

MALACANANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 248

EXONERATING MR. VICENTE G. GELLA, TREASURER OF THE PHILIPPINES.

This is an administrative case against Mr. Vicente G. Gella, treasurer of the Philippines, for grave misconduct in office and neglect in the performance of duty on five counts which may be reduced to the following issues:

1. Whether Mrs. Pacita G. Gella and Mrs. Angelita G. Carlos, respondent's wife and daughter, respectively, purchased backpay certificates at discount rates exceeding 3 1/2% per annum, in violation of Republic Act No. 304 as amended and, if they did, whether it was with his knowledge; and

2. Whether the respondent, knowingly or through grave neglect, gave cause for the release of imported cigarettes from the customs premises without legal acceptance of the backpay certificates in payment of the specific taxes due thereon, thereby causing damage to the Government in the amount of P226,980 representing uncollected taxes.

The case was investigated by a special investigator of the Department of Justice, and both the prosecution and the defense were given ample opportunity to present their respective sides.

I

As to the first issue, the evidence shows that during the year 1953 Mrs. Pacita G. Gella, respondent's wife, purchased seven backpay certificates at a recorded total price of P6,555.91 and Mrs. Angelita G. Carlos, respondent's daughter, twenty-two backpay certificates at a recorded total price of P12,751.51; and that unlike Mrs. Gella, Mrs. Carlos later sold the backpay certificates acquired by her to other parties. It is claimed that the backpay holders were paid much less than what appeared in the deeds of assignment of rights executed by them.

After a careful study of the record, I find that the charge that respondent's wife and daughter bought backpay certificates at discount rates above that authorized by law has not been satisfactorily proven, much less that respondent knew that such purchases were tainted with illegality when he signed the negotiable certificates of indebtedness covering the transactions as head of the treasury bureau. There was no direct or indirect dealing between the backpay holders and respondent's kin, the latter having acquired

the backpay certificates through one who had purchased them in his own right as a dealer therein and not as a mere agent of respondent's aforesaid relatives. If therefore the backpay holders did not actually receive the considerations reflected in the deeds of assignment executed by them, but much less as asserted, the irregularity cannot be attributed to respondent's relatives. With more reason respondent should not be blamed therefor, since his only participation was to sign the negotiable certificates of indebtedness after the pertinent papers had been duly examined and processed by his subordinates. Moreover, no complaint was ever made to him by any of the backpay holders that he had not received the consideration stated in the deed of assignment executed by him.

Respondent is therefore exonerated under this issue.

II

As to the second issue, it appears that during the period from October 1952 to January 1953 the respondent wrote to the Collector of Internal Revenue informing the latter of the serial numbers assigned "to the certificates of indebtedness to be issued" in favor of the backpay holders listed in the letters who had applied for said certificates to pay the specific taxes on imported cigarettes. Relying on said letters, the then Deputy Collector of Internal Revenue authorized the Commissioner of Customs to release the imported certificates, stating that the applications had been approved and the certificates of indebtedness issued. The practice all along was to release importations for which backpay certificates were applied in the payment of the taxes due thereon only upon the issuance of the certificates of indebtedness and submission thereof to the Bureau of Internal Revenue.

Considering that the Deputy Collector of Internal Revenue knew or should know that the issuance of certificates of indebtedness depended on compliance with certain regulatory requisites, namely existence of balances, indorsements and signatures of the backpay holders at the back of the certificates; and that the standing regulations of his office required all applications for the payment of specific taxes on imported cigarettes with backpay certificates to be accompanied with certificates of indebtedness duly indorsed and signed at the back thereof by the backpay holders and delivered to his office before said taxes were considered paid, it would seem that the greater blame for the resulting irregular releases of the imported cigarettes should be laid at the door of the then Deputy Collector of Internal Revenue for assuming, without clear justification, that the applications for the issuance of certificates of indebtedness had been approved and the certificates issued. Considering standing practice, he

should have clarified from the respondent the meaning and import of his letters before authorizing the Commissioner of Customs to release the imported goods and giving the erroneous information that the applications for issuance of certificates of indebtedness had been already approved and the corresponding certificates of indebtedness issued.

However, respondent cannot escape some measure of responsibility for writing those letters with ambiguous, if not exactly misleading, import.

As to the claim that the respondent should have satisfied himself that the backpay holders were bona fide importers before accepting their applications for issuance of certificates of indebtedness to cover the taxes due on the imported cigarettes, I am inclined to agree with the respondent that this duty pertained more to the Bureau of Internal Revenue as the creditor office than to the treasury bureau. Neither should the respondent be blamed for any delay in the taking of final action on said applications, it appearing that the pertinent papers were seized from his office by intelligence operatives of the Department of Finance sometime in 1954 and were returned only in 1956.

To avoid further prejudice to the Government, the applications for issuance of certificates of indebtedness of the backpay holders concerned in payment of the specific taxes on the imported cigarettes should be accepted and given due course, if the same is legally possible, and any resulting balance still owing to the Government recovered from the bona fide importers concerned.

Respondent is also cleared but admonished under this issue.

Although in the backpay transactions involved the respondent and his relatives may have acted in the premises in utter good faith and in accordance with law, it is believed that in the light of what transpired in this case, where backpay holders appear to have been victimized by certain unscrupulous persons who have taken undue advantage of their financial difficulties, respondent should henceforth avoid his relatives from having anything to do in like transactions to obviate his involvement in similar unpleasant situations.

In view of the foregoing, the respondent is hereby exonerated from the charges with the admonition to be more careful in the future; otherwise a more drastic action will be taken against him.

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Done in the City of Manila, this 26th day of July ,
in the year of Our Lord, nineteen-hundred and fifty-seven, and of
the Independence of the Philippines, the twelfth.

Carlos A. Garcia

By the President:

[Signature]

FORTUNATO DE LEON
Executive Secretary