MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 146

MODIFYING ADMINISTRATIVE ORDER NO. 107-A DATED MARCH 5, 1955, BY CONSIDERING AS RESIGNED JUSTICE OF THE PEACE RIZAL S. KATALBAS OF SAGAY, NEGROS OCCIDENTAL.

Under Administrative Order No. 107-A dated March 5, 1955, Justice of the Peace Rizal S. Katalbas of Sagay, Negros Occidental, was removed from office for deciding the case of a relative. He now seeks reconsideration of said order, contending (1) that Section 1, Rule 126 of the Rules of Court is not mandatory but directory; (2) that his decision in the case was correct; (3) that neither the defendant nor his counsel objected to his taking cognizance of the case; and (4) that if he erred he did so on a fairly debatable question of law.

To support his contention that Section 1 of Rule 126 of the Rules of Court is not mandatory, the petitioner quoted portions of the opinion of the late Justice Perfecto in People vs. Lopez, 73 Phil. 286. According to the opinion, a judge may disregard the disqualification declared in said provision. It is at best doubtful, however, whether such a statement can be considered more than the individual opinion of its author. In the first place, that case was decided under a provision of the Rules of Court governing the case where the members participating in the decision were equally divided in opinion. Since the case was not actually decided by the Court, none of the individual opinions of its members could be said to represent the opinion of the Court.

Moreover, Justice Perfecto's opinion was predicated on a misapprehension of the actual facts of the case. In that case the disqualification of Judge Lopez of the defunct People's Court was sought on the ground that he was biased in favor of the defendants therein. Rule 126 was therefore not applicable.

Contrary to the petitioner's contention, the actual weight of authority is that it was his duty to disqualify himself, knowing of his relationship to the plaintiff (Canon 12, Canons of Judicial Ethics; People vs. Moreno, 46 O.G. [Oct. 1950], p. 4866; 33 C.J. 1012); and that his failure to disqualify himself adversely affected his fitness for office in a manner justifying disciplinary action against him (33 C.J. 945).

Respondent-petitioner's violation of duty being clear, it is no defense that his decision in the case was correct or that no objection was made to his trying it. These circumstances may be considered only in mitigation of the offense, as is the fact that, as now contended by him, he committed an error in good faith.

Wherefore, and upon the recommendation of the Secretary of Justice, Administrative Order No. 107-A dated March 5, 1955, is hereby modified by considering Mr. Rizal S. Katalbas resigned from office as justice of the peace of Sagay, Negros Occidental, without prejudice to whatever benefits and gratuities he may be entitled to under the law.

Done in the City of Manila, this 14th day of October, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the tenth.

By the President:

FRED RUIZ CASTRO
Executive Secretary