

**BRAULIO VILLASIS, COMPLAINANT, VS. PRISCO PABATAO,
MUNICIPAL JUDGE OF MOLAVE, ZAMBOANGA DEL SUR,
RESPONDENT,**

A.M. No. 1513-MJ. June 29, 1982

Ponente: PLANA, J.

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PLANA, J.:

This is a joint decision of four administrative cases against Municipal Judge Prisco Pabatao of Molave, Zamboanga del Sur.

Administrative Matter No. 1513-MJ

In a sworn complaint, Col. Braulio F. Villasis charged respondent Judge with vindictiveness, oppression, grave misconduct, violation of the Anti-Graft Law, illegal abuse of judicial process, usury, willful violation and sabotage of Presidential Decree No. 583 and the land reform program, and ill-gotten wealth, committed as follows:

"I. Vindictiveness, Oppression, Grave Misconduct, Corruption and Violation of Anti-Graft Law.—

"That in or about the middle part of 1976, the respondent, being then as he still is the incumbent Municipal Judge of Molave, Zamboanga del Sur, in order to harass and oppress the undersigned complainant in retaliation for the latter's dismissal of the respondent's wife, Atty. Naty Pabatao, incumbent Comelec Registrar of the same municipality, as counsel for the Molave Rural Bank, Inc. of which the complainant is President and Manager in view of grave anomalies she committed for herself and her husband in the collection of exorbitant charges and kickbacks from the Bank's borrowers for notarization and indorsement of applications for loan and related documents which the respondent passed on to her after refusing to comply with his duty to notarize them for free under the Rural Bank Laws, with the influence, authority and processes of his office used abusively and unlawfully for his own personal benefit and brought to bear upon persons he contacted to give evidence against the complainant of imagined wrongs, did then and there are subsequently thereafter summon or contact Anacorita Mahinay, Agatona Magadan and Sisinando Baruc, among others, and asked them to execute perjured affidavits against the complainant with offers of juicy and substantial rewards consisting of P10,000.00 for Agatona Magadan, the dismissal of Criminal Case No. 2614 against Sisinando Baruc, an accused in said case then pending in the respondent's court, and leniency in favor of Anacorita Mahinay, another accused in the same case, in the matter of her bail, which was not demanded of her while she agreed to stay and work in respondent's house and which was later put up by the respondent's wife when Anacorita Mahinay ran away from respondent's house where she was forced to stay and work while under detention, in addition to an assurance to utilize her as state witness and eventually drop her as accused in said case, thereby likewise corrupting said persons while he at the same time committed an act prohibited under the Anti-Graft Law as well as acts of oppression and vindictiveness against the complainant that have verily put the residents of Molave on their toes as said acts clearly show the wantonness and extent of oppression which he could deal anybody who comes across his way. Copies of the affidavits of Anacorita Mahinay, Agatona Magadan and Sisinando Baruc are herewith enclosed to form part hereof and marked Annexes "A", "B", and "C",

respectively.

"II, Illegal Abuse of Judicial Process.—

"That having been served on October 28, 1976 a communication from Assistant Provincial Fiscal Rufino Cadelinia requiring the respondent to tender counter-affidavits in connection with a complaint for falsification of public document filed against him, the latter, on the same day, maliciously, vindictively and rashly accepted and docketed a complaint for alleged dereliction of duty (Crim. Case No. 2637 of respondent's court) against Fiscal Cadelinia which the respondent himself prepared together with the accompanying affidavits but which he, through imposition of his authority and influence, caused the Station Commander of Molave and the witnesses, respectively, to hurriedly and unwittingly sign; and on the very same day, without any warrant of arrest having been issued or served, much less any hearing of the case set, the said respondent willfully and deliberately made illegal and abusive use of the processes of his office by issuing and causing to be served on the Bookkeeper of the complainant's Bank a highly irrelevant subpoena duces tecum in said case for obvious purpose of fishing for evidence against the accused Fiscal and to strike fear into the complainant whom he involved in the said case as the Fiscal's supposed beneficiary. Copy of said subpoena duces tecum is likewise hereto attached as part hereof and marked Annex "D."

