

**BAYANI A. FERRERA, PETITIONER, VS. HON. ONOFRE A. VILLALUZ,
IN HIS CAPACITY AS ACTING JUDGE OF THE COURT OF FIRST
INSTANCE OF RIZAL, BRANCH XXII; FISCAL EMMANUEL C. PEÑA, IN
HIS...**

G.R. No. L-43054. March 10, 1977

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6ec640944834/>

CONCEPCION, JR., J.:

This is a petition for certiorari and prohibition, with a prayer for the issuance of a writ of preliminary injunction, premised upon the following facts:

On January 14, 1976, the private respondent Erlinda Ortega filed, for and in behalf of her minor children, namely, Leynnie and Liza, both surnamed FERRERA, with the Court of First Instance of Rizal, Branch XXII, a complaint[1] for support against the petitioner Bayani A. Ferrera, incumbent mayor of Baras, Rizal, docketed therein as Civil Case No. 22719.

The petitioner filed a motion to dismiss,[2] on the ground that the complaint does not state a cause of action for lack of any allegation therein that the alleged illegitimate minor children have been duly recognized or acknowledged by him.

Instead of resolving the petitioner's motion to dismiss, the respondent Judge issued, on February 5, 1976, an order[3] directing the Provincial Fiscal of Rizal, B. Jose Castillo and/or District State Prosecutor, Emmanuel C. Peña, to investigate the petitioner, pursuant to Section 13, Rule 112 of the Revised Rules of Court, on the ground that the complaint alleges immorality, and to file the necessary charges with the proper tribunal if the evidence so warrants; and at the same time directed that copies of the said order be furnished the Sangguniang Bayan ng Baras, Rizal, Sangguniang Lalawigan ng Rizal, and the Governor of Metro Manila.

Accordingly, the Acting District State Prosecutor, Emmanuel C. Peña, wrote the petitioner a letter[4] informing the latter of the issuance of the said order of respondent Judge, and pursuant thereto, inviting him "on February 23, 1976 in order to discuss the aforestated matter preparatory to the setting of a date for formal investigation."

On February 18, 1976, the petitioner filed a motion to reconsider and delete from the records the order of February 5, 1976,[5] on the ground that Section 13, Rule 112 of the Revised Rules of Court refers to a "criminal complaint or information filed" in court without previous preliminary investigation conducted by the Fiscal, which motion was denied by respondent Judge in his order[6] dated February 24, 1976.

Whereupon, the petitioner instituted the present petition, claiming that respondent Judge acted without and/or in excess of his jurisdiction as with grave abuse of discretion in issuing the order dated February 5, 1976, and in refusing to reconsider and set aside the said order. Accordingly, he prays that the said orders be annulled and set aside and that the respondents be restrained from enforcing the orders in question.

On March 5, 1976, this Court issued a temporary restraining order,[7] enjoining the respondent public officials from enforcing and/or carrying out the orders dated February 5 and 24, 1976.

This Court gave due course to the petition, and considered the comment[8] filed for and in behalf of respondent public officials by the Solicitor General as their answer to the petition.[9]

The issue to be resolved the instant case is whether or not respondent Judge acted with grave abuse of discretion amounting to lack of jurisdiction and/or in excess of his jurisdiction in issuing the disputed order of February 5, 1976 as well as the order dated February 24, 1976 denying the petitioner's motion to reconsider the said order.

In issuing the order of February 5, 1976, the respondent Judge relied on Section 13, Rule 112 of the Revised Rules of Court, which reads as follows;

"Sec. 13. Preliminary examination and investigation by the judge of the Court of First Instance. Upon complaint filed directly with the Court of First Instance, without previous preliminary examination and investigation conducted by the fiscal, the judge thereof shall either refer the complaint to the municipal judge referred to in the second paragraph of Section 2 hereof for preliminary examination and investigation simultaneously in the manner provided in the preceding section, and should he find reason-able ground to believe that the defendant has committed the offense charged, he shall issue a warrant for his arrest, and thereafter refer the case to the fiscal for the filing of the corresponding information."

It should be noted that the above quoted rule speaks of preliminary examination and investigation by the judge of the Court of First Instance in cases where a complaint is filed directly thereto without previous preliminary examination and investigation conducted by the fiscal. The complaint mentioned therein does not refer to a civil complaint but to a criminal complaint as defined in Section 2, Rule 110 of the Revised Rules of Court. In the instant case what was filed in the Court of First Instance of Rizal is not a criminal complaint but a civil complaint, that is, a complaint for support. Obviously, respondent Judge's reliance on the provisions of Section 13, Rule 112 of the Revised Rules of Court in issuing the order of February 5, 1976 is erroneous.[10]

Respondent public officials, however, maintain that petitioner being the incumbent mayor of Baras, Rizal, the allegation of immorality in the complaint against him constitutes an actionable act of a public official which requires investigation, and that is the duty of respondent Judge to have it investigated by the proper authorities in order to weed out irresponsible government officials from the government service. While We agree with the avowed purpose of respondent public officials in initiating the investigation of the petitioner, nevertheless, the procedure laid down by law in conducting such investigation should be observed. Such procedure is by filing an administrative complaint against the petitioner, which must be in writing, subscribed and sworn to by the complainant,[11] which shall be investigated and decided by the Secretary of Local Government and Community Development.[12]

Besides, it may also be pointed out that administrative proceedings against a public official in this jurisdiction is accusatorial and not inquisitorial in nature. It contemplates two contending parties, the complainant and the respondent. This procedure would be violated if the respondent public officials were to conduct the projected investigation of the petitioner without any administrative complaint being filed against him.

It may not be amiss to state that judges or any public official for that matter, in their desire to help the government remove allegedly irresponsible, corrupt, and immoral public officials from the government service, should see to it that they do not go beyond the limits of their jurisdiction or authority as laid down by law and rules of procedure. If they were to encroach upon the authority allocated to other officials, there would be confusion in the administration of justice, which may result in the violation of the basic requirement of due process.

WHEREFORE, the writ prayed for is granted, and the restraining order heretofore issued by this Court is made

permanent.

Fernando, (Chairman), Barredo, Antonio, and Martin, JJ., concur.
Aquino, J., no part.

[1] Annex "A", p. 21, Rollo.

[2] Annex "B", p. 28, Rollo.

[3] Annex "C", p. 31, Rollo.

[4] Annex "D", p. 32, Rollo.

[5] Annex "E", p. 34, Rollo.

[6] Annex "F", p. 37, Rollo.

[7] pp. 39-40, Rollo.

[8] p. 69, Rollo.

[9] p. 111, Rollo.

[10] Albano, et al., vs. Arranz, et al., L-24403, Dec. 22, 1965, 15 SCRA 518.

[11] Letter of Instruction Nos. 147 and 180, dated November 14, 1973 and April 3, 1974, respectively.

[12] Letter of Instruction No. 231, dated Dec. 5, 1974, modifying Letter of Instruction Nos. 147 and 180, *supra*.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.