

EDGARDO MORES AND CONRADO MAGNAYE, COMPLAINANTS, VS. SANCHE FERRANCULLO, MUNICIPAL JUDGE OF GLORIA, ORIENTAL MINDORO, RESPONDENT.*Adm. Matter No. 13. August 15, 1973*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9f7544411f65/>**ANTONIO, J.:**

Judge Sancho Ferrancullo of the Municipal Court of Gloria, Oriental Mindoro, stands charged with ignorance of the law, oppression and serious misconduct in a complaint filed by Messrs. Edgardo Mores and Conrado Magnaye, members of the Federation of Free Farmers of Bansud, Oriental Mindoro, for having refused to dismiss Criminal Case No. 575 for qualified theft and Criminal Case No. 577 for malicious mischief. The aforesaid criminal cases were filed by the Acting Chief of Police with the Municipal Court of Bansud against the complainants, together with Ely Armencion and Valentin Magracia.

In Criminal Case No. 575, Judge Epifanio S. Malapitan of the Municipal Court of Bansud ordered the issuance of the warrants of arrest against the accused. Thereafter, the accused therein requested the Department of Justice to investigate Judge Malapitan in connection with the issuance of the warrants of arrest. In view thereof, on February 4, 1971, Judge Malapitan filed a petition with the Court of First Instance of Oriental Mindoro to allow him to inhibit himself from trying and deciding the two criminal cases on the ground that "further action of the undersigned upon these cases may create suspicion of bias." In an Order dated February 8, 1971, Judge Nicanor P. Nicolas of the Court of First Instance of Oriental Mindoro granted Judge Malapitan's petition for inhibition and designated Judge Ferrancullo of the Municipal Court of Gloria, Oriental Mindoro, to hear and decide Criminal Cases Nos. 575 and 577.

Accordingly, respondent Judge Ferrancullo entered upon his additional duty. On March 29, 1971, the accused in the two criminal cases filed a motion to quash on the ground that the facts alleged in the criminal complaints did not constitute an offense, and the averments therein, if true, would constitute a legal excuse or justification for the reason that there was a pending tenancy case before the Court of Agrarian Relations between one of the accused, Edgardo Mores, as tenant, and Ex-Mayor Leon Mampusti, as landholder, over the landholding which is the subject-matter of the criminal cases. In said motion to quash, the accused made reference to Circular No. 7, dated January 9, 1967, of the Department of Justice, enjoining the courts to observe extra care before issuing warrants of arrest in criminal cases filed against tenants and to closely scrutinize prosecution evidence so as to make sure that criminal complaints against tenants are not filed merely to harass them. Respondent Judge set the motion to quash for oral argument. After hearing the arguments of the fiscal and the defense counsel, respondent Judge issued a resolution on March 30, 1971, denying the motion to quash for the reason that the ground thereof was not indubitable, since the allegations in said motion would require proof at the trial of the cases.

The present administrative charges were filed with the Department of Justice thru a letter-complaint dated May 18, 1971. The complaint was referred to the District Judge in Calapan, Oriental Mindoro, for investigation, report and recommendation.

When the case was called for hearing by the District Judge on January 25, 1972, neither the complainants nor their counsel appeared although they had been notified thereof. On the request of respondent Judge, the hearing was postponed to January 27, 1972, but due to his illness, it was reset to February 9, 1972, on which date again neither the complainants nor their counsel appeared. Respondent Judge presented evidence establishing the facts adverted to above. On their part, the complainants did not present evidence; on the contrary, on January 21, 1972, they filed a motion with the Investigating Judge praying for the dismissal of the complaint on the ground that "they are satisfied with the explanation made by the respondent and thus (have) lost interest in prosecuting the same."

In his Report and Recommendation, Judge Nicolas recommends the dismissal of the case on the following rationale:

"The instant administrative complaint is centered mainly in the acceptance of the criminal complaints against the present complainants, the issuance of warrant of arrest and the denial of the motion to quash. From the evidence of the respondent, it was clearly proved that he was not the one who accepted the criminal complaints already mentioned above as shown by Exhibits "3", "3-A", "3-C", "5", and "5-A", and neither was he the one who issued the warrants of arrest (Exhibits "4" and "4-A"). The only participation of the respondent was his denial of the motion to quash of the criminal complaints filed against the complainants. Even granting for the sake of argument that the respondent Judge was the one who accepted the said criminal complaints yet the same cannot be a valid ground for an administrative case if in his belief there exists a prima facie case against said accused.

"From the totality of the evidence presented by the respondent, the undersigned finds no evidence to support the charges against the respondent. In fact the charges are baseless."

Circular No. 7 of the Department of Justice issued on January 9, 1967, is addressed to all fiscals and municipal judges, and reads in part:

"In connection with the implementation of the Agricultural Land Reform Code and other social legislation, it has been brought to the attention of this Department that tenants applying for leasehold tenancy and/or with agrarian cases pending in the Court of Agrarian Relations and settlers on and occupants of public and private agricultural lands and farm workers and other tillers of the soil are discouraged from asserting their rights under the law by the institution of criminal cases against them resulting in their arrest and confinement in jail.

