

MALACAÑANG
RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 376

CONSIDERING MR. FRANCISCO G. H. SALVA RE-SIGNED FROM OFFICE AS CITY ATTORNEY OF PASAY CITY

This is an administrative case filed by Miss Luz Santos, through counsel, against City Attorney Francisco G. H. Salva of Pasay City to the effect (a) that respondent asked a loan of ₱4,000 from complainant during the preliminary investigation in his office of her complaint for estafa against Gregorio Trinidad, Jr., and (b) that respondent also asked her to drop her said case against Trinidad.

The charges were investigated by the Chief Prosecuting Attorney of the Department of Justice. During the hearings respondent was always present and cross-examined complainant who rested her case on May 29, 1959. Respondent began presenting his evidence in June 1959. As the investigation had dragged for a long time, the investigator set it for continuous hearings on March 10, 11, 14, 15, 16, 21, 22, 23, 28, 29, and 30, 1960, at 2:30 p.m. Before the scheduled hearing of March 28, 1960, respondent moved for postponement of said hearing and those

for March 29 and 30, 1960, which was granted. The hearings were then rest for April 11, 12, 13, 18, 19, and 20, 1960, for the final reception of respondent's evidence, after which the case would be deemed submitted under the resolution dated March 28, 1960, of the investigator.

On April 18, 1960, defense counsel requested the investigator to exhibit himself voluntarily as respondent intended to present evidence of his past relationship with the Prosecution Division which would be embarrassing to the investigator, and to cancel the hearings set for April 19 and 20, 1960. The investigator denied the request and stood by his resolution of March 28, 1960, with the suggestion that a formal motion be submitted for the consideration of the Secretary of Justice. A petition for voluntary recusation was submitted on April 22, 1960, which was denied on May 12, 1960, by the Secretary of Justice, who directed the investigator to submit his findings and recommendation. Later the respondent appealed to the President from the Secretary's denial of his petition for change of investigator.

The challenge to the investigator's competence or qualification as hearing officer was belatedly made. The reasons given for the challenge existed and were known by the defense from the beginning. By failing to raise the issue, opportunedly but only during the closing stages of the investigation, the defense may be deemed to have waived any objection on that score. If, as the defense states, it thought at first that the alleged evidence against the Prosecution Division could be dispensed with, and the investigator designated could go on, it should stand by that decision and the consequences thereof; otherwise administrative proceedings would be subject to speculation and the whims of the parties which should not be countenanced for obvious reasons.

As the mere filing of the petition for relief of the investigator and his substitution by another did not operate to suspend the proceedings in the absence of a restraining order from the higher authorities, respondent should have submitted such further evidence as he cared to on the days fixed by the investigator, without prejudice to the outcome of his petition. Moreover, there was no assurance that his petition would be granted; in fact it was denied by the investigator and the Secretary of Justice. Furthermore, the investigator would not decide the case himself and whatever findings and recommendation he would make were not conclusive on, but subject to review by, both the Secretary of Justice and the President, who may adopt or reject the same. Under the attendant circumstances, I am satisfied that respondent was afforded full opportunity to present his defense and that he was given his day in court.

We now proceed to the disposition of the case on the merits.

Complainant testified that she called up respondent by telephone during the pendency in the latter's office of her criminal complaint for estafa against Gregorio Trinidad, Jr. The telephone conversation was tape-recorded so as to convince her lawyer that respondent had been trying to borrow money from her and was interested in the dismissal of the Trinidad case. The tape-recorded conversation with respondent, carried in Tagalog, confirms her claims. It transpired therein that respondent asked for a loan of ₱4,000 of 12 per cent interest, just as he had vainly sought a ₱1,000 loan from her before, and that he was interested in her dropping her case against young Trinidad. The tape-recorded conversation was as follows:

"Luz Santos.—Ito ba ang 81377? Nandiyan ho ba si Fiscal Salva?

Salva.—O.

L.—Fiscal Salva—si Luz.

S.—O, ano?

L.—Natatandaan mo ba yaong noon araw na nanghihiram ka ng isang libo . . .

S.—O.

L.—Alam mo natiempo mo lamang na talagang walang wala ako noon. "Hiyang hiya nga ako sa iyo eh. O, ngayon mayroon ka . . . mayroon ka pa bang kailangan ngayon? Mayroon kasi akong kaunting nasingil na pinagbilhan ng alahas. Baka kailangan mo pa.

S.—Marami ka palang pera. Mabuti pa ako na lang ang mag-punta sa iyo.

L.—Basta ikaw.

S.—O . . .

L.—Hintay, yaong bahay mo ay yari na ba?

