

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 260

IMPOSING ON MUNICIPAL JUDGE BENJAMIN A. ORIBE OF BAYABAS, SURIGAO DEL SUR, A FINE EQUIVALENT TO ONE (1) MONTH'S PAY.

This is an administrative case filed by Juan M. Ordoña against Municipal Judge Benjamin A. Oribe of Bayabas, Surigao del Sur, for ignorance of the law, incompetence, misconduct and persecution. The case was formally investigated by District Judge Reynaldo P. Honrado of the Court of First Instance of Surigao del Sur.

The complainant alleges that on January 30, 1968, respondent judge received and docketed Criminal Case No. 97 for robbery against him, his tenant Lucio Pacheco and acting chief of police Crispin Larena of Bayabas, Surigao del Sur; that on the previous day (January 29), acting chief of police Crispin Larena had filed a criminal complaint for qualified theft against Narciso Orbeta and Cenas Talikig for taking coconuts from complainant's land and making them into copra; that complainant, accompanied by Lucio Pacheco and Crispin Larena, took the copra contained in two sacks from Narciso Orbeta and deposited them in the office of the chief of police; that respondent did not give due course to Larena's complaint, for which reason it was refiled by complainant on March 25, 1968; and that respondent dismissed the complaint on April 15, 1968.

In his answer filed with the investigating District Judge, respondent states that a warrant of arrest was issued against the three (3) accused in Criminal Case No. 97 after preliminary examination of complainant Narciso Orbeta and his witnesses; that the criminal complaint of Crispin Larena was filed on February 2, 1968, but was not accompanied with affidavits nor did Juan Ordoña or his witnesses appear, in view of which the same was not acted upon; that it was only on March 25, 1968, during the preliminary investigation of Criminal Case No. 97 that Juan Ordoña and Lucio Pacheco submitted their affidavits; and that after examining the witnesses he dismissed Larena's complaint in his order of April 15, 1968.

The investigating Judge finds that respondent not only failed to docket Larena's complaint but also failed to conduct the preliminary examination provided in Rule 112, Section 5, of the Revised Rules of Court, and that after dismissing the complaint he allowed complainant to take the records of the case. He therefore recommends that respondent be reprimanded and warned for his negligence.

During the investigation respondent admitted that on January 29, 1968, Crispin Larena, the acting chief of police, filed a criminal complaint for qualified theft against Narciso Orbeta and Cenas Talikig, together with the affidavits of complainant and Lucio Pacheco as witnesses; and that he did not give due course thereto because the witnesses were not present (t.s.n., pp. 60-62).

Narciso Orbeta, testifying as respondent's witness, also admitted that he filed his complaint for robbery although he saw in the municipal building the copra taken from him (t.s.n., p. 92); and that he had been previously convicted of theft of coconuts and of large cattle (t.s.n., pp. 92-93), as alleged in the criminal complaint filed against him.

It is thus shown by respondent's evidence that when Criminal Case No. 97 was filed before him on January 30, 1968, a criminal complaint for qualified theft had already been filed before him on the previous day by the acting chief of police, who was one of the accused in Criminal Case No. 97, against Narciso Orbeta, the complainant in said criminal case; and that had he conducted a preliminary investigation of the complaint for qualified theft, he would not have found sufficient prima facie evidence for the issuance of the warrant of arrest in Criminal Case No. 97.

The allegations in the criminal complaint for qualified theft and its supporting affidavits constituted a defense to the complaint for robbery in Criminal Case No. 97, since, according to the allegations, complainant, one of the accused therein, was the owner of the copra taken from Narciso Orbeta. The allegations should, therefore, have been inquired into by respondent at the preliminary investigation conducted by him in Criminal Case No. 97.


Although respondent personally examined Narciso Orbeta as the basis for the issuance of the warrant of arrest in Criminal Case No. 97, the facts elicited in the examination were the same as those stated in Orbeta's affidavit supporting the complaint. No reference was made to the allegations in the criminal complaint for qualified theft against Orbeta and the affidavit of complainant filed the previous day. Respondent thus failed in his duty to ask searching questions in his examination as required by Section 87 of the Judiciary Act.

Accordingly, respondent not only failed to act on the criminal complaint filed by acting police chief Larena, as required by law, but was also negligent in issuing the warrant of arrest in Criminal Case No. 97 without sufficient preliminary examination. For this reason, the recommendation of the District Judge-Investigator that respondent be reprimanded and warned is believed rather lenient.

Wherefore, and as recommended by the Secretary of Justice, respondent Municipal Judge Benjamin A. Oribe is hereby fined in an amount equivalent to one (1) month's pay and warned that a repetition of similar irregularities will be dealt with more severely.

Done in the City of Manila, this 12th day of December, in the year of Our Lord, nineteen hundred and seventy.

By the President,



ALEJANDRO MELCHOR
Executive Secretary