

**[ ADMINISTRATIVE ORDER NO. 79, August 14, 1967 ]**

**SUSPENDING MR. CARLO H. LOZADA FROM OFFICE AS FIRST ASSISTANT PROVINCIAL FISCAL OF SURIGAO DEL NORTE**

This is an administrative proceeding instituted by Mrs. Maria M. Sorongon and others against First Assistant Provincial Fiscal Carlo H. Lozada of Surigao del Norte for ignorance of the law and oppression arising out of respondent's actuation in filing an information against complainant Sorongon for violation of the Revised Election Code with the municipal court of Mainit, Surigao del Norte.

The record shows that on election day, November 9, 1965, respondent filed with the municipal court of Mainit, Surigao del Norte, an information charging the main complainant, Maria M. Sorongon, with violation of Section 49 of the Revised Election Code for allegedly trying, the day before, to buy the vote of one Leonido Balasabas; that Municipal Judge Desiderio Custodio forthwith issued a warrant of arrest; that on the same day, upon the filing of a bail bond fixed by the court, complainant Sorongon was released from custody.

On December 3, 1965, Provincial Fiscal Bernardo Salas requested the chief of police of Mainit to move for the provisional dismissal of the case against herein complainant for the purpose of re-evaluating the same, and further, that the court records be forwarded to the Office of the Provincial Fiscal. By virtue of a motion to dismiss filed on December 9, 1965, by the chief of police, the municipal judge, on December 14, 1965, dismissed the case without prejudice, notwithstanding complainant's opposition thereto. Up to the present time no information has yet been filed by the provincial fiscal against complainant before the proper court.

Respondent does not dispute the aforestated facts but, by way of defense, claims good faith in filing the election case with the municipal court believing that said court had jurisdiction to conduct the preliminary investigation thereof; and he denies any intention to harass or oppress complainant.

Section 187 of the Revised Election Code, in unmistakable and unequivocal terms, provides that "the court of first instance shall have exclusive criminal jurisdiction to make preliminary investigation, issue the warrant of arrest and try and decide any criminal action or proceeding for violation of this Code." Had respondent merely perused the law before hastily filing the information, he would certainly not have been misled in filing the case before the municipal court. His ignorance of the law therefore becomes apparent, for the aforequoted Section 187 is explicit that in all criminal proceedings for violation of the Revised Election Code, the proper court of first instance shall have exclusive jurisdiction.

Concerning respondent's defense that he had no intention to harass or oppress Mrs. Sorongon, the facts brought out during the investigation show that: