

MALACAÑANG

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 294

SUSPENDING MR. ILUMINADO BO FROM OFFICE AS MUNICIPAL JUDGE OF
BULAN, SORSOGON.

This is an administrative case against Municipal Judge Iluminado Bo of Bulan, Sorsogon, for (1) serious misconduct in office, (2) harassment and oppression and (3) acts prejudicial to the public interest. The case was investigated by the Presiding Judge of the Court of First Instance of Sorsogon.

With respect to the charge of serious misconduct in office, complainant Catalina Guban alleges that in 1940 she mortgaged to Eulogio Santos a six-hectare parcel of agricultural land situated at Barrio Jamorawon, Bulan, Sorsogon, to guarantee a loan of ₱400. Her offer to redeem the property was refused by the mortgagee and, upon his death, the same attitude was entertained by his heirs. She decided then to complain to respondent judge whom she believed could settle the case out of court. Contrary to her expectations, and in spite of her plea to respondent to call the heirs of the mortgagee to a conference, he advised her to file a complaint, volunteering to act as lawyer. He further told her that the land could be redeemed even during the pendency of the case by depositing with the court the repurchase price of the land in the amount of ₱400. After complainant had given to respondent the said amount, nothing more was heard of the result of the consignation until about eight months thereafter when she learned that he did not deposit the money, which was misapplied for his own personal benefit.

Respondent denied having volunteered to act as the lawyer of the complainant. However, he admitted having prepared on February 1, 1967, the complaint for "Redemption of Mortgage with Petition for Consignation" which he gave to the complainant that same day. The complaint was filed only on February 27, 1967, by her daughter, Mrs. Josefina Montemayor, after the latter's husband, Dr. Montemayor, was given the "go signal" by his father who had sought the opinion in writing of a certain Attorney Pastor regarding the legal aspects of the case. If respondent was interested in handling the case, he could have taken charge of the filing of the complaint in court. Taking into account this circumstance, as well as the testimony of

Salvacion Guban de Golpo (a cousin of complainant who was present at the time the case was being taken up with respondent), to the effect that respondent never offered to act as complainant's lawyer, the allegation ascribing to him a shyster's conduct is clearly without basis.

As to the amount of ₱400 intended to be deposited with the clerk of court to effect the redemption of the land, respondent likewise admits having received it for said purpose. He explains, however, that he did not see any immediate need of depositing the amount with the court because he was still exploring the possibility of an amicable settlement of the case which was then in the pre-trial stage, and that there was no order of the court yet to consign to it the money.

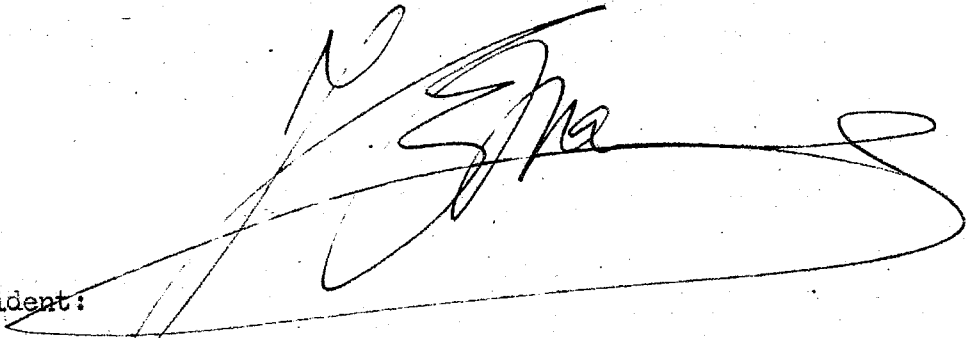
Nevertheless, I agree with the Secretary of Justice and the District Judge-Investigator that there was no justification for respondent to retain the aforesaid amount after its return was demanded by complainant in her letter of March 1, 1968 (Exh. 28), by reason of the termination of his services. Complainant's failure to come to respondent's office for the purpose of signing a receipt for the money and respondent's withdrawal from the case was no valid reason for retaining the amount. As aptly observed by the Investigator, respondent could have easily sent to complainant the amount of ₱400 by money order or by messenger with a companion, which could sufficiently prove the return of the money. Neither is there merit in his contention that he has a retaining lien on the said amount because such lien takes effect only after notice thereof has been entered in the record of Civil Case No. 516 and served upon the adverse party (Elena Peralta Vda. de Caifia et al. vs. Victoriano et al., 105 Phil. 194, citing Macandray and Co. vs. Jose, 66 Phil. 590, and Menzi and Co. vs. Bastida, 63 Phil. 16).

It is misbehavior on the part of an attorney who unjustly retains money of his client after it has been demanded (Sec. 25, Rule 138, Revised Rules of Court). Respondent transgressed this provision by his refusal to return to complainant the amount of ₱400 intended to be consigned to the court. Such misconduct reflects adversely on his character and constitutes sufficient ground for disciplinary action against him.

On the subjects of harassment, oppression and acts prejudicial to the public interest imputed against respondent, no sufficient proofs are disclosed by the record to hold him liable therefor.

Wherefore, and as recommended by the Secretary of Justice, Mr. Iluminador Bo is hereby suspended from office as municipal judge of Bulan, Sorsogon, for one (1) year without pay, effective upon receipt of a copy of this decision, and ordered to return the amount of ₱4.00 to complainant Catalina Guban. He is also warned that repetition of the same offense will be dealt with more severely.

Done in the City of Manila, this 30th day of June ,
in the year of Our Lord, nineteen hundred and seventy-one.



By the President:



ALEJANDRO MELCHOR
Executive Secretary