

**ANTONINO M. MILANES, PETITIONER, VS. EULOGIO F. DE GUZMAN,
PROVINCIAL GOVERNOR OF LA UNION, VICE-GOVERNOR AND
MEMBERS OF THE PROVINCIAL BOARD OF LA UNION,
RESPONDENTS.**

G.R. No. L-23967. November 29, 1968

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/02ad8aab5cb3/>

CONCEPCION, C.J.:

In a petition filed with the Court of First Instance of La Union, on February 9, 1962, against respondent Eulogio F. de Guzman, as Provincial Governor of La Union - hereinafter referred to as the Governor - Antonino M. Milanes - hereinafter referred to as the petitioner - alleged that he is the municipal mayor of Agoo, La Union; that, on February 8, 1962, the Governor suspended him temporarily from office, in view of an administrative complaint of the Governor based upon charges, preferred by one Rolando Rivera, imputing to petitioner herein the crimes of slander by word, slander by deed and serious threats, allegedly made and committed during a public political rally held in Agoo, on November 13, 1961; that the criminal cases filed by Rivera, with the Justice of the Peace Court of Agoo, predicated upon the same acts, are still pending before said court; and that, in suspending him from office, the Governor had acted in excess of jurisdiction and with grave abuse of discretion, from which there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. Petitioner prayed, therefore, that a writ of preliminary injunction be issued restraining the Governor from enforcing his aforementioned order of suspension and that, in due course, he be prohibited permanently from effecting said suspension.

Soon thereafter, petitioner amended his petition by including therein, as respondents, the Vice-Governor and the Members of the Provincial Board of La Union, upon the ground that, subsequently to the filing of the original petition, or on February 15, 1962, the Governor sought to enforce the order of suspension above referred to; that the aforementioned criminal cases, filed by Rolando Rivera, were dismissed by the Justice of the Peace Court of Agoo; that the allegations in the administrative complaint filed by the Governor against petitioner herein do not warrant his suspension and do not constitute any of the causes specified in Section 2188 of the Revised Administrative Code as grounds for disciplinary action against municipal officers; that, accordingly, said Board has no jurisdiction to entertain and investigate said administrative complaint; and that, this notwithstanding, all of the respondents, as Members of said Board, had set the aforementioned administrative complaint for hearing.

Petitioner prayed, therefore, that a writ of preliminary mandatory injunction be, also, issued directing the Governor to reinstate him in office; that the Provincial Board be restrained from proceeding with the investigation and hearing of the administrative case against him, during the pendency of the present action; that, after due hearing, a writ be issued permanently prohibiting the Governor from suspending petitioner herein and the Provincial Board from hearing the administrative case against him; and that respondents be sentenced to pay attorney's fees, apart from such other relief as may be deemed just and equitable in the premises.

After appropriate proceedings, the lower court issued, on February 27, 1962, an order granting the writs of

preliminary mandatory injunction and preliminary injunction prayed for by petitioner herein, which writs were issued after the posting of the requisite bonds.

In their answer, respondents maintained the legality of petitioner's suspension and of the order of the Provincial Board setting the complaint against him for hearing, upon the ground that he was charged with oppression, abuse of authority, and misconduct in office.

Upon submission of the case on its merits, said court subsequently rendered judgment for the petitioner and against the respondents, making permanent the aforementioned writs of preliminary mandatory injunction and preliminary injunction against the Provincial Governor and Provincial Board, respectively. A reconsideration of this decision having been denied, respondents appealed to the Court of Appeals, which, on November 25, 1964, certified the case to the Supreme Court, upon the ground that only questions of law are raised in the appeal. By resolution of the Supreme Court, dated December 17, 1964, the appeal was docketed therein.

It should be noted, at the outset, that petitioner herein was elected mayor of Agoo at the general elections held in 1959, so that his term expired on December 31, 1963. Hence, when the case was certified to Us by the Court of Appeals, late in 1964, said case and the appeal taken by respondents had already become academic, thus justifying the dismissal of the appeal and the case, upon the ground that both had become mooted.

At any rate, the administrative action against petitioner herein is predicated upon the following undisputed facts, as set forth in the decision appealed from:

"It has been established by the evidence on record that the filing of the three criminal cases by Rolando V. Rivera against Antonino M. Milanes before the justice of the peace court of Agoo is the offshoot of an incident that happened in the evening of November 13, 1961, during the political meeting of congressional candidate Jose D. Aspiras, of the Nacionalista Party, where the petitioner spoke and acted as toastmaster. Said political meeting took place in the public plaza of Agoo. It appears that while Milanes was speaking, he noticed Rolando V. Rivera among the crowd. The petitioner then changed the subject of his speech, by depicting Rivera as a person with physical deformity. And cutting short his talk, the petitioner then went down the platform and held Rivera's front collar and neck and, simultaneously with violence, shook said Rivera. Petitioner likewise confronted and reminded Rivera of the latter's attack on the former's administration as mayor. Milanes also told Rivera that if the latter would persist in his attack, the former would kill him. In committing these acts, Milanes was prompted and provoked by the attacks hurled by Rivera against him in connection with his administration as municipal mayor of Agoo."

