

Malacañang

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 17

REMOVING MESSRS. JOSE V. RODRIGUEZ, RAMON F. ENRIQUEZ AND MAXIMO CALALANG AS CHAIRMAN AND MEMBERS OF THE BOARD OF DIRECTORS OF THE NATIONAL RICE AND CORN CORPORATION.

This is an administrative case against Dr. Jose V. Rodriguez, Gen. Ramon F. Enriquez, Atty. Maximo Calalang and Gov. Conrado F. Estrella, the first as Chairman of the Board of Directors and Acting General Manager of the National Rice and Corn Corporation (NARIC) and the rest as members of the Board of Directors of said corporation. They are charged with wilful violations of (1) Administrative Order No. 290 dated February 3, 1959, of the President, requiring government contracts involving ₱10,000 or more to be submitted to the Auditor General for review before they are perfected and consummated, (2) the presidential directive of November 10, 1961, that the NARIC purchase rice at ₱10 per cavan direct from farmers, (3) General Circular No. 24 dated September 25, 1958, of the Office of Economic Coordination which requires approval by said office of all transactions of government-owned or controlled corporations worth ₱100,000 or more, and (4) conditions imposed by the Philippine National Bank in the grant of ₱10 million overdraft line to the NARIC, and with (5) gross inefficiency in the discharge of their duties, in connection with the purchase and disposal of NARIC palay and rice.

The charges were investigated by Special Investigator I. Santos Diaz, who submitted an exhaustive report thereon as well as on the administration of affairs in the NARIC. During the investigation, the defense reiterated its petition for the dismissal of the charges as against respondent Estrella, as he was no longer a member of the Board of Directors when the complaint was filed on February 10, 1962, his term having expired the day previous. Resolution on the motion was held in abeyance, and the case was heard as to the remaining respondents, Messrs. Rodriguez, Enriquez and Calalang.

The evidence for the prosecution, which consists solely of official records including copies of the orders and directives allegedly violated by respondents, shows:

That the NARIC, through respondent Rodriguez as Acting General Manager and Board Chairman, entered into 16 deferred palay purchase contracts (Exhs. D to F and H. to T) with Herminio Royeca and 15 other seller-contractors whereby it bound itself to buy palay at ₱11.75 per cavan with a total quantity of 770,000 cavans and a total value of

₱9,047,500 (the highest seller-contractor for 120,000 cavans of palay valued at ₱1,410,000 and the lowest for 30,000 cavans valued at ₱352,500);

That said contracts were confirmed by the NARIC Board of Directors composed of respondents in accordance with Resolutions Nos. 2364 and 2365 dated November 21, 1961 (Exhs. D-1 and E-1), No. 2367 dated November 22, 1961 (Exh. G), No. 2377 dated December 8, 1961 (Exh. O-3), and No. 2392 dated December 28, 1961 (Exh. T-1);

That for each contract, respondent Rodriguez sent to the NARIC branch managers concerned instructions to accept deliveries of palay from said seller-contractors and make corresponding payments for the actual value of palay delivered and deliveries were effected by and payments made to contractor Royeca and ten others, as follows:

<u>NAMES</u>	<u>QUANTITY DELIVERED</u>	<u>AMOUNT PAID</u>
1. Herminio P. Royeca	120,000 cavans	₱1,410,000.00
2. Magdalena L. Santos	32,770 "	393,759.89
3. Carvick Milling Co.	4,151 "	48,774.75
4. Felizardo Lipana	10,082 "	118,473.20
5. Clara Cruz	3,357 "	39,454.80
6. Purificacion Baldueza	6,850 "	80,493.58
7. Artemio Reyes	4,125 "	48,468.75
8. Felicidad R. Caliliw	1,658 "	19,482.81
9. Petra Calara	5,041 "	59,241.39
10. Luz Barcelona	4,172 "	49,026.22
11. Castillo A. Santos	12,885 "	151,398.75

That despite the reminders of the OEC Acting Deputy Administrator and the NARIC Auditor dated December 7 and 12, 1961, respectively, addressed to the NARIC Chairman-Acting General Manager (Exhs. GG, HH), not to allow payment for deliveries made until the contracts had been approved by the OEC and the GAO, respondents continued implementing the deferred purchase contracts by accepting deliveries of palay from the seller-contractors and tendering payments therefor;

That likewise the NARIC, through respondent Rodriguez, executed seven rice-palay barter contracts (Exhs. U to Z and AA) with Igmadio de Castro and six others binding itself to give its stock of rice on loan subject to replenishment with palay on or before March 31, 1962, covering a total quantity of 49,500 cavans of rice with a total value of ₱1,262,000 (five contracts being for at least 5,000 cavans of rice valued at ₱127,500 upwards and two for at least 2,000 cavans valued at ₱51,000 and ₱63,750);

