MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 68

REMOVING MR. PEDRO SAN ROQUE FROM OFFICE AS MUNICIPAL JUDGE OF VIRAC, CATANDUANES

These are four administrative cases against Mr. Pedro San Roque, Municipal Judge of Virac, Catanduanes, for serious misconduct and inefficiency. The charges were jointly investigated by District Judge Feliciano A. Gonzales, who found respondent guilty in Cases Nos. 24, 25 and 26, and recommended his exoneration in Case No. 27.

In Administrative Case No. 24, Francisco Zuniega testified that in the course of the hearing of the forcible entry case which he filed, respondent conducted an ocular inspection of the land in dispute; that respondent, together with his clerk, a policeman and the lawyers of both parties, took a jeep in going to the land, which was eleven kilometers away from Virac; that, after the inspection, respondent asked ₱40.00 from him which he gave thinking that the amount was in payment for the inspection; and that, when he later saw respondent about the resumption of the trial, respondent again asked him for ₱30.00, which he paid believing that it was for costs.

Respondent admitted that Zuniega paid ₱40.00 for the hire of the jeep used in the ocular inspection. His explanation of this payment is, however, highly unsatisfactory. First, as pointed out by the investigating Judge, the payment was excessive, considering the short distance travelled. Secondly, although respondent explained that each party was to pay ₱20.00 for the expenses of the inspection, he admitted that the whole amount of ₱40.00 was collected from Zuniega without any effort made to have the other party pay his share. Thirdly, respondent could not say who hired the jeep. After admitting that he hired it for ₱40.00, he declared later that he instructed his clerk to hire a jeep. This, however, was denied by the clerk. Fourthly, neither respondent nor his clerk could identify either the owner or driver of the jeep. Finally, although respondent's clerk admitted having paid to the driver of the jeep the ₱40.00 collected from Zuniega, no effort was made to obtain a receipt for the amount.

San Roque, P. J.

These irregularities tie in with the fact observed by the investigating Judge, that respondent took an unusual interest in the expenses of the ocular inspection when such matters are ordinarily and customarily left to the disposition of the parties themselves and their attorneys. Under the circumstances, respondent's lack of good taste and delicacy induces, in the words of the investigating Judge, "a strong suspicion against the honesty and integrity of the respondent," supporting the testimony that he collected ₱70.00 from Zuniega and tending to show that he appropriated the money for himself.

In Administrative Case No. 24, Teofila Mendez testified that when her son was accused of theft in respondent's court, the latter asked her for ₱150.00 for the withdrawal of the case; that she paid respondent ₱140.00 in installments; and that she did not hire a lawyer for her son. When she was shown a receipt for ₱140.00 in her favor, signed by Atty. Dominador Monjardin, she denied having given Atty. Monjardin such amount.

In his defense, respondent denied having received any money from Mrs. Mendez while admitting that the woman offered him ₱140.00 to fix the case. Respondent explained that the money was taken by Atty. Monjardin, who accompanied Mrs. Mendez; that Atty. Monjardin signed a receipt on the envelope which contained the money, which receipt Mrs. Mendez gave to him (respondent); and that he imposed a fine of ₱15.00 on the son of Mrs. Mendez, which was paid by Atty. Monjardin, as shown by the official receipt in the latter's name.

In rebuttal, Atty. Monjardin denied having acted as counsel for the son of Mrs. Mendez and explained that he signed the receipt at the request of respondent, who was his friend and former law partner; that he and respondent were alone at the time; that he did not receive any part of the amount stated in the receipt; and that he did not pay the fine imposed on the son of Mrs. Mendez.

I agree with the investigating Judge in giving credence to the testimony of Mrs. Mendez and Atty. Monjardin. Respondent has not satisfactorily explained why the receipt signed by Atty. Monjardin in favor of Mrs. Mendez was in his (respondent's) possession. In fact, I see no logical reason why Mrs. Mendez, to whom the receipt belonged, would turn it over to respondent. Just as illogical was respondent's acceptance of the receipt from Mrs. Mendez considering his testimony that he had refused

the money when offered to him by Mrs. Mendez to fix the case. The version of Mrs. Mendez and Atty. Monjardin is thus the most reasonable explanation of the receipt and its possession by respondent.

This version is also borne out by the penalty imposed by respondent on the son of Mrs. Mendez. To quote the investigation report:

> "... The atmosphere of the case, as revealed by the evidence, points to a vicious but ill-conceived scheme on the part of the respondent in manipulating the disposal of the case without arousing hostility from the offended party in view of the apparent guilt of the accused while at the same time partially fulfilling his commitment by imposing a fine instead of imprisonment which, while not entirely in accord with his undertaking to settle the case, created no serious embarrassment for Mrs. Mendez and her family because her son was never incarcerated. I find this conclusion as the most logical inference because the charge against the son of Mrs. Mendez was for theft of a pair of pliers worth Five (₱5.00) Pesos, which is punishable by arresto mayor in its minimum and medium periods under paragraph 6 of Article 309 of the Revised Penal Code and, even if the accused had pleaded guilty as shown by the record and the respondent had chosen to give the minimum of the minimum penalty under the Code, the penalty should have been at least one (1) month and one (1) day which is the absolute minimum of the minimum period of arresto mayor. And yet the respondent imposed only a fine of ₱15.00 without reason and such undue leniency can only be explained by the fact that he had received, as charged, some material consideration from the mother of the accused."

