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OFFICE OF THE SANGGUNANG PANLALAWIGAN SECRETARY

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that at the regular session duly constituted of the Sangguniang Panlalawigan, Province of Pangasinan, held on May 15, 2023 at the Session Hall, Capitol Building, Lingayen, Pangasinan, the following provincial resolution was approved:

Authored by SP Member Haidee S. Pacheco

PROVINCIAL RESOLUTION NO. 408-2023

**APPROVING AND ADOPTING AS ITS DECISION EN BANC,
THE DECISION OF THE COMMITTEE ON GOOD
GOVERNMENT AND ACCOUNTABILITY OF PUBLIC
OFFICERS, JUSTICE AND HUMAN RIGHTS IN SP
ADMINISTRATIVE CASE NO. 01-2022**

WHEREAS, the Sangguniang Panlalawigan was in receipt of a Notice of Appeal filed on July 1, 2022 by Brgy. Kgd. Vincent Sarzaba, Brgy. Kgd. Anselmo Abad (deceased), Brgy. Kgd. Menandro O. Loresco, Brgy. Kgd. Jose Cresanto P. Ferrer, Brgy. Kgd. Raul Rufino G. Serafica, Brgy. Kgd. Federico M. Aquino, Jr., and SK Chairman Joshua A. Soriano against the Decision of the Sangguniang Bayan of Mangaldan, Pangasinan;

WHEREAS, the said case was referred to the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights and was docketed as SP Administrative Case No. 01-2022;

WHEREAS, after several hearings, careful review and study on the said case, the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights submitted its Decision which was adopted as **Committee Report No. 16-2023** by the Sangguniang Panlalawigan, to wit:

DECISION

Before this Committee is an Appeal from the Decision dated January 7, 2022 rendered by the Office of the Sanggunian Bayan of Mangaldan, Pangasinan finding the Respondents-appellants "guilty of Grave Misconduct and Abuse of Authority."

The records would show the following factual antecedents, to wit:



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A temporary vacancy occurred in the office of the Punong Barangay of Barangay Poblacion, Mangaldan, Pangasinan by virtue of the suspension of Punong Barangay Melinda P. Morillo imposed upon her by the Sangguniang Bayan of Mangaldan, Pangasinan in its decision dated May 14, 2021 (Administrative Case No. 2021-01).

By virtue of the said temporary vacancy in the office of the Punong Barangay, herein Complainant-appellee Brgy. Kagawad Federico B. Limon II, being the highest ranking Sanggunian Barangay member, assumed the position of the Officer-in-Charge Punong Barangay of Poblacion, Mangaldan, Pangasinan.

Complainant-appellee Limon, however, refused to sign or issue barangay clearances where applicable fees thereto “were collected under Barangay Revenue Ordinance No. 13, Series of 2020” because according to him, it is the same ordinance which caused the suspension of Punong Barangay Morillo and that the same ordinance was remanded to the barangay by the Sanggunian Bayan of Mangaldan for lack of hearing and high fees.

Further, Complainant-appellee Limon did not act on a letter inquiring on the propriety of the payment of Barangay Clearance fee of Php500.00.

Furthermore, Complainant-appellee Limon did not take action on the Memorandum dated July 5, 2021 issued by the Municipal Mayor of Mangaldan, Pangasinan enjoining the implementation of a policy on “Oplan Sa Tag-Ulan” and “Maging Listo sa Tag-ulan Covid-19.”

On August 5, 2021, herein Respondents-appellants passed Barangay Resolution No. 14, series of 2021 providing therein “that Kgd. Federico B. Limon II be OUSTED from his present position as Officer-in-Charge and that KGD. VINCENT V. SARZABA, the second highest ranking member of the Sanggunian, be immediately APPOINTED as Officer-in-Charge.”

On August 6, 2021, respondents-appellants filed a copy of the said Resolution No. 14 to the office of the Municipal Local Government Operations Officer.

On August 9, 2021, Respondents-appellants filed a Verified Joint and Consolidated Affidavit-Complaint against the Complainant-Appellee before the Office of the Provincial Director, DILG, Lingayen, Pangasinan for Gross Neglect of Duty.

