

EXCERPTS FROM THE MINUTES OF THE 25th REGULAR SESSION OF THE SANGGUNIANG BAYAN OF GUBAT, SORSOGON HELD ON MONDAY, JULY 24, 2017 AT THE SANGGUNIANG BAYAN SESSION HALL.

PRESENT:

HON. SIXTO F. ESTAREJA	- Municipal Vice Mayor/P.O.
HON. JOHN PAUL E. ERLANO	- Member, Sanggunian Bayan
HON. CESAR D. ESPERIDA, JR.	- Member, Sanggunian Bayan
HON. DANILO E. ENAJE	- Member, Sanggunian Bayan
HON. KENNETH D. ESCANDOR	- Member, Sanggunian Bayan
HON. ANTHONY C. CALLOS	- Member, Sanggunian Bayan
HON. VALENTIN A. PURA IV	- Member, Sanggunian Bayan
HON. AIZA E. ENCINARES	- Member, Sanggunian Bayan
HON. RAMON E. ENTICO	- Member, Sanggunian Bayan

ON LEAVE:

HON. NELSON E. QUINONES	- Liga ng mga Barangay President
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RESOLUTION NO. 116 S-2017

A RESOLUTION TO CONCUR THE DECISION PRESENTED BY THE COMMITTEE OF THE WHOLE ON ADMINISTRATIVE CASE NO. 2017-03, LYDIA Z. LADIP VS. BRGY. CAPT. RUEL F. ESCULTURA BOTH OF NATO, GUBAT, SORSOGON FOR CULPABLE VIOLATION OF THE CONSTITUTION AND ABUSE OF AUTHORITY

WHEREAS, the Republic Act 7160 otherwise known as the Local Government Code of 1991 provides that, “ A complaint against any elective barangay official shall be filed before the Sangguniang Panglungsod or Sanggunian Bayan concerned whose decision is final and executory”;

WHEREAS, as a general rule, the sanggunang bayan as a whole shall conduct the hearing, unless the same sangguniang delegated its power to hold hearing to somebody or committee as a matter of practical administrative procedure;

WHEREAS, after a series of hearing, the Committee of the Whole came up with a report which was favorably adopted by the body, thence, this resolution;

NOW THEREFORE, on motion of Hon. John Paul E. Erlano and unanimously seconded, it was;

RESOLVED, to concur the hereunder decision as follows, to wit:

THE CASE

The case was filed by one Lydia Ladip of Barangay Nato, Gubat, Sorsogon on March 13, 2017 at the Office of DILG-MLGOO against Barangay Chairman Ruel F. Escultura of the same barangay for Culpable Violation of the Constitution and Abuse of Authority which was endorsed to the Sangguniang Bayan on March 14, 2017 for appropriate action and docketed as Administrative Case No. 2017-03.

Culpable Violation of the Constitution is one of the grounds for disciplinary action against an elective local officials enumerated under Sec. 60 of the Local Government Code of 1991. It is define as the intentional, deliberate and wrongful breach of the Constitution.

On the other hand, Abuse of Authority has been defined as a misdemeanor committed by a public officer, who under color of his office, wrongfully inflicts upon any person any bodily harm, imprisonment or other injury; it is an act of cruelty, severity, or excessive use of authority.

The Sangguniang Bayan in the exercise of its quasi-judicial function, is empowered to hear and decide administrative cases that are limited only to the acts and omission enumerated, defined and penalized under the Local Government Code of 1991 and any other laws which are applicable in suppletory.

The purpose of administrative proceeding is to protect the public service, based on the time-honored principle that a public office is a public trust.

THE FACTS OF THE CASE

The complainant is a private individual and a resident of Brgy. Nato while the respondent is an incumbent Barangay Captain of the same barangay, this municipality.

The antecedent facts are as follows:

Complainant Lydia Ladip on her complaint, , copy hereto attached and marked as Exhibit "A", "A-1", "A-2" and "A-3", and on her testimony during investigation/hearing, alleged that the above-named respondent committed abuse of authority by refusing to issue upon her request Certification attesting to the fact that her family was among those residents whose house was totally damaged during typhoon "Glenda", She also averred that respondent aside from refusing to sign the certification, allegedly told her to leave his barangay as she is not following orders from his office.

