

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES


ADMINISTRATIVE ORDER NO. 454

EXONERATING CEBU CITY TREASURER AUGUSTO PACIS AND FORMER
CEBU CITY ASSISTANT TREASURER (NOW PROVINCIAL
TREASURER OF LEYTE) FLORENCIO LUNA.

This refers to the administrative case filed by the Ministry of Finance against Messrs. Augusto Pacis, City Treasurer of Cebu, and Florencio Luna, former Assistant City Treasurer of Cebu (now Provincial Treasurer of Leyte), for dishonesty and violation of the Anti-Graft and Corrupt Practices Act in connection with the processing, approval and payment of some nine vouchers involving the disbursement of certain barrio funds. The case was formally investigated by the Presidential Investigating Committee created under Administrative Order No. 175, series of 1969, as amended.

It appears that on or about July 16, 1974, Raymundo de los Reyes, Barrio Captain of Sawang Calero, Cebu City, together with Daniel San Juan and Gloria Maspiñas, both former officials of said barrio, inquired from respondent Pacis about a certain voucher covering payments made to Rodwil Enterprises for alleged deliveries of concrete pipes to said barrio. Upon verification, the voucher was found to have been paid four days earlier. The aforementioned barrio officials, however, denied the delivery of the concrete pipes to their barrio and claimed that their signatures on the voucher and its supporting papers were forged or falsified. Hence, on August 1, 1974, respondent Pacis ordered the investigation of the anomaly and created a special investigating committee for the purpose. The committee submitted its report on September 9, 1974, and respondent Pacis indorsed the same to the City Fiscal of Cebu, recommending the prosecution of the perpetrators.

After a short preliminary inquiry by the Cebu City Fiscal's Office, the case was forwarded to the Criminal Investigation Service (CIS) which conducted its own investigation of the case resulting in the discovery of eight other vouchers wherein the barrio officials' signatures appeared to have been falsified. Hence, the CIS submitted its report to the Cebu District State Prosecutor on the basis of which the latter filed eighteen (18) criminal information against respondent Pacis and several others. Pacis, upon order of the court, has heretofore been suspended from office since April 25, 1977. Respondent Luna, who was subsequently included in the criminal



case, elevated said action of the District State Prosecutor to the Ministry of Justice which, as of the time the finding and recommendation of the Presidential Investigating Committee were made, had not made its ruling thereon. Thus, the Circuit Criminal Court of Cebu, before which the criminal cases were filed, suspended the hearings thereof.

The pendency of the criminal cases notwithstanding, the instant administrative complaint was initiated by the Minister of Finance and was investigated by the Presidential Investigating Committee created under Administrative Order No. 175, series of 1969, as amended.

The evidence adduced at the investigation disclosed that during the period starting from December 17, 1971, and up to and including July 12, 1974, some nine vouchers were processed and paid for the alleged deliveries of certain materials to three barrios in Cebu City, to wit:

Barrio Sawang Calero:

Voucher No. 041, for the payment of 16 sets of mercury vapour arc lamp in the amount of ₱4,800.00;

Voucher No. 042, for the payment of 73 pieces of concrete pipes in the amount of ₱4,993.00;

Voucher No. 043, for the payment of various electrical supplies in the amount of ₱4,963.00;

Voucher No. 1528, for the payment of various electrical supplies in the amount of ₱4,963.00;

Voucher No. 1529, for the payment of 16 sets of mercury vapour lamp in the amount of ₱4,800.00;

Voucher No. 1530, for the payment of 73 pieces of concrete pipes in the amount of ₱4,993.00;

Barrio Santa Cruz:

Voucher No. 022, for the payment of 16 sets of mercury vapour arc lamp in the amount of ₱4,800.00;

Barrio Tira

Voucher No. 902, for payment of 73 pieces of concrete pipes in the amount of ₱4,993.00; and

Voucher No. 903, for the payment of various electrical supplies in the amount of ₱4,912.00.

In the transactions involving the above vouchers, it was made to appear: that barrio resolutions were passed and approved by the barrio councils of Sawang Calero, Tira and Sta. Cruz; that requisition and issue vouchers were made and certified to by the barrio officials concerned; that public canvasses in the procurement of the supplies and materials requisitioned were conducted by the barrio officials; that lists of probable bidders were furnished by the barrio officials with canvass forms and participant bidders submitted their accomplished canvass forms with price quotations; that Rodwil Enterprises which was represented by Rodolfo Ybañes was the lowest bidder; and that the barrio officials made certification as to the delivery of the requisitioned items mentioned in the requisition and issue vouchers and as to the authenticity of their signatures thereon. Aside from the evidentiary documents in support of the foregoing, other instruments were found attached to the questioned vouchers, to wit: Debit/Credit Advice of Barrio Form No. 2, Payment Order and Voucher Taxpayers' Certificate and Invoice of Rodwil Enterprises.

