

Malacañang
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 379

ADMONISHING GOVERNOR MANUEL D. BARRETTO OF THE PROVINCE
OF ZAMBALES

This is an administrative case against Governor Manuel D. Barretto of Zambales who was charged by Senator Genaro Magsaysay in a privileged speech in the Senate with abuse of the public trust, exploitation of public office for private gain and improper conduct in our relations with foreign countries. Specifically, Governor Barretto is charged with having, as representative of the province of Zambales, executed nine (9) negotiated contracts with the U. S. Navy at Subic Bay for the purchase of surplus equipments, certifying that the same "shall be utilized exclusively for the rehabilitation of the municipality of Iba, for road construction, irrigation projects, etc., for public convenience and will not be resold, appropriated nor utilized in any way for personal profit or gain", but contrary to said certification, sold said equipments "to private parties as his own personal property." It was averred that except for two items of equipment received and duly paid for by the province of Zambales, the others "were not and could not be found in Zambales much less in the possession of its Government - the purchaser of record."

The Presidential Committee on Administration Performance Efficiency (PCAPE) conducted a fact-finding preliminary investigation on the matter for the purpose of ascertaining as to whether there exists a prima facie case. Upon its termination, Governor Barretto waived his right to a formal investigation in accordance with Executive Order No. 370, series of 1941, manifesting that the case be decided on the basis of the said preliminary investigation.

It appears that during the period from June 2, 1959 to August 19, 1959, ten (10) negotiated contracts for the sale of surplus equipments at a total consideration of ₱109,716.34 were executed by and between the Disposal Officer of the U. S. Navy Supply Depot at Subic Bay, representing the U. S. Government, and Governor Manuel D. Barretto, as Contractor, or his authorized representative.

Manuel D. Barretto

Attached to each of the ten contracts was a certification signed by Governor Barretto stating that "the items of equipment purchased by the undersigned shall be utilized exclusively for the rehabilitation of the municipality above-mentioned (Municipality of Iba) for road construction, irrigation projects, etc., for public convenience and will not be resold, appropriated or utilized in any way for personal profit or gain." These negotiated sales were made upon prior approval by the United States Bureau of Supplies and Accounts and on the representation of Governor Barretto that the equipments to be purchased thereunder would be used for feeder roads, communal irrigation projects, police work, SWA work, pest control and dispersal of improved livestock. Under U. S. Navy rules and regulations, negotiated purchases of navy surplus properties are allowed only in favor of the Philippine Government and its agencies and instrumentalities, and that sales thereof to private individuals or entities shall be made through open bidding.

It was also found that on July 16, 1959 two items of the purchased equipments covered by Negotiated Contract No. N-651s-4828 dated July 13, 1959 in the amount of ₱38,553.10 (including customs duties), were sold by the respondent to Vicente Novales for ₱40,000.00; and that with the exception of two heavy equipments, which were sold at cost to the province of Zambales, the other surplus equipments purchased were not in the possession of the province. However, no funds of the province were used in the purchase of any of the said equipments.

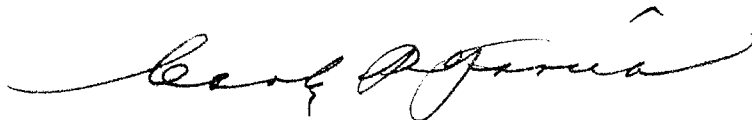
The respondent explained that it was his intention to purchase said equipments in his personal capacity; that the original intention to purchase surplus equipments for the province was abandoned for lack of provincial funds and because he was advised by the Office of the Highway District Engineer that the purchase thereof would entail plenty of expenses for maintenance and repair; that it was his honest belief that negotiated sales were not limited to government entities as it was public knowledge in Zambales that negotiated sales to private individuals had heretofore been allowed on several occasions; that his certifications were not made at the time of the execution of the contracts but at one sitting three months after the execution of the last contract and only upon the request of U. S. Navy authorities and on his honest belief that the signing thereof was but mere

harmless formality; that he allowed third parties to buy the reserved equipments on their promise that should the Province of Zambales be in need of heavy equipments for feeder roads and communal projects, he could call on them for free services. This explanation, although sustained substantially by the evidence and circumstances of the case, is not entirely satisfactory. The respondent was expected to know that in allowing private parties to purchase the surplus equipments in question and benefit therefrom, he might thereby, as he did, place the Government before the United States Naval authorities, considering his written certification that the said equipments "shall be utilized exclusively for the rehabilitation of the Municipality of Iba for road construction, irrigation projects, x x and will not be resold, appropriated nor utilized in any way for profit or gain."

It appears, however, that the same charge against the respondent was made an election issue against him as a candidate for reelection in November, 1959 and that, notwithstanding said issue, he was reelected to the same position. In the case of Pascual v. Provincial Board of Nueva Ecija, G.R. No. L-11959, October 31, 1959, the Supreme Court ruled that "reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor." In view of this doctrine, no disciplinary action may be taken against the respondent for the offense committed by him. However, he should be more careful in his official actuations in the future, so as not to expose to suspicion or criticism the high office which he holds in trust for the public.

Wherefore, Governor Manuel D. Barretto is hereby admonished to be more careful in his official actuations in the future particularly in his dealings with the U. S. Naval authorities.

Done in the City of Manila, this 26th day of December, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the sixteenth.



By the President:



EDILBERTO B. GALLARES

Assistant Executive Secretary