

MALACANANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 155

IMPOSING A FINE EQUIVALENT TO TWO MONTHS' PAY ON MR. NICOMEDES  
PEÑERA, MUNICIPAL JUDGE OF SAPAO, SURIGAO.

Mr. Nicomedes Peñera, municipal judge of Sapao, Surigao, was charged in two administrative complaints filed with the Court of First Instance of Surigao with: (1) oppression, in the first complaint; and (2) arbitrary detention, ignorance of the law, extortion, oppression and inefficiency, in the second. The charges were investigated by the District Judge, who did not, however, submit his findings and recommendation by special permission of the Department of Justice.

The Secretary of Justice, after examining and evaluating the evidence of record, finds the charges unsubstantiated. However, he finds respondent to have committed mistakes in his actuations in a certain criminal case for illegal possession of dynamited fish, for which he recommends that respondent be fined in amount equivalent to two (2) months' pay, reprimanded and warned.

A review of the record shows that respondent really committed the following mistakes in the criminal case for illegal possession of dynamited fish in which the accused was convicted, on a plea of guilty, and sentenced to five (5) days' imprisonment: (1) his failure to fix any bail for the temporary liberty of the accused; (2) considering the plea of guilty as a mitigating circumstance; (3) imposing the penalty of five days' imprisonment; and (4) assuming jurisdiction over the case when, under the law, he had none.

Under the first mistake committed by the respondent, he contends that the offense was only a misdemeanor and a summons issued to the accused was all that was necessary. This contention is erroneous, considering that the lowest penalty for violation of the law on illegal possession of dynamited fish is a fine of not less than P100 nor more than P500, or imprisonment for not less than 1 month nor more than 6 months, or both such fine and imprisonment.

In considering the accused's plea of guilty as a mitigating circumstance, the respondent labored under the erroneous impression that the provisions of the Revised Penal Code are applicable to violation of special laws. Under the provisions of the law violated,

*Alc Peñera, Nicomedes*

respondent should have imposed on the accused a longer term of imprisonment, instead of imposing only five days' imprisonment. Finally, the respondent assumed jurisdiction over the case when, under the law, he could not have done so, because the criminal jurisdiction of municipal courts extends only to offenses penalized by imprisonment for not more than 6 months or a fine of not more than P200, or both.

WHEREFORE, and as recommended by the Secretary of Justice, the respondent is hereby fined in an amount equivalent to two (2) months' pay, reprimanded and warned that repetition of similar offense will be dealt with more severely.

Done in the City of Manila, this 3<sup>rd</sup> day of December, in the year of Our Lord, Nineteen hundred and sixty-five.



By the President:

SALVADOR L. MARIÑO  
Acting Executive Secretary