

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 191

REMOVING MR. CEZAR ZAYAS FROM OFFICE AS MUNICIPAL JUDGE OF  
LUGAIT, MISAMIS ORIENTAL.

This is an administrative case against Municipal Judge Cezar Zayas of Lugait, Misamis Oriental, filed by Provincial Fiscal Maximo G. Rodriguez of the same province for dishonesty, oppression, notoriously disgraceful conduct in office and incompetence. The case was formally investigated by District Judge Eduardo de G. Montenegro of the Court of First Instance of Misamis Oriental.

The complaint alleges that in the evening (8 p.m.) of December 28, 1967, respondent judge, in connivance with a certain BIR agent, Mario Edmilao, and an unidentified person from the NBI office in Iligan City, and with criminal intent to extort ₱2,000 from Lu Suy alias Sulpicio Lim, a Chinese national, commanded Patrolman Cleto Namatay of the Lugait police force to bring him to his house; that when the Chinese arrived in respondent's house, the person who introduced himself as an NBI agent demanded, in the presence of respondent and BIR agent Edmilao, that he give the amount of ₱2,000 previously asked from him by NBI agent Servillano Mamauag Jr. of the Iligan NBI sub-office as consideration for the dropping of a projected criminal case against him for illegal use of an alias; and that Lu Suy did not accede to the demand but was, however, compelled by Agent Edmilao to pay ₱20 for the hire of a car used by said NBI agent and Edmilao from Iligan City to Lugait.

On the following day (December 29, 1967), respondent caused the filing of Criminal Case No. 166 (for using unregistered alias name) against Lu Suy after he and his co-conspirators failed to extort ₱2,000 from him on the mere strength of Edmilao's affidavit subscribed and sworn to before NBI agent Mamauag Jr. on December 6, 1967, without first conducting searching questions and answers of the witnesses as required by Section 89 of the Judiciary Act of 1948, as amended by Republic Act No. 3828, and upon realizing his mistake respondent corrected the error by requiring the same witness (Mario Edmilao) to execute another affidavit on January 3, 1968, or five (5) days after the complaint was filed.

*cc - Cezar, Cesar*

Respondent then docketed the criminal complaint against Lu Suy in bad faith and in gross ignorance of the provisions of Commonwealth Act No. 142, otherwise known as the Anti-Alias Law, and in disregard of the decision of the Supreme Court in People vs. Uy Jui Po (G.R. No. L-11489, Dec. 23, 1957) because the allegations in the complaint do not constitute the offense as defined and penalized by said Act.

After going over the records of the case, I agree with the findings of the Investigating Judge and the Secretary of Justice that respondent's alleged connivance with BIR agent Edmilao and the unnamed NBI agent to extort ₱2,000 from Lu Suy has not been substantiated, it appearing that the attempted extortion was made at the Iligan NBI sub-office where the respondent was not present nor had any participation therein whatsoever. In connection with the amount of ₱20 for the hire of the PU car, it appears that Edmilao asked for it when Lu Suy, the NBI agent and himself were already out of respondent's house.

The charge that respondent caused the filing of Criminal Case No. 166 (for using an unregistered alien name) against Lu Suy based mainly on the affidavit of his alleged co-conspirator, BIR agent Edmilao, is without merit. The record of said case (Exh. B) reveals that respondent on January 3, 1968, actually examined NBI agent Mamauag Jr., the municipal treasurer of Lugait and BIR agent Edmilao, as reflected in question and answer form, the authenticity of which was not impugned by complainant.

Equally groundless is the charge that in filing the case against Lu Suy for violation of the anti-alias law, respondent acted in ignorance of the provisions of Commonwealth Act No. 142 and the Supreme Court ruling in People vs. Uy Jui Po. As aptly stated by the Secretary of Justice, the mere act of a judge of entertaining and docketing complaints which, after evidence is adduced, are found not to allege an offense, is not censurable.

However, the records show that respondent knew as early as December 22, 1967, when the complaint against Lu Suy for unlawful use of an alias name was first presented to him, or at the latest on December 27 of the same year when said complaint was actually received by him, that Agent Edmilao was a principal state witness, as the latter's affidavit was attached to said complaint; that when Edmilao and an unnamed NBI agent went to respondent's house in the evening of December 28, 1967, respondent should have known that said persons were not there for any good or plausible reason; that in summoning Lu Suy to his

house on that same evening of December 28, 1967, respondent provided the occasion for Edmilao and the NBI agent to give meaningful threats to Lu Suy to come across, otherwise the complaint against the latter would be filed; that respondent's conduct in allowing his house to be the scene of a "shakedown" (despite absence of proof of a conspiracy) is one not expected of a member of the Bench; and that respondent's actuation on December 29, 1967, of docketing the complaint against Lu Suy following the meeting in his house where Lu Suy refused to give in to the importunings of his tormentors and the issuance of a warrant for Lu Suy's arrest on January 3, 1968, shows that he had wittingly or unwittingly allowed his office to be used to further an evil plan devised by other public officers as a réprisal for Lu Suy's recalcitrance.

It is therefore clear that respondent's actuations are wanting in the proper observance of the norm of conduct expected of a member of the Bench. While there is no clear evidence that he was privy to the conspiracy to extort money from Lu Suy, respondent should have foreseen or at least suspected when he called Lu Suy to his house that Edmilao and the NBI agent were planning, as they did, to harass and threaten the alien. His failure to do so constitutes gross indiscretion and injudicious conduct tantamount to improper performance of his official duties. His conduct is considered a transgression of the Canons of Judicial Ethics, which provide:


"A Judge's official conduct should be free from the appearance of impropriety, and his personal behaviour, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach." (Canon 5.)

Although the Secretary of Justice recommends six months' suspension without pay, I believe respondent deserves a stiffer penalty.

Therefore, Mr. Cezar Zayas is hereby removed from office as Municipal Judge of Lugait, Misamis Oriental, effective upon receipt of a copy of this order.

Done in the City of Manila, this 18th day of November, in the year of Our Lord, nineteen hundred and sixty-nine

By the President:

  
ERNESTO M. MACEDA  
Executive Secretary