

Office of the President  
of the Philippines

BY THE PRESIDENT OF THE PHILIPPINES  
ADMINISTRATIVE ORDER NO. 172

SUSPENDING MR. ISMAEL V. VILLAMOR FROM OFFICE AS MUNICIPAL  
JUDGE OF MAASIN, LEYTE.

Mr. Ismael V. Villamor, municipal judge of Maasin, Leyte, was charged with malfeasance in office under nine (9) specifications. The investigating Judge found respondent guilty of three specifications, but the Department of Justice found him guilty only of two.

Specification 1

Respondent was charged with abuse of authority for having caused the arraignment of the accused in Criminal Case No. R-433 for robbery without the presence of his attorneys and despite the express manifestation of the latter waiving the right of the accused to the second stage of the preliminary investigation and their prayer that the case be remanded to the Court of First Instance for trial on the merits.

In his defense, respondent maintains that he arraigned the accused in accordance with the provisions of Section 11, Rule 108, old Rules of Court, governing the second stage of preliminary investigation; that he advised the accused to secure counsel before the arraignment but that none appeared; and that the waiver of the second stage of the preliminary investigation by the accused did not carry with it waiver of the reading of the complaint and his arraignment.

Respondent's defense is untenable. The right to be heard during the second stage of a preliminary investigation is a personal right which may be waived any time. Respondent's duty after the accused had expressly waived the second stage of the preliminary investigation was to remand the case to the Court of First Instance. His actuations therefore in arraigning the accused notwithstanding his express waiver amounts to an abuse of authority. While it may be admitted that there might exist an honest divergence of opinion on the question as to whether respondent could proceed with the arraignment of the accused during the second stage of the preliminary investigation, nevertheless respondent's action in arraigning the accused in the absence of counsel is irregular. Respondent's defense that the court could not wait for the lawyers to arrive is untenable. As aptly observed by the

Secretary of Justice, "the right of the accused to be assisted by counsel is certainly more precious than the time spent by the court in waiting for the lawyers."

Specification 9

Respondent was charged with grave abuse of discretion and authority for having dismissed a criminal case for qualified theft of coconuts filed with his court, although the complaint was supported by affidavits sworn to before him and the investigation by a policeman showed that there existed a prima facie case against the accused to warrant preliminary investigation of the case.

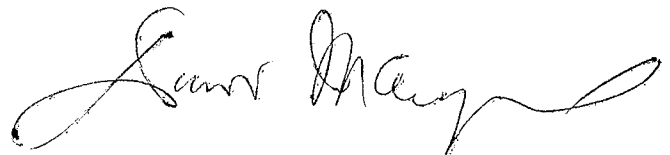
On the question of whether or not the act of respondent in dismissing the criminal complaint referred to in this specification was regular or proper, the investigating Judge and the Secretary of Justice sustained the negative side.

In the instant case, after respondent had already determined through a policeman that the nuts were gathered from a coconut tree inside the barbed-wire fence of the offended party, the claim of the accused that the coconut tree belonged to her was therefore false. There being opposite versions of complainant and accused, both being supported by affidavits and witnesses, the dismissal of the case solely on the basis of the testimony of the accused and her witness was irregular and improper. Respondent's reliance on the stand of the accused was therefore a mistake of judgment on his part.

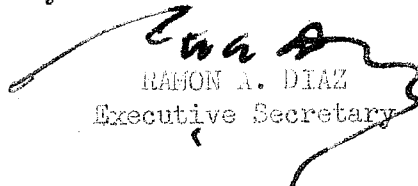
In view of the foregoing, I find respondent guilty of malfeasance in office, mitigated by the fact that there was no bad faith or malice in his actuations.

Wherefore, Mr. Ismael V. Villamor is hereby suspended from office as municipal judge of Masin, Leyte, for a period of one (1) month without pay, with a warning that repetition of similar irregularity will be dealt with more severely.

Done in the City of Manila, this 22nd day of December, in the year of Our Lord nineteen hundred and sixty-five.



By the President:



RAMON A. DIAZ  
Executive Secretary