficiency and (4) electioneering. The case was investigated by the Department of Justice which found all the charges substantiated with the exception of the last.

I

a. It appears that in a criminal case for homicide against Fortunato Gabon and Teodulfo Dacutan the respondent moved for the dismissal of the case as against the latter accused in order to utilize him as state witness against his coaccused Gabon, although, it is claimed, Dacutan was the more guilty of the two and there was no necessity for him to do so. He explains that he exercised his sound discretion in so doing and that the court sustained him by granting his motion. However, it appears that he failed to apprise the court before the justice of the peace of Wright, Samar; that the deceased had made a detailed dying declaration before said justice of the peace; and that there were two eyewitnesses to the killing. Under the circumstances, he made misrepresentations to the court when he stated, among other things, that the testimony of accused Dacutan was absolutely necessary in proving the guilt of the other accused and that there was no other direct evidence available. I therefore find him guilty of abuse of authority and dereliction of duty.

b. The record also shows that Criminal Case No. 2660 of the Court of First Instance of Samar for malversation through falsification of public documents against Superintendent of Schools Delfin Reynaldo, Assistant Provincial Auditor Catalino Rubia, Provincial Treasurer Jose C. Orteza, Provincial Auditor Simeon Damian, Property Clerk Narciso Vasquez of the Division Office and Contractor Policarpio Jardiel was dismissed by the court mainly on motion of the respondent, although sufficient evidence exists for prosecuting said persons and one German T. Candari for the fraud perpetrated on the Government.

It appears that in a contract between the Antique Sawmill Company, Inc., represented by Policarpio Jardiel, and the Division Superintendent of Schools of Samar, the company was to deliver ₱192,005.30 worth of desks and other school equipment to some schools in certain municipalities of Samar and that vouchers for payment were to be supported by memorandum receipts signed by the district supervisors or principals showing receipt by them of the school equipment covered thereby. At

the beginning the vouchers were supported by memorandum receipts signed by the district supervisors and principals. Later, however, vouchers were merely supported by memorandum receipts signed by Property Clerk Vasquez of the Division Office, yet they were signed by Schools Superintendent Reynaldo, passed in audit and approved for payment by Assistant Auditor Rubia and Auditor Damian, respectively, and paid by Treasurer Orteza. These officials knew or were supposed to know the terms of the contract. However, Superintendent Reynaldo did not try to ascertain whether the equipment had in fact been received by the supervisors or principals concerned, while the auditors did not cause any actual physical checking of the equipment covered by the vouchers. As a result the Government was defrauded in the sum of ₱30,432.55 representing undelivered school equipment supposedly delivered to it.

Respondent knew all the above facts. He also knew that German T. Candari, who had a contract with Jardiel to distribute the equipment to the different municipalities, had made false certifications to the effect that Jardiel had already delivered to him all the equipment described in the vouchers; and that Property Clerk Vasquez had also signed false memorandum receipts certifying receipt of the equipment from Jardiel. Fiscal Anota knew too that the son of Treasurer Orteza was employed by Contractor Jardiel at ₱200 monthly in connection with the contract in question, a fact which should have made the respondent more searching in his investigations.

In the face of the evidence he had on hand, Fiscal Anota cannot claim good faith in not prosecuting those responsible for the fraud. There is no basis for his conclusion that there was only civil liability involved. It is noteworthy that since July 29, 1952, when he filed a motion for the temporary dismissal of the information against defendants Rubia, Jardiel and Vasquez in order to investigate the case, which was granted by the court, respondent had not conducted further investigation nor refiled the case against the parties involved in the fraud, nor taken appropriate action to protect the interest of the Government. It is very evident that he has been flagrantly partial to the accused and against the Government. He is therefore guilty of conduct highly prejudicial to the best interest of the Government and dereliction of duty.

c. It also appears that the respondent filed a criminal case for light threat against Ambrosio G. Deloria after the dismissal of the criminal case against him for challenging to a duel, when the former offense had already prescribed. He is therefore guilty of ignorance of the law.

d. The record further shows that the respondent refused to prosecute Mayor Dionisio Abella of Gandara, Samar, for estafa through falsification of public and private documents despite the fact that

he had in his possession sufficient evidence to convict said official. His claim that the complaint was unmeritorious and that complainant merely wanted to utilize his office for fishing evidence against the mayor is unsatisfactory. Voucher No. 577 alone constitutes sufficient proof that respondent is guilty of falsification by making it appear therein that he took a PAL plane on December 24, 1949, when according to the certification of the PAL office at Tacloban he was not in the list of passengers of the PAL plane on said date. Respondent is therefore guilty of conduct highly prejudicial to the best interest of the prosecution service and of dereliction of duty.

