

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 89

ADMINISTRATIVE CASE AGAINST ASSISTANT PROVINCIAL FISCAL EMILIO CECILIO OF NUEVA ECIJA FOR (1) "DISHONESTY, BAD FAITH, IMMORAL USE OF AUTHORITY OR INFLUENCE INHERENT TO HIS OFFICE, AND MALICIOUS CONNIVANCE WITH ANOTHER PUBLIC OFFICIAL TO SUPPRESS PUBLIC DOCUMENT" AND (2) CONDUCT UNBECOMING A PUBLIC OFFICIAL.

This refers to the administrative case filed by Rafael Pambid against former Assistant Provincial Fiscal Emilio Cecilio of Nueva Ecija for (1) "dishonesty, bad faith, immoral use of authority or influence inherent to his office, and malicious connivance with another public official to suppress public document" and (2) conduct unbecoming a public official.

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Anent the first charge, complainant Pambid alleged that respondent, knowing that Emilio Valdez falsified a "Kasulatan ng Pagkakaloob," dated May 14, 1961, whereby Beatriz Altuberos (who died on August 8, 1952) purportedly donated to Valdez a parcel of land in Bongabon, Nueva Ecija, covered by TCT No. 5918, nevertheless purchased from Valdez said parcel of land; that, in connivance with the Register of Deeds of Nueva Ecija and using his influence as Assistant Provincial Fiscal, he succeeded in having TCT No. 5918 reconstituted although the said title was not missing at all but was only suppressed by the Register of Deeds; that the Court of First Instance of Nueva Ecija ordered the reconstitution of TCT No. 5918; that subsequently, in collusion with the Register of Deeds, respondent obtained TCT No. NT-66670 in his name; and that after a few days, respondent mortgaged the property for ₱9,500.00 to the Philippine National Bank (PNB).

On the second charge, it is averred that, sometime in October and November 1977, respondent utilized PC Sgt. R.B. Josen to illegally wrest possession of the land from the tenants and forced them to sign a contract of tenancy with him.

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After investigation conducted by City Fiscal Manuel R. Maza of San Jose City, respondent was found innocent of the first charge, but guilty of non-payment of real estate taxes, non-payment of just debt to the PNB and forcibly taking possession of the land from the tenants.

The then Secretary of Justice agreed with the findings of the City Fiscal. As to the first charge, it was established that Emilio Valdez could not be guilty of estafa thru falsification of public document, as he presented a death certificate showing that Beatriz Altuberos died on January 31, 1969, and not on August 8, 1952. With a valid deed of donation, Valdez could transfer ownership to respondent at the time of the execution of the deed of sale.

It further appears that respondent was issued TCT No. NT-66670 on the basis of a valid deed of sale and not because of collusion with the Register of Deeds of Nueva Ecija. Indeed, there was no need for such collusion, since respondent had a valid deed of sale to present. Neither was there any collusion between respondent and the Register of Deeds regarding the reconstitution of TCT No. 5918. Upon a finding of the court that reconstitution is in order, the duty of the Register of Deeds to reconstitute TCT No. 5918 is only ministerial.

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Anent the second charge, while respondent may have a title to the land, he had no right to take possession of the land forcibly from the tenants, who were in continuous occupation thereof long before he acquired title to it, in a manner other than that prescribed by law. Certainly, there was no necessity for the presence of PC Sgt. Josen, if the purpose was only to advise the tenants that they had no right to stay in the land. Precisely, the presence of said PC sergeant, displaying physical power or threat of use of the same, instilled such fear upon the tenants as to compel them to surrender possession of the land. Such forcible taking of possession from the tenants constitutes a violation or obstruction of their right to be respected in their possession. Be that as it may, it appears that the tenants themselves decided to enter into a contract of tenancy with respondent in order to take advantage of the right to purchase the portions they cultivate pursuant to Presidential Decree No. 27.

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Accordingly, the Secretary of Justice found respondent guilty of non-payment of real estate taxes, non-payment of just debt to the PNB, and forcibly taking possession of the land from the tenants, and recommended that respondent be suspended from office for one (1) year without pay.

On August 29, 1985, this Office requested the Ministry (now Department) of Justice for updated comment/recommendation on the administrative case against respondent, as well as information on his current personnel status, considering that respondent's case was not acted upon by the former President.

In a 2nd indorsement to this Office, dated July 25, 1986, the Ministry of Justice commented that the pending administrative case against respondent was "considered abated by reason of his retirement from the government service on June 30, 1975, in the spirit of the President's memorandum to the Secretary of Justice dated December 14, 1972 in the case of Judge Vivencio M. Ruiz, considering the administrative case against him as moot and academic because of his retirement." It was also opined that since respondent is no longer connected with the government in any capacity whatsoever, his official ties there-with having been completely severed with his retirement from the service on June 20, 1975, as stated in the aforesaid 2nd indorsement dated July 25, 1986, the instant case may be deemed moot and academic.

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On the issue of respondent's status after his retirement, the better and more recent rule is that which was pointed out in the later case of People vs. Valenzuela (L-63950-60 April 19, 1985, 135 SCRA 712), citing Perez vs. Abiera (Adm. Case No. 223-J, June 11, 1975, 64 SCRA 302), to the effect that the doctrinal pronouncement in the Andula vs. Lucero case (Adm. Matter No. 679-ACJ, December 19, 1974, 61 SCRA 416) is abandoned and is not to be applied with undeviating rigidity, considering that:

". . . It was not the intent of the court in the case of Quintillan to set down a hard and fast rule that the resignation or retirement of a respondent judge as the case may be renders moot and academic the administrative case pending against him;

nor did the Court mean to divest itself of jurisdiction to impose certain penalties short of dismissal from the government service should there be a finding of guilt on the basis of the evidence. In other words, the jurisdiction that was Ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in the office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implications. For what remedy would the people have against a judge or any other public official who resorts to wrongful and illegal conduct during his last days in office? What would prevent some corrupt and unscrupulous magistrate from committing abuses and other condemnable acts knowing fully well that he would soon be beyond the pale of the law and immune to all administrative penalties? If only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and penalty proper and imposable under the situation." (Emphasis added.)

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After a careful review of the case, I concur in the findings of the Department of Justice that respondent is guilty of non-payment of real estate taxes, non-payment of just debt to the PNB and forcibly taking possession of the land from the tenants.

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However, since respondent is no longer in the government service, the penalty of suspension from office for one (1) year without pay is no longer administerable. On the other hand, to make him refund to the government the equivalent of his one (1) year salary is too harsh. At most, respondent should be fined with one (1) month of his salary.

WHEREFORE, former Assistant Provincial Fiscal EMILIO CECILIO of Nueva Ecija is hereby fined in an amount equivalent to his one (1) month salary at the time the administrative complaint was filed, and is hereby ordered to pay the corresponding amount to the government within fifteen (15) days from his receipt hereof.

Done in the City of Manila, this 2nd day of September, in the year of Our Lord, nineteen hundred and eighty-eight.

*Sorayon G. Aquino*

By the President: ,

*Catalino Macaraig, Jr.*  
CATALINO MACARAIG, JR.  
Executive Secretary