On August 16, 2021, Complainant-appellee filed an administrative Complaint against herein Respondents-appellants before the Office of the Sangguniang Bayan of Mangaldan for Usurpation of Authority, Graft and Corruption, and Abuse of Power, with a Prayer for Suspension.



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On September 17, 2021, Respondents-appellants filed their Verified Answer thereby denying the allegations against them by the Complainant-appellee.

On January 7, 2022, the office of the Sangguniang Bayan of Mangaldan rendered a Decision finding the Respondents-appellants guilty of Grave Misconduct and Abuse of Authority with a suspension from office for a period of six (6) months.

On May 24, 2022, the Office of the Sangguniang Bayan of Mangaldan in its Resolution denied the Respondents' Motion for Reconsideration and affirmed its aforementioned Decision. Hence, this Appeal.

Thus, from the above factual antecedents, the following issues are drawn, to wit:

- A. Whether or not respondents-appellants are guilty of Grave Misconduct;
- B. Whether or not respondents-appellants are guilty of Abuse of Authority; and
- C. Whether or not the complainant-appellee is entitled to the relief sought.

RULING:

Anent the first issue, a misconduct is defined as the transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. A misconduct is grave if it involves the additional elements of (i) corruption and (ii) clear intent to violate the law or flagrant disregard of established rules which must be manifest and established by substantial evidence. In the Decision of the Sangguniang Bayan of Mangaldan dated January 7, 2022, the Respondents-Appellants were found to have committed Grave Misconduct quoted hereunder;

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“Grave Misconduct committed by the respondents was not only flagrant but also manifest. This is demonstrated through the respondent's removal of the complainant's name as the signatory to the following documents:

- a. A Letter of Acceptance in relation to the provisions set forth by the IATF during this pandemic (Exhibit “B”)
- b. Certification that a resident a solo parent (Exhibit “B-1”);
- c. Barangay Clearances as a requirement for the application of Mayor's Permits (Exhibit “C”);
- d. Certificate of Indigency (Exhibit “C-1”);
- e. Certificate of Residency (Exhibit “C-2”).”

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A careful scrutiny of the aforecited exhibits, which purport to show Grave Misconduct, would show that they were all in blank forms, without any designation or appearance of any real individuals or concerned business entity to be greatly affected by the issuance of such letters, clearances or certificates. The exhibits were not even utilized, processed, more importantly released with consequent ellicitness. If there was a removal of his name in these exhibits, it cannot be construed as a clear manifestation that the respondents-appellants caused to deprive him of his authority as the Officer-In-Charge Punong Barangay. The mere existence of such documents without having evidence to point who authored the printing thereof will not suffice to establish an act of grave misconduct on the part of the respondents-appellants;

It is notable as well that the Complainant-Appellee failed to offer and present any witness which could testify if the Respondents-appellants directly and unequivocally instructed any person to print the aforementioned letters, clearance and certifications. According to the Complainant-appellee, a certain Lea Castro Tinte reprinted the revised letters, clearances and certifications but she was not presented as a witness to testify that same pro-forma letters, clearance and certifications are utilized for regular business transactions by the Respondents-appellants. Evidently there is no existing substantial evidence proffered which would constitute a clear manifestation of the foregoing elements of grave misconduct by the Respondents-appellants. Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. These bare allegations cannot be considered as material and adequate to implicate the Respondents-appellee of any wrong-doing. Hence, the Complainant-appellee's power and authority as such is extant.

The Decision by the Sangguniang Bayan finding flagrant and manifest commission of grave misconduct on the part of the Respondents-appellants is implausible. The Committee found no substantial evidence to support the conclusion that the Respondents-appellants are guilty of the administrative charges against them. Mere allegation and speculation are not evidence, and is not equivalent to proof. As culled from the records of the case, the Complainant-Appellee did not even provide any evidence as to how the Respondents-appellees, specifically Kgd. Vincent V. Sarzaba arrogated himself to the authority and functions as Officer-in-Charge Punong Barangay. Besides the empty allegation of printing the aforecited exhibits, the Complainant-appellee failed to allege and give proof of any other acts violative of his right as Officer-in-Charge such as a direct or written prohibition of him coming from the Respondents-appellants to enter the premises of the barangay hall forcefully depriving him from the performance of his duty.

