# Malacañang
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 14

REMOVING MR. LUIS A. BACOSA FROM OFFICE AS JUSTICE OF THE PEACE OF CORON, PALAWAN.

Mr. Luis A. Bacosa, justice of the peace of Coron, Palawan, is charged in four administrative cases (Nos. 3, 4, 13 and 14) with gross ignorance of the law, incompetence, unethical practice, grave abuse of authority, illegal detention, threats, etc., allegedly committed in his present capacity and as acting justice of the peace of Busuanga, same province. The charges were investigated by the district judge.

Case No. 3.

This arose from Criminal Cases Nos. 31 and 32 of the justice of the peace court of Busuanga wherein Jose Libarra and Gonzalo Aranas were respectively accused of violating Section 2751 (c) of the Revised Administrative Code, as amended by Commonwealth Act No. 447, for destruction of public forests. On July 26, 1955, both accused pleaded guilty upon arraignment, and respondent rendered judgments verbally in open court sentencing each of them to one-month imprisonment, with fine and subsidiary imprisonment in case of insolvency, plus costs. Defendants were committed to the custody of the chief of police who entered that fact in his blotter, and they immediately began serving their sentence.

On August 2, 1955, respondent wrote the Municipal Mayor of Busuanga (Exh. E) that he had erred in deciding said cases because the defendants should have been penalized for destruction of timberlands under Section 2751 (a) of the Revised Administrative Code and sentenced to imprisonment for two months instead of one month as previously imposed in his verbal decisions. Attached to the letter were his amended decisions imposing two months' imprisonment on each defendant.

Respondent admitted the above facts but explained that he had to modify his decisions after discovering the error.

It is patent from the above that respondent acted illegally and showed gross ignorance of the law in amending his decisions in those criminal cases by increasing the penalties imposed on the accused after they had begun serving their sentence. Granting that there was a mistake in charging the offense and in imposing the penalties, respondent should have known the fundamental rule that a court cannot

Re Bacosa, Luis A.

alter or amend its decision in a criminal case after it has become final. Section 7 of Rule 116 of the Rules of Court is clear to the effect that a judgment of conviction may be modified or set aside only before the judgment has become final, and that a judgment in a criminal case becomes final when the sentence has been partially or totally served or satisfied.

Case No. 4.

Respondent is charged with incompetence and unethical practice arising from Civil Case No. 37 of his court in Coron. It appears that after the trial respondent rendered a decision (Exh. B) awarding a sum of money in favor of the plaintiff. The defendant discovered a gross mistake in the addition of items and moved for reconsideration (Exh. C) to correct the mistake. Realizing his mistake, respondent rendered another decision (Exh. D) but again committed another error in the addition of items to the prejudice of the plaintiff. The latter called respondent's attention, and the decision was finally corrected (Exh. E), this time awarding the sum of ₱149.43 in favor of the plaintiff.

There is no doubt that respondent was inexcusably negligent in preparing his decision in said civil case. With a little more care on his part, he could have avoided the mistakes and thus saved himself from the embarrassing position of having to admit his errors twice and to amend his decision as many times.

Regarding the charge of unethical practice, it appears that after the decision had become final, the respondent sent two notes (Exhs. G and H) in the same Civil Case No. 37. The first note was a request to the operations manager of the defendant company for a conference, and the second was a request to the attorney of the firm to see to it that the judgment was satisfied so as to avoid the issuance of a formal writ of execution. Both notes were in the nature of informal personal requests, not official communications. While the rule is that judges must never show any undue interest in cases tried by them, I see no appreciable breach of ethics nor partiality in respondent's actuation in the light of his explanation that his only purpose was to make it possible for the judgment to be satisfied without the necessity of issuing a formal writ of execution. At any rate, he should have avoided being misunderstood as evincing undue zeal in the satisfaction of his judgment.

Cases Nos. 13 and 14.

These two cases were the offshoot of a criminal case for usurpation filed in the justice of the peace court of Busuanga and tried by respondent as acting justice of the peace thereof.

