

[ADMINISTRATIVE ORDER NO. 227, July 17, 1970]

**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 dated (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 paragraph 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.