



Republic of the Philippines
PROVINCE OF ZAMBOANGA DEL NORTE
PROVINCIAL CAPITOL
DIPOLOG CITY
OFFICE OF THE GOVERNOR

AN ORDER RECALLING ALL THE PROPERTIES, EQUIPMENT, AND SUPPLIES OF THE PROVINCIAL GOVERNMENT OF ZAMBOANGA DEL NORTE WHICH HAD BEEN TRANSFERRED, CONVEYED OR RELINQUISHED BY REASON OF VARIOUS SANGGUNIANG PANLALAWIGAN RESOLUTIONS PROMULAGTED FROM MAY 2022 TO JUNE 2022, ALL OF SERIES OF 2022.

WHEREAS, Section 1, Article XI of the 1987 Constitution provides that: "Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

WHEREAS, Section 4(A)(a) of Republic Act No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees" states:

(A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

(a) Commitment to public interest. - Public officials and employees shall always uphold the public interest over and above personal interest. *All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.*

WHEREAS, Section 3 of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" states:

Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(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.

x x x

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

WHEREAS, Section 139, Rule 19, Title IV of COA Circular 92-386 (Rules and Regulations on Supply and Property Management in the Local Governments) provides that it shall be the direct responsibility of every local chief executive to *prevent or minimize wasteful uses of supplies or property* requisitioned by each department or office.

WHEREAS, it has come to the attention of this Office that a number of properties, equipment, and supplies of the Provincial Government of Zamboanga del Norte had been transferred and conveyed to several other local government units and government agencies within the province in a short span of time through several Resolutions promulgated by the Sangguniang Panlalawigan of Zamboanga del Norte from May 2022 to June 2022, which authorized the same.

WHEREAS, the properties, equipment, and supplies transferred and conveyed through the above Resolutions had tremendous acquisitions costs and still had substantial carrying values at the time of the transfers. Taken together, the properties, equipment and supplies transferred and conveyed constituted a substantial divestment of assets of the Provincial Government, all without cost to the transferees.

WHEREAS, the many properties conveyed by the Provincial Government consist of the very properties, equipment, and supplies which are crucial to the various programs, emergency response, disaster preparedness, and infrastructure development of the province of Zamboanga del Norte including its component cities and municipalities.

WHEREAS, the aforementioned transfers of property, equipment, and supplies of the Provincial Government to other LGUs and government agencies within the province were done contrary to the provisions of the Local Government Code regarding disposition of properties of LGUs, *to wit*:

Section 381. Transfer Without Cost. - Property which has become **unserviceable** or is **no longer needed** may be transferred without cost to another office, agency, subdivision or instrumentality of the national government or another local government unit at an appraised valuation determined by the local committee on awards. Such transfer shall be subject to the approval of the sanggunian concerned making the transfer and by the head of the office, agency, subdivision, instrumentality or local government unit receiving the property.

WHEREAS, the aforementioned transfers do not also conform to the provisions of COA Circular 92-386, or the Rules and Regulations on Supply and Property Management in the Local Governments, particularly:

Rule 21. General Policy on Disposal

Sec. 162. *When Supplies or Property shall be Disposed of* – When supplies or property of any local government unit have become **unserviceable for any cause or are no longer needed**, the same shall be disposed of in accordance with the procedures prescribed in these rules and regulations.

Sec. 165. *Public Auction as the Primary Mode of Disposal* – Supplies or Property which have become unserviceable or no longer **needed shall be sold, whenever applicable, at public auction**, subject to applicable rules and regulations.

Rule 22. Reporting of Disposable Supplies or Property

Sec. 167. *Disposal Procedures*. - When the supplies or property of a local government unit have become unserviceable from any cause, or are no longer needed, the officer immediately accountable therefore shall return

the same to the head of the department or office who shall cancel the corresponding Memorandum Receipt. If no longer needed in the department, the head of the department or office shall return the same to the general services officer, municipal or barangay treasurer, as the case may be, with the use of Property Return Slip (LGU Form No. 12). The general services officer, municipal or barangay treasurer, as the case may be, shall through the local chief executive, file an application for its disposal with the provincial, city or municipal auditor who shall conduct an inspection and determination whether the subject property is with or without value.