Anent the second issue, abuse of authority has been defined as a denial of justice when discretion, by virtue of one's position, has not been justly and properly exercised and it signifies the use of that discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right. While grave abuse of authority



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is the use of authority in a wantonly and capriciously excessive and extravagant manner contrary to law or rule for which such authority is given. In the same Decision of the Sangguniang Bayan of Mangaldan, the Respondents-appellants were also found guilty of Abuse of Authority, quoted hereunder;

X X X

Despite the lack of legal basis for the passage of the implementation of the resolution, respondents have arrogantly imposed their misplaced authority by issuing certifications and clearances which bore the name and signature of Brgy. Kgd. Vincent V. Sarzaba as the "Designated Officer-in-Charge" pursuant to "Barangay Resolution No. 14, series of 2021". These were done purposely to collect fees based on Barangay Revenue Ordinance No. 13, series of 2020 which was remanded upon review by this body for lack of public hearing and for being unjust, excessive, oppressive or confiscatory. In doing so, respondents are also guilty of abuse of authority.

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One of the pieces of evidence produced by the Complainant-appellee is the Barangay Resolution No. 14, Series of 2021 adopted on August 5, 2021, a perusal of which evidences a suppliant tenor from the Respondents-appellants to remove him as Officer-in-Charge Punong Barangay due to:

- a. His refusal to sign barangay clearances thus violating R.A. 11032;
- b. Gross neglect of duty;
- c. His proposal to lower the collection of clearance fees in accordance with the old revenue of Poblacion and not Brgy. Rev. Ordinance No. 13, series of 2020;
- d. His interview with GMA that he plans to stop the collecting of these aforementioned fees under the Brgy. Rev. Ordinance No. 13, series of 2020;
- e. His showing of weakness to lead Brgy. Poblacion to implement Brgy. Rev. Ordinance No. 13, series of 2020;
- f. His being disloyal and traitor to his colleagues.

The main contention from the above citations is the so called "passage and implementation of the resolution" in order to "purposely collect fees based on Brgy. Ordinance No. 13, series of 2020". The records of the case show otherwise, as it is bereft of any evidence constituting the implementation of the assailed Brgy. Resolution No. 14 nor collection of fees based on Brgy. Revenue Ordinance No 13, series of 2020. Therefore, the Committee is unconvinced as there is no documentary evidence was ever presented or any competent witness who can attest to such allegation or in order to show either acknowledgment or official receipts evidencing direct acceptance by the Respondents-appellees of the alleged collected fees. Even if there was such collection it cannot be imputed to them without substantial evidence clearly showing that they have collected fees and issued corresponding official receipts themselves.



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In relation thereto, the incumbent Barangay Treasurer Emma De Vera Cereno who could attest to the said collection and issuance was not even presented by the Complainant-appellee. Based on the records of the case, the said Barangay Treasurer even filed a criminal complaint against the Complainant-appellee for Usurpation of Official Functions alleging that Complainant-appellee Limon signed and issued official receipts without her knowledge and authority as the Barangay Treasurer. Therefore, there is no existing provable evidence which can validate the allegation of the Complainant-appellee that the Respondents-appellants used the adoption of

Barangay Resolution No. 14, Series of 2021 to collect fees under the aforementioned Ordinance No. 13. Hence, the finding of the Sangguniang Bayan that the Respondents-appellants are guilty of abuse of authority based only on bare the allegations by the Complainant-appellee is downright unmeritorious.

It appears that the allegation of abuse of authority is rooted on the act of the Respondents-appellants in adopting the subject Barangay Resolution No. 14, Series of 2021. Whether the assailed barangay resolution is invalid or not, jurisprudence provides that a resolution is merely a declaration of the sentiment or opinion of a lawmaking body on a specific matter. No rights can be conferred by and be inferred from a resolution.

