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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 November 22, 2021 at Lingayen, Pangasinan, the following provincial resolution was approved:

Authored by SP Member Noel C. Bince

PROVINCIAL RESOLUTION NO. 987-2021

**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. 07-2020**

WHEREAS, the Sangguniang Panlalawigan was in receipt of a Memorandum of Appeal filed on November 28, 2021 by Claudeth C. Galsim, et al against Brgy. Capt. Ferdinand Lomibao, Charlot F. Gonzales and Municipal Officials (signatories and concerned officials to the license/permit for business operations) of the Sangguniang Bayan of Bayambang, 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. 07-2020;

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 Recommendation which was adopted as **Committee Report No. 55-2021** by the Sangguniang Panlalawigan, to wit:

DECISION

This is an Appeal from a Decision dated November 3, 2020 of the Sangguniang Bayan of Bayambang from a Complaint filed by Appellant CLAUDETH C. GALSIM (Claudeth), et al of Brgy. Bacnono, Bayambang, Pangasinan.

The dispositive portion is as follows:



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WHEREFORE, the complainant filed against Respondent Lomibao for GRAVE ABUSE OF AUTHORITY, GRAVE ABUSE OF DISCRETION, AND GRAVE MISCONDUCT is hereby dismissed for LACK OF PROBABLE CAUSE.

ACCORDINGLY, the complaint filed against Mayor Cezar T. Quiambao and Charlot Gonzales is likewise dismissed for LACK OF JURISDICTION.

SO ORDERED.

It appears from the Complaint filed by CLAUDETH that not only did she implead Brgy. Captain FERDINAND LOMIBAO, she included CHARLOT F. GONZALES, a private citizen, and the MUNICIPAL OFFICIALS of Bayambang, Pangasinan.

In a nutshell, the main respondent-appellee is sued administratively for his issuance of a barangay clearance in favor of CHARLOT GONZALES for the operation of her CHIX TO GO DRESSES CHICKEN TRADING as part of the requirement for her business permit.

The Appellants have complained of environmental havoc that have affected her and her family and residents.

There were no Assignment of Errors submitted in the Appeal Brief filed by the Complainants-Appellants.

The prayer embodied in their Appeal Brief dated November 18, 2020 sought for the following:

- 1. That Appellee-Respondent LOMIBAO be found guilty of GRAVE ABUSE OF AUTHORITY, GRAVE ABUSE OF DISCRETION, GRAVE MISCONDUCT and shall be permanently removed from office.*
- 2. That he be stripped of all the earned benefits while serving as government official and be forever barred from holding any government office in whatever capacity;*
- 3. That the Sangguniang Bayan of Bayambang as Appellee be held liable for GRAVE ABUSE OF DISCRETION, GRAVE ABUSE OF AUTHORITY, GRAVE MISCONDUCT for summarily and abusively issuing a DECISION without due and proper consideration of solid, substantial, glaring, obvious and screaming evidence presented by the complainants-appellants issued by concerned and responsible government offices and officials appertaining to the issue in the complaint;*



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4. That LOMIBAO and CHARLOT (be declared) in solidary liability (and) shall further be ordered to reimburse complainants of actual damages in the amount not less than ONE MILLION PESOS (Php 1,000,000.00), covering medical expense and business income lost; attorney's acceptance fees of ONE HUNDRED THOUSAND PESOS (PHP100,000.00) and appearance fees of FIVE THOUSAND PESOS (Php. 5,000.00) per hearing and corresponding filing and requisite pleadings or motions; other incidental and litigation expenses in the amount not less than THREE HUNDRED THOUSAND PESOS (PHP300,000.00);
5. That CHIX TO GO DRESSES CHICKEN TRADING shall immediately be closed and CHARLOT be meted and required to pay the corresponding FINE for operating illegally;
6. That LOMIBAO be preventively suspended for a period of not less than 90 (days) in order for him not to meddle in the process, affect the findings and possibly influence the results of the same;
7. That this instant appeal and the administrative case against the Municipal MAYOR be held jointly.

