

Malacañang

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 45

REPRIMANDING MR. VALERIANO GATUSLAO, PROVINCIAL GOVERNOR OF NEGROS OCCIDENTAL.

This is an administrative case against Mr. Valeriano Gatuslao, Provincial Governor of Negros Occidental, who is charged with dishonesty involving misuse of public funds (direct intervention in the illegal diversion of amounts appropriated by the provincial board for the improvement of the provincial road in Pulupandan to the construction of a sea wall for the benefit of one Zacarias Semino, Sr.).

It appears from the findings of the investigator that the provincial board of Negros Occidental passed Resolutions Nos. 503, 640 and 723 on April 6, May 13 and 25, 1960, respectively, appropriating the aggregate sum of ₱9,000 "for the improvement of the provincial road" in Pulupandan, otherwise known as the Malecon-Pulupandan Port Road. Respondent admits that the amount was actually used in the construction of the sea wall in question. However, he asserts that the construction of the sea wall constitutes an improvement of the provincial road in Pulupandan as expressly provided in said resolutions, which were enacted because of the clamor of the residents of Pulupandan led by Mayor Julian Montilla and Board Member Mario Peña for the construction of a sea wall to protect the Malecon-Pulupandan Port Road and the land and properties in the surrounding area near the seashore of Pulupandan from destruction by the sea.

Respondent claims that upon consultation with the district engineer, the latter advised the Board that it could appropriate money from the provincial roads and bridges fund for the protection of the road and for that purpose the construction of the sea wall is a means of protection or preservation of the provincial road to prevent its destruction or deterioration by the action of the sea; that he left to the district engineer the determination of the action necessary to be taken under the resolutions; that he had no intervention in the selection of the site where the new sea wall would be constructed; and that precedents justify the construction of the sea wall out of funds appropriated for the repair, maintenance and improvement of provincial roads, citing the construction of similar sea walls in Palaca, Pulupandan, and Manapla in the same province of Negros Occidental.

The main issue is whether there was a diversion of public funds committed by the respondent in that after the board passed resolutions appropriating sums of money for the "improvement of

Valeriano Gatuslao

the provincial road in Pulupandan" he, alone or jointly with others, caused the money to be used instead for the construction of the sea wall in question inspired by the dishonest motive to benefit Zacarias Seminio, Sr., his alleged political leader.

No evidence was adduced that the respondent interfered in the preparation of the plan for the construction of the sea wall and that he specifically selected Seminio's lot where the sea wall was constructed. Neither is there any evidence to show that the construction of the sea wall was the sole and individual act of the respondent. On the contrary, it is averred that the same was decided upon after consultation among the majority of the members of the provincial board and the district engineer, and it was the latter's view which prevailed.

The district engineer and the provincial auditor are agreed that the roads and bridges fund which, under Section 125 of the Revised Manual of Instructions to Treasurers, should be used exclusively for the "repair, maintenance, improvement and construction of provincial, city, municipal and district roads and bridges," can be used for the construction of a sea wall, as in this case, to protect not only the provincial road but also private properties in the vicinity. In other words, although the resolutions expressly appropriated the amount "for the improvement of the provincial road in Pulupandan," the same, it is claimed, may be used to construct a sea wall in order to protect the road from adverse sea action. The construction of the sea wall, it is further claimed, was primarily intended for the protection of the provincial road but not purposely to benefit Zacarias Seminio, Sr., as charged, and that while it is true that the sea wall was constructed almost entirely on the lot belonging to Seminio, this was unavoidable because said sea wall had to be constructed as a continuation of the old sea wall which ended at a point inside Seminio's land. Moreover, whatever benefits accrued to the latter as a result of the construction were said to be merely incidental.

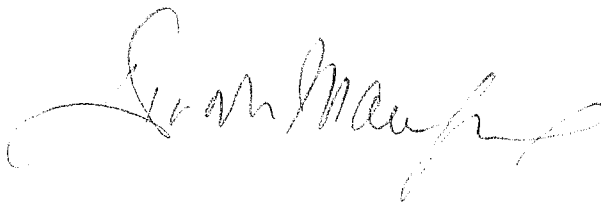
It is pertinent to observe that the board resolutions voted the various sums "for the improvement of the provincial road" in Pulupandan. No incidental reference, let alone express mention, was made therein of the construction of the sea wall. The sea wall was not within the purview of said resolutions. If it was the plan and purpose to have the sea wall constructed in furtherance of the improvement of the provincial road, the resolutions should have been worded or amended accordingly, not only to obviate any doubt as to the legality of the expenditure of public funds for the purpose but also as a sign of good faith and to forestall any suspicion that the sea wall was being erected for the benefit of respondent's friend

on whose lot it was built. The alleged consultations among the respondent, the district engineer and the provincial auditor are not of record. Even if they actually occurred, I would still hold that the resolutions should have been more explicit in authorizing the construction of the sea wall and not merely predicate the same on some strained construction of doubtful force, especially considering that the money appropriated was almost totally expended for the sea wall, which thus became the primary end and not merely an incident to the direct improvement of the provincial road itself.

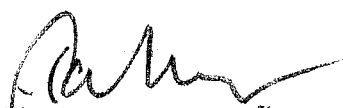
Public officials, it bears repeating, should observe absolute fidelity in the disbursement or expenditure of public funds. They should not allow the expenditure if it is not within the clear scope of the authorization, any doubt being resolved against the disbursement. This observation holds all the more true when friends or relatives stand to be benefited by the dubious expenditure. Lacking in requisite due care and circumspection, respondent has failed to measure up to the high standards of official conduct expected of officers and employees in the public service. In the moral regeneration drive of this administration, it cannot be overemphasized that an official's act and conduct must not only be legal but moral as well.

For all the foregoing, Governor Valeriano Gatuslao is hereby reprimanded and admonished to observe absolute fidelity in the expenditure of public funds and to be more careful in his actuations in the future.

Done in the City of Manila, this 6th day of January, in the year of Our Lord, nineteen hundred and sixty-three.



By the President:



SALVADOR L. MARIÑO
Executive Secretary