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MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 96

REPRIMANDING AND WARNING FARITA A. CABAZOR, FOREIGN SERVICE OFFICER II, DEPARTMENT OF FOREIGN AFFAIRS, AND SUSTAINING ASSIGNMENT ORDER NO. 34-88, DATED APRIL 8, 1988, REASSIGNING HER FROM THE PHILIPPINE EMBASSY, CANBERRA, AUSTRALIA, TO THE PHILIPPINE EMBASSY, VIENNA, AUSTRIA

This refers to the administrative case against Farita A. Cabazor, Foreign Service Officer II, Department of Foreign Affairs, Manila, for Gross Insubordination by consistently defying Assignment Order No. 34-88, dated April 8, 1988 and Orders dated June 3, 1988, September 13, 1988 and October 17, 1988, and Conduct Prejudicial to the Best Interest of the Service committed as follows:

- "(a) Taking legal action against the Secretary of Foreign Affairs without first exhausting administrative remedies; and
- "(b) Violation of reasonable office rules and regulations."

On August 5, 1986, Farita A. Cabazor, Foreign Service Officer with the rank of Second Secretary and Consul, was assigned to the Philippine Embassy in Canberra, Australia, under Assignment Order No. 153-06.

On April 29, 1988, Ms. Cabazor received a letter, dated April 11, 1988, addressed to the Philippine Ambassador in Canberra, Australia, directing her transfer to Vienna, Austria, under Assignment Order No. 34-88. Instead of complying with the aforesaid reassignment order, Ms. Cabazor sought a reconsideration of her impending transfer.

On June 3, 1988, then Secretary of Foreign Affairs Raul S. Manglapus reiterated Assignment Order No. 34-88 and directed Ms. Cabazor to immediately comply therewith.

Ms. Cabazor, however, refused to comply with the aforesaid assignment order. Thus, on September 13, 1988, Secretary Manglapus, thru then acting Secretary of Foreign Affairs Jose Ingles, directed her recall to the home office. Accordingly, Assignment Order No. 161-88, dated October 17, 1988, recalling Ms. Cabazor to the home office, was issued. Upon her return, Ms. Cabazor sought reconsideration of her transfer with the Office of the Secretary and the Office of the President. Finding her requests to be unimpressed with merit, the same was denied.

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Meanwhile, Ms. Cabazor, this time joined by her husband, filed a petition for mandamus and prohibition with prayer for preliminary mandatory injunction and damages with the Regional Trial Court of Manila on September 19, 1988. Essentially, the petition was anchored on the provisions of Section 6(b) of the Philippine Foreign Service Code of 1983, as follows:

"(i) The tour of duty of foreign service officer at any post shall be four (4) years commencing on the date of arrival at the post after which he shall be transferred to another foreign post x x x."

Acting thereon, the Regional Trial Court, Branch 13, National Capital Region, issued a temporary restraining order, dated September 20, 1988, staying for a period of twenty (20) days assignment order No. 34-88. Subsequently, on October 11, 1988, a writ of preliminary injunction was issued restraining Secretary Manglapus and all persons acting for and his behalf from implementing Mrs. Cabazor's order of reassignment.

During the pendency of the case with the RTC, the DFA initially constituted the "Basa Committee" to investigate the administrative charges against her. However, the hearings were provisionally set aside, in view of the restraining order issued by the aforesaid court.

On July 31, 1989, the said court rendered a decision declaring respondent therein (Secretary Manglapus) as bereft of authority to issue Assignment Order No. 34-88 transferring Ms. Cabazor from Canberra, Australia to Vienna, Australia, thereby, declaring the writ of preliminary injunction, dated October 11, 1988, permanent.

Dissatisfied, the DFA appealed the said decision to the Court of Appeals which, on May 28, 1991, dismissed the same on the ground that the issue raised therein had already become moot and academic on account of the expiration of the four-year tenure tour of duty of foreign officer relied upon by Ms. Cabazor. Subsequently, however, the Supreme Court, in G.R. No. 104884, found that Secretary Manglapus did not commit grave abuse of discretion in issuing the questioned reassignment order.

On October 12, 1992, the Basa Committee resumed the investigation of the administrative complaints against respondent Cabazor.

After due hearing, the Basa Committee submitted its Report, dated April 6, 1993, the pertinent portions of which are quoted hereunder as follows:

"1. On the Charge of Gross Insubordination

On 28 April 1988 respondent Cabazor had already served in Canberra for one year and eight months. The evidence disclosed that her transfer to Vienna was ordered by the Secretary guided by his perception of what was his lawful duty and on what was necessary for the good of the service.