These facts led to the filing by Rolando Rivera, with the Justice of the Peace Court of Agoo, of three (3) complaints against petitioner herein: (a) one for serious slander by deed, (b) another for slight slander, and (c) still another for grave threats, all of which were dismissed, upon the ground that they were barred by the Statute of Limitations of Action.

Anyhow, pursuant to Section 2188 of the Revised Administrative Code, "the Provincial Governor shall receive and investigate complaints made under oath against municipal officers" for (1) "neglect of duty, oppression, corruption or other form of maladministration of office", and (2) "conviction by final judgment of any crime involving moral turpitude".^[1] Admittedly, the administrative charges against petitioner herein do not fall under the second category, for, assuming that they constitute crimes "involving moral turpitude", there is no "conviction by final judgment" therefor. As regards the grounds belonging to the first group, it is well-settled that the same do not apply except to acts or omissions committed or incurred "in office". In other words, it refers to non-feasance, misfeasance or malfeasance in office. We do not believe that the acts imputed to petitioner herein belong to this class.

Said acts were performed by the petitioner while he was addressing the public in a political rally, held by the Nacionalista Party - not by the Government - in support of the Nacionalista candidate for the House of Representatives. Petitioner acted and spoke in that public meeting as toastmaster. As such, he acted in his private capacity, for said function is neither part of his duties as mayor nor connected with the same. In the course of his address as toastmaster, he saw Rolando Rivera, whereupon he (petitioner) made reference to a physical defect he (Rivera) had. This reference, and the slander involved therein, was thus made by petitioner in his private capacity, not even in connection with the performance of his duties as mayor. It does not affect his official integrity as such.

Immediately thereafter, he approached Rivera, held him by the collar and the neck, and shook him violently because of his attacks on petitioner's administration. Then, petitioner admonished Rivera that he (petitioner) would kill him (Rivera) should he persist in his attacks. At that time, petitioner was not discharging his duties as municipal mayor. As toastmaster in said political rally, his role was that of a leader of the Nacionalista candidate for the House of Representatives, trying to help him get elected. What is more, petitioner's behavior indicated that he regarded Rivera's attack upon his (petitioner's) administration as a personal affront to him. In fact, the trouble with petitioner herein was, precisely, that he then acted as an ordinary mortal, allowing his wounded pride, as such, to obfuscate him, instead of acting as a mayor, who should set the example in practicing adherence to the Rule of Law. Under these circumstances, we do not feel that his acts constitute oppression, abuse of authority or misconduct in office.

A mayor is, of course, a mayor, at all times, during his tenure; but, there is, likewise, no denying the fact that, this notwithstanding, not all of his acts during said tenure are official, or deemed performed in office. Otherwise, the classification made in said Section 2188 of the Revised Administrative Code of the grounds for disciplinary action against municipal officials and the distinction therein drawn between misconduct in office, on the one hand, and, on the other, conviction by final judgment of a crime involving moral turpitude, would be pointless, for then all such crimes would constitute a misconduct in office, and conviction by final judgment would never be necessary, should we accept the theory of respondent herein.

Thus, in *Lacson vs. Roque*,^[2] the libel allegedly committed by the Mayor of Manila against a Judge of first instance thereof, for having called him "incompetent" and "ignoramus" on account of a judgment of acquittal rendered in favor of the Assistant Chief of Police of Manila charged with malversation of public property, consisting of firearms lent to the City by the American Government, was held not to be a misconduct in office. Neither were the rape and concubinage allegedly committed by the mayor in *Mondano vs. Silvosa*^[3] found to constitute a misfeasance or malfeasance in office, although, broadly speaking, his office may have helped him get the opportunity to commit the rape or attain the personality, appeal or attraction that led the other woman to yield to his entreaties and advances. So too, the mayor in the *Lacson* case might not have even had an opportunity to speak over the radio and make thereon the libelous remark imputed to him, were it not for his office. Yet, it did not appear affirmatively in either case, as it does not appear in the case at bar, that the mayor was then in the performance of his duties or made use of the powers of his office in order to commit the misconduct in question. For the same reasons, the falsification of a private document, without final conviction, involved in the case of *Cornejo vs. Naval*^[4] was not considered a ground for administrative action.

WHEREFORE, the decision appealed from should be as it is hereby affirmed, with costs against respondents herein.

SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Capistrano, JJ., concur.

[1] Underscoring ours.

[2] 92 Phil. 456.

[3] 97 Phil. 143.

[4] 54 Phil. 809, 813.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.