In the instant case, the passage of the subject Barangay Resolution No. 14, Series of 2021 is simply an expression of sentiments by the respondents-appellants with an intent to recommend, (1) that Kgd. Federico B. Limon II be ousted from his present position as Officer in Charge and (2) that Kgd. Vicent B. Sarzaba, the second highest ranking member of the Sanggunian, be immediately appointed as Officer in Charge.

Consequently, it does not operate to deprive the Complainant-appellee of his right to discharge the functions of an Officer-in-Charge Punong Barangay by mere adoption of the said resolution by the Respondents-appellants. He could still have exercised his rights and duties as such notwithstanding the adoption of the assailed barangay resolution. He can avail legal recourse to vindicate his claims of deprivation of his office and function as the Officer-in-Charge Punong Barangay by presenting evidence that there is a correlation proving that the Respondents-appellants used the assailed barangay resolution to blatantly blocked, obstruct or denied him entry into the office of the barangay to fulfill his function or caused the collection of fees based on a contentious barangay revenue ordinance.

We disagree with the contention of the Complainant-appellee in his Appellee's Brief that the fact of his removal was sufficiently established by the admission of the respondents-appellants that he was ousted as Officer-in-Charge of Barangay Poblacion through the Barangay Resolution No. 14, series of 2021 and by not denying the due execution of the said resolution. However, there is no proof that the same was duly implemented after it was passed by the Respondents-appellants; that they were able to



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deprive the Complainant-appellee from his authority and powers as the Officer-in-Charge and finally, that they were able to exercise such powers and functions detrimental and violative to the rights of the Complainant-appellee.

Jurisprudence provides that the quantum of proof in administrative proceedings necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The burden to establish the charges rests upon the complainant. The records of the case are bereft of evidence showing corruption, clear intent to violate the law, or flagrant disregard of the rules constituting grave misconduct. The Complainant-appellee Limon fails to produce sufficient and adequate evidence to prove allegations of grave misconduct and abuse of authority by the Respondents-appellants to merit their suspension as public officers of Barangay Poblacion. As the suspension is now being moot and academic, all the salaries, benefits and emoluments due to the herein Respondents-appellants during their six-month suspension shall be paid to them accordingly.

WHEREFORE, premises considered, the assailed decision dated January 7, 2022 rendered by the Sangguniang Bayan of Mangaldan finding the Respondents-Appellants guilty of Grave Misconduct and Abuse of Authority is hereby **REVERSED AND SET ASIDE**.

SO ORDERED.

Lingayen, Pangasinan. May 15, 2023.

Respectfully Submitted:

SP MEMBER HAIDEE S. PACHECO
Chairman

WHEREAS, the Sangguniang Panlalawigan finds the said Decision to be in order;

WHEREFORE, in view of the foregoing, on motion of SP Member Haidee S. Pacheco, duly seconded, it was_

RESOLVED, by the Sangguniang Panlalawigan in session assembled to approve, as it is hereby approved and adopted as its decision en banc, the Recommendation of the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights in SP Administrative Case No. 01-2022;



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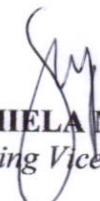
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RESOLVED FURTHER, that copies of this resolution be furnished to Brgy. Kgd. Vincent Sarzaba, Brgy. Kgd. Anselmo Abad (deceased), Brgy. Kgd. Menandro O. Loresco, Brgy. Kgd. Jose Cresanto P. Ferrer, Brgy. Kgd. Raul Rufino G. Serafica, Brgy. Kgd. Federico M. Aquino, Jr., SK Chairman Joshua A. Soriano, Brgy. Kgd. Federico B. Limon II of Brgy. Poblacion, Mangaldan, Pangasinan, the Sangguniang Bayan of Mangaldan, Pangasinan and their counsels, for their information and guidance.

CERTIFIED BY:


VERNA T. NAVA-PEREZ
Secretary to the Sanggunian

ATTESTED:


SP MEMBER SHIELA MARIE F. BANIQUED
Acting Vice Governor