

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 328

CONSIDERING MR. BERNARDINO M. GUBATAN RESIGNED FROM OFFICE AS MUNICIPAL JUDGE OF MANGALDAN, PANGASINAN, AND IMPOSING A FINE ON MR. FELIPE M. VILLANUEVA, FORMER CITY JUDGE OF DAGUPAN CITY.

This is an administrative case filed against Municipal Judge Bernardino M. Gubatan of Mangaldan, Pangasinan, and City Judge Felipe M. Villanueva of Dagupan City, since retired, by Romeo Pa. Cabugao for allegedly conspiring in the illegal issuance of a warrant for his arrest in Criminal Case No. 855 (for robbery), which led to his apprehension and detention in the Dagupan City jail, after he and two (2) others implemented a writ of execution issued by the City Court of Manila in Civil Case No. 129825, entitled "Shriro (Phil.) Inc. vs. Joseph Patalinghug et al." The case was formally investigated by District Judge Sixto A. Domondon of the Court of First Instance of Pangasinan.

The evidence adduced at the investigation conducted by the District Judge-Investigator shows that in the late afternoon of December 29, 1969, which was a holiday, Angelita Patalinghug and her witness Roberto Patalinghug went to the police department of Dagupan City to file a criminal complaint for robbery against herein complainant and his companions for having allegedly taken from her residence and during her absence some articles consisting of jewelry and watches amounting to ₱13,500 in the course of their carrying out the writ of execution.

Upon overhearing the complaint of the offended party and finding that City Judge Villanueva was not in his office, respondent Gubatan administered the oaths in the complaint and its supporting affidavits executed by the offended party and her witness and conducted the preliminary investigation by taking their statements which were also subscribed and sworn to before him. He then prepared an order and signed the same as "Judge" of the City Court which reads:

"Acting on the complaint filed by the complainant; It appearing that upon verification the City Mayor is out of town and the incumbent City Judge is residing in a far away place; It appearing further that the offense charged is so serious as it does the violation of the civil liberties of the citizens and, therefore, requires prompt action, and

Bernardino M. Gubatan

"Believing that inaction will be prejudicial to public interest while action will cause no injury to any third person much less the accused herein; neither will it cause harm in the administration of justice;

"The undersigned deems it appropriate to accept the complaint and the issuance of the warrant of arrest for the apprehension of the accused subject to the Hon. Judge Felipe Villanueva's further action including the trial of the case on the merits."

Respondent Gubatan also filled out a mimeograph form of a warrant of arrest for the signature of respondent Villanueva. The warrant and the pertinent papers of the case were brought by respondent Gubatan accompanied by the city clerk of court and Angelita and Roberto Patalinghug to the house of respondent Villanueva in San Carlos City, arriving there around seven o'clock in the evening. After being briefed on the case by Gubatan who assured him that everything was regular, Villanueva verified the existence of probable cause for the criminal complaint by asking under oath Angelita and Roberto Patalinghug the same questions contained in their statements taken by the former. He thereupon signed the warrant of arrest and handed the same to his clerk.

After everybody had left, Villanueva began to doubt Gubatan's authority to act on the case and despite the late hour he went to the San Carlos City Hall and tried to contact by telephone the chief of police of Dagupan City to advise him not to serve the warrant of arrest. Failing in his attempt, Villanueva returned to his house and prepared the following draft of recall order:

"After going all over again the records of this case, this Court entertains doubts as to the propriety of the warrant of arrest previously issued by this Court.

"WHEREFORE, the warrant of arrest previously issued by this Court is hereby re-called, subject to further investigation by this Court."

Early the following morning (Dec. 30, 1969), Villanueva arrived at Dagupan City and told Gubatan about his misgivings on the regularity of the latter's action in the robbery case.

He then proceeded to the city jail and upon being informed that complainant was arrested at 10:45 p.m. of the previous night and thereafter brought by the chief of police to his house, he went to see the latter and asked him to release complainant on the strength of his draft of order recalling the warrant of arrest he had signed, but the police chief refused and told him that the damage had already been done. Villanueva then returned to the city hall and finalized his order recalling the warrant of arrest and served it on the city jailer at 7:10 of that morning. Complainant was then released around 9 A.M.

On January 2, 1970, Villanueva issued another order setting aside the proceedings and designating the city fiscal to conduct the preliminary investigation. On May 11, 1970, the city fiscal filed a motion to dismiss the case for insufficiency of evidence, which was granted by the respondent in an order of the same date.

The District Judge-Investigator found that respondent Gubatan acted without authority as judge of the Dagupan City Court in accepting the complaint after conducting the preliminary examination of the offended party and her witness in Criminal Case No. 855; and that respondent Villanueva acted with prudence and in utter good faith and with dispatch in issuing and signing the warrant of arrest and without any bad faith or malice whatsoever in the issuance thereof.

The Secretary of Justice, while concurring in the findings against Gubatan, observes that Villanueva issued the warrant in question outside the territorial jurisdiction of his court and at night during a holiday and that there was no urgent need for the immediate service thereof as brought out in the preliminary examination of the offended party and her witness. The difficulty encountered by Villanueva in effecting the release of the herein complainant was thus a direct result of the unusual place and time for the issuance of the warrant of arrest.

However, the Secretary points out that the irregularity in the issuance of the warrant was mitigated by the frantic efforts of Villanueva to recall it after its issuance and by his cancellation thereof on the following day. The Secretary likewise states that respondent is no longer in the service on account of his having reached the age of compulsory retirement on April 24, 1971. He recommends that both be considered resigned, with prejudice to retirement benefits in the case of Gubatan. Later, the recommendation for Villanueva was modified by adding "without prejudice to retirement benefits."

After a careful review of the case, I agree with the Secretary of Justice that respondent Gubatan is guilty as charged. I am therefore constrained to take drastic action against him. As regards respondent Villanueva, I believe that he may be accorded some measure of leniency, in view of the above attendant circumstances in his favor, coupled with the absence of any proof that he was actuated by malice or bad faith in the issuance of the warrant in question, apart from his having been already compulsorily retired from the service.

In view of the foregoing, Mr. Bernardino M. Gubatan is hereby considered resigned from office as Municipal Judge of Mangaldan, Pangasinan, effective upon receipt of a copy of this decision, while Mr. Felipe M. Villanueva, former City Judge of Dagupan City, is fined in an amount equivalent to two (2) months' pay.

Done in the City of Manila, this 22nd day of May, in the year of Our Lord, nineteen hundred and seventy-two.

By the President:


ALEJANDRO MELCHOR
Executive Secretary