"III. Usury, Sabotage and Violation of Presidential Decree No. 583 and the land Reform Program.—

"That sometime in or about the latter part of 1975 or the early part of 1976, the respondent, having been engaged as a loan shark in lending operations charging usurious interest, did virtually and unlawfully foreclose the landholdings, within the land of the complainant, of three of the latter's leaseholders for failure to pay to him (respondent) their accounts and the usurious interest charged, and thereupon ejected said tenants or leaseholders out of the land and took over their said landholdings and cultivated them through hired laborers and harvested the crops therefrom since then up to the present, thereby becoming a compulsory and unwelcome tenant or leaseholder on complainant's land without the consent and against the will of the complainant and defeating the objectives of the land reform program of the new society and clearly contravening Presidential Decree No. 583 which specifically ordains that 'no acts or schemes designed to obstruct the implementation of the land reform program or obviously in derogation of the rights of tenant-farmers shall remain unpunished.

"IV. III-gotten Wealth.—

"That for the conspicuously short duration that the respondent held his present position as Municipal Judge of Molave, Zamboanga del Sur, and without any known or visible source of income except his salary as Judge of the Municipal Court and that of his wife as Comelec Registrar, the respondent presently counts with valuable assets, including lands and a brand new car, which were acquired during his short incumbency as Municipal Judge, aside from a costly residential house and lot right next to the premises of the Municipal Building in the center of Molave."

Respondent Judge, in his comment, denied the material averments of the complaint and alleged, among others, that the complaint is fabricated, malicious and merely a device for harassment and vindictiveness as may be gleaned from the criminal and civil cases filed by complainant against him and his wife; that Col. Villasis is the manager of the Molave Rural Bank, Inc., a family bank, which was ordered investigated by the Central Bank upon the request of the Molave Sangguniang Bayan; that Col. Villasis was deposed as manager of the Molave Rural Bank, Inc., after having been found upon investigation to have committed grave anomalies and irregularities in the handling of the P5,000,000.00 Masagana money by granting loans to fictitious farmers or ghost seldas; that loan technician Sisinando Baruc and ghost selda organizer Anacorita Mahinay were charged in court; that the Fiscal assigned to prosecute the case did not include Agatona Magadan despite her admission of the commission of the fraud involving P59,000.00; that the Fiscal was charged for dereliction of duty.

Respondent Judge denied having knowledge about the notarial charges of his wife; averred that complainant's allegation on this matter is a brazen lie since the Masagana 99 loan application does not require notarization; that if the farmer-applicant had been required to make loan applications under oath, ghost or fake seldas would have been abated or minimized.

Respondent Judge likewise denied having abused judicial processes in Criminal Case No. 2637 against the First Assistant Provincial Fiscal of Zamboanga del Sur; averred that the case was filed by the Station Commander of Molave; that he conducted the preliminary investigation and since the complaint alleged that accused Fiscal Cadelinia obtained a loan from the Molave Rural Bank, Inc. for P40,000.00, he issued a subpoena duces tecum to the bank to enlighten the court in order to avoid miscarriage of justice; and that all he did were within the bounds of judicial process in order to ascertain the existence of a prima facie case.

On the charge of usury and violation of Presidential Decree No. 583, respondent alleged that these are acts of harassment; that complainant has filed with the Office of the Provincial Fiscal fabricated charges of usury against him and his wife under I.S. Nos. 41-77 and 48-76 as well as violation of the Land Reform Code under I.S. No. 66-77; that I.S. No. 41-77 has already been dismissed; and that I.S. No. 66-77 was filed purposely to eject respondent from the two-hectare rice land being cultivated by his family for rice production.

Respondent denied the charge of ill-gotten wealth alleging that he is living within his means; that he is farming for seed production as reflected in his Information Sheet filed with the Supreme Court; that his house was constructed in 1968 under the GSIS housing loan two (2) years before he became a judge; that his car was bought on car plan; and that his assets and liabilities are reflected in his 201 file.

Finally, the respondent denied the allegations in the affidavit of Agatona Magadan for being concocted and done in bad faith; that Agatona Magadan is a biased and perjured witness and that she was charged on five (5) counts of bribery-violation of the Anti-Graft Law in the Court of First Instance of Zamboanga del Sur; that Agatona Magadan has admitted her involvement in the bank anomalies in an affidavit; and that Sisinando Baruc, Anacorita Mahinay, Agatona Magadan and Col. Villasis will do their best to fabricate charges against him and his wife for they believe that his wife was instrumental in the passage of Sangguniang Bayan Resolution No. 53 urging the investigation of complainant's rural bank.

