

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 185

SUSPENDING MR. MANUEL JAVELONA FROM OFFICE AS JUDGE OF BAGO CITY.

This is an administrative case against City Judge Manuel Javelona of Bago City filed by Avelina Limson. It arose from Criminal Case No. 729 of the Municipal Court of Pulupandan, Negros Occidental, decided by the respondent while acting as municipal judge of said court in the absence of the regular incumbent. Respondent was then Municipal Judge of Bago before its conversion into a chartered city.

On the night of February 6, 1964, complainant Avelina Limson, a fourth-year student in the University of Negros Occidental, Bacolod City, was attacked by one Ruperto Gascon while on her way home from school. A criminal case for less serious physical injuries was filed by the Chief of Police of Pulupandan against Gascon (Exh. "A-1") grounded on a medical certificate issued on February 25, 1964, by Dr. Angela Fuentebella, stating that Miss Limson's injuries would take about 20 days to heal. After her discharge from the hospital, Miss Limson filed another complaint against her assailant for robbery with serious physical injuries in the same court (Exh. "A-4"), alleging further that she was robbed of ₱500 when she was attacked. This second complaint which was signed by the offended party, bore the same docket number as the original one. Attached to her complaint was another medical certificate issued on March 24, 1964, by the same physician which stated that Miss Limson was treated of her injuries for more than 30 days.

On April 17, 1964, the accused waived his right to the preliminary investigation under the second complaint, and the case was remanded to the Court of First Instance of Negros Occidental where it was docketed as Criminal Case No. 8470. Upon review of the record of the case and finding no evidence to support the robbery angle, the Assistant Provincial Fiscal moved that the case be remanded to the court of origin for trial on the charge of serious physical injuries only (Exh. "A-10"). The Court of First Instance accordingly issued an order remanding the case to the Municipal Court of Pulupandan for trial on the merits after the charge shall have been amended (Exh. "A-11").

On July 3, 1964, the respondent, then acting as Municipal Judge of Pulupandan, called the case for hearing. The accused entered a plea of guilty and respondent sentenced him to 20 days' imprisonment (Exh. "A-9"). It turned out, however, that the charge

to which the accused was allowed to plead guilty was the original charge for less serious physical injuries filed by the chief of police and not the second charge for serious physical injuries.

The respondent explained that he sentenced the accused to 20 days' imprisonment upon his plea of guilty for less serious physical injuries because the police chief told him that there was no other case filed against the accused. This was denied by the chief of police who stated that he made no such representation to the respondent. Assuming that the chief of police misled him, the respondent was clearly negligent in failing to examine the records of the case before proceeding with the hearing and rendering his decision. Had he examined the record, he would not have missed finding the crucial order of the Court of First Instance remanding to the Municipal Court of Pulupandan the complaint of Miss Limson against the accused for "robbery with serious physical injuries" for trial on the merits on the charge for serious physical injuries after the complaint shall have been amended. As observed by the investigating Judge:

"Assuming that the testimony of the respondent is true that the chief of police of Pulupandan told him that there was no complaint in the record except that for less serious physical injuries, dated February 26, 1964, the conclusion would be that the respondent allowed himself to be dictated upon by a minor official in the municipality of Pulupandan.

"Such act shall not be allowed to pass unchecked if faith in the independence of the judiciary is to remain unshaken."

Howsoever we look at this case, we find that the respondent judge either falsely attributed to the chief of police a statement the latter did not make or, if he told the truth, he acted irresponsibly and negligently not befitting his position, considering that it was his duty as judge to read at least the basic complaint on which he was called upon to act and find out for himself what the charge really was.

Moreover, he was guilty of ignorance of the law and gross negligence in sentencing the accused to a prison term of only 20 days, despite the evidence of record that the physical injuries constituting the offense were serious. And even if the charge were really less serious physical injuries, the penalty imposed was wrong. The proper penalty for less physical injuries is arresto mayor, the minimum of which is imprisonment for one month and one day.

In view of the foregoing, and as recommended by the Secretary of Justice, Judge Manuel Javelona of Bago City is hereby suspended from office for six (6) months without pay, effective upon receipt of a copy hereof.

Done in the City of Manila, this 13th day of November, in the year of Our Lord, nineteen hundred and sixty-nine.

By the President:




ERNESTO M. MACEDA
Executive Secretary