

LORENZO S. MENDIOLA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND HON. SANDIGANBAYAN, RESPONDENTS.

G.R. Nos. 89983-84. March 06, 1992

Ponente: FELICIANO, J.

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FELICIANO, J.:

Petitioner was convicted by the Sandiganbayan in two (2) criminal cases for violation of Sections 3(j) and 3(e) of R.A. No. 3019, as amended, known as the Anti-Graft and Corrupt Practices Act. He was sentenced to two (2) penalties, each of imprisonment ranging from six (6) years and one (1) month as minimum to ten (10) years as maximum and perpetual disqualification from public office.

Petitioner was charged in two (2) separate informations. The first information, for violation of Section 3(j) of R.A. No. 3019, as amended, read as follows:

"That on or about May 20, 1988 in Angono, Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer being then the Acting Building Official of Angono, Rizal, did then and there wilfully and unlawfully knowingly approve and grant Building Permits for market stalls in favor of Zenaída Ortillada, Marlon Rosales and Ruben Blanco who are not legally entitled to such permits, for the place or location to where these permits were issued is already covered by a valid and existing building permit previously issued by accused on March 12, 1987 in favor of the municipality of Angono, Rizal.

Contrary to law."

Section 3(j) of the statute includes among the acts of public officers penalized thereunder the following:

"j. Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or a mere representative or dummy of one who is not so qualified or entitled." (Under-scoring supplied)

The second information, for violation of Section 3(e) of the same statute, read:

"That on or about and during the period from June 15, 1988 up to the present, in Angono, Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Acting Building Officer of Angono, Rizal, through evident bad faith in the discharge of his official administrative functions, did then and there wilfully and unlawfully refuse to issue partial occupancy certificates to the awardees of Phase II of the Angono Public Market despite the readiness of the facilities of the building for use as constructed, thereby causing undue injury to the awardees/market vendors who can not engage in their business.

Contrary to law."

Section 3(e) of R.A. No. 3019, as amended, renders criminal the act of a public officer of

"e. Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial

functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions." (Underscoring supplied)

The two (2) charges instituted against petitioner may be quickly described as follows:

- a. issuing "building permits for market stalls" in favor of three (3) persons who are allegedly not legally entitled to such permits; and
- b. refusing to issue certificates of partial occupancy to awardees of market stalls in Phase II of the Angono Public Market although said Phase II market was allegedly ready for use.

The basic facts are not disputed.

Sometime in 1983, the old public market of Angono, Rizal was razed to the ground by fire.

In 1984, the former stallholders of the old public market were issued temporary business permits and allowed to erect and construct temporary market stalls on the public grounds where the old market used to stand. These grounds together with the temporary market stalls are known as Angono Public Market, Phase I (hereinafter "APM-Phase I"). Among the stallholders of APM-Phase I granted business permits were Zenaida Ortillada, Marlon Rosales and Ruben Blanco, Ortillada and Rosales were relatives, while Blanco was a friend, of petitioner Mendiola.

After the February 1986 change of government, and more specifically in January 1987, the Angono Municipal Council headed by Officer-in-Charge ("OIC") Nemesio Miranda, Sr., enacted Resolution No. 7-1987, dated 20 January 1987, authorizing the construction of Angono Public Market Phase II (hereinafter "APM-Phase II") on a vacant lot owned by the Municipality of Angono, adjacent to APM-Phase I. The construction of APM-Phase II was to be financed by a novel scheme: a contract was entered into between (a) a building contractor (Jose Capistrano), (b) a Construction Committee representing the stall awardees of APM-Phase II approximately 157 in number selected by some mode not revealed in the record, and (c) OIC Miranda, Sr., signing on behalf of the Municipality of Angono, stipulating that each awardee would pay the contractor the sum of P20,000.00 for the construction of APM-Phase II, which sum was to be considered as advance stall rentals to the Municipality for a period of twenty (20) years. The market building would belong to the Municipality upon turnover at completion by contractor. Notably, no public bidding for the construction of the new market building was contemplated or provided for in the scheme.