That these rice-palay barter contracts were confirmed by the NARIC Board of Directors under Resolutions No. 2405 dated January 19, 1962 (Exh. U-1), No. 2378 dated December 8, 1961 (Exh. V-1), No. 2382 dated

December 12, 1961 (Exh. Y-1), No. 2400 dated January 12, 1962 (Exh. Z-1), and No. 2388 dated December 27, 1961 (Exh. AA-1);

That the contract for deferred palay purchase and rice-palay barter have not been approved by the GAO or the OEC pursuant to Administrative Order No. 290 (Exh. A) and OEC General Circular No. 24 (Exh. C) as certified by said offices (Exhs. BB-2, CC); and

That the Philippine National Bank (PNB) imposed certain conditions in approving the application of the NARIC for an overdraft line of ₱10 milli among them:

"That as soon as the said palay or rice is sold, the sales proceeds thereof shall be turned over immediately to the Bank to liquidate the drawings against the line availed of;

"x x x this line shall be self-liquidating in nature and may be cancelled by the Bank at any time."

which rendered the rice-palay barter contracts improper.

The defense presented both testimonial and documentary evidence tending to establish the following:

Since the promulgation of Administrative Order No. 290 and OEC General Circular No. 24, only the private contracting party was required to sign the contract, after which it was submitted to the Auditor General and the Office of Economic Coordination for processing. The NARIC General Manager signed the contract only after it had been favorably acted upon. Respondent Rodriguez' signing of the deferred palay purchase contracts prior to their submission to the GAO and the OEC for approval was justified in view of the provision of Section 14 thereof that said contracts shall not be binding and effective until after compliance with Administrative Order No. 290. The absence of similar provision in the rice-palay barter contracts was due to the urgent need for their execution, as the NARIC stock of rice was in a state of deterioration. Approval by the GAO and the OEC, which normally required two weeks, could not be awaited, and respondent Rodriguez assumed full responsibility on the matter.

Upon receipt of the presidential directive of November 10, 1961 (Exh. B), the NARIC circularized all its branch managers to purchase palay at ₱10 per cavan direct from farmers, but they reported that such procurement was unrealistic. Respondent Rodriguez reported to the President in his letter of December 21, 1961 (Exh. 10), the impossibility of procuring palay direct from farmers at ₱10 per cavan, as the offerers had fixed their price at ₱11.75 per cavan. In the

meantime, to stockpile palay as reserve for emergency, which was the main objective of the ₱10 million PNB credit line, NARIC executed the 16 deferred palay purchase contracts and submitted them to the GAO and the OEC. Pending approval by these offices of said contracts, respondent Rodriguez authorized the purchase of palay from middlemen-contractors in lots of 825 cavans each so that payment for each delivery would not exceed ₱10,000. Such delivery was considered as part of the normal trading operations of the NARIC and not as implementation of the contracts, and since its value did not exceed ₱10,000, the same did not require the approval of the Auditor General.

The defense tried to justify the purchase of palay from middlemen at ₱11.75 per cavan instead of buying direct from farmers at ₱10 as required in the presidential directive because the farmers were not willing to sell at that price and the deferred purchase at ₱11.75 per cavan, free from all expenses like cost of hauling, containers for palay, insurance, warehousing and drying, handling, etc., was more advantageous to the NARIC than direct purchase from farmers at ₱10 per cavan with the NARIC defraying the incidental expenses, as it thereby saved ₱1.67 per bag of clean rice.

Execution of the rice-palay barter contracts was also justified by the fact that at the time Acting General Manager Rodriguez was faced with a dilemma as to how to dispose of the big quantity of NARIC stocks bought from Mindanao which were in a state of deterioration because of their high moisture content and the delay in transit. Since harvest was then starting in Luzon, to sell them on cash basis would mean a loss of between ₱3 and ₱3.50 per cavan for the NARIC, so respondent Rodriguez decided to give the rice on credit subject to replenishment in palay form later at the ratio of two cavans of palay to each cavan of clean rice on or before March 31, 1962,

The rice-palay barter contracts were claimed to be not violative of the conditions of the Philippine National Bank in granting the NARIC a ₱10 million overdraft line, as one of said conditions was that no loss shall be incurred by the NARIC; and it was precisely to avoid a loss of ₱3 to ₱3.50 per cavan that the NARIC Management decided to push through the rice-palay barter deals.

