On the matter of the administrative complaints against Barangay Captain Mrs. CARMEN DEL PRADO of Queen’s Row East, Bacoor, Cavite.

Mrs. CARMEN DEL PRADO
Hon. ALEJANDRO AGUSTIN
Mr. SANTOS AGUILA

RESOLUTION NO. 91-33

This investigation stemmed from the consolidation of four counts of administrative charges filed by Queen’s Row East Sangguniang Nayon Members Celso Galicia, Ignacio Manlangit, Edilberto Debbay and Velia Biglang-awa (now deceased) against their Barangay Captain, Mrs. Carmen del Prado, for the alleged commission of the following offenses, to wit:

1. "Malversation or at least Estafa, Grave Misconduct in Office, Abuse of Authority and/or discretion as elective Government Official", because the complainants "are deprived and denied by Carmen del Prado of our monthly allowances for October, November and December 1990 without valid and justifiable ground despite having required us to sign a payroll for the above mentioned months";

2. "Misconduct in Office and/or Grave Abuse of Authority and discretion in using a Government office as a gambling den", since "it is a public knowledge in our Barangay that most of the time Mrs Carmen del Prado holds mahjong session inside our Barangay Hall xxxxxxxx";

3. "Grave Malfeasance of duty and responsibility, Grave Misconduct in Office, Abuse of Authority and/or discretion as an elective Government Official" in that "Mrs Carmen del Prado refused and still refuses to enforce and/or implement Barangay Resolutions xxxxxxxx one of which is Resolution No. 003-89 xxxxxxxx" which is "all about Public Open Forum or better known as Barangay Assembly" (complainants do not include Mrs. Biglang-awa); and

4. "Graft and Corruption, Extortion and/or Grave Misconduct in Office, Grave Abuse of Authority or illegal exaction xxxxxxxx", because "Mrs Carmen del Prado contrary to law, is maliciously implementing and/or enforcing our Barangay Resolution No. 002-90 xxxxxxxx" which is about the imposition by the Sangguniang Nayon of permit fees on certain types of businesses and Mrs. del Prado "collecting Barangay Permit fees either different from or larger than the amount fixed in the Resolution or from people who are in any way concerned and included in the provisions of the Resolution xxxxxxxx".

These administrative complaints were contained in the 1st Indorsement, dated February 5, 1991, by Mr. Santos Aguilin, Municipal Local Government Operations Officer for Bacoor, in whose office they were first filed by the above-named Sangguniang Nayon Members, for disposition by the Sangguniang Bayan pursuant to the provisions of Section 61(3) of the Local Government Code.
On February 11, 1991, the Municipal Secretary, for and in behalf of the Sangguniang Bayan, sent a written notice to Mrs. Carmen del Prado informing her of the complaints, furnishing her with copies thereof and asking her to submit her verified answer thereto as required by Section 62 of the Local Government Code. Mrs. del Prado did not submit any verified answer to the complaints, nor did she reply to the letter sent her.

Thereafter, the Sangguniang Bayan summoned the complainants and the respondent and initial hearings of the charges were made. The Body decided on a few months' moratorium after these initial hearings to allow the parties' feelings of bitterness and rancor against each other to taper off. Also during this period, persistent efforts were made and exerted to reconcile the parties in the public interest, but, like the proverbial Rock of Gibraltar, neither side would budge from their original positions and desires, i.e., to see these cases to their just ends. Thus left with no other recourse, the Body resumed its investigation which disclosed the following:

On the charge that Mrs. del Prado deprived and denied complainants Galicia, Manlangit, Dabbay and Biplang-aw of their allowances for October, November and December, 1990.

During the Body's first hearing on February 22, 1991, Mrs. del Prado admitted that she refused to authorize the payment of the complainants' honorariums by way of implementing the provisions of an alleged Department of Local Government Memorandum, dated October 5, 1990, which supposedly permitted her to hold or reduce the allowances of council members who are not attending meetings of the Sangguniang Bayan. She later retracted on this Memorandum as her basis and, instead, promised her refusal on the certification she had to sign on the payroll that the complainants rendered services during the months in question when actually they did not. It was also elicited that Mrs. del Prado allowed another council member, Mr. Enrique Sylvia, to collect his honorariums for these same months although Mr. Sylvia was admittedly out of town - in his home province of Leyte, in fact - simply because he sought the respondent's permission.

Regarding their alleged failure or refusal to attend meetings of the Barangay Council, the complainants countered that, on the contrary, they were the ones agitating for these sessions which the Barangay Captain would not call and that, despite the absence of these meetings, they WERE THERE, nevertheless, IN THE BARANGAY to attend to their duties and constituency, in contrast with Mr. Sylvia whom the respondent allowed to be paid his honorariums while admittedly NOT EVEN PHYSICALLY PRESENT thereof.

The Body interviewed some personnel and requested a few records from the Office of the Municipal Local Government Operations Officer. These records and interviews, as well as those had with other Barangay Captains, revealed that the payments of honorariums to ALL members and officers of Sangguniang Nayons are essentially based on the Monthly Accomplishment Reports prepared by the Barangay Councils and which at the time, for purposes of COMPLETENESS and COMPLIANCE, needed only to be signed by the BARANGAY CAPTAIN, any THREE MEMBERS of the Sangguniang Bayan, the BARANGAY SECRETARY and the BARANGAY TREASURER. (These Reports have since been revised so that ALL council members and officers are NOW signatories therein.)