Petitioner Lorenzo S. Mendiola was Municipal Planning and Development Coordinator and Civil Registrar of Angono. Being a Civil Engineer, he was concurrently designated as Building Official of Angono as well as other adjacent towns of Rizal Province. On 12 March 1987, petitioner issued Building Permit No. 2987 to the Municipality of Angono, relating to the construction of APM-Phase II. At the time of issuing this building permit, petitioner noted on the construction blue-print of APM-Phase II that the proposed building would encroach at several points upon existing stalls comprising part of APM-Phase I; petitioner Mendiola encircled these points on the blue-print and required that the construction plan be corrected to eliminate the encroachment. The Phase I market stalls encroached upon in the building plan of APM-Phase II, were the market stalls of Zenaida Ortillada, Marlon Rosales and Ruben Blanco.

Conflict between the stallholders of APM-Phase I and the APM-Phase II awardees quickly erupted and escalated. The APM-Phase I stallholders who possibly did not have P20,000.00 each, and who had to make do with temporary stalls, demanded preference in the award or occupancy of stalls in APM-Phase II. The APM-Phase I stallholders, acting under the name of "Samahang Nagkakaisa sa Pamilihang Bayan ng Angono" ("Samahan")

brought suit on 13 March 1987 (Civil Case No. 0229-B) against OIC Miranda, Sr., the contractor and APM-Phase II awardees, before the Regional Trial Court of Binangonan, Rizal, seeking, among other things, a writ of preliminary injunction to stop the construction of the new building. When the Regional Trial Court Judge denied the application for preliminary injunction, the Samahan went on petition for certiorari before the Court of Appeals (C.A.-G.R. SP No. 12358) assailing the trial court's order denying preliminary injunction.

Meantime, on 17 June 1987, the OIC Municipal Council of Angono enacted Resolution No. 42-1987, cancelling the stallholders' permits of Zenaida Ortillada and Marlon Rosales upon the grounds that: 1. Zenaida Ortillada and Marlon Rosales were "dummies" of their mothers; and 2. the stalls of the two (2) were obstructing the completion of the new building. On 14 July 1987, OIC Miranda, Sr., instructed the contractor in writing to demolish the stalls of Zenaida Ortillada and Marlon Rosales. Thus, for reasons not apparent on the record, the construction plans conditionally approved by petitioner Mendiola were never corrected to eliminate the encroachments on existing APM-Phase I stalls.

The February 1988 local elections resulted in the election and installation of a new set of local officials in Angono, headed by Mayor Vivencio Villamayor. The newly elected Municipal Council promptly assailed the legality of Resolution No. 7-1987 before the Provincial Board of Rizal. On 12 May 1988, the Rizal Provincial Board enacted its Resolution No. 88-71 directing the Municipal Council of Angono to hold in abeyance the implementation of Resolution No. 7-1987, pending review of that Resolution pursuant to B.P. Blg. 337, the old Local Government Code, and "until further notice by the [Provincial Board] of Rizal."

On 3 May 1988, the contractor of APM-Phase II, with the aid of the military, demolished the market stalls of Ortillada, Rosales and Blanco, ostensibly under the authority of Resolution No. 42-1987 of the Angono Municipal Council and the written instructions of OIC Miranda, Sr. issued ten (10) months earlier directing demolition of the market stalls of Ortillada and Rosales. The demolition of all three (3) stalls was carried out without prior hearing or a court order and without a demolition permit from petitioner building official. The market stall of Blanco which, like the stalls of Ortillada and Rosales, was physically in the way of the new building, was demolished without even being mentioned in Resolution No. 42-1987 and the written instructions of Miranda, Sr.

After the demolition of their Phase I market stalls, Ortillada, Rosales and Blanco applied for authority to renovate their demolished market stalls. On 20 May 1988, petitioner issued temporary renovation building permits to the three (3), subject to the condition set forth in an accompanying letter of the petitioner, that should the courts or proper higher authority stop the applicants from renovating or reconstructing the temporary market stalls, the renovation building permits so issued would thereupon become ineffective.

Because of the demolition of the Phase I stalls and because the APM-Phase II contractor insisted upon continuing with the construction of the new building, which continuation was opposed by the new set of municipal officials, the Samahan (Phase I vendors) commenced another action before the Binangonan Regional Trial Court (Civil Case No. 0349-B) against the contractor and APM-Phase II awardees-vendors, seeking to stop them from proceeding with the construction of APM-Phase II. In a countersuit (Civil Case No. 0351-B) before the same court, the contractor and the APM-Phase II awardees-vendors sought to restrain the Samahan from stopping the construction and completion of APM-Phase II.

On 26 May 1988, the building contractor requested the District Engineer of Rizal to inspect the new public market building which, it was claimed, was 80% complete, and to issue certificates of partial occupancy. The written request was forwarded by the District Engineer to the regional office of the Department of Public Works and Highways ("DPWH").

