

**[ ADMINISTRATIVE ORDER NO. 68, June 26, 1967 ]**

**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 P40.00 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 P30.00, which he paid believing that it was for costs.

Respondent admitted that Zuniega paid P40.00 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 P20.00 for the expenses of the inspection, he admitted that the whole amount of P40.00 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 P40.00, 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 P40.00 collected from Zuniega, no effort was made to obtain a receipt for the amount.

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 P70.00 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 P150.00 for the withdrawal of the case; that she paid respondent P140.00 in installments; and that she did not hire a lawyer for her son. When she was shown a receipt for P140.00 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 P140.00 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 P15.00 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 (P5.00) 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 P15.00 without reason and such undue leniency can only be explained by the