

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 227

SUSPENDING MR. DESIDERIO CUSTODIO FROM OFFICE AS MUNICIPAL JUDGE
OF MAINIT, SURIGAO DEL NORTE.

This is an administrative case against Municipal Judge Desiderio Custodio of Mainit, Surigao del Norte, for ignorance of the law and oppression, which was investigated by the Executive Judge of the Court of First Instance of Surigao del Norte.

The record reveals that on November 9, 1965, complainant herein, Mrs. Maria M. Soroñgon, was charged before the Municipal Court of Mainit, Surigao del Norte (presided over by respondent), with violation of Section 49 of the Revised Election Code in an information filed by First Assistant Provincial Fiscal Carlo H. Lozada (Exh. "A"). The information was filed in the morning of November 9, 1965, with the respondent and the case was docketed as Case No. 1402. Forthwith, a warrant of arrest was issued (Exh. "B") and a policeman was sent to serve the same upon the person of the accused (herein complainant). However, no actual arrest was effected in view of the refusal of the accused to come along with the arresting officer.

On the same date (Nov. 9, 1965), upon the filing of a bail bond for her provisional liberty (Exh. "E"), an order was issued by respondent for her release from custody (Exh. "C"). In this connection, the findings of the investigating judge contained in his report are to the effect that, after an afterthought by the respondent on the question of jurisdiction of the Municipal Court of Mainit, he ordered the recall, as in fact it was recalled, of the warrant of arrest on the same morning after its unsuccessful service upon the accused, and that the bail bond was accepted and approved by respondent judge because of the alleged insistence of the accused, since the same had already been prepared and "as it would relieve her of the anxiety of being re-arrested or further molested by those people who desired her arrest." The record, however, fails to show whether Mrs. Soroñgon was actually deprived of her right of suffrage by reason of the filing of the complaint.

Respondent in his defense contended that the matter of jurisdiction of the Municipal Court of Mainit over the case of Mrs. Soroñgon for violation of Section 49 of the Revised Election Code is one that requires legal, if not judicial interpretation, especially in the light of the provision of Section 87, paragraph (c), of Republic Act No. 296, as amended, otherwise known as the Judiciary Act of 1948, which increases the jurisdiction of municipal courts to

try criminal cases, and the succeeding paragraphs thereto providing, in effect, that municipal judges have also jurisdiction to conduct preliminary investigations for any offense alleged to have been committed within their jurisdictions and cognizable by the Courts of First Instance; thereby confusing respondent municipal judge who failed to arrive at a final determination of the issue of jurisdiction over the case pending before his court.

As regards the charge of oppression for partisan ends, I am inclined to sustain the finding and observation of the Executive Judge that complainant Mrs. Sorofigon has not satisfactorily proved the truth of her allegations and that the failure of complainant to testify in this respect may be taken as a sign of insincerity on her part.

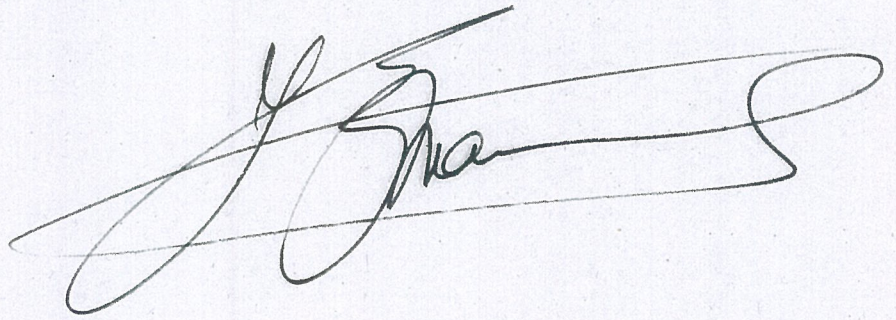
At any rate, in resolving the main charge of ignorance of the law, predicated on respondent's failure to determine and resolve the issue of whether or not his court had jurisdiction over the case filed by Assistant Fiscal Lozada against herein complainant for violation of the Revised Election Code, I find respondent municipal judge no less responsible and guilty than the prosecuting officer, considering that on the basis of the information filed by Fiscal Lozada, respondent issued the corresponding warrant of arrest and approved the bail bond filed by the accused, herein complainant Sorofigon. While the recall of said warrant of arrest by respondent and the fact that herein complainant was never arrested nor detained mitigated the wrong committed, nevertheless the fact remains that if Fiscal Lozada was charged with and later found guilty of ignorance of the law, it is inconceivable as I find no valid reason whatsoever, for respondent judge to be completely absolved from any administrative liability. I cannot entertain as a plausible defense good faith on his part, since the provision of Section 187 of the Revised Election Code is very explicit that "the Court of First Instance shall have exclusive criminal jurisdiction to make criminal investigation, issue the warrant of arrest and try and decide any criminal action or proceeding for violation of this code." And in the same manner that I did not entertain the defense of good faith interposed by Fiscal Lozada in the latter's administrative case, I am not inclined to exonerate subject respondent from any administrative liability based principally on this defense.

In view of the foregoing, Municipal Judge Desiderio Custodio of Mainit, Surigao del Norte, is hereby suspended from office for a

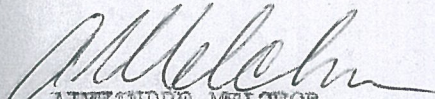
Blanco Acting Executive Secretary

period of four (4) months without pay, with a stern warning that commission of the same or similar offense in the future will be dealt with more drastically.

Done in the City of Manila, this 17th day of July, in the year of Our Lord, nineteen hundred and seventy.



By the President:



ALMELANDRO MELCHOR

Executive Secretary

Acting Executive Secretary