

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES


ADMINISTRATIVE ORDER NO. 477

IMPOSING ON ASSISTANT CITY FISCAL RICARDO P. ESCUETA OF QUEZON CITY A FINE EQUIVALENT TO FOUR (4) MONTHS' PAY.

This is an administrative complaint initiated by Vidal Amojelar against Assistant City Fiscal Ricardo P. Escueta of Quezon City for alleged notorious and disgraceful conduct in connection with the preliminary investigation of I.S. Nos. 14108-70 and 484-71, which were then pending before the latter.

Complainant alleged that respondent, in conducting said preliminary investigation committed the following: (1) respondent had set a date for preliminary investigation with notice to both parties, but conducted the same ahead of the scheduled date of hearing; (2) respondent falsified a public document by representing that both parties failed to appear on the scheduled date of investigation when in truth the scheduled date was moved ahead without notifying both parties; (3) complainant was not furnished a copy of respondent's resolution; (4) respondent indiscriminately granted postponements at the instances of the adverse party despite the vigorous objections of the complainant; (5) respondent filed an information for acts of lasciviousness against complainant without conducting a preliminary investigation; (6) respondent incited the adverse party to file a complaint for acts of lasciviousness against complainant; (7) respondent was partial to the adverse party and had interest in railroading the case against complainant and (8) respondent exercised his discretion in an abusive and vindictive manner.

After the formal investigation of the complaint, respondent was found guilty of serious violation of Circular No. 61 of the Department of Justice, dated September 9, 1970, for having failed to furnish the complainant or his counsel copies of his resolution in connection with the preliminary investigation conducted by him on the criminal cases filed by the parties against each other. He was also found guilty of having (1) failed to resolve a motion to dismiss filed by Amojelar's counsel seeking the dismissal of the charges of trespass to dwelling and attempted rape, (2) dropped the trespass to dwelling charge without making any resolution and (3) dropped the attempted rape charge and filed instead a complaint for acts of lasciviousness without resolution.



When the instant case was being reviewed by this Office, it received: (1) an affidavit dated November 26, 1974, of respondent's clerk-secretary, Antonio C. Mendoza, declaring, among other things, that "all the cases assigned to Fiscal Escueta are covered by and accompanied with resolution as it is a routine procedure in the Fiscal's Office of Quezon City without which the information will be returned to the fiscal concerned for the execution of the necessary resolution"; (2) a certification dated November 27, 1974, of then Quezon City Fiscal Justiniano P. Cortez to the effect that "pursuant to Circular No. 61 dated September 9, 1970, of the Department of Justice, reiterated in a circular of Chief State Prosecutor Rodolfo A. Nocon dated September 12, 1973, fiscals have been enjoined to prepare and submit sufficient copies of their resolutions on the cases the investigation of which have been terminated as the parties thereto may be furnished with copies thereof"; (3) the affidavit of complainant Fulgencia Partida in I.S. Nos. 14108-70 and 484-71 dated December 4, 1974, purporting to confirm respondent's issuance of two resolutions dismissing the counter-complaint filed by Vidal Amojelar whom she charged with attempted rape, trespass to dwelling, threats and malicious mischief, and filing the complaint for acts of lasciviousness while dropping her other charge for trespass to dwelling, respectively, and further acknowledging her receipt of the corresponding resolution.

The affidavits of Antonio C. Mendoza and Fulgencia Partida as well as the certification of City Fiscal Cortez were referred to then Secretary of Justice Vicente Abad Santos for the latter to conduct a reinvestigation in the light of the three documents.

The Secretary of Justice, however, found no justification to warrant a reinvestigation, and returned the papers to this Office with the following comment:

"It is easy to see that the affidavit of Antonio C. Mendoza and the certification of City Fiscal Cortez do not at all meet the issue raised in this case against respondent fiscal, which is respondent fiscal's failure to furnish the complainant or his counsel a copy of the resolution on the preliminary investigation conducted by him in the criminal cases filed by the parties therein. Fulgencia Partida's statement that herein complainant Amojelar must be

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'lying when he said that he did not receive a copy of that resolution because I received mine', is equally extraneous to the issue raised, for the only thing this statement proves is that she did receive a copy of the resolution, if such be the fact, but it does not necessarily prove that respondent fiscal likewise furnished herein complainant or his counsel a copy of the resolution in question or that the latter did actually receive a copy of that resolution."

After serious deliberation, I can not contemplate of any sufficient justification to deviate from the finding of Secretary Abad Santos. Indeed, evidence has amply established the serious violations by respondent of the aforementioned Circular No. 61 which he is sworn to strictly follow.

WHEREFORE, Assistant City Fiscal Ricardo P. Escueta of Quezon City is hereby fined in an amount equivalent to four (4) months' salary effective upon receipt of a copy of this Order. He is also warned that repetition of the same or similar offenses will be dealt with more severely.

Done in the City of Manila, this 30th day of January, in the year of Our Lord, nineteen hundred and eighty-four.

  
President of the Philippines

By the President:

  
MANUEL M. LAZARO

Presidential Assistant for Legal Affairs