

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 43

EXONERATING MAYOR VICENTIE DEL ROSARIO OF THE CITY OF CEBU
FROM ADMINISTRATIVE CHARGES.

This is an administrative case against Mayor Vicente del Rosario of the City of Cebu on the following charges:

- (1) That respondent illegally collected from June 25, 1946 to September 30, 1946, house allowance at the rate of ₱100.00 a month;
- (2) That he loaned ₱650.00 to the Cebu Retailers' Cooperative, Inc., with interest at 10% per month;
- (3) That he granted a permit to hold cockfighting during days other than Sundays and holidays;
- (4) That he connived with his driver, Baltazar Reyes, in treacherously and maliciously assaulting Assistant City Engineer Arvisu;
- (5) That he employed Detective Inspector Jose Sanchez who was alleged to be a well-known pimp and whom he allegedly used in collecting bribes;
- (6) That he summarily dismissed the City Physician and many employees of the City Government without previous investigation;
- (7) That during his incumbency he entered into a contract of partnership with other parties to deal in lumber, in which agreement he agreed to act as sales manager of the association for the Province of Cebu and for the City of Cebu;
- (8) That he stated falsely and maliciously that the copra ordinance vetoed by him had been tampered with by the Municipal Board;
- (9) That he slandered unjustly and maliciously the President of the Municipal Board in accusing the latter in a letter to Senator Sotto of having enriched himself unlawfully in the discharge of his office;
- (10) That he instructed a member of the Police Department to manhandle detainees in the course of investigation conducted; and

(11) That he is of violent character and is not on good terms with all the Department Heads of the City of Cebu.

These charges were investigated by a Committee specially constituted by me and composed of Assistant Solicitor General Carmelino G. Alvendia, as Chairman, and First Assistant City Fiscal Agustin P. Montesa of Manila and Chief Supervising Auditor Severo de Ungria of the General Auditing Office, as members. After hearings conducted in the City of Cebu at which witnesses testified for and against the respondent, the Committee recommended his exoneration.

CHARGE I

The respondent explained and the Committee found that the house in which he was then living belonged exclusively to his mother, and that even if the house where respondent lived belonged to him, he would still be entitled to said allowance in accordance with Opinion No. 35, series of 1939, of the Secretary of Justice, citing the case of Regalado vs. Yulo, 33 O.G. 925.

CHARGE II

At the instance of Mr. Alfredo Cruz, President of the Cebu Retailers' Cooperative, Inc., the respondent had agreed to advance the sum of ₱650.00 for the use of said corporation for an indefinite period not exceeding one year, with the understanding that the respondent would be given a "benefit" for the use of his money, although he did not even know in what the benefit consisted. Even if the ₱65.00 received by the respondent were considered an interest on the principal of ₱650.00 delivered by respondent, the same would not be usurious because the ₱650.00 having been delivered for repayment within one year, the fact that it was paid after one or three months with full interest for one year does not constitute usury, as the Usury Law even allows a creditor to collect interest in advance for a period not exceeding one year, and if the debtor pays the obligation within a shorter period, he is not entitled to a rebate on the interest.

CHARGE III

The only evidence presented in support of this charge is the testimony of the Chief of Police who alleges that, although he did not actually see that there was a cockfight, he saw people gathered in the cockpit one day which was not Sunday or holiday. He claims to have been informed by Mr. Cepeda, President of the Association which operated the cockpit, that the latter had a verbal permit from the respondent. However, he admits that he made no further investi-

gation on the matter and that he did not even ask the Mayor about the alleged verbal permit.

CHARGE IV

In connection with this charge, there was evidence that in the course of a discussion between the respondent and Assistant City Engineer Arvisu, and when the discussion was developing into a quarrel, the respondent's driver, who was waiting in his jeep outside the restaurant where the incident took place, entered the discussions and assaulted Arvisu. According to Mr. Morelos, an eye witness to the incident and one of the witnesses for the complainant, there was no preconceived plan between the respondent and his driver to fight Arvisu. It is clear, therefore, that the respondent cannot be blamed for the physical injuries inflicted by his driver.

