

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 194

SUSPENDING MR. CIRIACO C. BARTE FROM OFFICE AS MUNICIPAL JUDGE  
OF BATO, LEYTE.

This is an administrative case filed by Mr. Luis Mendoza against Mr. Ciriaco C. Barte, Municipal Judge of Bato, Leyte, for falsification of daily time record, abuse of discretion, dishonesty and ignorance of the law and circular of the Department of Justice, consisting of nine (9) counts, which were formally investigated by Judge Bernardo Ll. Salas of the Court of First Instance of Leyte. Respondent is charged with having:

1. Falsified his daily time record by making it appear that he reported for duty on November 23, 1965, although he was absent;
2. Allowed himself to be a tool of politicians, and through the execution of false affidavits exerted a hand in the filing of Criminal Case No. R-566 for grave coercion against Mayor Justina K. Rosal and her son, with his wife as complainant, the affidavits supporting the said case never having been subscribed before the Municipal Judge of Matalom and respondent being the one who signed the warrant of arrest against the aforementioned Mayor and her son in violation of Rule 137 of the New Rules of Court;
3. Falsified his daily time record by making it appear that he reported for duty on October 23, 1965, from 8 A.M. to 12 noon;
4. Connived with Ex-Mayor Saturnino Aguilar by absentsing himself from office on October 23 and 25, 1965, resulting in the detention of the accused Leonardo Rubillos and Antonio Baldez (Criminal Case No. 559) because of the Mayor's refusal to qualify the bondsman, although Salvador Aguilar, brother of the mayor and complainant in the case, should have been the accused for having shot the accused with a .45 caliber pistol;

5. Been either ignorant of the law or having abused his discretion by issuing the order dated February 11, 1966, confiscating the bail bond of Antonio Baldez, the accused in Criminal Case No. R-559;
6. Illegally collected the amount of ₱4 for copies of the complaint and the affidavits in Criminal Cases Nos. 521 and 536, without any receipt from Demetrio Salabao, one of the accused in said cases;
7. Made a false statement in his decision in Criminal Case No. 518 entitled "People of the Philippines vs. Restituta Sudio et al." by stating therein that Paterno Torrente, one of the accused, testified during his trial although he never appeared in court;
8. Ordered the dismissal of the case entitled "People of the Philippines vs. Patrolman Francisco Julia" by making it appear that the complainant therein, Mrs. Justina K. Rosal, was no longer interested in prosecuting the case; and
9. Without due process abused his office by oppressing the spouses Caster and Fortunata Cillo to part with their property in connection with a loan obtained by them from respondent.

After a careful review of the records, I agree with the findings of the Secretary of Justice that counts 1, 2, 3, 4, 6, 7 and 8 should be dismissed for lack of merit, and that respondent is guilty under counts 5 and 9.

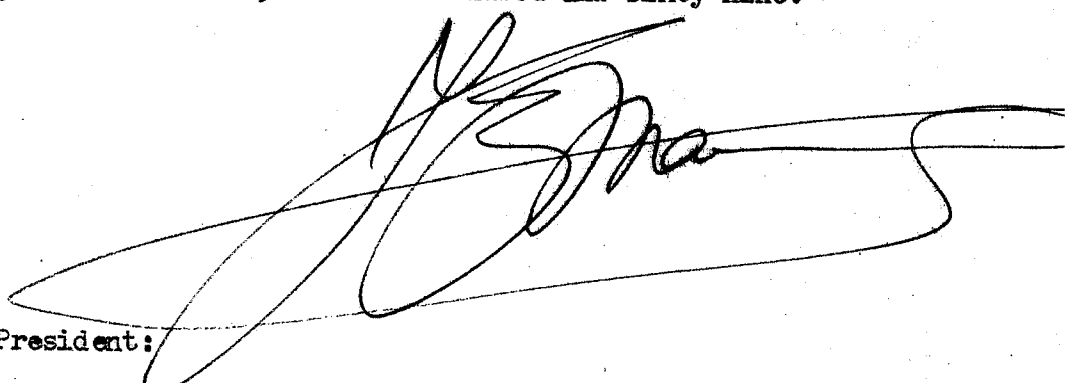
As to count 5, respondent judge is guilty of ignorance of the law for having ordered the confiscation of the bail bond of accused Antonio Baldez in Criminal Case No. 559 despite the fact that bondsman Justina K. Rosal was not duly notified of the hearing of said case. Respondent refused to lift his order of confiscation even after the bondsman had satisfactorily shown that she had not been notified thereof, as required by Section 15, Rule 114 of the New Rules of Court. The fact that accused Antonio Baldez was duly notified of said hearing and did not appear on trial does not make his bondsman liable because under the cited provisions of the New Rules of Court, whenever the appearance of an accused in a criminal case is required by the

court, it should notify his sureties to produce him in court on a given date. The law does not require personal notice to the accused (Reyes vs. Alto Surety & Insurance Co., Inc. CA, 51 O.G. 5711). The rule requiring notice to bondsman is mandatory and negates discretion.

With respect to count 9, the records show that the spouses Castor and Fortunata Cillo borrowed from respondent the amount of ₱60 with their land as collateral therefor; that due to their failure to pay the interests of the loan respondent caused them to execute on December 15, 1964, a promissory note for ₱100; that part of said loan was paid in the amount of ₱20; and that when the land was sold at public auction for ₱300 to Felisa Sanoria, respondent deducted therefrom ₱100 or an excess of ₱20 in satisfaction of his claim. Respondent's actuations in showing personal interest in the satisfaction of his claim from the proceeds of the auction sale, coupled with the fact that he failed to return the excess of ₱20 of such claim, constitutes improper conduct which is not in keeping with the high moral standards demanded of his office.

Wherefore, and upon the recommendation of the Secretary of Justice, Mr. Ciriaco C. Barte is hereby suspended from office as Municipal Judge of Bato, Leyte, for three (3) months without pay, effective upon receipt of a copy of this order, with a warning that repetition of similar acts will be dealt with more severely.

Done in the City of Manila, this 21st day of November ,  
in the year of Our Lord, nineteen hundred and sixty-nine.



By the President:



ERNESTO M. MACEDA  
Executive Secretary