

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 79

SUSPENDING MR. CARLO H. LOZADA FROM OFFICE AS FIRST ASSISTANT
PROVINCIAL FISCAL OF SURIGAO DEL NORTE.

This is an administrative proceeding instituted by Mrs. Maria M. Sorongon and others against First Assistant Provincial Fiscal Carlo H. Lozada of Surigao del Norte for ignorance of the law and oppression arising out of respondent's actuation in filing an information against complainant Sorongon for violation of the Revised Election Code with the municipal court of Mainit, Surigao del Norte.

The record shows that on election day, November 9, 1965, respondent filed with the municipal court of Mainit, Surigao del Norte, an information charging the main complainant, Maria M. Sorongon, with violation of Section 49 of the Revised Election Code for allegedly trying, the day before, to buy the vote of one Leonido Balasabas; that Municipal Judge Desiderio Custodio forthwith issued a warrant of arrest; that on the same day, upon the filing of a bail bond fixed by the court, complainant Sorongon was released from custody.

On December 3, 1965, Provincial Fiscal Bernardo Salas requested the chief of police of Mainit to move for the provisional dismissal of the case against herein complainant for the purpose of re-evaluating the same, and further, that the court records be forwarded to the Office of the Provincial Fiscal. By virtue of a motion to dismiss filed on December 9, 1965, by the chief of police, the municipal judge, on December 14, 1965, dismissed the case without prejudice, notwithstanding complainant's opposition thereto. Up to the present time no information has yet been filed by the provincial fiscal against complainant before the proper court.

Respondent does not dispute the aforestated facts but, by way of defense, claims good faith in filing the election case with the municipal court believing that said court had jurisdiction to conduct the preliminary investigation thereof; and he denies any intention to harass or oppress complainant.

Section 187 of the Revised Election Code, in unmistakable and unequivocal terms, provides that "the court of first instance shall have exclusive criminal jurisdiction to make

preliminary investigation, issue the warrant of arrest and try and decide any criminal action or proceeding for violation of this Code." Had respondent merely perused the law before hastily filing the information, he would certainly not have been misled in filing the case before the municipal court. His ignorance of the law therefore becomes apparent, for the aforementioned Section 187 is explicit that in all criminal proceedings for violation of the Revised Election Code, the proper court of first instance shall have exclusive jurisdiction.

Concerning respondent's defense that he had no intention to harass or oppress Mrs. Sorongon, the facts brought out during the investigation show that:

(a) The information was filed on election day, a holiday, and a warrant of arrest was immediately issued and the accused was released only after posting a bail bond.

(b) Complainant declared that respondent "filed the case against me /complainant/ because I belong to the Nacionalista Party and he belongs to the Liberal Party. In fact Fiscal Lozada was campaigning for the Liberal Party."

(c) The allegation regarding party affiliation -- or partisan leaning, to say the least -- is not denied by respondent but impliedly admitted in his memorandum wherein he stated that the complaint against him is "clearly politically motivated"; and respondent then proceeded to show that complainants Maria Sorongon, Ben Mordeno, Antonio Mozar, Cain Bahagan, Alfredo Patiño and Leodegario de la Costa are "all leaders of the Nacionalista Party in the Municipality of Mainit" and that Mordeno was the opponent of his (respondent's) brother-in-law, incumbent Mayor Jose Mondano, while Antonio Mozar was once the political opponent of his late father for the position of mayor.

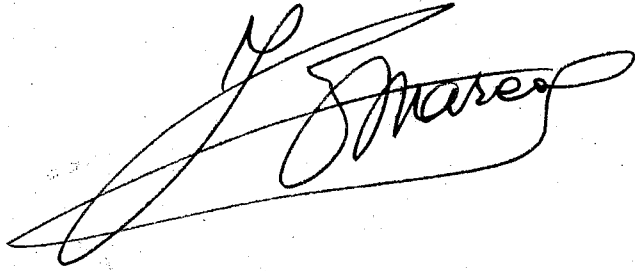
From the attendant facts and circumstances I am convinced that respondent's act was tainted with partisan politics.

Upon the foregoing, respondent is found guilty of improper conduct in disregarding the provisions of Section 187 of the Revised Election Code and of oppression and harassment.

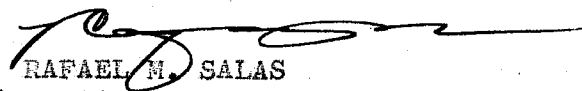
Wherefore, and upon the recommendation of the Undersecretary of Justice, Mr. Carlo H. Lozada is hereby

suspended from office as first assistant provincial fiscal of Surigao del Norte, for a period of one (1) year, without pay, effective upon receipt of a copy of this order, with a stern warning that repetition of similar act will be dealt with more severely.

Done in the City of Manila, this 14th day of August, in the year of Our Lord, nineteen hundred and sixty-seven.



By the President:



RAFAEL M. SALAS
Executive Secretary