

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES
ADMINISTRATIVE ORDER NO. 167

REPRIMANDING COUNCILOR PEDRO CUEVAS, JR. OF BASILAN CITY.

This is an administrative case against Mr. Pedro Cuevas, Jr., councilor of Basilan City, who has been charged by Mayor Leroy S. Brown of the same city with (1) misappropriation of funds from public contributions, (2) corrupt actuation as a public official, and (3) illegal use of property purchased from public contributions. The charges were investigated by a special investigator who recommended that the same be dismissed.

After going over the records, I find that no sufficient proof has been adduced to hold the respondent guilty of Charges Nos. (1) and (3). The said charges are dismissed for lack of merit.

With respect to Charge (2), it appears that the Committee in charge of the 1945 fiesta of the district of Lamitan, Basilan City, collected voluntary contributions for the expenses of the said fiesta, and donated portion of the said contributions amounting ₱1,500.00, to a newly formed association called "Atomic Club" of which the respondent was the president. Out of this sum of ₱1,500.00, the club bought a building, a radio set and a book entitled "History of Basilan Island". In the year 1948, Atty. Dianala Jo made an offer to the respondent, who was then president of the club, to buy the building which was not then being used. The respondent deemed it necessary to convene the board of directors to decide the sale, but in view of the difficulty of convening the members thereof, he (respondent) allowed Atty. Dianala Jo to take possession of the building, without first paying the value thereof, believing that it would be for the best interest of the club as this building was then in a dilapidated condition. Attorney Jo made repairs and improvements on the building and utilized it as a school building up to 1953 when his school closed due to financial difficulties. The principal of the Lamitan Elementary School then made an offer thru the City Council and the Mayor to lease the building, and the said council approved a resolution, authorizing the Mayor to sign for and in behalf of the

city the contract of lease with Atty. Dianala Jo as lessor.

The records show that the respondent voted in favor of the resolution knowing that the said building does not belong to Attorney Jo but to the "Atomic Club". The contract of lease, however, was not actually executed because it was found out that Attorney Jo was not the owner of the building. The question is whether in voting in favor of the said resolution, the respondent incurred violation of Section 18 of the Charter of Basilan City which reads:

"SEC. 18. The officers shall not engage in certain transactions nor receive favors or benefits.-- It shall be unlawful for any officer of the city directly or indirectly, individually or as a member of a firm, to engage in any business transaction with the city or with any of its authorized officers, boards, agents or attorneys, whereby money is to be paid, directly or indirectly out of the resources of the city to such person or firm; or to purchase any real estate or other property belonging to the city, or which shall be sold for taxes or assessment or by virtue of legal process at the suit of the city, or to be surety for any person having a contract with the city".

It is clear that the respondent, knowing as he did that he had a pecuniary interest in the building as president of the Atomic Club, attempted to violate said law when he voted in favor of the resolution authorizing the lease. In the case of Rosario Monteclaro de Navarra versus People of the Philippines (51 O.G. No. 5, L-6469, promulgated on April 29, 1955), the Supreme Court held:

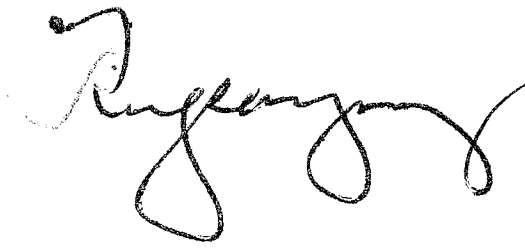
"Just as under the Revised Penal Code the transgressor of the law may be convicted not only when the crime is consummated but also when it is frustrated or attempted, so also under the provisions referred to (meaning Sections 2176 and 2761, Revised Administrative Code), steps taken by a municipal official which would lead to bring about the perfection, consummation and execution of a municipal contract x x x are included in the prohibition. The provisions of Sections 2176 and 2761 of the Revised Administrative Code are intended to deter and prevent municipal officials from having an interest in any municipal contract x x x because of the influence or pressure that

may be exerted or brought to bear upon the other municipal officials to consent and approve such contract x x x. If such provisions are to be construed as to prohibit and punish municipal officials who have or possess pecuniary interest, directly or indirectly, only in a consummated municipal contract x x x, then the purpose and aim of the prohibition would not be realized and attained". (Underscoring supplied).

I find the respondent guilty of attempted violation of Section 18 of the Charter of Basilan City. However, in view of his explanation that he voted for the resolution in the honest belief that it is for the benefit of the school children of the city, and there having been no actual prejudice to the public interest caused by his action, I am inclined to be lenient to the respondent.

Wherefore, Councilor Pedro Cuevas, Jr., is hereby reprimanded and warned that a repetition of the same or similar offense in the future will be dealt with severely.

Done in the City of Manila, this 31st day of December, 1955, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the tenth.



By the President:


MARIANO YENKO, JR.
Assistant Executive Secretary