The defense claimed that the purchases from the seller-contractors under the deferred system were done under NARIC's normal trading operations.

From the evidence adduced during the investigation, it appears that the administrative charges against the respondents stemmed from their alleged execution and implementation of the deferred palay purchase contracts and rice-palay barter contracts claimed to be in violation of existing rules and regulations issued by higher authorities.

Administrative Order No. 290 dated February 3, 1959, of the President requires "all contracts of whatever nature involving ₱10,000 or more to be entered into by all bureaus and offices, agencies and instrumentalities of the National Government and those of the government-owned and controlled corporations shall be submitted to the Auditor General for examination and review before the same are perfected and/or consummated." General Circular No. 24 dated September 25, 1958, of the OEC, implementing the directives of the President of January 21, and August 18, 1954, directs submission to and approval by the OEC of corporate transactions of a major character, that is where they involve ₱100,000 or more.

It is undisputed that all the 16 deferred palay purchase contracts and five of the rice-palay barter contracts each involved an amount exceeding ₱100,000 and therefore required the approval of the Auditor General under Administrative Order No. 290 and the Administrator of Economic Coordination under OEC General Circular No. 24. The two other rice-palay barter contracts involved more than ₱10,000 each, hence they needed the approval of the Auditor General alone. All these contracts were confirmed by the NARIC Board of Directors composed of the respondents. Although respondents presented evidence to show that they had submitted the above contracts to the GAO and the OEC, they did not contest the fact that said offices had not approved said contracts. They also admitted that deliveries of palay were made by the seller-contractors who were fully paid for said deliveries. It seems apparent therefore that Administrative Order No. 290 and OEC Circular No. 24 were violated in these transactions, as the contracts were executed, perfected and consummated before the requisite review and approval by the GAO and the OEC.

The respondents, however, insist that they have not violated said administrative order and circular, claiming that they have not taken steps to implement any of the deferred palay purchase contracts, as the deliveries of palay made to the NARIC by the sellers were not in consideration of the contracts but under NARIC's trading operations and that approval by the GAO and the OEC was not required, since the deliveries were in lots of 825 cavans each lot with a value of less than ₱10,000 each delivery. In support of their contention, respondents refer to the letters of respondent Rodriguez to the branch managers where the following instructions appear:

"Pending approval of the contract which Mr. Royeca has signed, by the OEC and GAO, you are authorized to accept from Mr. Royeca palay deliveries in lots of not more than 825 cavans each lot. These deliveries shall be considered as made under trading operations in the meantime that the contract is pending approval by the GAO and the OEC. You are likewise authorized to pay to Mr. Royeca the value of palay actually delivered by him at ₱11.75 per cavan."

Far from strengthening the position of the defense, the above-quoted instructions of respondent Rodriguez betray a clear circumvention of Administrative Order No. 290, to obviate the requirement for the approval of the deferred palay purchase contracts by the GAO and the OEC. That these were not ordinary trading operations but implementation of the respective contracts is best shown by the case of Herminio Royeca's contract with the NARIC, the forerunner of deferred palay purchase contracts. Under his contract Royeca was bound to deliver 120,000 cavans of palay to the NARIC valued at ₱1,410,000. He actually delivered 120,000 cavans and was paid ₱1,410,000. If, as claimed, the NARIC was then buying under normal trading operations, why then did they have to buy from Royeca 120,000 cavans and pay him ₱1,410,000, the same quantity and value stipulated in his contract with the NARIC? This of course could not be a mere coincidence. Moreover, it is hard to explain why the NARIC chose to buy palay, under the so-called normal trading operations, from the deferred palay contractors only and not from a third party with no deferred purchase contract.

Even the NARIC auditor, a defense witness, categorically stated that the deliveries by the contractors of palay in lots of 825 cavans per lot with a value of less than ₱10,000 each delivery were implementations of their respective contracts. The very minutes of the special meeting of the NARIC Board of Directors on December 8, 1961 (Exh. 29), excerpts from which are quoted below, confirm such implementation and belie respondents' claim to the contrary:

"#5 MANAGEMENT MAY IMPLEMENT DEFERRED CONTRACTS.

"Brought up for consideration next was the memorandum dated December 8, 1961, of the Assistant General Manager, requesting definite instructions regarding implementation of other contracts of deferred purchase already approved, and for which requisite documents are now being finalized, etc.

"x x x x x x x x

"Atty. Quibranza also informed that in the deferred contracts with Herminio Royeca, Carvick Milling Co., Mrs. Magdalena Santos, the Management had made partial implementation of the contracts confirmed by the Board.