Complainant further claimed that she received several life threats and personal insults coming from the respondent. She also suffer disrespect and often times called her insane, ignorant and threatened her blind her totally.

Complainant also sought the removal of the respondent from office for allegedly violating Art. III, Sec. 1 of the Constitution on the ground that respondent caused and/or ordered the imprisonment of complainant's husband Jose Ladip at Gubat District Jail. She insisted that respondent has caused all the miseries and trouble in the life of her husband while he was in jail.

The complainant aside from her testimony during investigation, submitted as her documentary evidence, attached to her complaint, the unsigned Certification marked as Exhibit "B" hereto.

Acting on the complaint, the Sangguniang Bayan constituting as the Committee of the Whole set its preliminary hearing on March 20, 2017 to determine compliance as to proper form and substance of the complaint, and to find probable cause if the offense being charged to the respondents has its basis under the circumstances, finding that the complaint submitted by the complainant lacks the required verification, the investigating committee issued an order directing the complainant to comply with the requirement. There being probable cause in the instant complaint, the committee further ordered to issue summon to the respondent.

On April 03, 2017, respondent was issued summon informing him that an administrative complaint was filed against him with an attached copy of the complaint and ordering him to file his answer within fifteen (15) days from receipt thereof.

On April 24, 2017, respondent Brgy. Capt. Ruel F. Escultura filed his verified answer.

On his answer, respondent vehemently denied all accusations against him by the complainant for being false, malicious and unfounded, copy of the answer is hereto attached and marked as Exhibit "1", "1-1", "1-2" and "1-3".

First, the claim of the complainant that he threatened her life and called her insane, ignorant, that he will slap her face and totally blind her are all concoctions of lies and a product of her hyperventilating and wild imagination. In truth, such allegations of the complainant unceremoniously dragged me into another mess and embarrassment to which the reputation of the office and of being a barangay official is at stake once again due to the gravity of the charges.

Complainant's allegations according to the respondent are mere rehash of the accusations she already made against him in the previous administrative complaint filed in this Honorable Office which was thankfully dismissed, and in other various government offices which she went to.

Secondly, the allegation of the complainant that he caused the imprisonment of her common law husband deserves scant consideration impossible as it is. Indeed, Jose Ladip was committed to jail but it was due to his being cited in contempt by the Department of Agrarian Reform Adjudication Board (DARAB) after contumaciously and hard-headedly refused to follow order of the DARAB Order, copy of the said Order is attached to the answer marked as Annex "A".

The allegation likewise of the complainant that respondent violated Article III, Sec. 1 of the Constitution which provides that *"No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws"* has no basis in fact. Respondent hold that he did not deprived her or any member of her family of their life, their property or their liberty in any instance. Complainant's reason for accusation certainly boarded into absurdity.

Lastly, the allegation of abuse of authority is also deprived of rhyme or reasons as there are no iota of truth in it. Respondent claim that he did not deprived the complainant of the services extended by the barangay more so her request for certifications despite her

contemptuous ways of dealing with him and all other barangay officials. As a matter of fact, she has been summoned numerous times to the barangay hall to answer to the complaints lodged against her by other inhabitants of our barangay yet never did she appear in our office.

Respondent further averred that all the allegations thrown against him by the complainant have no basis in fact and in law, thus, prayed for the dismissal of the complaint for utter lack of merit.

On May 29, 2017 a hearing was conducted by the Committee of the Whole with the appearances of complainant Lydia Ladip and witness Jose Ladip, and respondent Barangay Chairman Ruel F. Escultura. On direct examination, complainant failed to support her allegations in the complaint as to the particular time and date the incident took place where respondent threaten her and conveyed abusive words. Likewise, Jose Ladip, witness for the complainant, did not draw any inference that indeed such offense had transpired in any given time.