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"Extra care should therefore be exercised before issuing warrants of arrest in criminal cases filed against tenants applying or desirous of applying for leasehold tenancy and/or with pending agrarian cases and settlers and farm workers seeking their legal rights in order that the courts may not be utilized as instruments of oppression. The evidence of the prosecution should be closely scrutinized so as to make sure that the original complaint is genuine and not merely fabricated for purposes of harrassment or detention of the accused tenant. This meticulous scrutiny of evidence should include an ocular inspection of the land in dispute with both parties present whenever possible. All circumstances surrounding the agrarian case as well as the said criminal action must be carefully studied, so that if both cases are interrelated, the criminal case is to be considered a

prejudicial question the trial of which should therefore be held in abeyance until the determination of the agrarian case.

"This Department will take disciplinary action against those Fiscals and Judges who fail to exercise their discretion in the protection of the rights of those who have less in life. Those Judges who allow themselves to be used as instruments in the violation of the principles of social justice shall be meted out the punishment due them. Acts contrary to this circular will constitute insubordination and will be punished in accordance with civil service rules and regulations."

In their motion to quash, the accused called the attention of the court to "a pending tenancy case before the Court of Agrarian Relations in Calapan between Edgardo Mores, one of the accused in the above-entitled cases, and Ex-Mayor Leon Mampusti as tenant and landholder respectively over the same landholdings, subject-matter of the above-entitled criminal cases," and to the clear mandate of the above-mentioned Circular No. 7. In the face of said Circular No. 7, which, as seen above, requires, among other things, that "[a]ll circumstances surrounding the agrarian case as well as the said criminal action must be carefully studied, so that if both cases are interrelated, the criminal case is to be considered a prejudicial question the trial of which should therefore be held in abeyance until the determination of the agrarian case," respondent Judge should have exercised utmost care in the consideration of the motion to quash by holding a hearing thereon with a view to finding out the truth or falsity of the allegation of the accused concerning the tenancy relationship. A slight departure from the general rule that when a motion to quash is filed the allegations of the complaint are deemed hypothetically admitted, will not do violence to said rule by an adherence to the letter and spirit of Circular No. 7.

In this particular case, respondent Judge, by merely reading the criminal complaints, should have become alerted to the situation precisely sought to be safeguarded against by the circular; for in the complaint for qualified theft, it is alleged that the accused stole seven fruits of coconut valued at P1.75 "to the damage of herein victim in the sum of P1,000.00 for all incidental losses for the past years," and in the complaint for malicious mischief, it is alleged that the accused maliciously destroyed banana plants valued at P15.00 and plowed the land without the owner's consent, "causing damage and prejudice upon said owner in the amount of P500.00." How the accused, by stealing seven coconuts valued at P1.75, could cause damage to the owner "in the sum of P1,000.00 pesos, Philippine Currency, for all the incidental losses for the past years," is not clear from the averments of the complaint. Equally lacking in certitude is the averment in the case of malicious mischief, that in destroying banana plants worth P15.00 and in plowing the land without the consent of the owner, the accused caused damage to the latter in the amount of P500.00. It must be noted that the value of the thing stolen in the case of qualified theft, and the value of the damaged caused in case of malicious mischief, are determinative of the gravity of the offense, the character and extent of the imposable penalty and, consequently, of the amount of the bail bond. Inasmuch as in criminal cases, not only the liberty, but even the life of the accused is at stake, it is necessary that the accused should be fully apprised of the true charges against him and thus avoid all and any possible surprises which might be detrimental to his rights and interests. Ambiguous phrases should not, therefore, be permitted in criminal complaints. This is in accord with the constitutional mandate that the accused be informed of the nature and cause of the accusation against him, which necessarily implies that there should be reasonable certainty in the statement of the accusation. Equally significant is the fact that the same accused were successively charged, first, with qualified theft on November 20, 1970, and then with malicious mischief on November 25, 1970, for acts purportedly committed by them on the same day, viz: November 17, 1970, and in the same place and on the same occasion. It is in this aura that the exhortation in Circular No. 7 becomes relevant.

In the circumstances of the case, the contentions of the defense counsel in the hearings of the motion to quash,

that the accused had no criminal intent * * * since they are only performing their legal right as tenants of the complaining witness," and that an action has been filed by one of the accused against the complaining witness before the Agrarian Court, much ahead of the filing of these criminal complaints, should have impelled the municipal judge to closely scrutinize the evidence of the prosecution to make sure that the said complaints were not instituted merely to harass the tenants. He should have allowed the introduction of proof to ascertain the veracity of these contentions of the defense, and only after he was convinced from the evidence that the complaint is genuine and not merely fabricated for purposes of harassment or to secure the detention of the tenant, should he have ordered the trial of the cases to proceed.

It should be recalled, however, that respondent Judge was not the one who accepted the criminal complaints, conducted the preliminary examination and issued the warrants of arrest. Since the motion to quash is based on the ground that the facts alleged in the complaints do not constitute offenses, the sufficiency of the complaints must have to be determined solely by the facts alleged therein. These facts respondent believed in good faith to be sufficient. As to the contention that the existence of tenancy relationship constituted a legal excuse or justification of the acts complained of, respondent believed that the averments of the complaints and the supporting affidavits do not support such contention. We declare, however, that respondent should have exercised a greater degree of circumspection in view of the aforecited facts.

WHEREFORE, respondent Judge is hereby reprimanded for having failed to exercise greater care in the performance of his duties, with the warning that a repetition of a similar act will warrant a more severe action of this Court.

Makalintal, Acting C.J., Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.

Zaldivar, J., did not take part.

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