On 31 May 1988, the DPWH Regional Director wrote petitioner Mendiola that the APM-Phase II awardees may

be issued certificates of partial occupancy, under the Implementing Rules and Regulations of the National Building Code, "barring legal impediments" and "unless there are valid grounds for withholding the [partial occupancy certificates]."[1] In another letter dated 9 June 1988, the Regional Director wrote petitioner that "with the exception maybe of Certificate of Site Inspections which should be undertaken by this office," it appeared that, with the supporting documents presented by the APM-Phase II awardees-vendors, there was sufficient basis for petitioner to issue the requested certificate of partial occupancy. At the same time, however, the Regional Director was careful to add that

"In the event, however, that there are still documents which your Office may require the applicant [to submit], please inform the party concerned [so] that the same may be submitted, if within their power to do so."[2]

Moved by the Regional Director's letters, petitioner wrote the APM-Phase II awardees-vendors (represented by Roberto Villamayor) that the documents they had submitted were incomplete and set out five (5) requirements, still to be complied with, for issuance of the requested certificate.[3]

Petitioner also, on 22 June 1988, wrote to Regional Director Lagunilla that non-issuance of the certificates of partial occupancy was grounded on:

- (1) violation by the building contractor in illegally demolishing market stalls in APM-Phase I without any demolition order from the courts or the administrative authorities;
- (2) the pendency of suits and counter-suits before the courts regarding the construction of APM-Phase II; and
- (3) refusal of the incumbent municipal officials to accept partial turnover, which turnover was said to run counter to the terms of Resolution No. 7-1987 and of the contract with the building contractor.[4]

On the same date, i.e., 22 June 1988, the Regional Trial Court of Binangonan issued a writ of preliminary injunction in Civil Cases Nos. 0349-B and 0351-B, enjoining the contractor and APM-Phase II awardees from continuing with the construction of the new building and directing the parties to maintain the status quo until the legality of Resolution No. 7-1987 was reviewed by the Provincial Board of Rizal.

The Phase II awardees took two (2) courses of action: first, they applied for a certificate of partial occupancy with the Municipal Council of Angono pursuant to the provisions of Resolution No. 7-1987. However, on 12 July 1988, the Municipal Council, by Resolution No. 082-1988, denied the application of the Phase II awardees for a certificate of partial occupancy, citing in this connection the terms of the contract of the Municipal Government with the contractor and the Phase II awardees and the terms of Resolution No. 7-1987.

The second recourse of the Phase II awardees and the contractor was to institute an administrative charge against petitioner and to appeal to the Secretary of Public Works and Highways. In a decision dated 31 August 1988, the Secretary, DPWH, upheld the position of the contractor and Phase II awardees and directed petitioner to issue "the partial occupancy certificate of the completed portion of Market Phase II, after their application has been processed and the fees paid therefor." The Secretary also held that the administrative complaint against petitioner would be "treated in a separate decision after the evidence on record [is] thoroughly evaluated." [5]

On 8 September, 1988, the Angono Municipal Council adopted its Resolution No. 097-1988 warning the Phase II awardees from opening or doing business at their stalls in the Phase II building, citing the provisions of the contract with the contractor and the Rizal Provincial Board directive suspending implementation of Angono Resolution No. 7-1987 Pending review of its validity.

On 9 September 1988, petitioner Mendiola wrote the Secretary of DPWH, through Undersecretary Jose F. Mabanta, stating his reasons why he had been unable to issue a certificate of partial occupancy, viz.:

- "1) No bldg. inspection sheet duly signed & accomplished by the contractor;
- 2) Fire safety inspection certificate issued without electrical permit;
- 3) CEI [Certificate of Electrical Inspection] not for the electrical permit of the completed portion of the building;
- 4) Electrical permit & sanitary permit not yet issued by our office due to questionable layout or plan."[6]

and at the same time citing, and furnishing copies of, Resolutions Nos. 082-1988 and 097-1988 of the Angono Municipal Council. Petitioner closed with the plaintive request: "Will you please furnish my office a direct written order regarding the matter."