The Monthly Accomplishment Reports of Queen's Row Est for the months of October, November and December, 1990, showed them to have been signed by Barangay Captain del Prado, Kagawads Lazaro, DABBAY and Biplang-aw, Barangay Secretary Santos and Barangay Treasurer Villon, thereby rendering COMPLETE and COMPLYING these Reports as basis for the payment of the honorariums of ALL MEMBERS AND OFFICERS of the Sangguniang Bayan for those months.
Considering the foregoing, the Body finds to be arbitrary, capricious and whimsical and, therefore, untenable, Mrs. del Prado’s refusal to authorize the payment of the honorariums of Kagawads Galicia, Manlangit, Dabbay and Biglang-awa for the months of October, November and December, 1990. For if her collection of HER honorariums and the others she authorized to be paid theirs was based on the Monthly Accomplishment Reports, then all the members and officers of the Sangguniang Bayan, WITHOUT EXEMPTION, should have been allowed to collect since the Reports were COMPLETE and COMPLYING as they were and, further, even SIGNED BY TWO OF THE COMPLAINANTS, Councilmen Dab BAY and Big Lang-AWA. Also, the Reports, duly authenticated by her, presupposes and confirms that the Sangguniang Bayan made certain ACCOMPLISHMENTS during the period covered and, the matter being so, that the council members ACTUALLY RENDERED some forms of SERVICES on the questioned months. Lastly, the payment of Mr. Sylvia’s allowances when he was OUT OF TOWN is irreconcilable with the respondent’s professed rectitude as regards the actual rendition of services by those who are to be paid under her signature.

On the charge that Mrs. del Prado held Mah-Jongg sessions inside the Barangay Hall.

This was admitted, with the reason that Mah-Jongg was played if only to draw the people inside the Barangay Hall and, therefore, for the place to be manned at all times.

While Mah-Jongg is not intrinsically illegal, it does not detract, nevertheless, from the repressive use of the Barangay Hall, a public office, for the holding of Mah-Jongg sessions. And the brazen, open and conspicuous use of the Barangay Hall as the venue of these games constitutes a serious breach of the public trust every government functionary is mandated to uphold, keep and maintain.

On the respondent’s alleged refusal to enforce/implement, among others, Barangay Resolution No. 002-99 which calls for a public forum every three months.

Mrs. del Prado explained that she cannot attend to all the needs and problems of the barangay, more so when the other members of the council would not cooperate with her.

The Body could have been spared with this complaint, since under Section 96(2) of the Local Government Code, Barangay assembly meetings may be held UPON CALL (a) of the pumong barangay or (b) at least four members of the Sangguniang Barangay or (c) upon written petition of at least one-tenth of its members. As could be readily gleaned, options (b) and (c) were provided as remedies should the Barangay Captain fail to call any meeting of the barangay assembly, and they were the precise and clear alternatives available to the complainants and which they should have first exhausted and explored before they lodged the instant case.

On the charge that Mrs. del Prado is maliciously implementing Barangay Resolution No. 002-99 by collecting Barangay Permit Fees either different or larger than the amount fixed in the Resolution or from people who are not concerned and included in the provisions thereof.

The subject piece of legislation, being of a general and permanent character, should have been enacted as an ORDINANCE and not as a Resolution. Also, the Sangguniang Bayan was never furnished with copies of said enactment for review pursuant to Section 92(1) of the Local Government Code. Lastly, the types of businesses and persons included in its coverage appear to be discriminatory and not general in character and nature.
The subject Barangay Resolution No. 002-90, therefore, suffers from several infirmities as to make it void and thereby rendering further discussion of its effects and implementation moot and academic.

The Body asked for another review of the facts and circumstances of the cases at bar as herein narrated and, after due and careful deliberation on the findings of the investigation, found the respondent Barangay Captain of Queen's Row East, Mrs. Carmen del Prado, GUILTY of conduct prejudicial to the best interest of the service as hereinafore discussed and enunciated and, accordingly, agreed on the following resolution, to wit:

RESOLVED, as it is hereby resolved, by the Sangguniang Bayan of Bacoor, Province of Cavite, in special session assembled, on unanimous motion of all members present, to recommend to the Honorable Municipal Mayor, Buenescino M. Cruz, the SUSPENSION FROM OFFICE FOR A PERIOD OF SIXTY (60) DAYS OF BARANGAY CAPTAIN MRS. CARMEN DEL PRADO of Queen's Row East, for cause and reasons contained herein; Resolved also, that copies of this Resolution be furnished the respondent Barangay Captain Mrs. Carmen del Prado; the complainants and other interested parties; the Sangguniang Panlalawigan of Cavite; the Department of Interior and Local Government, through the Municipal Local Government Operations Officer of Bacoor, Cavite; and the ABC President who had been charged with seeing to the proper implementation of the Body's recommendation.

APPROVED UNANIMOUSLY on
September 17, 1991.

[Signatures of members]

I hereby certify to the correctness of the above resolution.

[Signature]

AUGUSTO O. OCAMPO
Municipal Secretary

BUENCAMINO M. CRUZ
Municipal Mayor