CHARGE V

The respondent admits having appointed Jose Sanchez but claims that the appointment was made upon the recommendation of Senators Sotto and Cuenco and of President Morelos of the Municipal Board. He claims further that he did not know that Jose Sanchez was a pimp. No evidence whatsoever was presented regarding the alleged collection of bribes by Jose Sanchez or by anybody.

CHARGE VI

The City Physician, Dr. Yap, testifying as a witness for the complainants, declared that the incident about his case could have been the result of a misunderstanding. It appears that when the respondent assumed office, the City Physician was not on duty, as he was then on leave. Believing that the City Physician had left the office for good, he being an appointee of the previous Administration, the respondent appointed Dr. Baltazar to take his place. However, when Dr. Yap returned, the respondent realized that the former had not resigned. The case was referred to the Department of Health and Public Welfare, and the respondent respected the decision of the Department in favor of the former incumbent.

As regards the other employees dismissed, many of whom were from the Police Department, the respondent explains that said employees had been appointed in an acting capacity and had taken active part in the last elections in violation of the Civil Service rules, in view of which he replaced them.

Explaining the removal of the Chief Clerk of the Municipal Board, the respondent claims that the removal was made in pursuance of a resolution of the Municipal Board and the policy of the Administration that all pre-war incumbents who wanted to return to their positions should be allowed to do so.

CHARGE VII

There is no dispute as to the respondent having entered into a partnership agreement with one Feliciano Larrazabal to engage in the lumber business under the name of REPUBLIC LUMBER with head offices in the Province of Leyte and having agreed to act as sales manager for the Province of Cebu as well as for the City of Cebu. It is a fact, however, that the REPUBLIC LUMBER did not do business during his incumbency. Moreover, the partnership never engaged in the lumber business in the City of Cebu, and the respondent never actually performed the duties of sales manager up to the date of the investigation.

While his acceptance of the position of sales manager of the REPUBLIC LUMBER was improper, yet as no transactions were actually consummated and no improper motives have been shown, I find no sufficient basis for taking drastic action against respondent.

CHARGE VIII

The respondent admits having stated in his veto of said municipal ordinance that the same had been tampered with by the Municipal Board. He explains, however, that what he meant by the word "tampered" was that the Municipal Board had been frequently changing or modifying the provisions of the ordinance with reference to the amount of tax imposed on merchants engaged in the buying and selling or storing of copra. I am satisfied that the respondent did not use the word in question with malice.

CHARGE IX

I am satisfied that the statement of the respondent in said letter was not made with malice, but merely for the information of Senator Sotto.

CHARGE X

There is conflicting evidence on this point. The Committee found that all that the respondent meant was that force should be used by the police if necessary in apprehending criminals but that, once apprehended, the latter should not be subjected to "third degree" for the purpose of compelling them to talk. As a matter of fact, there is no evidence that violence was illegally inflicted on arrested prisoners or that respondent had ordered any specific person to be manhandled or maltreated.

CHARGE XI

While there is evidence tending to show that the respondent is a man of violent temper, it seems more accurate to state that he is a man of action.

The charge that he is not on good terms with the Department Heads of the City of Cebu has not been substantiated. His incident with Assistant City Engineer Arvisu does not constitute a sufficient basis for the conclusion that he is not on good terms with the Engineering Department. The only other Department where he has had some trouble is the Police Department, with the functions of which he had been allegedly unduly interfering, sometimes giving orders directly to the policemen without coursing them to the Chief of Police. The respondent justifies his actuations on the ground that he suspected some of the officers of the Police Department to be in connivance with malefactors and gamblers.

In view of all the foregoing, the respondent is hereby exonerated and immediately reinstated as Mayor of the City of Cebu. However, in the interest of the service, he is hereby enjoined to sever his connection as sales manager of the REPUBLIC LUMBER and warned against any transaction being had between said partnership and the Government of the City of Cebu.

Done at the City of Manila, this 23rd day of August, in the year of Our Lord, nineteen hundred and forty-seven, and of the Independence of the Philippines, the second.

Francis Roxas

By the President:

Emilio Abello
EMILIO ABELLO

Chief of the Executive Office