

MALACAÑANG
MANILA

ADMINISTRATIVE ORDER NO. 31

SUSPENDING ATTY. NINI CRUZ-ALCALA FROM OFFICE AS
SECOND ASSISTANT CITY PROSECUTOR OF OLONGAPO CITY

This pertains to the administrative complaint filed by Atty. Ernesto A. Gonzales, Jr., against respondent Nini Cruz-Alcala, Second Assistant City Prosecutor of Olongapo City, for alleged manifest partiality and undue delay in the resolution of criminal complaints filed by herein complainant's client, Ricky Pulido, before the Office of the City Prosecutor, Olongapo City.

It appears that the instant administrative case arose from the dismissal of the criminal complaints against Atty. Lourdes I. De Dios for Grave Coercion, which were docketed as I.S. Nos. 89-309 and 89-388.

In his letter-complaint of March 7, 1990, complainant alleged that respondent connived with Atty. De Dios in exerting undue influence and intimidation upon Ricky Pulido to execute an Affidavit of Desistance that resulted to the dismissal of the aforementioned criminal complaints.

Complainant averred that respondent exhibited manifest partiality in dismissing said criminal complaints, since Atty. De Dios was her close friend. Complainant also maintained that respondent disregarded the established office procedure in administering the oath on the Affidavit of Desistance. Further, he charged respondent with undue delay in the resolution of said criminal cases.

Respondent denied the charges against her. Respondent alleged, among other things, that she has always been impartial in discharging the functions of her office; that she never intimidated Ricky Pulido to execute an Affidavit of Desistance in connection with the aforementioned criminal complaints; and that Ricky Pulido was apprised of the consequences of his act before he voluntarily executed said affidavit.

With regard to the charge of undue delay in resolving the cases, she attributes the same to her work load, as she performs a number of official capacities.

After a formal investigation, the Secretary of Justice, in his letter to this Office, dated May 16, 1991, made the following observations and recommendations:

"Before us are two (2) issues: First, whether or not the respondent committed manifest partiality, thereby giving undue advantage to the client of her friend, Atty. Lourdes I. De Dios; and Second, whether or not there was undue delay in the resolution of I.S. Nos. 89-309 and 89-388 constitutive of a violation of Department Circular No. 27, series of 1988.

"After a thorough examination of the record, we find that the charge of manifest partiality had not been sufficiently substantiated nor satisfactorily proven. The complainant failed to show by convincing evidence that the respondent had exerted undue influence on Ricky Pulido in the execution of his Affidavit of Desistance. It would have been expedient on complainant's part to present Ricky Pulido himself to testify and attest to the alleged undue influence or intimidation, however, he did not do so. Such omission was fatal to his cause. Instead, complainant relied on evidence which are mainly hearsay and speculative, not having been personally present during the occurrence of the transaction under consideration. Neither does the fact what Ricky Pulido received by virtue of his Affidavit of Desistance was much less than what is claimed to be the 'true' value of the properties (sic), absent evidence [of the] value of the properties, absent evidence to conclusively show the exact value thereof, prove that an advantage was unduly accorded to Atty. Lourdes I. De Dios by virtue of the respondent's actuations. Furthermore, there is no known rule of procedure or office regulation which would require that a document has to be notarized by a private lawyer prior to an acknowledgment or confirmation before a prosecutor or officer authorized to administer oath. The alleged 'established office procedure' does not exist in fact and in law.

"Parenthetically, however, we believe that the more prudent course of action which the respondent should have observed was to voluntarily inhibit herself from resolving the cases (I.S. Nos. 89-309 and 89-388) on the ground that one of the counsels involved in the same was her close, personal friend. Public officials are indubitably enjoined to observe a certain degree of ethical standard not unlike that of Caesar's wife who must be above reproach and approach, but must also be perceived to be such.

"With respect to the issue of undue delay, we find that the respondent is, indeed, liable therefor. The respondent, in her testimony, admitted that the cases had not been resolved from the time these were assigned to her up to and until 16 February 1990 (TSN, p. 15, 08 August 1990). A period of eight (8) months had, therefore, lapsed before the cases were finally acted