A few days later, petitioner once more wrote to the Secretary, DPWH, furnishing a copy of a letter of Angono Mayor Vivencio Villamayor also dated 12 September 1988, specifying grounds submitted by the Municipal Government of Angono for reconsideration of the Secretary's decision of 31 August 1988. Petitioner Mendiola stated in his letter to the Secretary that he was in effect moving for reconsideration of the Secretary's decision of 31 August 1988 upon the grounds spelled out by Mayor Villamayor.[7]

Two (2) days later, however, Secretary Ferrer of DPWH issued an order stating that petitioner Mendiola's motion for reconsideration could not be entertained because the Secretary's order was "final" subject, however, to review by the Office of the President."[8]

Accordingly, by a letter-petition dated 17 October 1988, petitioner Mendiola asked the President of the Philippines to review the decision of the Secretary, DPWH, dated 31 August 1988.[9]

On 29 November 1988, without the Office of the President having acted on the petition for review pending before it, the two (2) informations in this case were filed against petitioner Mendiola.

We turn to the two (2) charges instituted against petitioner Mendiola and of which he was convicted by the Sandiganbayan.

The Solicitor General has recommended in his Brief that the first charge, i.e., issuing "building permits for market stalls" in favor of three (3) persons who were allegedly not qualified for and not legally entitled to such permits, should be dismissed and petitioner Mendiola's conviction thereof reversed and petitioner acquitted. The Solicitor General submits that when he issued the renovation permits to Zenaida Ortillada, Marlon Rosales and Ruben Blanco, petitioner Mendiola acted in good faith under "a mistake of judgment."

We agree with the Solicitor General on this point.

The information for violation of Section 3(j) of R.A. No. 3019, as amended, alleged that Ortillada, Rosales and Blanco were not legally entitled to "building permits for market stalls" for the reason that "the place or location to where these permits were issued is already covered by a valid and existing building permit previously issued by accused on March 12, 1987 in favor of the Municipality of Angono, Rizal." The evidence at the trial, however, showed -- as noted earlier -- that when petitioner issued the building permit for the new or Phase II building, he noted the encroachment of the proposed building upon the Phase I market stalls of Ortillada, Rosales and Blanco and had precisely required that the building plan be corrected. We understand this act of the petitioner to mean that he had not approved the encroachments and thus the APM-Phase II building permit he issued did not cover the space occupied by the Phase I stalls of Ortillada, Rosales and Blanco. In fact, the thrust of the prosecution during the trial was that Ortillada, Rosales and Blanco were not legally entitled to the renovation permits issued by petitioner Mendiola because their Phase I stallholder's permits had been cancelled by Resolution No. 42-1987 of the old or OIC Municipal Council. The basic difficulty with this position is that the legality of such cancellation

by the Municipal Council may be seen to be itself open to substantial doubt. The Municipal Council's Resolution purporting to decree the cancellation of specified stallholders' permits without according due process to the identified permittees, partook of the nature of a legislative or quasi-legislative act imposing a penalty without judicial or quasi-judicial proceedings. The mothers of Ortillada and Rosales were themselves registered Filipino stallholders. The real reason for such imposition of penalty by quasi-legislative fiat was, of course, the fact that the Phase I stalls of the three (3) were obstructing the completion of the new building, which building physically encroached upon the said stalls. But the lawfulness of the construction of the APM-Phase II new building, as well as the validity of the enabling act, Resolution No. 7-1987, were themselves subject to severe and continuing controversy both in the courts and the session halls of the Municipal Council of Angono and the Provincial Board of Rizal.

In respect of the first charge, the factors tending to show good faith on the part of petitioner Mendiola include the following: Firstly, the permits issued by petitioner to Ortillada, Rosales and Blanco upon their application were merely temporary renovation permits that authorized the renovation of the stalls demolished by the Phase II contractor. As pointed out earlier, these renovation permits were qualified by the terms of an accompanying transmittal letter issued by petitioner Mendiola stating that the renovation permits would become ineffective should the courts or proper higher authority restrain the three (3) permittees from renovating their makeshift market stalls. Secondly, the three (3) permittees were long-time stallholders, having been so at least since the fire which had destroyed the old Angono Public Market. They were not strangers to the Angono Public Market, since they were stallholders, with temporary stalls, in APM-Phase I. Thirdly, the three (3) permittees had outstanding and paid-up municipal business permits when petitioner issued them their stall renovation permits. Fourthly, the permittees' temporary stalls had been demolished without prior hearing or a court order, or a demolition order from the authorized building official which was petitioner Mendiola himself.