Rule 27. Other Modes of Disposal

Sec. 189. *Donations to Charitable, Scientific, Educational or Cultural Association.* – In exceptional cases and for meritorious reasons, disposable government property may be donated to charitable, scientific, educational, and cultural associations with the approval of the sanggunian concerned.

TITLE VI – MISCELLANEOUS PROVISIONS AND ADMINISTRATIVE INSTRUCTIONS

Rule 30. Miscellaneous Provisions

Sec. 197. *Disposal of Real Property and Improvements.* – Real estate and their improvements owned by the local government units may be sold to other government or private entity under sealed bids or by negotiation if sealed bid has failed as defined herein at a price to be determined by the Committee on Awards. The contract of conveyance shall be executed by the local chief executive in behalf of the local government unit concerned in accordance with the formalities required by law on the matter and shall be approved by the local sanggunian. **The disposal shall also be subject to the approval of the Commission on Audit regardless of the value of the property to be disposed.**

Expenses relative to the registration and transfer of ownership from the local government to the vendee shall be borne by the vendee (emphasis supplied).

WHEREAS, the above cited guidelines make it clear that the transfers and conveyances of the subject Resolutions are not allowed. Clearly, only the property of the provincial government which has become unserviceable or is no longer needed may be disposed of (Section 162, Rule 21 of COA Circular 92-386), and, as a general rule, these disposable property are disposed of at a public auction (Section 165, Rule 21 of COA Circular 92-386). Moreover, assuming *pro arguendo* that the conveyed properties, equipment, and supplies are no longer needed by the provincial government, the transfer is still irregular for non-compliance with the disposal procedures provided under Section 167, Rule 22 of COA Circular 92-386. Likewise, the disposal of several real estate of the provincial government were done without the necessary COA approval as explicitly stated in Section 197 above.

WHEREAS, significantly, though Section 189 of the same COA Circular allows donation with the approval of the *sanggunian* concerned, this only covers disposable government property. "Disposable government property", as defined under Section 4, Rule 1 of the same COA Circular, refers to property reported for disposition by a department or office. Here, the transferred property were never reported for disposition prior to the transfers.

WHEREAS, donation as a mode of disposal of disposable government property is allowed only in favor of charitable, scientific, educational, or cultural associations. Nowhere are other local government units mentioned therein. It is also worth emphasizing that such donations are allowed only in *exceptional cases and for meritorious reasons*. None of the Resolutions authorizing the transfers signified any such exceptional cases or any meritorious reason. On the contrary, the *en masse* midnight transfers done within an exceptionally short time span brings the same outside the ambit of what is to be considered an exceptional case, as the transfers had become the general rule rather than the exception.

WHEREAS, the unmistakable tenor of the aforecited provisions of COA Circular 92-386 is that the Provincial Government's authority to transfer, convey, or dispose of its property is limited only to supplies or property which are *unserviceable* or *are no longer needed*. In the same vein, the power of the Sangguniang Panlalawigan to give authority to the Provincial Governor to enter into such contracts is limited only to property which are *unserviceable* or *are no longer needed* by the Provincial Government. The determination of which property are unserviceable or no longer needed requires compliance with the specific procedure prescribed by COA Circular 92-386, which were not followed by the previous administration when the subject Resolutions were passed. Consequently, the said properties, equipment, and supplies could not have been properly determined and appraised as unserviceable or no longer needed. Thus, the previous provincial governor had no power to enter into contracts disposing of the same. Likewise, the previous Sangguniang Panlalawigan had no power to pass Resolutions giving the previous provincial governor authority to do such acts. In this regard, both bodies of the immediately preceding administration of the Provincial Government had acted beyond their authority under the laws, and the same must be corrected under this administration.