Administrative Matter No. 1514-MJ

Complainant Sisinando Baruc charged respondent Judge Prisco N. Pabatao with incompetence, corruption, discrimination, grave abuse of authority and falsification, allegedly committed as follows:

"That sometime last year, after being arrested as an accused in Criminal Case No. 2614 of the Municipal Court of Molave, Zamboanga del Sur for Estafa, the undersigned complainant went to the office of the respondent in order to request for the reduction of the amount of bail fixed for his provisional liberty, whereupon the respondent, in a clear demonstration of incompetence and ignorance, refused to entertain his said request despite proper pleadings made, and instead required the complainant to put up bail in the sum of P3,000.00 even if the bond be in cash, thus preventing the complainant from being released until he was able to secure bond in said amount although he could have immediately raised the cash bond of half the amount aforementioned had the respondent accepted it. To add insult to injury and in a highly brazen act of unfairness, discrimination and injustice, the respondent allowed the complainant's co-accused in the person of Anacorita Mahinay to be free without bail in consideration for the latter's performing of the daily chores in the respondent's household, and later made his (respondent's) own wife, Atty. Naty Pabatao, put up bail for Anacorita Mahinay in a huff in the scandalously low sum of P300.00 in cash without Anacorita asking for reduction. Copy of Anacorita Mahinay's affidavit supporting the above allegations is hereto attached to form part hereof and marked Annex "A."

In his comment, respondent Judge adopted his comment in Administrative Matter No. 1513-MJ since the charges in both matters are closely related. Respondent Judge denied that he utilized Anacorita Mahinay as househelper in consideration of her being free without bail; that Anacorita was granted cash bond of P300.00 upon her request as per order dated August 30, 1976 (Annex "A"); that he could not be lenient to Anacorita Mahinay because the complainant in the case was the Molave Rural Bank, Inc., the Manager of which was Col. Villasis who had an axe to grind against him and his family; that the distance between respondent's house and that of Col. Villasis is only about 100 meters; that it was Faustino Go who put up the cash bond for Anacorita Mahinay as evidenced by Official Receipt No. 2806110

(Annex "B"); that Faustino Go and Anacorita Mahinay accomplished the Addendum of Undertaking pursuant to Letter of Instruction No. 40 in his presence (Annex "C"); that he did not reduce the bail bond of Sisinando Baruc as the latter did not ask for it and because of the fact that he was the accused bank technician, and there was strong evidence that he was the mastermind of largescale fraud; that Anacorita Mahinay was not arrested or detained because she surrendered voluntarily and the warrant for her arrest was recalled upon the filing of the cash bond. Respondent Judge denied the allegations in Anacorita Mahinay's affidavit; that she appeared on the dates set for preliminary investigation and finally signed a written waiver of the preliminary investigation.

Administrative Matter No. 1534-MJ

Complainant Anacorita Mahinay charged respondent Judge Prisco N. Pabatao with grave abuse of authority, serious misconduct, violation of Anti-Graft Law and falsification, allegedly committed as follows:

"That sometime in August, 1976, a criminal complaint for Estafa was filed against me and several others in the Municipal Court of Molave, Zamboanga del Sur, wherein the same was docketed as Criminal Case No. 2614. After my arrest in said case, I was detained for three days in the house of the respondent Judge of said court, Prisco N. Pabatao, where he brought me and forced me to work and perform all sorts of household chores including cooking, washing of dishes and laundering of the clothes of the members of the respondent's family. When I became overburdened with the work I was compelled to do by the respondent in his house, I ran away in order to escape from the work there and to procure bail bond for my temporary release. I came to know later that a P300.00 cash bond was put up for me by the respondent, through his wife, obviously in order to save himself since I escaped from his custody, and I was surprised that an Addendum of Undertaking dated August 30, 1976 was filed with records of the case and the same purportedly bears my signature that reads "Anacorita Magadan" although I have not signed the same as I never, for the last many years, signed in such manner. My usual and customary signature carries my husband's surname, "Mahinay." I am further surprised that I am supposed to have appeared and sworn the said undertaking before the respondent on the said date, although I have never appeared, much less sworn the instrument, before the respondent for such purpose, thus making me upset and terribly apprehensive as I, or anybody for that matter, could not be safe from the respondent who has shown that he can falsify record of cases before him, such that he can run after me especially since I refused the respondent's request for me to execute a false affidavit against Col. Braulio Villasis, Manager of the Molave Rural Bank, Inc., whom the respondent is running after at present. Copies of my affidavits on the matter, marked Annexes "A" and "B", and of the aforementioned falsified Addendum to Undertaking, marked Annex "C", are attached hereto to form part hereof."