The Committee is of the view that the law is found in Section 6, Part B, Title III of Republic Act No. 708, enacted on 5 June 1952, reading as follows:

'Section 6. Assignments and Transfers - A Foreign Service Officer may be assigned by the Secretary to serve in the Department or in a diplomatic or consular post abroad: Provided, however, that the minimum period during which he may serve in any foreign post shall be one year and the maximum period of four years, except in case of emergency or extraordinary circumstances, in which event he may be transferred from one foreign post to another or to the Department by order of the Secretary without regard to his length of service in his former post.'
(Underscoring supplied)

and since respondent had already served the minimum one-year period under the law her reassignment to Vienna was lawful and did not have to be explained or justified by the Secretary or the President. (Santos vs. Macaraig, 10 April 1992, 208 SCRA 74).

Her claim to the so-called 'mandatory' tenure of four years in Canberra is untenable and unmeritorious. Respondent has no vested right to the Canberra office since she merely exercises that office for the benefit of the public. There is no such thing as a vested interest to hold public office except perhaps judges and constitutional officers and she is not either. This is so because the exercise of the prerogatives of control, supervision and direction of our foreign service involved executive discretion.

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The Committee must take judicial notice of the Supreme Court ruling that indeed Secretary Manglapus committed no grave abuse of discretion in issuing the Order that would have respondent transferred to Vienna (G.R. No. 104884 in Farita A. Cabazor vs. Hon. Raul S. Manglapus, promulgated with finality on 26 June 1992.

Foreign Service work by its very nature entails family and personal inconvenience as part of the career package. Officers and employees are bound by that degree of group discipline and control exercised by the Head of Department which perforce contributes to the efficacy of the service.

The Committee found that while respondent may have been inconvenienced by her transfer to Vienna, she must have known that this is a component of the public service she is in. Her transfer to Vienna did not have to be explained and justified to her by the Secretary or by the President of the Philippines.

The presidential prerogative to determine the assignments of the country's diplomatic personnel is basic and unquestionable. The conduct of Philippine foreign affairs is vested in the President through the Secretary of Foreign Affairs as alter ego of the President. As head of the premier department in our government, he is mandated by law to maintain and strengthen our representation with foreign governments including the Republic of Austria to which he chose respondent Cabazor as the would-be Second Secretary and Consul of the Embassy there in 1988. Foreign service officers and employees abroad represent the national interest and they are at all times under the control and supervision of the President who exercise executive powers in this case through the Secretary.

We found that it took respondent three long years to obey orders issued by the Secretary of Foreign Affairs. This is indicative of wilful disobedience and a mind that is insubordinate.. Her defiance which took all of three years must not be countenanced. It must be punished.

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Of course, the Committee is aware of the fact that respondent has claimed that her non-compliance with the Secretary's orders was made by her upon what she described as lawful grounds and that her availment of the said grounds did not constitute grave insubordination. We believe that her claims have much less to recommend them. Her rights were allowed to be exercised not only on the administrative plain but also in the three-tier levels of the judiciary. These, however, should not interfere with the innate discipline expected of her as a career foreign service officer with the commitment to serve as a good example to foreign service personnel in the junior ranks.

Our view in the Committee is that when a Foreign Service Officer had already served the minimum one-year period of service abroad, her transfer or reassignment rests entirely in the discretion of the Secretary. The Secretary is not required by any law to explain or justify to the officer concerned why she or he is being transferred. If the rule is otherwise, then we might have a foreign service that will not be able to respond adequately to our vital national interests. If that should come to pass then we will not be worth a centavo as the premier career corps of this country.

Respondent has been proceeded against under the orderly processes of law, and is only punished after full inquiry and investigation. She has not been deprived of any of the grounds which she claimed justify her non-compliance, even defiance, of transfer orders which she obeyed on her own choosing.

2(a) On the Charge of Conduct Prejudicial to the Best Interest of the Service Committed by Taking Legal Action Against the Secretary of Foreign Affairs Without First Exhausting Administrative Remedies.

Those in the public service must act in a manner that improves the image of those who serve in government. They shall contribute to the enhancement of confidence by the taxpayers in their government. Otherwise taxpayers will lose faith in the men and women who are supposed to be the

nation's public servants. In fine, foreign service officers shall not do anything that will be perceived by the public as detrimental to the national interest and consequently prejudicial thereto.

Respondent's having taking legal action in court against the Secretary, nominally and lawfully the superior officer who exercises executive control over her, under ordinary circumstances may not be faulted. Not in this case. This is so because she has been repeatedly directed to proceed to her new post in Vienna. She should have obeyed the transfer orders and assumed her public duties in Austria and this she failed to do on the technicality that she has lawful grounds to question superior orders. At the least, this is like using the law to defeat the law because the Secretary as alter ego of the President of the Philippines is mandated by statute to effect deployment or re-deployment of personnel in the foreign service as he may determine necessary.

