

[ADMINISTRATIVE ORDER NO. 69, June 26, 1967]

**SUSPENDING MR. LORENZO B. TECSON FROM OFFICE AS
MUNICIPAL JUDGE OF SAN MIGUEL, BULACAN**

This is an administrative case filed by Dr. Marcelo Lipana against Municipal Judge Lorenzo B. Tecson of San Miguel, Bulacan, for ignorance of the law and issuance of an unjust interlocutory order in connection with his actuations in Criminal Case No. 2111 (for robbery) of his court resulting in complainant's arrest. The district Judge, who investigated this case, found that respondent, in ordering the arrest of complainant, acted with undue haste and without investigating carefully the prosecution witness and recommended that he be reprimanded. However, the Undersecretary of Justice, while concurring in the investigator's findings, is for imposing a stiffer penalty of suspension for three (3) months without pay.

The records show that Criminal Case No. 2111 was filed in respondent's court on May 3, 1965, against Vicente Dantes and John Doe @ Daniel for alleged robbery of a carbine belonging to a certain Moises Lazaro. After conducting the first stage of the preliminary investigation during which PC Sergeant Alberto Español, Rafael Roura and Moises Lazaro were presented as witnesses, respondent issued a warrant of arrest against Dantes and fixed his bail bond at P8,000. Two days later, or on May 5, 1965, complaining witness Roura, through counsel, moved for the amendment of the criminal complaint so as to include Dr. Marcelo Lipana, complainant herein, on the ground that it was he who had induced the accused to commit the aforesaid crime. The complaint was subsequently amended and after the presentation of the chief of police of San Miguel, Bulacan, as additional witness, respondent forthwith ordered the arrest of Dr. Lipana and likewise fixed his bail at P8,000.

During the formal investigation of the case respondent neither appeared nor presented any evidence in his defense despite several postponements thereof by the investigator to enable him to confront and cross-examine the complainant. Instead, he submitted his answer to the charges justifying his actuation on the Supreme Court ruling that the resolution of a municipal judge in determining the existence of a probable cause, upon presentation of sufficient facts, for the purpose of issuing a warrant of arrest is discretionary in nature and is not reviewable by a superior court, as his conclusion thereon is final and conclusive (U.S. vs. Ocampo, 18 Phil. 1). Respondent concluded that in allowing the inclusion of complainant as one of the accused and issuing the corresponding warrant of arrest, he acted equitably, fairly and within the bounds of law and decided jurisprudence on the matter and therefore he could not be held administratively liable.

Respondent would seem to imply from the Supreme Court's doctrine that as municipal judge, he could not be held administratively liable for concluding that Dr. Lipana was probably guilty of the crime charged and ordering his arrest. This is untenable. As aptly observed by the Undersecretary of Justices