

[ADMINISTRATIVE ORDER NO. 372, November 18, 1975]

**IN RE ADMINISTRATIVE CASE AGAINST MR. FIDEL V. GIRON,
FORMER FOREIGN AFFAIRS OFFICER CLASS I AND CONSUL
GENERAL**

This is an administrative case against Mr. Fidel V. Giron as Foreign Affairs Officer Class I and Consul General, filed by Mr. Lucilo A. Purugganan, chief of Personnel Division, Department of Foreign Affairs, for grave misconduct and malfeasance in office allegedly committed as follows:

"That during the months of February to April 1969, respondent Fidel V. Giron, while acting on the visa applications of Mary Siongco alias Leu Li and Sze Tan Gak alias Sze Tin Ngok, in his capacity as Chairman of the Committee established under Office Order No. 157-68 dated September 18, 1968, and a subsequent related Office Order No. 195-68 dated November 22, 1968, did ask, solicit, and receive from the attorney of the above-named applicants construction materials worth P3,500, more or less, which respondent used in the construction of his house at Dasmariñas Village, Makati, Rizal;

"That, subsequently, respondent Fidel Giron, as such Chairman, did favorably recommend to the Secretary of Foreign Affairs the approval of the applications of said applicants in his memorandum dated 26 March 1969."

On April 17, 1969, respondent was preventively suspended from office by the Secretary of Foreign Affairs pending investigation and disposition of the administrative complaint by the Board of the Foreign Service.

The records show that on March 4, 1969, Atty. Sergio Angeles, in behalf of then Congressman Angel Concepcion who was the attorney of record for certain Chinese applicants for visa registration, saw a house plan on the table of respondent. Informed that respondent was building a house, Atty. Angeles narrated his experience in constructing his own house and offered to secure some building materials for respondent who told him that he was interested only in quotation for finishing materials. He asked Atty. Angeles the price quotation for narra which he would need 4 or 5 months later, or better still the name of the store, and Atty. Angeles gave him the quotation the following day (March 5). On the latter date Atty. Angeles was insistent on helping respondent secure other building materials like iron bars. So respondent called up his contractor who asked for a price quotation and agreed to get iron bars if they were of good quality and the price lower than that quoted by other stores. Atty. Angeles gave respondent the quotation on March 7. On March 18 and 21 the steel bars were delivered. Coincidentally, on the same date (March 26) when the plumbing materials were delivered, the screening committee of

which respondent was chairman unanimously recommended the granting of visas to all applicants, which was subsequently approved by the Foreign Affairs Secretary.

Unknown to respondent, Atty. Angeles had previously informed the Secretary of his request and showed him the former's handwritten specifications. When respondent, therefore, requested the invoices from Atty. Angeles at the time of the delivery of the plumbing materials, the latter did not accede thereto, as per instructions of the Secretary and the NBI Director. Also, at the behest of the NBI Director, Atty. Angeles paid the first order at the time of the delivery and the subsequent ones within 30 days.

After due hearing the Board found respondent guilty of impropriety amounting to misconduct for "entering into a business transaction with Angeles who was interested in a case pending before him" and recommended that he (a) be suspended from office for three (3) months without pay; (b) suffer a loss of seniority in his present class; and (c) be not assigned to a sensitive position for a period of two (2) years. Said findings and recommendation were concurred in by the then Acting Foreign Affairs Secretary in a decision dated June 27, 1970, and approved by the Secretary.

On August 21, 1970, respondent, assisted by counsel, filed his appeal to this Office, alleging that (a) the decision is irregular on its face; (b) his preventive suspension was null and void; (c) the decision is illegal and null and void for lack of jurisdiction or authority on the part of the officials who rendered and approved it; (d) the decision is contrary to law and the evidence adduced by the parties; and (e) the penalties imposed are excessive, arbitrary and grossly disproportionate to the offense allegedly proven.

Pursuant to the 1st indorsement of this Office dated August 28, 1970, requesting comment on respondent's appeal and submittal of the complete records of the case, the Department of Foreign Affairs in its 2nd indorsement of November 17, 1970, stated that respondent was charged under Section 1(b), Part B, Title IV of Republic Act No. 708, as amended, which reads:

"The President, upon recommendation of the Secretary, may separate from the service any Foreign Affairs Officer on account of disloyalty to the Government, unsatisfactory performance of duty, misconduct, or malfeasance in office; but no such officer shall be separated from the service until he shall have been granted a hearing before the Board of the Foreign Service and his disloyalty to the Government, unsatisfactory performance of duty, misconduct, or malfeasance in office shall have been established at such hearing."

It was also stated that during the pendency of the appeal respondent filed his certificate of candidacy as delegate to the Constitutional Convention, and consequently ceased in office.

After a careful review of the records, I concur with respondent's counsel that the authority to preventively suspend and discipline respondent, being a presidential appointee, appertains to the President, based on existing laws, jurisprudence and precedents. The role of the Department on such matters is merely recommendatory, the power to remove being inherent in the power to appoint (*Ang-angco v. Castillo*,