WHEREAS, among the properties, equipment and supplies transferred and conveyed are several hospital equipment, machines, and medical supplies of the Zamboanga del Norte Medical Center (ZNMC).

WHEREAS, pursuant to its Hospital Development Plan, the Zamboanga del Norte Medical Center entered into an agreement with the Department of Health for the funding of the dialysis and eye center with the concomitant obligation on the part of the ZNMC to provide its equipment. These equipment and machines were purchased through several loans but were transferred to Dipolog City even prior to ZNMC's use, while the provincial government is left with the burden of paying the loans.

WHEREAS, the transferee, Corazon Aquino Hospital, being a Level 1 Hospital not accredited and presently incapable of operating such transferred equipment and machinery for lack of building facilities, doctors and license to operate from the DOH, is ill-equipped to receive such transfer.

WHEREAS, in an Audit Observation Memorandum (AOM) issued by the Commission on Audit pertaining to the Annual Financial Statements of the Provincial Government of Zamboanga del Norte as of and for the year ended December 31, 2021, the COA noted the following:

12. Delayed implementation of some projects funded under the 20 percent DF due to periodic suspension of projects and change of prioritization deprived the constituents of the beneficial use of the projects had these been timely completed. Completion rates for current year and prior years' projects are 32.42 per cent and 70.81 per cent only.

12.2 Review of the submitted Accomplishment Report as of December 31, 2021 reveals that there are projects from previous calendar years which

remained unfinished due to periodic suspension and the change of prioritization by the management. On the other hand, there are also projects from the previous years which were only implemented in the succeeding calendar years which also remained incomplete as of year-end.

12.6 Inquiry disclosed that one of the reasons for the delay in implementing the projects was the unavailability of heavy equipment. Also, the Provincial Engineering Office is still coping with their prior years' delayed implemented projects, thus adding to their work load in completing their targets. There was change of priority projects during the year through the issuance of Supplemental Annual Investment Program. For CY 2021, there were seven Supplements to the Annual Investment Programs which require additional work load and diversion of heavy equipment from one project to another.

12.7 It was also noted that more than 80 per cent of the projects implemented by the LGU are by Administration in which **the completion of the project is dependent on three factors: (1) the availability of heavy equipment; (2) the procurement and delivery of construction materials; and (3) the availability of manpower to perform labor services.**

12.8 Because of the delay in implementing these projects, the allotments for the tagged projects may no longer be sufficient to undertake the works programmed due to periodic price escalation and change of market conditions. **Further, the delay of project implementation and completion deprived the constituents of the timely and beneficial enjoyment of these projects had these been completed as planned.**

Recommendations

12.9 We recommended that Management:

- a. Prioritize implementation of projects as planned and contained in the AIP;
- b. Expedite the procurement of construction materials for projects implemented by Administration;
- c. Expedite completion of projects that are still ongoing pertaining to prior years' funding sources to avoid price escalation; and
- d. Avail of other modes of project implementation such as projects to be implemented by Contract, if warranted.

Management Comment

12.10 **The PEO assured that their office will see to it that the projects listed in the AIP will be prioritized.** With regard to the procurement of construction materials, they will expedite the preparation for the completeness of requirements to ensure that no untoward deferments will occur. Their office will also coordinate closely with the BAC to expedite the procurement process. With the experienced delays in the procurement process of projects undertaken by administration, the PEO added that they will consider the implementation of projects through contracts if possible.

WHEREAS, the aforecited Audit Observation Memorandum of the COA underscores the critical importance to the Provincial Government of the properties,

equipment, and supplies which had been transferred and conveyed en masse. The properties, equipment, and supplies which had been divested from the province are by no means unserviceable or no longer needed. As a matter of fact, the previous administration itself had admitted in the AOM that "one of the reasons for the delay in implementing the projects was the unavailability of heavy equipment". It thus appears highly irregular that the immediately preceding administration, near the end of its term, would thereafter transfer and convey several high-value property, equipment and supplies, the unavailability of which it had openly admitted to be one of the reasons for the delays in implementing its projects.