Despite the foregoing, however, all the barrio officials concerned denied in their affidavits and in their testimonies the genuineness and/or authenticity of their signatures appearing on the vouchers and on the supporting papers. These officials likewise claimed, and it was fully established, that the materials covered by the vouchers were never delivered to the barrios concerned. Except for this irregularity, however, the authenticity and genuineness of all the signatures and/or initials of the officials and employees of the Cebu City Treasurer's Office and the City Auditor's Office was never put in question.

Under the foregoing circumstances, may the respondents city treasurer and assistant city treasurer be held guilty of dishonesty and/or violation of the Anti-Graft and Corrupt Practices Act?

The Investigating Committee answers the question in the negative. It is the Committee's observation that subject vouchers were complete and regular in all respects when they reached the desk of respondent Pacis leaving him with no

vouchers. Hence, in signing said documents, Pacis could have acted on the legal presumption that official duty had been regularly performed by his subordinates. He could not be faulted for relying on and giving full faith and credence to the actuations of his subordinate officials and employees as well as of those of another government agency - the Commission on Audit - who are all responsible public servants. In this connection, the observation of the Presidential Investigative Committee is noteworthy, thus:

"Under this official and bureaucratic milieu prevailing in our government and sans evidence to the contrary, this Committee cannot be morally certain of the existence of conspiracy to defraud the government even as respondent Pacis relied on the initials of his Assistant Treasurer, of his Administrative Deputy, of the Chief of the Accounting Division, of the pre-audit clerks, and of the Barrio Bookkeeper, all officials and employees of his office, as well as on the reported inspection and pre-audit made by the Office of the City Auditor. As department head, respondent Pacis was not expected to again minutely pass upon and make personal verification of what his subordinate and what the other officials and employees of another agency of the government were supposed to have done."

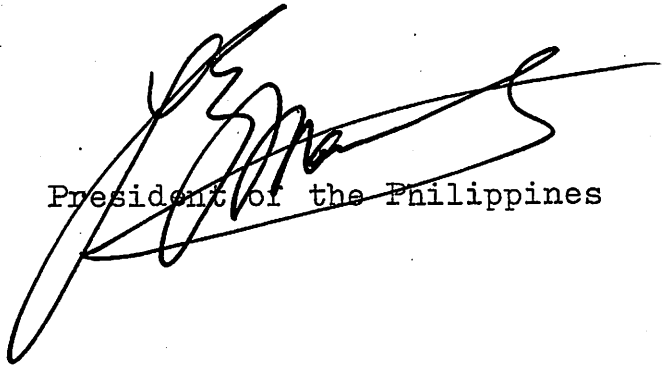
Aside from the foregoing, the instant case may also be considered in the light of respondent Pacis' actuations upon knowledge of the anomaly. Thus, the evidence shows that upon being informed of the forgeries, he ordered the investigation thereof at least as regards the voucher complained of by certain officials of Bo. Sawang Calero. Moreover, it also appears that respondent Pacis caused the expose of the anomaly in question in one of the local newspapers and issue a Memorandum on April 2, 1974, instructing his Assistant (respondent Luna), Administrative Deputy Nemesio Gonzales and Chief of the Accounting Division Aniano Alo to summon the barrio officials concerned to authenticate their signatures on the vouchers and their supporting documents.

Concerning respondent Luna, the investigating committee has recommended that he be penalized, in the sound discretion of the President, for gross negligence for failure to discharge a duty specifically assigned to him by respondent Pacis, i.e., to summon certain barrio officials for them to authenticate their signatures on some vouchers. It bears noting, however, that even as the investigating committee recommends that respondent Luna be penalized, it nonetheless concedes that his negligence "... does not necessarily

amount to dishonesty or violation of the Anti-Graft and Corrupt Practices Act, no evidence having been adduced to substantiate such charge." In view thereof, and considering further the fact that Luna had been subsequently absolved of any criminal liability by no less than the Tanodbayan and the Circuit Criminal Court of Cebu, 14th Judicial District, there appears no more occasion for taking respondent Luna to task administratively.

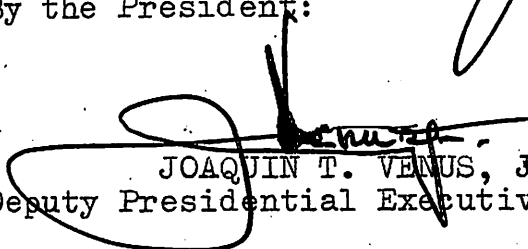
Wherefore, Cebu City Treasurer Augusto Pacis and former Cebu City Assistant Treasurer Florencio Luna, (now Provincia Treasurer of Leyte) are hereby exonerated from the instant charges.

Done in the City of Manila, this 4th day of May in the year of Our Lord, nineteen hundred and eighty-two.



President of the Philippines

By the President:



JOAQUIN T. VENUS, JR.
Deputy Presidential Executive Assistant