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MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 253

EXONERATING MESSRS. SERGIO OSMEÑA, JR., FRUCTUOSO B. CABAHUG AND PEDRO UY CALDERON, FORMER PROVINCIAL GOVERNOR AND BOARD MEMBERS, RESPECTIVELY, OF THE PROVINCE OF CEBU.

This is an administrative case filed by Messrs. Ramen Durano, Isidro Kintanar and Miguel Cuence against Mr. Sergio Osmeña, Jr., in his capacity as Provincial Governor of Cebu and Messrs. Fructuoso B. Cabahug and Pedro Uy Calderon, Provincial Board Members of the same province, and Pablo L. Fernan, Administrator of Real Estate in the Office of the Provincial Governor of Cebu, for dishonesty and grave misconduct in office allegedly committed in connection with the execution of a Deed of Exchange involving certain parcels of land by and between the province of Cebu and the Cebu Heights Co., Inc., of which the respondent, Sergio Osmeña, Jr., is the President and principal stockholder.

Paragraph 1 of the amended complaint alleges that between August 1, 1952 and up to the date of the filing of the complaint, the respondents conspired and cooperated with each other for the purpose of facilitating the successful execution of the plan of Mr. Sergio Osmeña, Jr., both in his capacity as Provincial Governor of Cebu and as President and principal stockholder of the Cebu Heights Co., Inc., to realize huge profits at the expense of the province of Cebu culminating in the execution of the aforesaid deed of exchange whereby three (3) big lots belonging to the province of Cebu were conveyed to the Cebu Heights Co., Inc., in exchange for fourteen (14) smaller lots which form part of two national roads in the City of Cebu for the last eighteen years, and causing the province to suffer damage amounting to ₱359,580.00.

The negotiation for the exchange of the lots acutally started way back in 1936 when the Provincial Governor and the Provincial Treasurer of Cebu proposed to widen Jones Avenue and P. Rodriguez Street so that the proposed capitol building can easily be seen from a distance. As the province was not in a position to purchase the lots to be used in the widening of the streets, it was agreed that the lots to be acquired would be exchanged with lots of the same value belonging to the Province of Cebu. Thus,

2. 1 Do. 10.11

the Cebu Heights reserved fourteen (14) lots for this purpose. In 1940, the province of Cebu proceeded with the widening of the Jones Avenue and the portion of P. Rodriguez Street fronting the Provincial Capitol by utilizing said fourteen (14) lots. On May 21, 1941, the Provincial Board of Cebu passed Resolution No. 838, proposing to exchange certain lots of the Province of Cebu with the said lots of the Cebu Heights Co., Inc., needed by the province for the beautification of the site surrounding the Capitol Building and for the proposed park behind the capitol. Before the exchange could be consummated, World War II broke out. After liberation, negotiations were again resumed which culminated in the adoption of Resolution No. 1097 on November 5, 1954, wherein the Provincial Board authorized the conveyance of certain lots owned by the province of Cebu in favor of the Cebu Heights, in exchange of the fourteen lots owned by the latter, which were taken over by the province in 1940. The deed of exchange was executed on November 24, 1954, by and between Acting Governor Cabahug representing the province of Cebu, and Atty. Jose L. Rodriguez in behalf of the Cebu Heights Co., Inc. Governor Osmeña did not take part in the transaction as he was then abroad having left this country on September 6, 1954 and returned only on December 3, 1954.

There is no evidence showing that Governor Osmeña participated in the deliberations of the Board during its sessions when the proposed exchange of the properties of the province of Cebu and that of the Cebu Heights Co., Inc. was under discussion. Neither has it been proved that the other members of the Board and Real Estate Administrator Fernan possess pecuniary interest in the Cebu Heights Co., Inc. The respondents, therefore, were not guilty of any misfeasance or malfeasance in office, much less of dishonesty.

Wherefore, they are hereby exonerated of the charges against them.

The Deed of Exchange which was submitted to this Office for approval pursuant to Section 2068 of the Revised Administrative Code, which is assailed in the complaint, deserves serious consideration. There is a wide divergence of opinion as to the values of the properties involved in the exchange. The complainants allege that the value of the lots owned by the Cebu Heights Company has been inflated while those of the province deflated. At the bottom of this charge is the suspicion that the City Appraisal Committee and the Real Estate Administrator did not use their judgment freely but acted under the respondents' influence.

While there is no evidence showing that the respondents

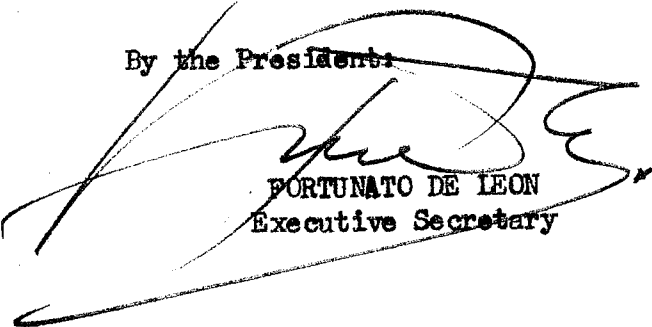
connived with or unduly influenced the members of the City Appraisal Committee in assessing the lots owned by the province at a very low rate and those of the Cebu Heights at a higher rate, nevertheless, because of the disparity of the values of the properties involved, and in order to uphold the integrity of the administration and do away with the suspicion which may or may not be justified, I am constrained to withhold action on the deed of exchange executed on November 24, 1954, between the province of Cebu and the Cebu Heights Co., Inc. I cannot entirely disregard the justice and equity of the claim of the Cebu Heights Co. to be compensated in kind for the lands taken by the province, especially as the said company had previously donated gratuitously to the province of Cebu a valuable tract of land with an area of 67,000 square meters on which the capitol building now stands.

In view of the foregoing, I am creating a committee in a separate Order of even date, for the purpose of determining the fair and reasonable value of the properties involved, the findings of which will serve as basis for action on the contract of exchange in question or for the execution of another contract of exchange between the province of Cebu and the Cebu Heights Co., Inc.

Done in the City of Manila, this 7th day of October, in the year of Our Lord, nineteen hundred and fifty-seven, and of the Independence of the Philippines, the twelfth.

*Carlos P. Garcia*

By the President:

  
FORTUNATO DE LEON  
Executive Secretary