Thus, whether Ortillada, Rosales and Blanco were legally entitled to the temporary renovation permits presented a substantial question of law and it is well to recall that mistake on a doubtful or difficult question of law may be the basis of good faith.[10]

There are other factors, environmental in nature, tending to show good faith on the part of petitioner Mendiola which relate to Resolution No. 7-1987 of the Angono Municipal Council, the enabling Resolution which lay at the heart of the boiling controversy between the Phase I stallholders and the Phase II awardees. Firstly, as already pointed out, the validity of Resolution No. 7-1987 was being litigated before the courts. The record shows that there were at least three (3) cases before the Regional Trial Court of Binangonan involving the validity or enforceability of Resolution No. 7-1987. What was brought up before the Court of Appeals on a petition for certiorari was an interlocutory order of the trial court in one of the cases denying a preliminary writ of injunction stopping the construction of the new building.

Secondly, the decision dated 31 August 1988 of the Secretary, DPWH, was not really final since the applicable statute itself provided for an appeal by way of a petition for review before the Office of the President:

"Section 307. Appeal.

Within fifteen (15) days from the date of receipt of advice of the non-issuance, suspension or revocation of permits, the applicant/permittee may file an appeal with the Secretary who shall render his decision within fifteen days from date of receipt of notice of appeal. The decision of the Secretary shall be final subject only to review by the Office of the President." (Underscoring Supplied)

As noted, petitioner filed not only a motion for reconsideration with the Secretary but also a petition for review with the Office of the President. In these further proceedings, petitioner brought to the attention of the Secretary,

DPWH, and the Office of the President the position that had been vigorously taken by the newly-elected Angono Mayor and Municipal Council. The elements of that position were the following:

- 1) Resolution No. 082-1988 of the Angono Municipal Council denying the application of the Phase II awardees for a certificate of partial occupancy;
- 2) the terms of the contract between the Angono Municipal Government, the contractor and the Phase II awardees relating to the turnover of the new building upon completion thereof. The newly elected municipal officials insisted that turnover of the partially completed new building would be disadvantageous to the Municipal Government and that in any case, the Municipal Government had not accepted any partial turnover thereof; and
- 3) the Resolution of the Provincial Board of Rizal instructing the Angono municipal officials to hold the implementation of Resolution No. 7-1987 in abeyance until the Provincial Board could review the validity and enforceability of that Resolution.[11]

Contrary to the submission of the Solicitor General, we believe and so hold that all the above factors support the claim of good faith in respect of both the first and second charges against petitioner Mendiola. The question of validity and enforceability of Resolution No. 7-1987 was all pervasive and inevitably affected both the entitlement of the three (3) Phase I stallholders to the temporary renovation permits issued by petitioner Mendiola and the entitlement of the contractor and Phase II awardees to a certificate of partial occupancy of the admittedly incomplete new building. The facts or events surrounding the first charge are so intertwined with those surrounding the second charge as to render it very difficult to separate them, even conceptually.

Section 3(e) of R.A. No. 3019, as amended, requires proof of "manifest partiality" or "evident bad faith" or "gross inexcusable negligence." The information for violation of Section 3(e) alleged only "evident bad faith." We believe that, in the totality of the circumstances of this case, the prosecution failed to show beyond reasonable doubt the presence of any of these three (3) elements. Indeed, it appears that the prosecution failed to overcome the presumption of good faith to which every public official, acting in discharge of his official duties, is entitled. The petitioner, caught between two (2) contending groups was constantly trying to specify in writing the reasons for his acts. While one need not agree with all his acts or stated reasons therefor or the wisdom thereof, one cannot say that they were so obviously and palpably sham justifications for merely arbitrary and capricious acts as to warrant a finding of "evident bad faith." No one has claimed that petitioner received any money for issuing the renovation permits or refraining from issuing the demanded certificate(s) of partial occupancy.

There is also substantial doubt whether the element of "undue injury to any party" required in Section 3(e) was adequately shown by the prosecution. The respondent Sandiganbayan apparently overlooked the circumstance that the Phase II awardees had in fact entered and occupied their respective stalls in the new building, without waiting for the certificate(s) of partial occupancy which they demanded from petitioner Mendiola and without paying heed to Resolution No. 097-1988 of the new Municipal Council warning them not to open up their stalls in the still incomplete new building.

