

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 245

REMOVING MR. NEMESIO GANAN FROM OFFICE AS
JUSTICE OF THE PEACE OF BADAJOZ, DESPUJOLS,
AND ODIONGAN, ROMBLON

This is an administrative case against Mr. Nemesio Gan-
nan, Justice of the Peace of Badajoz, Despujols, and Odion-
gan, Romblon, for alleged abuse of authority, partiality, and
falsification. The charges were investigated by the dis-
trict judge and respondent was given full opportunity to
be heard in his defense.

As regards the charge of abuse of authority, it appears
that in the afternoon of September 11, 1947, respondent
summoned one Angela Estores to appear in his court at
Badajoz and when she refused to heed his suggestion that
she respect an agreement previously entered into between
her and a certain Emilia Orencio, upon which the dismissal
by his predecessor of the civil case between them was based,
respondent ordered Angela to be confined in jail where she
stayed for twenty-five minutes. It turned out that respond-

ent had been the attorney of Emilia Orencio in that case prior to his appointment as justice of the peace.

In his defense respondent denied having ordered the incarceration of Angela Estores, claiming that he must have been misunderstood by the policeman when he ordered the latter to take her out of his room for raising her voice and creating a scandal when he tried to remind her of her obligation under the agreement referred to.

I am not impressed by respondent's explanation. If the policeman was not ordered by the respondent to confine Angela in jail, certainly she would have vigorously remonstrated against being deprived of her liberty by the policeman. That she acquiesced therein only goes to prove that she was ordered jailed by one who, by the nature of his official position, can give that kind of order. Moreover, when one Carlos Montesa who had been requested by Angela to bail her out went to see respondent, the latter remarked that she was hardheaded but that there was no need of bonding her because he was ordering her immediate release. Such remark of respondent indicates that he was aware of Angela's confinement pursuant to his order.

Relative to the charge of partiality, the record shows that in Criminal Case No. 46 against Romulo Manalon for slight physical injuries, the accused, a minor and relative of complainant herein, was sentenced by respondent to four days' imprisonment, whereas in a similar case (criminal case No. 28) against Crisostomo Romero, also a minor, respondent merely placed him under the custody of another person. I concur with the investigator and the Secretary of Justice that there is no evidence of partiality in the two cases and that respondent merely committed an error in imposing the proper penalty in both instances.

Neither has respondent shown partiality by the non-inclusion of the recipients of the money in the complaint for violation of section 49 of the Revised Election Code (unlawful expenditures) and filed against Alvaro Gabay (criminal case No. 4289). This appears to be a mistake made not only by him but also by the policeman who filed the complaint and, later by the provincial fiscal when the case was elevated to the Court of First Instance. However, the case was dismissed upon motion of the fiscal for lack of evidence to sustain conviction. At any rate, it was error for the case to be filed with, and given due course by, the justice of the peace as it is the Court of First Instance which has exclusive original jurisdiction over all violations of the election law, including the conduct of preliminary investigations.

The last charge for falsification, which consists in respondent's having allegedly stated falsely in his daily time records that he was out of his district on official

business during the periods indicated therein, when he was supposedly attending to his private cases as a practitioner, and collecting full salary for the periods covered, has not been sufficiently established and for the time being is provisionally dismissed, without prejudice to any further investigation that the provincial fiscal may conduct to give complainant an opportunity to prove the charge which, if true, constitutes a criminal offense and not a mere misconduct in office.

While this case was under consideration in my office the respondent filed a petition for reinvestigation, submitting in support thereof the affidavits of two persons which he claimed to be newly discovered evidence sufficiently strong to warrant his exoneration. However, the Secretary of Justice finds, and I agree with him, that the affidavits tend merely to corroborate respondent's claim that he ordered Policeman Fruto Mirano to take Angela Estores out of his room and not to lodge her in prison. These affidavits cannot prevail over the testimony of Policeman Mirano and Angela Estores for the simple reason that the affiants were not in respondent's office when the incident occurred. They could not therefore have been in a better position than those two, who were in respondent's room, to testify on what the respondent told the policeman. Moreover, as Angela and the policeman were concerned with what the respondent was going to say, they were naturally listening to him. This cannot be said of the two affiants who were admittedly transacting business in other parts of the municipal building.

In conclusion, I find respondent guilty of the following irregularities: (1) abusing his authority when he ordered, without justifiable cause, the confinement of Angela Estores, as a result of which she stayed in jail for twenty-five minutes; (2) imposing wrong penalties in two criminal cases; and (3) accepting a criminal complaint for violation of the Revised Election Code which, under the law comes under the exclusive original jurisdiction of the Court of First Instance.

The last two irregularities may call for mere admonition to be more careful in the discharge of his duties; but the first must be dealt with drastically to serve as a lesson and warning not only to respondent but also to other public officers who, like him, have a perverted notion of their authority. Respondent should know that a person values his liberty next only to his own life, and yet, in utter disregard of the constitutional safeguard against undue deprivation of that liberty, he sent a helpless and innocent woman to jail in a futile attempt to save himself from an embarrassment which he alone had brought upon himself. It is true that her confinement was only for a short duration but the

respondent is being dealt with not because of the length of Angela's incarceration but for having abused his authority.

Wherefore, and in accordance with the recommendation of the Secretary of Justice, Mr. Nemesio Ganan is hereby removed from office as Justice of the Peace of Badajoz, Despujols and Odiongan, Romblon, effective upon receipt of notice hereof.

Done in the City of Manila, this 23rd day of December, in the year of Our Lord, nineteen hundred and fifty-three, and of the Independence of the Philippines, the eighth.

ELPIDIO QUIRINO

President of the Philippines

By the President:

MARCIANO ROQUE

Acting Executive Secretary
