

IMPOSING A FINE OF ONE (1) MONTH'S SALARY ON HORATHIO O. RAÑOLA AND RICARDO S. SUMAWAY, ASSISTANT PROVINCIAL FISCALS OF RIZAL

ADMINISTRATIVE ORDER NO. 461, December 29, 1982

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This is an administrative case filed by Lydia Vicente against Horathorio O. Rañola and Ricardo S. Sumaway, both Assistant Provincial Fiscals of Rizal. The complainant herein charged Fiscal Rañola with grave misconduct in office, and charged Fiscal Sumaway with gross ignorance of the law. In addition, the complainant charged both Fiscals with conspiracy to delay the resolution of I.S. No. 75-780 of the Office of the Provincial Fiscal of Rizal.

As borne by the records, on January 16, 1975, Lydia Vicente filed in the Office of the Provincial Fiscal of Rizal a criminal complaint for grave oral defamation against a certain Felicisima Javier. The complainant alleged that tin crime was committed on September 7, 1974 or thereabouts. The case was docketed as I. S. No. 75-780, and assigned to Fiscal Rañola for preliminary investigation.

On February 21, 1975, or more than one month after the filing of the complaint, the opposing parties and counsels finally appeared before Fiscal Rañola, and submitted their respective affidavits and counter-affidavits. The case was then submitted for resolution.

On the following day, or February 22, 1975, Fiscal Rañola filed with the Rizal Provincial Fiscal a motion to inhibit himself from further handling I.S. No. 75-780, Fiscal Rañola explained that he was prosecuting another criminal case for oral defamation, docketed as Criminal Case No. 143-74, in the Municipal Court of Montalban, Rizal, wherein the accused is Lydia Vicente and the complaining witness is one Remedios Javier, the sister of the respondent in I. S. No. 75-780.

Fiscal Rañola's motion was approved by the Rizal Provincial Fiscal, and I. S. No. 75-730 was re-assigned to Fiscal Sumaway. On March 7, 1975, Fiscal Sumaway conducted another hearing of the case for clarificatory question, after which the case was submitted for resolution.

On May 31, 1975, Fiscal Sumaway filed in the Municipal Court of Montalban, Rizal, an information for grave oral defamation docketed as Criminal Case No. 65-75. However, on June 26, 1975, the Court issued an Order dismissing the case on the ground that the crime, if any, had prescribed.

On account of the foregoing facts, on July 30, 1975, Lydia Vicente filed the present administrative case against Fiscals Rañola and Sumaway. A formal investigation was conducted by a State Prosecutor designated by then Secretary (now Minister) of Justice, and the respondent Fiscals presented evidence in their defense.

The Ministry of Justice found that, while he was either ignorant of the law nor motivated by malice, Fiscal Sumaway was negligent for allowing the crime under preliminary investigation in I.S. No. 75-780 to prescribe. The crime of grave oral defamation was allegedly committed on September 7, 1974, and under Article 90 of the Revised Penal Code, it prescribed six (6) months thereafter, i.e., on March 6, 1975. Thus, the Ministry of Justice found that when Fiscal Sumaway filed the Information in court on March 31, 1975, the crime of grave oral

defamation had already prescribed and such prescription was attributable to Fiscal Sumaway's failure to timely resolve 1, St No, 75-780.

Similarly, the Ministry of Justice found that, while he may not have been guilty of misconduct, Fiscal Rañola should also be held responsible for the delay in the resolution of I.S. No. 75-780. The criminal complaint for grave oral defamation was filed on January Hi, 1975, but Fiscal Rañola issued subpoena to the parties only on January 29, 1975, and conducted hearing only on February 21, 1975. Thus, the Ministry of Justice found that Fiscal Rañola's actuations violated Department (now Ministry) Circular No. 74, S. 1967. The Ministry of Justice further found that the grounds for inhibition invoked by Fiscal Rañola are not valid grounds, and that, even If they were, Fiscal Rañola Inhibited himself too late despite his manifest awareness of the existence of a related criminal case which he had been prosecuting since 1974.

As to the alleged conspiracy between the two respondent Fiscals, the Ministry of Justice found that there was none.

All things considered, the Ministry of Justice found that, by their separate acts, Finals Rañola and Sumaway caused the offense charged In I. S. No. 75-780 to prescribe. Hence, the then Secretary (now Minister) of Justice recommended that Fiscal) Rañola and Sumaway be each fined in an amount equivalent to one (1) month's salary.

After carefully evaluating the evidence on record, this Office Concurs In the findings and recommendation of the Ministry of Justice. Verily, the respondent Fiscals failed to measure up to the solemn principle enshrined in the Constitution that public office is a public trust, and that, as a corollary, public officer, and employees shall serve with the highest degree of responsibility, Integrity, loyalty and efficiency.

WHEREFORE, and as recommended by the Ministry of Justice, the respondents Horathio O. Rañola and Ricardo S. Sumaway, both Assistant Provincial Fiscals of Rizal, are hereby fined in an amount equivalent to one (1) month's salary.

Done in the City of Manila, Philippines, this 29thday of December in the year of Our Lord, nineteen hundred and eighty-two.

(Sgd.) FERDINAND E. MARCOS

President of the Philippines

By the President:

(Sgd.) MANUEL M. LAZARO

Presidential Assistant for Legal Affairs

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