The usurpation case was filed by the chief of police upon the complaint of Antonino Benobian against several persons (complainants in Adm. Case No. 13), claiming that the accused constructed their houses and a barrio club house in his land without his permission. All the accused posted property bond in the amount of ₱200 each for their temporary liberty. The case was called for trial on March 23, 1959, by the respondent who proposed amicable settlement and tried to convince the accused to pay the complaining witness a monthly rental of ₱1 for each lot occupied by them and a monthly rental of ₱10 for the area occupied by the club house. Because they did not want to recognize Benobian's ownership of the land, the accused refused to sign the proposed agreement, whereupon respondent became angry and exerted pressure upon the accused who steadfastly refused to sign the agreement.

On their way home they were overtaken by two policemen and were brought back to the municipal building at respondent's behest. They were confronted by the respondent in an ugly mood, branded as "hot-headed and communists" and jailed that night of March 23, 1959. As all the accused could not be accommodated in the municipal jail, some slept in the municipal building under guard. They were not given food and were released about eight o'clock in the morning of the following day.

These facts are fully established by the testimony of the complainants, Fernando Banotan, Constancio Abena, Cielito Escultor, Agustin Caballes and Ceferino Bitoy, and corroborated by the testimony of Francisco Agnes, Mariano Tamayo and Florencio Agnes.

Respondent did not testify in his defense but relied solely on the testimony of Chief of Police Gil Bacaltos of Busuanga who swore that the complainants were not jailed on the night of March 23, 1959, but voluntarily stayed in the municipal building because they did not have any other place in the town to stay that night. Respondent's theory, which he tried to establish through the declaration of the chief of police, was that when the parties in the criminal case failed to arrive at any compromise in the afternoon of March 23, 1959, he decided to continue the hearing of the case until the evening of that day but because he became indisposed and could not continue with the trial, the complainants who had no place to sleep that night voluntarily stayed in the municipal jail.

I agree with the investigating judge that the testimony of the chief of police is too flimsy and incredible to overthrow the clear and convincing testimony of the several complainants and their corroborating witnesses. The complainants testified that they have relatives and friends in the town where they could have spent the night and that they slept in the municipal jail against their will because respondent had ordered them detained.

The complaint of Tiburcio Barracoso in Administrative Case No. 14 stemmed from respondent's refusal to allow the former to appear as counsel for the accused in the criminal case for usurpation on the ground that Barracoso was not a lawyer. It was shown, however, that on several occasions respondent had allowed persons who were not lawyers to appear as counsel in his court. As a matter of fact, complainant Barracoso was one of them. Rule 127, Section 31, of the Rules of Court explicitly provides that "in the court of a justice of the peace a party may conduct his litigation in person, with the aid of an agent or friend appointed by him for that purpose, or with the aid of an attorney."

The established facts unerringly point to the conclusion that respondent, enraged by the stout refusal of the complainants to accede to his proposal for the settlement of the criminal case under his terms, ordered their arrest and detention in the municipal jail on the night of March 23, 1959, and even tried to deprive them of their right to legal assistance by disauthorizing Tiburcio Barracoso to appear for them during the trial.

Ours is a government of laws and not of men, and this principle should be observed with utmost zeal by officials who are privileged to sit in judgment over their fellow men, like respondent justice of the peace. Apart from ignoring this cardinal principle, the respondent has shown sheer incompetence and utter want of dedication to duty, inimical to the public service.

In view of all the foregoing, I am constrained to take drastic action against the respondent.

WHEREFORE, Mr. Luis A. Bacosa is hereby removed from office as justice of the peace of Coron, Palawan.

Done in the City of Manila, this 3rd day of April, in the year of Our Lord, nineteen hundred and sixty-two, and of the Independence of the Philippines, the sixteenth.

Carlos P. Garcia

By the President:

Amelito R. Mutuc
AMELITO R. MUTUC
Executive Secretary