Respondent on cross examination, vehemently denied all the allegations imputed against him by the complainant. In support of his allegations in his answer, respondent submitted DARAB Order dated August 04, 2014, Order of Arrest dated October 3, 2014 and Commitment Order dated November 14, 2014 to disprove allegation of the complainant that he caused and order the imprisonment of Jose Ladip at Gubat District Jail, copy are hereto attached and marked as Exhibit "2", "2-1" and "2-2" (DARAB Order) and Exhibit "3", "3-1" for Order of Arrest issued by the DARAB, Office of Regional Adjudicator, Rawis, Legaspi City and Exhibit "4" for Commitment Order issued by DARAB, Provincial Adjudicator.

RULING

After evaluating respective pleadings filed by the opposing parties, together with its documentary evidences attached thereto and the testimony made during investigation/hearing, the Committee finds no substantial evidence to find respondent guilty of the administrative offense of Abuse of Authority and Culpable Violation of the Constitution – it being clear on the following grounds, to wit:

The allegation of the complainant concerning threats posed on her life together with all the alleged invective words uttered by the respondent against her have no factual basis to draw conclusion that indeed the abusive conduct was committed by the herein respondent. In fact, such allegations are mere repetition of the accusation against the respondent on Administrative Case No. 2013-01 which was dismissed by this honorable body on its Decision dated December 09, 2013.

The respondent was not shown to have violated Article III, Sec. 1 of the Constitution which provides that *"No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws"*. The complainant failed to adduced evidence of her any deprivation in any circumstances cited above neither did she established proof that respondent has caused the imprisonment of her common law husband Jose Ladip at Gubat District Jail. The Committee was convinced that Jose Ladip was committed to prison by virtue of DARAB Order dated August 04, 2014 on DARAB Case No. D-0506-RL-00002-2014 Redocketed as D-05-14-RL-00004 for Indirect Contempt in relation to the final resolution in DARAB Case No. D-0506-RL-00060-2010 and D-0506-RL-00135-2010, dated April 12, 2012.

Further, complainant remiss the fact that she was not afforded the services of the barangay. The Committee on the findings of fact during investigation and on the strength of the testimony of the respondent, the request of the complainant for certification pertains to the Certification attesting to the fact that her house was totally damaged during typhoon "Nona", when the truth of the fact is, her house was destroyed during the typhoon "Glenda". The barangay at that time was issuing certification only for damaged housing during typhoon "Nona" for purposes of relief assistance. Respondent defended the fact that he can only attest as to the truth of what exactly transpired on the incident of typhoon "Nona", where relief assistance was under consideration at that time. Respondent cannot be faulted for standing firm for what he believes to be right and proper in the performance of his official function absent a showing of cruelty, injury and excessive use of authority under the circumstances.

WHEREFORE, the administrative case for Culpable Violation of the Constitution and Abuse of Authority filed against Barangay Chairman Ruel F. Escultura of Nato, Gubat, Sorsogon is hereby DISMISSED for lack of merit.

SO ORDERED.

RESOLVED FURTHER, that copies of this resolution be furnished the complainant, respondent and all other concerned for their information and guidance;

RESOLVED FURTHERMORE, that copy of this decision be endorsed to Hon. Sharon Rose G. Escoto, Municipal Mayor, for proper and immediate implementation, informing this body of the action taken thereon within ten (10) days upon receipt hereof.

RESOLVED FINALLY, that copies of this resolution be furnished Mrs. Lydia Z. Ladip, complainant, Nato, Gubat, Sorsogon; Brgy. Capt. Ruel F. Escultura, respondent, Nato, Gubat, Sorsogon; Ms. Shirley Del Valle, DILG-MLGOO, Gubat, Sorsogon and Office of the Liga ng mga Barangay, ABC Hall, Gubat, Sorsogon; and other offices concerned for their information and guidance.

UNANIMOUSLY APPROVED.

I HEREBY CERTIFY TO THE
CORRECTNESS OF THE FOREGOING:

(Sgd) JOEY P. ENAJE
Secretary to the Sangguniang Bayan

Attested by:

(Sgd) HON. SIXTO F. ESTAREJA
Municipal Vice Mayor, Presiding Officer