[ADMINISTRATIVE ORDER NO. 275, March 04, 1971]

REMOVING MR. LEANDRO P. REYES FROM OFFICE AS MUNICIPAL JUDGE OF SAN JOSE, OCCIDENTAL MINDORO

This concerns Administrative Cases Nos. R-10, R-13, R-15 and R-16 against Municipal Judge Leandro P. Reyes of San Jose, Occidential Mindoro, which were investigated by District Judge Jorge R. Coquia of Occidental Mindoro. The charges are classified under the following headings:

I. Knowingly rendering an unjust judgment.

This charge contained in Administrative Case No. R-10 centers on respondent's order issued ex parte in Civil Case No. 221 directing the defendant Emmanuel Rey Hipolito, son of complainant Cipriano Rey Hipolito, to vacate the disputed property on which respondent had a garage. It was alleged that the defendant in said case was required to answer the complaint within a period less than that given in Section 1, Rule 9, old Rules of Court. No testimonial evidence was presented on complainant's allegations. However, upon agreement of the parties, the investigating Judge relied on the record of Civil Case No. 221.

Respondent explained that he granted the injunctive relief ex parte, in view of his desire to prevent any untoward incident between the parties, as the defendant was then intending to erect a post right through plaintiff's kitchen. He contended that Section 5, Rule 4 of the Rules of Court regulates the filing of an answer in the municipal court and not the one relied on by the complainant. He also denied any interest in the case.

The respondent should have ordered the maintenance of the status quo between the parties pending determination of the main case, considering that the right of possession was then in issue. Moreover, the harm to the plaintiff Rogelio Tiodin was not real because the defendant was then merely intending to erect a post through his kitchen. Respondent's action was precipitate and smacks of partiality in favor of the plaintiff who was his driver-mechanic.

II. Grave abuse of discretion.

The same complainant, Atty. Cipriano Rey Hipolito, in Administrative Case No. R-10 charged that respondent prejudged Criminal Case No. 1718 (for perjury) against Rogelio Tiodin and that he refused to inhibit himself therefrom despite the fact that the accused was his driver-mechanic. Respondent answered that his rejection of the criminal complaint on the ground that the basis thereof did not constitute the crime of perjury was in accordance with the Department of Justice revised circulars enjoining municipal judge to exercise caution in accepting complaints. To the charge that respondent gave due course to a charge of light threats filed by Arturo Toledo

against Primo Tiodin, father of Rogelio, notwithstanding that the original charge was for grave coercion and that he entertained complaints filed by the Tiodins, no matter how ridiculous, the respondent claimed that even the police authorities did not believe that grave coercion was committed by the accused. The investigator made no finding respecting this charge, except that respondent should have disqualified himself from trying the case, as it involved the father of his driver-mechanic. It is believed, however, that the relationship between respondent and Rogelio Tiodin was not a legal disqualification for him to hear to case. His inhibition, therefore, was a matter of discretion (Pimentel vs. Salañga, 21 SCRA 160).

III. Ignorance of the law.

The charge is set forth in both Administrative Cases Nos. R-10 and R-16. In Administrative Case No. R-10, it was established that in the Mila rape case, the respondent approved the bail bond filed by a brother of accused "Boy" San Diego who was then still at large. Respondent explained that his order for the cancellation of the bond was justified because he had no authority to order the confiscation and/or forfeiture of the same when the accused failed to appear for the purpose of giving final approval thereof. It thus appears that respondent approved the bail bond conditionally although the accused "Boy" San Diego was then still at large. The original warrant of arrest was made ineffectual by the action taken by the respondent as evidenced by his issuance of another warrant of arrest.

In this connection, the Supreme Court has ruled that the filing of a bail bond presupposes that the accused is under custody (Manigbas et al. vs. Luna et al., 98 Phil. 466; Feliciano vs. Hon. Ladislao Pasicolan, 2 SCRA 888). The approval of the bail bond before the arrest of the accused "Boy" San Diego, even if conditionally made, violated the aforesaid ruling of the Supreme Court, which respondent is presumed to know. The error appears, however, to have been committed in good faith and was promptly rectified.

In Administrative Case No. R-10, it was established that in the case of People vs. Panganiban the respondent, believing that the crime committed was homicide instead of murder, dismissed the case and ordered the accused released from custody. The District Judge-Investigator opined that respondent "acted irregularly in dismissing outright the case and in releasing the accused". Respondent should have transmitted the case to the Court of First Instance with his finding that the crime committed by the accused was homicide and not murder. The Provincial Fiscal then would have the opportunity to conduct his own investigation and file the proper information. Respondent's actuation gave the accused the opportunity to remain at large even when the criminal case was refiled in the Court of First Instance, resulting in the government's incurring unnecessary expenses to recapture the accused.

Respondent is also charged with having illegally assumed jurisdiction over Criminal Case No. R-815 wherein Claro Guevarra was accused of violation of Section 53 of the Revised Election Code. The proceedings in said case were nullified and the bail bond posted by the accused was cancelled when the case was elevated to the Court of First Instance. In this connection, Section 187 of the Revised Election Code confers on the Courts of First Instance exclusive original jurisdiction to make preliminary investigations, issue warrants of arrest and try and decide any criminal