WHEREAS, in the same AOM, the immediately preceding administration replied in its Management Comment that the PEO "will see to it that the projects listed in the AIP will be prioritized." By the massive divestment of its property, equipment, and supplies near the end of its term, the immediately preceding administration blatantly turned its back on this commitment and outright disregarded the COA's audit findings.

WHEREAS, the financial condition of the provincial government and its requirements for the transferred properties, equipment, and supplies were not amply considered in the disposition of the same. In fact, according to the Official Poverty Statistics of the Philippines, First Semester 2021 by the Philippine Statistics Authority, the Province of Zamboanga del Norte is among the poorest cluster of provinces in the Philippines. The Provincial Government has little to no capacity to engage in frivolous or unnecessary use of its public funds. Thus, the divestment of the subject properties, equipment and supplies only to a select few LGUs and government agencies within the province leaves very little to the Provincial Government to perform its mandate, thereby hampering its ability to provide meaningful public services and infrastructures. It is manifestly and grossly disadvantageous to the Province, causes undue injury to the same, and ultimately redounds to the prejudice of its constituents: the people of Zamboanga del Norte.

WHEREAS, the timing and circumstances of the transfers and conveyances of the several properties, equipment, and supplies of the Provincial Government to the other LGUs within the province raise the widespread impression and public perception that the administration of Gov. Roberto Uy is capriciously using government property to reward his allies while jeopardizing the future of the people of Zamboanga del Norte.

WHEREAS, it cannot be denied that the transfers en masse of provincial government property were done only after the former governor and his wife lost in the May 9, 2022 elections for the office of Mayor of Dapitan City and Provincial Governor, respectively. The short span of time, ranging from the second half of May to June 30, 2022, within which all of the aforementioned contracts had been executed by the former governor and the necessary Resolutions had been passed by the Sangguniang Panlalawigan raises the suspicion that the immediately preceding administration committed these acts to impair and unduly hamper the capacity of this administration in performing its mandate of public service.

WHEREAS, It cannot also be gainsaid that most, if not all, of the transfers and conveyances of provincial government property, equipment, and supplies, were made in favor of LGUs headed by the former governor's political allies. The unavoidable conclusion is that the immediately preceding administration is using public property, and therefore public funds, to accomplish its political goals, thereby undermining the clear dictate of the law that all government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.

WHEREAS, this Office is of the belief that had the former governor's party won in the gubernatorial elections, these midnight transfers and conveyances en masse would not have happened.

WHEREAS, notwithstanding these blatant acts of political sabotage, this Office under my administration shall remain steadfast and unwavering in its commitment to serve the good people of Zamboanga del Norte, to correct the above unlawful, unjust, and inequitable acts, and to ensure that those who are behind these acts do not simply walk away with impunity.

NOW THEREFORE, I, ROSALINA G. JALOSJOS, Governor of the Province of Zamboanga del Norte, by virtue of the power vested in me by law, do hereby order the **RECALL** of all the properties, equipment, and supplies which had been transferred, conveyed or relinquished by virtue of the Resolutions promulgated by the Sangguniang Panlalawigan from May 2022 to June 2022. All the local chief executives and heads of offices of the recipient local government units and government entities are hereby directed to **RETURN** within 120 hours all the properties, equipment and supplies which their respective LGUs or agencies have received by reason of the above Resolutions.

FURTHER, I hereby direct the Provincial General Services Officer to conduct an inventory of all the properties, equipment, and supplies of the provincial government which had been transferred by reason of the aforementioned Resolutions, and to coordinate with the Provincial Legal Officer to institute the appropriate civil, criminal and administrative actions against the proper persons in case of non-compliance hereof.

Done this 12th day of July at Dipolog City, Zamboanga del Norte, Philippines.


ROSALINA G. JALOSJOS
Provincial Governor