The record strongly suggests that petitioner Mendiola had the misfortune of getting caught in the middle of a heated controversy between two (2) local interest groups and between the outgoing OIC municipal officials and the incoming newly elected set of municipal officials. In the course of requiring complete compliance with all formal and documentary requirements for issuance of a certificate of occupancy or partial occupancy, he was charged with violation of R.A. No. 3019 as amended, doubtless at the behest of the Phase II awardees, the contractor and the old or OIC set of municipal officials. Had he in fact issued the demanded certificate(s) of partial occupancy, he in all probability would have been charged criminally by the Samahan of Phase I stallholders and the newly elected municipal officials, probably under the same statutory provisions. The Court of

Appeals decision did not pass upon the merits of the question of validity of Resolution No. 7-1987; it merely assumed the validity of that Resolution which was precisely being controverted before the trial court.[12] The DPWH Secretary did not pass upon the grounds relating to Resolution No. 7-1987 urged in the motion for reconsideration of petitioner Mendiola and the new Mayor.

Under these circumstances, the filing of the two (2) criminal informations appears quite unfortunate. We note also that, so far as the record would show, petitioner Mendiola was, curiously, the only person or public official criminally charged in connection with the whole affair. That the three (3) Phase I stallholders on whose stalls the new building encroached happened to be relatives or friends of petitioner, appears to us as essentially if not completely co-incidental; the ruling of the Sandiganbayan that petitioner deliberately chose to protect the interests of his relatives and friend and not the interests of the general community appears bereft of basis and as speculative. The standard of proof beyond reasonable doubt was not met.

ACCORDINGLY, the Decision of the Sandiganbayan dated 7 September 1989 in Criminal Cases Nos. 13172-13173 is hereby REVERSED and petitioner Lorenzo S. Mendiola is hereby ACQUITTED in both cases. No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.

[1] Exhibit "L," Folder of Exhibits.

[2] Exhibit "N," id.

[3] Exhibit "O," id. The five (5) requirements were:

"1. Certification that the building is safe for occupancy duly signed and sealed by engineer who made the plans and engineer in-charge of the construction.

2. Building inspection sheet, for phase by phase construction of building.

3. As-built plan and specifications signed and sealed jointly by the designing engineer and engineer in-charge of construction and confirmed by the owner.

4. Electrical and sanitary permit issued by our office.

5. Also, will you clear the data on the certificate of completion: who is the owner and signature of the owner? contractor's license certificate; fill-up the blank space?"

[4] Exhibit "P," Folder of Exhibits.

[5] Exhibit "S," id.

[6] Exhibit "15," id.

[7] Exhibit "X," id.

[8] Exhibit "Z," id.

[9] Exhibit "16," id.

[10] Article 526, Civil Code; *Kasilag v. Rodriguez*, 69 Phil. 217 (1939); *Cosio, et al. v. Palileo*, 17 SCRA 196

(1966).

See also *Cabungcal v. Cordova* (11 SCRA 584 [1964]), where the Court held that an erroneous interpretation of the meaning of the provisions of an ordinance by a city mayor does not amount to bad faith that would entitle an aggrieved party to damages against that official. See further *Mabutol v. Pascual* (124 SCRA 867 [1983]), which stressed that public officials are not liable for damages in the discharge of their official functions, absent bad faith; also, *San Miguel Brewery, Inc. v. Magno* (21 SCRA 292 [1967]). In *Sanders v. Veridiano II* (162 SCRA 88 [1988]), the Court held that under the law of public officers, acts done in the performance of official duty are protected by the presumption of good faith, and that even mistakes committed by such public officers are not actionable as long as it is not shown that they were motivated by malice or gross negligence amounting to bad faith.

[11] Letter dated 12 September 1988 of Mayor Vivencio B. Villamayor to petitioner Mendiola, copy furnished Secretary J.N. Ferrer, DPWH, Exhibit "Y," Folder of Exhibits.

[12] The Court of Appeals, in its Decision dated 9 May 1988 in C.A.-G.R. SP No. 12358, directed "the incumbent public local officials" to "implement Kapasyahan Blg. 7-1987. The respondent judge may now proceed with the trial on the merits, if he has not done so." However, after promulgation of the Court of Appeals' Decision, the Regional Trial Court of Binangonan in a separate case (i.e., Civil Cases Nos. 0349-B and 0351-B) issued on 22 June 1988, as noted supra page 10, a writ of preliminary injunction stopping the construction of the new building and directing the parties to maintain the status quo pending review of the validity of Resolution No. 7-1987 by the Rizal Provincial Board. Petitioner Mendiola was impleaded in Civil Case No. 0351-B. He was apparently not impleaded in C.A.-G.R. SP No. 12358.

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