

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 69

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

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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 Justice:

"The doctrine, to my mind, merely lays the principle that the resolution of a municipal judge in determining the existence of probable cause for the purpose of issuing a warrant of arrest is not reviewable by a superior court in proceedings either to revoke a warrant of arrest issued by the judge or to compel its issuance by writ of mandamus if the judge refuses to issue one. In other words, his power in that regard is discretionary. But the principle, in my opinion, cannot extend to providing the municipal judge with absolute immunity from administrative action if his actuations are found to be plainly arbitrary, patently irregular, or manifestly unjust."

The Investigating Judge, with whom the Undersecretary of Justice concurs, found that the preliminary examination conducted by respondent in the criminal case was completely devoid of any circumstance which would

reasonably tend to link complainant to the commission of the crime. In the investigation conducted by respondent on May 3, 1965, no mention of his (complainant's) name whatsoever was made by the above-mentioned witnesses to implicate him in the criminal offense. Even the testimony of the chief of police on May 5, 1965, which later became the basis for respondent's inclusion of complainant as one of the accused, failed to yield any hint or suggestion that respondent had something to do with the alleged robbery. On the contrary, the chief of police testified that complainant and his overseer, Dantes, went to his residence and reported that the latter seized the carbine of Lazaro after he caught him plowing complainant's land and destroying the fence thereof and that respondent even sought his advice on what to do with the firearm. The chief of police then advised complainant to report the matter to the PC authorities.

A little care on respondent's part in assessing the testimony of the chief of police and due regard for complainant's rights would have deterred him from acting rashly and thereby spared complainant the humiliation of being arrested and the inconvenience of having to post a bond for his provisional liberty. Thus, the investigating judge observed:

" . . . If only the respondent judge had personally asked 'searching questions' enjoined upon him as investigator of a crime, if only he had not acted as quickly as he did and instead took pains to gather more evidence, considering that he is from the same town and is quite familiar with all these persons, and the necessity of acting immediately on the arrest of Dr. Lipana does not appear, he would have conducted himself in a manner that will not invite suspicion or criticism. As it is, even if Dr. Lipana were to be absolved in the second stage of the preliminary investigation, the harm has already been done, as he was arrested and had to post a bond - this on the morning of the town fiesta of San Miguel."


Under the circumstances, respondent's actuations in ordering the immediate arrest of complainant on the strength of the testimony of the chief of police, which did not in any way implicate him, belies respondent's con-

tention that it was done in a regular manner and in accordance with law.

Wherefore, and upon the recommendation of the Undersecretary of Justice, Mr. Lorenzo B. Tecson is hereby suspended from office as municipal judge of San Miguel, Bulacan, for three (3) months without pay effective upon receipt of a copy hereof, with a warning that repetition of similar offense will be sufficient cause for his removal.

Done in the City of Manila, this 26th day of June ,
in the Year of our Lord, nineteen hundred and sixty-seven.

By the President:



RAFAEL M. SALAS
Executive Secretary