

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 137

SUSPENDING FROM OFFICE HONORABLE FELIPE B. AZCUNA, PROVINCIAL GOVERNOR OF ZAMBOANGA DEL NORTE.

This is an administrative case against Provincial Governor Felipe B. Azcuna of Zamboanga del Norte, who is charged with (1) abuse of authority for (a) removing civil service eligibles from the service without cause and hearing as required by law and (b) grabbing lands from ignorant people in the barrio of Siare, Municipality of Sindangan and in the barrio of Madalag, Municipality of Katipunan, Zamboanga del Norte; (2) wilful neglect of duty (toleration of gambling and illegal cockfighting), and (3) dishonesty for (a) taking seedlings of fruit trees and abaca from a government nursery without paying for them and using government vehicles to haul said seedlings to his land; (b) utilizing public works laborers and government funds and equipments for his own personal benefit and gain; (c) collecting his salary on days he was absent from office, and (d) securing loans from private parties without paying for them; and (4) violation of the Election Law.

The above charges were investigated by a special investigator of this Office before whom respondent was given all opportunity to be heard in his defense and to present his evidence.

1. Abuse of Authority

(a) Upon his assumption of the office of Governor of Zamboanga in January, 1952, the respondent, thru his Technical Assistant Romulo Garovillo, advised Valeriano Patangan, a civil service eligible, to relinquish his position of minute clerk in the Governor's office in order to accommodate Gregorio Patangan. Patangan was warned that should he fail to do so, administrative charges would be filed against him for electioneering. Effective January 1, 1952, he also appointed Eugenio Sugano, Jr. as clerk vice Abelardo Macute, a civil service eligible, despite the fact that the latter had not resigned. When Patangan and Macute failed to resign and remonstrated against the attempt to oust them, the respondent suspended them from office effective March 6, 1952, and filed with the Bureau of Civil Service administra-

Provincia. Felipe B.

tive charges against them for electioneering. Patangan and Macute were subsequently exonerated by the Bureau of Civil Service.

Inasmuch as Patangan and Macute are civil service eligibles occupying classified positions, I am convinced that the action taken by the respondent at the start of his administration of requiring them, under pain of removal, to resign in order to accommodate his men, constitutes a clear abuse of authority.

(b) The respondent is also charged with having utilized his official influence and power in grabbing public lands from ignorant people in the barrio of Siare, Municipality of Sindangan, and in the barrio of Madalag, Municipality of Katipunan. The records show that the respondent filed on December 27, 1949, a sales application for a parcel of land containing one hundred hectares, part of the former pasture land of the Siare Valley Estate, and that the issuance of the corresponding patent in his favor was ordered by Acting Director of Lands Zoilo Castrillo on January 22, 1953. As the sales application was unopposed, it cannot be believed that the respondent grabbed the land applied for or portions thereof allegedly allocated to ignorant people nor instigated or ordered his men, Messrs. Gumersindo Ortega, Agapito Gomez and the Nazareno brothers to squat thereon. As a matter of fact, Juan Bugarin, witness for the complainants and the leader of those who have been allegedly deprived of their lands, testified that the latter have abandoned their lands and waived their rights to the same. Besides, the respondent could not have abused his office in acquiring the land in question because he was then a private person when it was being applied for by him, having resigned as governor in March, 1949, to run for Congress.

With respect to his land in the barrio of Madalag, the records show that the respondent acquired the same thru purchase from the original owners, Messrs. Dionisio Gomolon and Victor Olvis, in January, 1950, when he was no longer the governor of the province. This land is now covered by Free Patent Application No. V-2699 of his wife, Mrs. Carmen Sevilla Azcuna, filed on March 10, 1950. The investigation conducted by the representative of the Bureau of Lands reveals that no opposition or protest has been filed against the said application.

The respondent is exonerated of this charge.

2. Neglect of Duty

The charge against the respondent for wilful toleration of rampant gambling and illegal cockfighting is hereby dismissed for lack of evidence.

3. Dishonesty

(a) The respondent admitted that he took from the Government Nursery at Mapang, Rizal, Zamboanga, from July 22, 1952 to July 3, 1953, seedlings of abaca and other fruit trees, such as orange, chico, avocado, calamito, mangosteen and mango, worth ₱314.00. At the termination of the investigation of this case, the respondent had not yet paid this amount, although he manifested his willingness to pay on demand. Considering the fact that the price of these seedlings has remained unsettled since July 22, 1952, or for almost three years, I am constrained to hold the respondent guilty of taking undue advantage of his office in not taking any steps to settle his said obligation.

(b) The respondent is also charged with having caused the diversion of a certain amount intended for the construction of roads and bridges traversing the province, for the construction of the new Panglalan-Dalongdong-Punot-Marupay Road and the extension of the Katipunan-Matam Road both leading to his hacienda. The records show that the Director of Public Works recommended the release of government funds for the survey of roads traversing the province of Zamboanga, known as Sindangan-Liloy-Ipil-Pagadian Road and Sindangan-Molave-Aurora Road. However, the District Engineer of Zamboanga recommended on June 27, 1952, the allocation of the sum of ₱43,240.00 (share of the province from the ₱15,000,000 Highway Special Fund) to be spent for the Sindangan-Liloy Road, Liloy-Titay-Sanito Road and Salug-Molave-Dipolog Road. On motion of the respondent, the Provincial Board of Zamboanga approved Resolution No. 700, dated July 21, 1952, allocating the said sum of ₱43,240.00 for the Panglalan-Dalongdong-Punot-Marupay Road; Katipunan-Matam Road and Piñan-Galay Road, the first two leading to his land. On July 28, 1952 the said Board, also upon the motion of the respondent, approved Resolution No. 712 requesting the Secretary of Public Works and Communications to declare Panglalan-Dalongdong-Punot-Marupay proposed road as provincial road. The respondent urged the District Engineer to start at the earliest possible date the work on this proposed road, although the declaration of said road as provincial road was still pending consideration by the Secretary of Public Works and Communications. With the representations and efforts exerted by the respondent, this road was declared as provincial road on November 7, 1952. Considering the unusual interest

and efforts exerted by him in causing the diversion of the amount of ₱43,240.00 for the construction of a provincial road and the extension of another (Katipunan-Matam Road) to benefit his land, it is evident that the respondent is guilty of taking advantage of his office to promote his personal welfare.

Oral as well as documentary evidence establishes the fact that the respondent utilized government trucks driven by government drivers to haul to his land sugarcane points from the canefield of Tiburcio Singilo in Sindangan and seedlings from the government-owned nursery at Rizal.

The respondent also admitted having taken from the office of the District Engineer for his personal use 28 pieces of reinforcement steel bars of different sizes worth ₱162.97 to be replaced in kind, and two (2) boxes of spikes to be replaced in kind or paid out of his personal funds. In requisitioning the aforementioned supplies from government stocks, the respondent not only acted improperly but also abused his office. The requisitions would not have been approved if he were not the Provincial Governor of Zamboanga del Norte. It also appears that when the investigation of this case was terminated, the respondent had not yet replaced the said 28 pieces of steel bars, notwithstanding demands of the District Engineer. Neither had he replaced or paid for the spikes.

(c) With respect to the illegal collection of his salaries during days he was absent from office, the respondent admitted that he collected his salaries for January 18 and 19, 1952 and February 12, 13, 14, and 15, 1952, although he was absent from office on these dates due to his appearances as counsel in a civil case before the Court of First Instance at Dipolog. It appears, however, that corresponding deductions, with the approval of the Provincial Auditor, were made from the respondent's salary for the subsequent months to cover the amounts in question. As the Government has not been prejudiced by such collections, this charge is dismissed.

No sufficient evidence was adduced to warrant administrative action against the respondent as regards the charge that he borrowed money from private parties without paying for them.

With respect to the charge that the respondent utilized the "Road and Bridge Fund" for re-election purposes, the records disclose that on September 16, 1953,

the Provincial Board of Zamboanga del Norte passed Resolution No. 570, requesting that the sums of ₱16,000.00 from the "Toll Road and Bridge Fund" and ₱14,000.00 from the "Road and Bridge Fund" be reverted and transferred to the General Provincial Fund, subject to the approval of the Secretary of Public Works and Communications; that under Resolution No. 575, dated September 16, 1953 the said Board also requested that another sum of ₱10,430.90 from the "Toll Road and Bridge Fund" be reverted and transferred to the General Provincial Fund, likewise subject to the approval of the Secretary of Public Works and Communications; and that all these sums of money have been used for the purchase of building materials for the repairs and/or construction of barrio school buildings in the different municipalities of the province. By way of explanation, the respondent stated that these arrangements were done in view of the advice of the then Secretary of Public Works and Communications Pablo Lorenzo that the "Road and Bridge Fund" can be borrowed by the General Fund for the purpose of constructing and repairing barrio school buildings; and that the sums of money borrowed from the "Road and Bridge Fund" have been refunded as shown in the provincial annual budget for the fiscal year 1954-1955. This testimony of the respondent stands uncontradicted. The Government has not therefore been prejudiced by the arrangement. Furthermore, the expenditures in question do not fall within the prohibition contained in Section 5 of Republic Act No. 920, against the use of public works funds within the period of forty-five (45) days before the general election, the funds so spent being local in character.

4. Violation of the Election Law

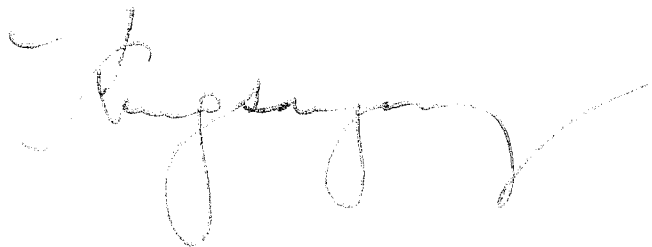
The respondent is charged with having instructed his leaders and mayors particularly in the municipality of New Piñan, to use fake election ballots and administer sleeping tablets to the Nacionalista inspectors and leaders during the 1953 elections. No proof was submitted to substantiate this charge. Mr. Francisco Elumba, who executed an affidavit dated November 12, 1953 to prove this charge, was not even presented as witness by the complainants during the investigation.

The respondent is also charged with having allegedly used government vehicles to transport voters during the election of November 10, 1953. No sufficient and convincing evidence has been introduced to substantiate this charge.

In resumé, I find the respondent guilty of (1) abuse of authority in taking, as he did, unwarranted steps toward the removal of civil service eligible Messrs Valeriano Patangan and Abelardo Macute from their classified position, and in not settling on time his legal indebtedness consisting of seedlings of abaca and fruit trees belonging to the government nursery at Rizal; and (2) dishonesty in causing the diversion of the sum of ₱43,240.00 for the construction of a newly declared provincial road and the extension of another for the benefit of his land in the barrio of Siare, and using government properties (steel bars and spikes) for his private use to the prejudice of the Government.

In view of the foregoing, and in accordance with the recommendation of the Special Investigator who found him guilty as above indicated, I hereby order the suspension of Provincial Governor Felipe B. Azcuna of Zamboanga del Norte, for a period of three (3) months, effective upon notice hereof, with warning that a repetition of the same or similar offenses in the future will be dealt with severely.

Done in the City of Manila, this 24th day of August, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the tenth.



By the President:



FRED RUIZ CASTRO
Executive Secretary