

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 163

SUSPENDING MR. PEDRO F. FORMILLEZA, MUNICIPAL JUDGE OF SAN ANDRES,
ROMBLON.

This is an administrative case against Mr. Pedro F. Formilleza, municipal judge of San Andres (formerly Despujols), Romblon, on charges filed by Messrs. Catalino Gamo and Domingo Merez, as follows:

(1) That as acting justice of the peace of San Agustin, Romblon, the respondent allowed a private prosecutor to participate in the proceedings in Criminal Case No. 589 despite the filing of a separate civil action based on the offense complained of;

(2) That he ordered the arrest of herein complainants as accused in Criminal Cases Nos. 1671 and 1672 for failure to appear at the trial, complainant Gamo being thereby confined in jail for six hours;

(3) That in Criminal Case No. 1672 against herein complainants for malicious mischief, respondent rendered a judgment of conviction after inspecting the premises where the alleged offense was committed without notice to the accused or their counsel;

(4) That respondent does not reside in his official station; and

(5) That he is ignorant of the English language which renders him unfit for the office he holds.

Respondent filed a motion to dismiss the complaint, but upon its denial by the District Judge he submitted the case for judgment on the pleadings.

As regards the first charge, respondent admitted having allowed a private prosecutor to appear in the trial of the specified criminal case despite the presentation of a separate civil action arising from the same offense. However, he alleged good faith in that the defense being represented by counsel and the prosecution by the chief of police, he deemed it in the interest of justice to allow a lawyer also to appear for the prosecution.

abc Formilleza, Pedro F.

Respondent's explanation is not satisfactory. The rule is well settled that if the offended party has filed a separate court action or has waived it, he loses his right to intervene, personally or by attorney, in the prosecution of the criminal case. However, respondent's fault is mitigated by the fact that he appears to have acted in good faith, as he wanted the prosecution to be also assisted by a lawyer like the defense.

As to the second charge, the evidence shows that complainants herein, who were the accused in Criminal Cases Nos. 1671 and 1672 of respondent's court, failed to appear on the date set for the trial despite previous due notice. Respondent was therefore justified in ordering the cancellation of their bonds and their arrest upon failure to file new bonds or to have the forfeiture order reconsidered. He may not be said to have acted illegally in ordering the confinement of complainant Gamo, especially considering that the former ordered the latter's release after a few hours.

Regarding the third charge, it appears that he conducted an ocular inspection of the premises in Criminal Case No. 1672 without notifying the accused. Such inspection was a part of the trial, as evidence was thereby received. However, the error did not prejudice the accused, since the decision was based on the testimony of the prosecution witnesses.

The fourth charge is without merit. There is no law or regulation requiring a municipal judge to reside in his official station. Besides, respondent's official station, San Andres, is adjacent to his residence in Despujols, and it has not been alleged or proved that he was not holding office hours as required by law and regulations.

Respondent's inadequate and poor command of the English language, subject of the last charge, is reflected in his order issued in Criminal Case No. 589 on October 24, 1960, reproduced below:

"O R D E R

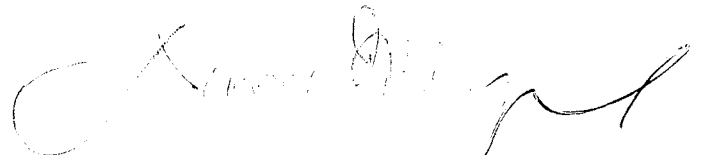
"A motion for reconsideration was filed with this Court to the effect for the appearance of a private prosecutor be disqualified and that he cannot act as such for the alleged offended party filed a separate Civil Action in the Court of First Instance. The reasons stated therein were not sound and just within the premises and an answer for reconsideration was filed with this Court for reasons stated therein which were just and reasonable this Court denies again the motion for reconsideration being the

civil action independent from the criminal action and having the offended party right to a private prosecution, the appearance of said prosecutor is legal and permitted by the law and this case is set for hearing on October 31, 1960, at 8:00 a.m.

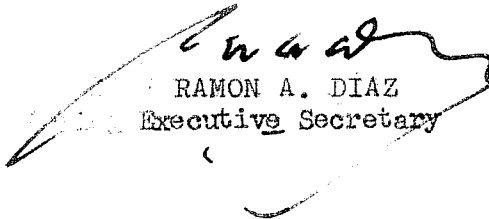
"SO ORDERED."

WHEREFORE, and upon the recommendation of the Secretary of Justice, Judge Pedro F. Formilleza is hereby suspended from office for a period of three (3) months without pay effective upon receipt of a copy hereof, admonished to improve his command of the English language and warned that repetition of similar mistakes will be dealt with more severely.

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



By the President:



RAMON A. DIAZ
Executive Secretary