With respect to the issuance of the official receipt for the payment of the fine in the name of Atty. Monjardin, as observed by the investigating Judge, "the suspicion cannot be avoided that the payment of the fine of ₱15.00 imposed by the respondent could have been manipulated by him thru some unidentified party although the receipt was made in the name of the attorney."

In Administrative Case No. 25, respondent admitted that, on August 24, 1965, he issued a certificate postdated August 28, 1965, stating that one Sgt. Eugenio B. Vienes had been in Virac from August 24 to 28, 1965. Respondent denied that the certificate was false, explaining in his formal answer to the charge that he signed the certificate "with a clear instruction that the certification will not be binding and valid unless it is properly sealed with my official seal and that he should come to the office on the date as mentioned x x x;" and that Sgt. Vienes failed to return to his (respondent's) office on August 28 to have the certificate sealed.

I am not satisfied with this explanation. The alleged oral conditions on the issuance of the certificate cannot justify the issuance of the certificate postdated. Besides, the affixing of the seal was not necessary to the validity of the certificate. Under Section 80 of the Judiciary Act (Republic Act No. 296), the use of a seal of office shall not be necessary to the authentication of any paper, document, or record signed by a municipal judge or emanating from his office except when he acts as notary public ex-officio. Consequently, in postdating the certificate, respondent even technically committed the offense of falsification under paragraph 2 of Article 174, Revised Penal Code.

Respondent cannot invoke good faith in issuing the certificate since Sgt. Vienes did not transact any official business with him. As emphasized by the investigating Judge, "the respondent ought to have known that the issuance of that certificate was not a judicial function because Sgt. Vienes' mission in Virac had nothing to do with any action or proceeding in his court and it was not incumbent upon him to issue the certificate not only because the mission was unknown to him but because the sergeant belonged to an entirely different department of the government and could have gotten that certificate from the proper source having connections with his office." Moreover, the certificate could have been improperly issued by Sgt. Vienes. If, for instance, the sergeant committed an offense outside Virac during the period covered by the certificate, that certificate could have given him an almost foolproof alibi considering that it was issued by a member of the bench. I therefore agree with the Judge that respondent's act was one "of indiscretion amounting to crass ignorance and stupidity."

In Administrative Case No. 26, it is undisputed that in Criminal Case No. 944 of the Municipal Court of San Andres, Lorenzo and Emeniano Lucero were charged with qualified theft for stealing 300 coconuts valued at ₱30.00 from a coconut plantation. The accused were arrested and their bail fixed at ₱2,000.00 each. Only the accused Emeniano was able to post bail. When respondent was designated to act as Municipal Judge of San Andres, he issued an order granting a motion to amend the complaint by changing the designation of the offense charged to simple theft and reducing the bail of the accused to ₱300.00 each. Thereafter, he inserted the name of the accused Lorenzo in the bail bond posted by Emeniano and ordered the release of Lorenzo.

Respondent explained that he approved the amendment of the complaint because the change was justified by the allegations of the complaint, and that he believed the bail bond of Emeniano Lucero sufficient in amount to include his co-accused because of the reduction of the bail. This explanation is not satisfactory because, with respect to the amendment of the complaint, Article 310 of the Revised Penal Code specifically designates as qualified the theft of coconuts taken from the premises of a plantation. Also, Lorenzo's inclusion in the bail bond posted by Emeniano without the knowledge and acquiescense of the bondsmen was patently irregular, to say the least. A bond executed for one accused cannot be applied subsequently to another accused without falsifying the document, a separate bond being necessary for an accused not originally included in the previous bond. If Lorenzo had absconded, the bondsmen could not have been held liable on their bond because the bond they posted was only for Emeniano. Accordingly, I agree with the investigating Judge that, although there was no actual malice or bad faith in respondent's actuations, "he has shown ignorance of the law and a very poor understanding of procedure, even on such a simple matter as the filing of a bail bond, considering that he has been on the bench for many years."

In addition to the findings of the investigating Judge against respondent, the evidence in Administrative Case No. 27, shows that, in a criminal case pending in respondent's court, he admittedly allowed the affiant in one of the affidavits supporting the complaint to change the name of the accused

in his affidavit. Respondent's explanation is that he merely gave due course to the desire of the affiant to correct his sworn statement, there being no need for affiant to execute another affidavit.

This explanation is untenable. The affidavit was taken by a policeman thru question and answer and was subscribed and sworn to before respondent himself on October 11, 1965. The criminal complaint, partly based on the affidavit, was filed with respondent on October 12, 1965. Since the affidavit has become part of the record of a docketed criminal case, the change made by the affiant, and authorized by the respondent, was in effect a retraction of the affidavit which should not have been made thru an informal change in the affidavit itself but thru formal testimony at the hearing of the case in open court.

After examining and evaluating the evidence on record, I find respondent guilty of serious misconduct and inefficiency in office. In view of the gravity of the irregularities committed, and as recommended by the Undersecretary of Justice, Mr. Pedro San Roque is hereby removed from office as municipal judge of Virac, Catanduanes, effective upon receipt of a copy of this order.

Done in the City of Manila, this 26th day of June, in the year of Our Lord, nineteen hundred and sixty-seven.

BY THE PRESIDENT:

RAFAEL M. SALAS
Executive Secretary