2(b) On the Charge of Conduct Prejudicial to the Best Interest of the Service Committed through Violation of Reasonable Office Rules and Regulations

This is charge no. 2(b) of the complaint dated 12 May 1989.

On 12 February 1993, the Committee ordered in open court the dismissal of charge no. 2(b) in the interest of constitutional law and justice and upon motion by the respondent on the ground that the requisite bill of particulars on this particular count was not provided the respondent despite reminders from the Committee. The respondent is entitled as a matter of right to know fully the nature and cause of any accusation against her."

The investigating committee in the same report recommended the following:

"In view of the foregoing, the Committee hereby finds the respondent Farita A. Cabazor guilty of gross insubordination and for conduct prejudicial to the best interest of the service. Accordingly, the Committee recommends that the respondent be suspended without pay for a period of six (6) months and warned that a

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repetition of the same or similar acts in the future will be dealt with more severely."

Consequently, the BFSA in a Memorandum of April 21, 1993, recommended in this wise:

"The Board at its meeting on 16 April 1993, sustained the findings of the Investigation Committee that Farita Cabazor is guilty of gross insubordination and conduct prejudicial to the best interest of the service.

"The Committee recommended that Ms. Cabazor be suspended without pay for a period of six (6) months and warned that a repetition of similar acts will be dealt with more severely."

The Board, however, considered the penalty too harsh considering that this is Ms. Cabazor's first offense, that she has been left behind in terms of promotion, and during the pendency of the case she performed her duties with competence and dedication.

In view thereof, the Board decided to recommend that penalty of REPRIMAND with a warning that a repetition of similar acts will be dealt with more severely."

After restudy, I find respondent Cabazor guilty as charged. Respondent's actuation of openly defying what appears to be a lawful order tend to embarrass her superiors. In this regard, she should be reminded that the Secretary of Foreign affairs being my alter ego, his acts are presumed to be mine, unless by me reprobated or disapproved. Towards this end, respondent should be exhorted to be more circumspect in the discharge of her duties, and to bear in mind that, as representative of this Republic, she should at all times conduct herself in a manner befitting a public official.

Anent the recommended penalty, I am disposed to be more lenient with respondent, considering that this is her first offense, and that she had performed creditably and efficiently during the pendency of her case. Hence, I fully concur with the recommendation of Secretary Romulo that respondent be reprimanded and severely warned that a repetition of similar acts will be dealt with more severely.

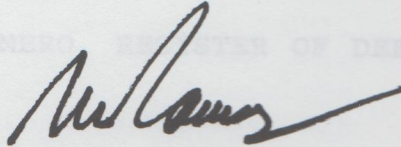
WHEREFORE, respondent FARITA CABAZOR is hereby found guilty as charged and accordingly REPRIMANDED and severely warned that a repetition of like acts will be dealt with more severely. ✓

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Done in the City of Manila, this day **28th** of **NOVEMBER** in
the year of Our Lord, nineteen hundred and ninety-three.

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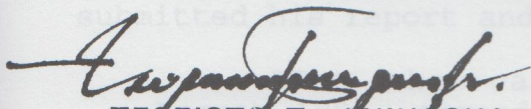
IMPOSING A FINE ON FRANCISCO ROMERO REGISTER OF DEEDS
OF KALOOCCAN CITY



This refers to the administrative complaint filed by Administrator Teodoro G. Bonifacio of the Land Registration Authority (LRA) against Atty. Francisco G. Romero, Register of Deeds of Kalooocan City, for Conduct Prejudicial to the Best Interest of the Service.

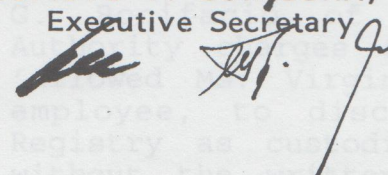
By the President:

of September 22, 1992, the Secretary of Justice, in relation to the above complaint, submitted report and recommendation, which reads:



TEOFISTO T. QUINGONA, JR.
Executive Secretary

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use directive dated 21 Administrator Teodoro the Land Registration Respondent allegedly in Ms. Salazar, a former (your) Registry as custodian of blank title forms without the written consent or approval of this Authority, which resulted in the loss in her possession of seventeen (17) sets of Judicial Forms 109 and 109-D with Serial Nos. 1933454 to 1933470, inclusive, and other land titles and documents."

"The alleged circumstances surrounding the loss of the aforesaid judicial forms and other documents are narrated by Ms. Salazar in her affidavit dated 25 June 1991, as follows:

"That on Friday, June 21, 1991, I took along with me for homework Saturday and Sunday some documents and titles in order to relieve me of some backlog; x x x

"That bad luck intervened as I lose said documents and titles to a dishonest taxi driver who failed to return the documents in spite of return addresses indicated in the documents; x x x (Record, p.25).