

**[ ADMINISTRATIVE ORDER NO. 111, March 29, 1955 ]**

**REMOVING MR. SINFOROSO B. ANOTA FROM OFFICE AS  
PROVINCIAL FISCAL OF SAMAR.**

This is an administrative case against Provincial Fiscal Sinforoso B. Anota of Samar who is charged with (1) abuse of authority and dereliction of duty, (2) being unjustly partisan, (3) ignorance and inefficiency and (4) electioneering. The case was investigated by the Department of Justice which found all the charges substantiated with the exception of the last.

**I**

a. It appears that in a criminal case for homicide against Fortunato Gabon and Teodulfo Dacutan the respondent moved for the dismissal of the case as against the latter accused in order to utilize him as state witness against his coaccused Gabon, although, it is claimed, Dacutan was the more guilty of the two and there was no necessity for him to do so. He explains that he exercised his sound discretion in so doing and that the court sustained him by granting his motion. However, it appears that he failed to apprise the court of the fact that Dacutan had pleaded guilty to the charge of homicide before the justice of the peace of Wright, Samar; that the deceased had made a detailed dying declaration before said justice of the peace; and that there were two eyewitnesses to the killing. Under the circumstances, he made misrepresentations to the court when he stated, among other things, that the testimony of accused Dacutan was absolutely necessary in proving the guilt of the other accused and that there was no other direct evidence available. I therefore find him guilty of abuse of authority and dereliction of duty.

b. The record also shows that Criminal Case No. 2660 of the Court of First Instance of Samar for malversation through falsification of public documents against Superintendent of Schools Delfin Reynaldo, Assistant Provincial Auditor Catalino Rubia, Provincial Treasurer Jose C. Orteza, Provincial Auditor Simeon Damian, Property Clerk Narciso Vasquez of the Division Office and Contractor Policarpio Jardiel was dismissed by the court mainly on motion of the respondent, although sufficient evidence exists for prosecuting said persons and one German T. Candari for the fraud perpetrated on the Government.

It appears that in a contract between the Antique Sawmill Company, Inc., represented by Policarpio Jardiel, and the Division Superintendent of Schools of Samar, the company was to deliver P192,005.30 worth of desks and other school equipment to some schools in certain municipalities of Samar and that vouchers for payment were to be supported by memorandum receipts signed by the district supervisors or principals showing receipt by them of the school equipment covered thereby. At the beginning the vouchers were supported by memorandum receipts signed by the district supervisors and principals. Later, however, vouchers were merely supported by memorandum receipts signed by Property Clerk Vasquez of the

Division Office, yet they were signed by Schools Superintendent Reynaldo, passed in audit and approved for payment by Assistant Auditor Rubia and Auditor Damian, respectively, and paid by Treasurer Orteza. These officials knew or were supposed to know the terms of the contract. However, Superintendent Reynaldo did not try to ascertain whether the equipment had in fact been received by the supervisors or principals concerned, while the auditors did not cause any actual physical checking of the equipment covered by the vouchers. As a result the Government was defrauded in the sum of P30,432.55 representing undelivered school equipment supposedly delivered to it.

Respondent knew all the above facts. He also knew that German T. Candari, who had a contract with Jardiel to distribute the equipment to the different municipalities, had made false certifications to the effect that Jardiel had already delivered to him all the equipment described in the vouchers; and that Property Clerk Vasquez had also signed false memorandum receipts certifying receipt of the equipment from Jardiel. Fiscal Anota knew too that the son of Treasurer Orteza was employed by Contractor Jardiel at P200 monthly in connection with the contract in question, a fact which should have made the respondent more searching in his investigations.

In the face of the evidence he had on hand, Fiscal Anota cannot claim good faith in not prosecuting those responsible for the fraud. There is no basis for his conclusion that there was only civil liabilities involved. It is noteworthy that since July 29, 1952, when he filed a motion for the temporary dismissal of the information against defendants Rubia, Jardiel and Vasquez in order to investigate the case, which was granted by the court, respondent had not conducted further investigation nor refiled the case against the parties involved in the fraud, nor taken appropriate action to protect the interest of the Government. It is very evident that he has been flagrantly partial to the accused and against the Government. He is therefore guilty of conduct highly prejudicial to the best interest of the Government and dereliction of duty.

c. It also appears that the respondent filed a criminal case for light threat against Ambrosio G. Deloria after the dismissal of the criminal case against him for challenging to a duel, when the former offense had already prescribed. He is therefore guilty of ignorance of the law.

d. The record further shows that the respondent refused to prosecute Mayor Dionisio Abella of Gandara, Samar, for estafa through falsification of public and private documents despite the fact that he had in his possession sufficient evidence to convict said official. His claim that the complaint was unmeritorious and that complainant merely wanted to utilize his office for fishing evidence against the mayor is unsatisfactory. Voucher No. 577 alone constitutes sufficient proof that respondent is guilty of falsification by making it appear therein that he took a PAL plane on December 24, 1949, when according to the certification of the PAL office at Tacloban he was not in the list of passengers of the PAL plane on said date. Respondent is therefore guilty of conduct highly prejudicial to the best interest of the prosecution service and of dereliction of duty.

## **II**

a. Regarding the charge of alleged unjust partisanship against the respondent, it appears that although there were twelve signers of a supposedly libelous resolution, he singled out three of them against whom he filed the information on the eve of