S.—Oo, yari na naman talaga iyon, Luz.

L.—Eh, bakit . . . eh, bakit ba . . . kay yaman yaman mo eh nangañgailangan ka pa ba?

S.—Sabihin mo eh, mayabang.

L.—Lekat ikaw

S.—Hampas lupa pa.

L.—Bakit naman?

S.—A eh . . . talagang ganoon tayo.

L.—Wala akong pera, pero kung . . . pero kung kukulañgin ako, eh ihihiram kita sa tiya ko . . . kung gusto mo.

S.—Oo.

L.—Kung makukuha ko, anong oras mo kailangan . . .

S.—A . . . siguro bandahin alas once.

L.—Alas once?

S.—Oo.

L.—Sigurado?

S.—Mm . . . mm.

L.—Ay naku . . . paano ba ang mabuting punta diyan. Anong oras . . . mga eleven . . . baka maraming tao diyan?

S.—Maano.

L.—Kung maihiram ba kita nang tatlong libo sa tiya ko, tama na ba iyon . . . kung makakahiram lang?

S.—Anong gagawin ko sa tatlong libo?

L.—Eh, magkano ba ang kailangan mo . . . O, papaano . . . just in case na makakuha ako nang apat na libo . . . paano naman?

S.—Doce por ciento isang taon . . . that is legal.
 L.—Hintay muna. Tungkol naman doon sa case ni Gregorio Trinidad, Jr., sa estafa—talaga bang gusto mong idrop ko kahit wala pang hearing?
 S.—Oo.

L.—Alam mo . . . alam mo Fiscal Salva, eh dalawa . . . dalawa yaong case na sinasabi ko saiyo . . . dalawa yaong case ni Gregorio Trinidad, Jr., isang estafa at isang civil case. Bakit kung sakali bang idadrop yaon eh, just in case lang, kung sakali lang naman papayag ako, na kung sakaling papayag kang idadrop ko yaong case na iyon . . . yaong civil case ni Gregorio Trinidad, Jr. eh, kailangan ba ang pirma ko?
 S.—Mm . . . mm.

L.—Kailan mo naman akong gustong pumunta at . . . a . . . at saan naman tayo pupunta para madrop ang case . . . just in case lang pumayag ako?

S.—Bukas, sa Juzgado, pumarine ka.

L.—Anytime? Talaga ha . . .

S.—Mm.

L.—OK.”

Respondent in his letter to the Secretary of Justice dated September 9, 1958, which he later identified as his answer to the administrative complaint, admitted that he had a telephone conversation with the complainant who was able to engage him in a “joking conversation, un-mindful that at the end of the line (there was) a diabolical plot to frame me (him) up.” Respondent claimed that the tape-recording had been tampered with. He also tried to show by his witnesses that complainant is of bad moral character and that the complaint was merely the result of the prodding and machination of her counsel.

Upon a review of the evidence, I am satisfied that the charges against the respondent have been duly proven. I agree with the Secretary of Justice that from the tenor, language, and subject of the conversation, together with concomitant circumstances, respondent’s telephone conversation with complainant could not be a “joking conversation.” The inculpatory acts imputed to respondent of borrowing money from complainant and asking her to drop the criminal case are linked to a common subject, Gregorio Trinidad, Jr. The wealthy Trinidad family and respondent are good friends—indeed respondent is the family adviser.

I do not believe that the tape-recording has been tampered with just because the alleged initial conversation between complainant and respondent’s clerk does not appear. Moreover, the clerk’s testimony on the point is seriously doubted when the rest of his incredible testimony is scrutinized. Neither is the tape-recorded conversation incoherent and illogical to indicate possible tampering.

Respondent’s evidence to prove the bad moral character of the complainant cannot substantially affect the deter-

mination of the acts complained of. And it hardly matters if a bona fide complaint is made at the initiative of someone other than the offended party, as the purpose of an administrative investigation is to purge the public service of undesirable officials and employees. What matters is the truth or falsity of the complaint.

For a similar act of borrowing money from a party to a case, a justice of the peace was separated from the service (Administrative Order No. 328 dated April 2, 1960). Equally damaging is respondent's attempt to prevail upon complainant to drop her complaint for estafa then pending in his office.

Wherefore, and upon the recommendation of Secretary of Justice, Mr. Francisco G. H. Salva is hereby considered resigned as city attorney of Pasay City, effective as of the date of his preventive suspension.

Done in the City of Manila, this 18th day of December, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the sixteenth.

CARLOS P. GARCIA

President of the Philippines

By the President:

EDILBERTO B. GALLARES

Assistant Executive Secretary