## II

a. Regarding the charge of alleged unjust partisanship against the respondent, it appears that although there were twelve signers of a supposedly libelous resolution, he singled out three of them against whom he filed the information on the eve of the November 10, 1953, elections, because they were allegedly prominent Nacionalistas of Samar, but did not charge the nine others as they were supposedly Liberals. Respondent explains that he filed the information only against the three because according to his investigation they were the ones responsible for making the defamatory and injurious resolution and that he believed there was a prima facie case against them. He disclaims having been actuated by partisan consideration, alleging that two of the accused being school officials were not supposed to belong to any political party.

Respondent's explanation is not satisfactory. There was absolutely nothing libelous in the resolution in question of the Wright Community Improvement Congress, as it merely sought improvement of the unsatisfactory health conditions of the community, for which the local charity physician was being blamed in his official capacity and not as a private individual for alleged inefficiency and indifference to duty. The right to petition for redress of grievances is guaranteed by the Constitution which everyone, particularly a lawyer, should know.

Even if the resolution were actionable, the law would not authorize the respondent to select those whom it was his pleasure to prosecute and exempt others from liability. This would be plain unjust and discriminatory prosecution. In filing the case on the eve of an election and in the manner already described, the respondent has given his accusers reasonable ground to believe that he utilized his office for political persecution.

b. The papers also show that the respondent failed and refused to prosecute Mayor Canuto Lim of Zumarraga, Samar, for slight physical injuries and for violation of the election law for manhandling one Simeon Costo, a Nacionalista watcher, when the latter tried to call the attention of the chairman of the board of election inspectors to the illegal presence of the mayor who had a revolver with him and was

distributing sample ballots and one peso each to the voters inside the precinct.

While the crime of slight physical injuries is not within the jurisdiction of the Court of First Instance, yet Costo having gone to him for being afraid of the situation in his town and the justice of the peace being unwilling to receive his affidavits, respondent should have filed the information or caused the same to be filed by the chief of police of Zumarraga. His duty as provincial fiscal is not confined only to prosecuting offenses cognizable by the Court of First Instance. The matter brought to his attention was more than the simple crime of slight physical injuries. He was being apprised of election violations committed by the mayor. Hence, he should have gone to Zumarraga, which was near, and conducted an investigation so that he could file immediately the necessary information against the mayor with the Court of First Instance which has exclusive jurisdiction to conduct preliminary investigation of election offenses.

In failing to give succor to Costo and prosecute Mayor Lim for slight physical injuries which prescribed and for violations of the election law, the respondent again failed in his duties as a prosecuting officer. Although the complainant has not substantiated the charge that the respondent was unjustly partisan in allowing the crime of slight physical injuries committed by the mayor to prescribe and for not taking appropriate action against him for violation of the election law, the respondent is, however, guilty of negligence prejudicial to the best interest of the service.

### III

The respondent is finally charged with ignorance and inefficiency in connection with a civil case filed by him as attorney for the province of Samar against Dionisia C. Sebolino and her husband for the recovery of the sum of ₱1,866.32 in the Court of First Instance of Samar (Civil Case No. 4224). This case was dismissed on the ground that the amount involved not being over ₱2,000 it was not within the jurisdiction of the court. Again the respondent filed the same action against said parties in the justice of the peace court of Catbalogan with an allegation that the defendants were residents of Tacloban, Leyte (Civil Case No. 303). This case was also dismissed on the ground that the action should have been filed in the justice of the peace court of Tacloban under Section 2(c), Rule 4 of the Rules of Court. The above facts clearly show that the respondent has not given serious attention to the case, and has not exercised due diligence in the performance of his duties. He is therefore guilty of gross inefficiency or negligence.


In view of all the foregoing and considering the gravity and multitude of the charges that have been substantiated against the respondent, indicating callous disregard on his part of private rights and public interest which he is sworn to protect and defend, I agree with the Secretary of Justice that it is dangerous to keep him in office.

Wherefore, Mr. Sinforoso B. Anota is hereby removed from office as provincial fiscal of Samar effective as of the date of his preventive suspension, with prejudice to reinstatement in the public service.

Let the record of the case be returned to the Department of Justice for such action as it may deem proper to take against certain public officials and private individuals involved.

Done in the City of Manila, this 29th day of March, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the ninth.

By the President:

  
FRED RUIZ CASTRO  
Executive Secretary