"The Board decided that Management may implement the other contracts or deferred purchase in the same manner as the other deferred contracts."

It is also undisputed that five of the rice-palay barter contracts were implemented by the respondents, the NARIC stocks of rice having been given and released as loan to the contractors

subject to replenishment with palay on or before March 31, 1962. Their justification for implementing the contracts without waiting for the approval of the GAO and the OEC that the stocks of rice was in a state of deterioration, necessitating their immediate disposal, is not satisfactory. On the assumption that such conditions existed, the proper course that should have been taken was to follow up the contracts with the GAO and the OEC which undoubtedly would not have withheld their assent therefrom under the circumstances. This is what is expected of government officials who desire to discharge their duties in accordance with existing policies and regulations laid down by higher authorities to follow.

Even on the assumption that there was no implementation at all of these contracts for deferred palay purchase and rice-palay barter, still there was a violation of Administrative Order No. 290. It requires all contracts to be entered into by government-owned corporations, under the conditions stated therein, to be reviewed and approved by the GAO before they are executed and entered into.

In entering into the 16 deferred palay purchase contracts with middlemen at the price of ₱11.75 per cavan of palay, respondents openly violated the presidential directive of November 16, 1961 (Exh. B), which required the NARIC to purchase "palay directly from farmers at a price of ten pesos (₱10.00) a cavan chargeable against the ₱10 million overdraft line approved by the Board of Directors of the Philippine National Bank." If indeed the farmers refused to sell directly to the NARIC at ₱10 per cavan and it was more beneficial to purchase from middlemen palay at ₱11.75 per cavan without incidental expenses for the NARIC, respondents should have first secured the presidential approval of their contemplated action instead of going ahead with it in their own discretion and later securing said approval. For meritorious reasons, amendment would have been proper, as in fact the President issued an amended directive dated December 26, 1961 (Exh. 3), authorizing the NARIC to purchase palay at ₱11.75 per cavan from farmers and Filipino suppliers under the quedan system. But then this amendment was made after the 16 deferred purchase contracts had already been executed by the NARIC and it did not condone the violations already committed by the respondents.

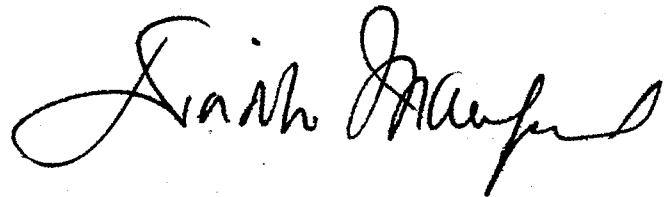
One of the PNB conditions for the granting of the ₱10 million credit line to the NARIC was "that as soon as the said palay or rice purchased under the PNB loan is sold, the sale proceeds thereof shall be turned over immediately to the Bank to liquidate the drawings against the line availed of." The NARIC was therefore under obligation to sell the staple and pay the PNB from the proceeds of the sale. Hence, respondents had no right to give the NARIC stocks for loan on credit, subject to replenishment in four months. The condition imposed by the PNB was to insure the earliest liquidation of the loan.

The charge against the respondents of gross inefficiency is a necessary consequence of their wilful violation and utter disregard of the aforementioned administrative order, presidential directive and general circular. As the top officials of the NARIC, they were expected to make the necessary steps to stop or avoid violations of the policies and regulations laid down by higher authorities. They not only failed to do this. They were the ones who violated the same.

In view of the foregoing, I find the respondents guilty of the charges. As respondent Rodriguez was relieved as Acting General Manager of the NARIC on January 26, 1962, by virtue of the appointment to said position of Mr. Jose Y. Feliciano, and as respondent Estrella ceased in office by the termination of his term on February 9, 1962, they are no longer subject to administrative discipline in their capacity as Acting General Manager and Board Member of the NARIC. Considering the seriousness of the irregularities committed by the respondents for violating and circumventing superior orders and regulations issued to promote and safeguard the public interest, I am constrained to take drastic action against those still connected with the NARIC.

Wherefore, Messrs. Jose V. Rodriguez, Ramon Enriquez and Maximo Calalang are hereby removed from office, the first as Chairman and the other two as members of the Board of Directors of the NARIC, effective as of the date of their preventive suspension on January 25, 1962, with forfeiture of allowances and/or benefits, if any, to which they might have been otherwise entitled.

Done in the City of Manila, this 11th day of June, in the year of Our Lord, nineteen hundred and sixty-two, and of the Independence of the Philippines, the sixteenth.



By the President:


AMELITO R. MUTUC
Executive Secretary