We now resolve.

The Sangguniang Bayan acting as a quasi-judicial body has appellate jurisdiction over barangay officials. The Sangguniang Bayan of Bayambang has original jurisdiction of administrative cases involving barangay officials but it could only suspend them if they are found liable. Section 60 of the R.A. 7160 (Local Government Code) provides that a locally elected official can only be removed by order of the proper court. It has no jurisdiction over the person of a private individual who is not a public official.

For this reason, it is beyond the powers of the Sangguniang Bayan and in this appeal, the Sangguniang Panlalawigan, to issue an order that LOMIBAO "be permanently removed from office, ordering further that he be stripped of all the earned benefits while serving as government official and be forever barred from holding any government office in whatever capacity."

The "main respondent" cannot be liable for grave abuse of authority, grave abuse of discretion and grave misconduct. The issuance of a barangay clearance is just one of the requirements for the issuance of a business permit. There is a presumption of regularity in the issuance of such.



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The Appellants sought for a reversal of the Sangguniang Bayan Decision after due to notice and hearing and consideration of the evidence presented and submitted.

This August Body is not wont to relitigate findings of facts as it is acting akin to an appellate court- unless evidence so warrants that the Sangguniang Bayan has committed grave abuse of discretion in its key findings of facts. The Appellants have shown no evidence that there was grave abuse of discretion.

The Supreme Court, by way of analogy, has resolved thus:

“The Court is not a trier of facts. The Court cannot re-examine, review or re-evaluate the evidence and the factual review made by the lower courts. In the absence of compelling reasons, the Court will not deviate from the rule that factual findings of the lower tribunals are final and binding on this Court.”

The Sangguniang Bayan of Bayambang cannot be belatedly impleaded as a party to this case just because the Appellants do not agree with its Decision. It would a violation of due process and in particular, the Rules of Court. You just cannot sue a judge administratively in the same case where he issued the same Decision. There is no jurisdiction over the persons of the members of the Sangguniang Bayan in this appeal.

Similarly, this body has not acquired jurisdiction over the person of the Mayor of Bayambang. This much was admitted by the Appellant herself in # 34 of her Appeal Brief but seems to reverse herself in her prayer that administrative case against the mayor shall be held jointly. No, it cannot.

The Appellants cannot undo their blunder in impleading the Mayor of Bayambang in her Complaint with the Sangguniang Bayan. It has no jurisdiction over his person. It cannot be remedied in her appeal with the Sangguniang Panlalawigan acting as a quasi-judicial appellate body.

It could only do so in its original jurisdiction.

It also affirms the Decision of the Sangguniang Bayan in denying the prayer of the Appellants in asking for damages and in seeking to stop the operation of the CHIX TO GO DRESSES CHICKEN TRADING.

The prayer for damages and an injunction in the operation of the business of CHARLOT F. GONZALES are determined in a regular court of law or in a regulatory body (for such injunction) and not in an administrative case where the issues to be resolved involve the fitness of office of the respondents.



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*WHEREFORE, premises considered, the instant Decision of the Sangguniang Bayan of Bayambang is **AFFIRMED and the Appeal DISMISSED.***

SO ORDERED.

November 15, 2021. Lingayen, Pangasinan.

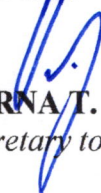
WHEREAS, the Sangguniang Panlalawigan finds the said Decision to be in order;

WHEREFORE, in view of the foregoing, on motion of SP Member Noel C. Bince, 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 Decision of the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights in SP Administrative Case No. 07-2020;

RESOLVED FURTHER, that copies of this resolution be furnished to Claudeth C. Galsim, Brgy. Capt. Ferdinand Lomibao, Charlot F. Gonzales and Municipal Officials concerned of Bayambang, for their information and guidance.

CERTIFIED BY:


VERNA T. NAVA-PEREZ
Secretary to the Sanggunian

ATTESTED:


MARK RONALD DG. LAMBINO
Vice Governor
(Presiding Officer)