Respondent Judge in his comment alleged that he was adopting his comments in Administrative Matters Nos. 1513-MJ and 1514-MJ; that he vehemently denied complainant was arrested and detained for three days in his house and required to do household chores; that on August 30, 1976, complainant, with Sisinando Baruc, appeared in his office and pleaded for the reduction of her bond to P300.00; that finding it to be well-taken, he granted the request (Annex "A"); that he was convinced that Anacorita Mahinay will not jump bail because she was living with Agatona Magadan, sister of Judge Fernando Cagoco; that as a matter of record he reduced the bail bond of all accused to P200.00 each for good cause shown in eight (8) Estafa cases filed by the Molave Rural

Bank, Inc. (Annexes "A", "A-1" to "A-6").

Respondent Judge vigorously denied that the signature of Anacorita Magadan in the Addendum of Undertaking was falsified; that if there was any intention to falsify her signature, the author could have written her correct surname; that the complaint was fabricated and designed by Col. Villasis, utilizing Sisinando Baruc, Agatona Magadan and complainant Anacorita Mahinay, who are all involved in the bank anomalies; and that since the issue involved the genuineness of Anacorita Mahinay's signature in the Addendum of Undertaking, the same should be submitted to the handwriting expert of the NBI for examination.

Administrative Matter No. 1554-MJ

Complainant Juan Oyao charged respondent Judge Prisco N. Pabatao with dishonesty, falsification and grave misconduct, allegedly committed as follows:

"That on October 1, 1975, the respondent, as municipal judge of Molave, Zamboanga del Sur, having been required by the authorities to fill up and submit a personal data sheet, C.S. Form No. 212, in order for the latter to evaluate his performance and qualifications as basis for proper recommendation or action in connection with the phasing out or retention of Municipal Judges relative to the implementation of the circuitization of Municipal Courts throughout the country, did, in his consuming desire to undeservedly hold on to his said position, then and there dishonestly fill up under oath and submit said personal data sheet, C.S. Form No. 212, which is required by law, by deliberately falsifying his answer to Question No. 15 therein regarding the pendency against him of a disciplinary administrative action, which he falsely answered in the negative although at the time he knew fully well that Administrative Case No. 782-MJ was then and is still pending against him before this Honorable Court since he even was required to submit his comment on the complaint therein, which comment of his, dated September 23, 1974, he did submit in said case, thereby constituting a serious and grave misconduct that verily disqualifies him from further holding his present position as Municipal Judge of Molave, Zamboanga del Sur. Copies of the said personal data sheet and his comment in Administrative Case No. 782-MJ are attached hereto to form part hereof and marked Annexes "A" and "B", respectively."

Respondent Judge denied all the allegations of the complaint and alleged that to the best of his knowledge, information and belief, he did not submit C.S. Form No. 212 to the Supreme Court as alleged in the complaint but instead to the Clerk of Court of First Instance; that the same was recalled and substituted with a "QUESTIONNAIRE" relative to the circuitization of the Municipal Court; that he answered Question No. 15 of C.S. Form No. 212 in the negative because he considered the complaint of Juan Oyao in Administrative Case No. 782-MJ as a mere scrap of paper as the same has not been given due course by the Supreme Court as of the time of the filing of his instant comment; that in page 8 of the "QUESTIONNAIRE," particularly question letter "F"—Other Matters, he answered in the negative but with the qualification that there was a complaint which he was required to comment.

In a resolution dated January 7, 1980, this Court referred the aforementioned Administrative Matters to the Executive Judge of the Court of First Instance of Zamboanga del Sur for investigation, report and recommendation. On September 1, 1981, Inquest Judge Asaali S. Isnani rendered his report recommending that all the administrative cases be dismissed and respondent Judge Prisco N. Pabatao absolved in all cases, pertinent portions of which are quoted below:

FINDINGS IN ADMINISTRATIVE MATTER NO. I554-MJ

"Sometime in October, 1975, the respondent Prisco Pabatao filled up his personal data sheet (CSF 212) and submitted the same to the Office of the Clerk of Court, Court of First Instance of Zamboanga del Sur, in the belief that the same is needed in appraising the qualifications of Municipal Judges in connection with the

circuitization of Municipal Courts. In filling up the same, one of the questions asked therein was: '15..... Have you ever been charged or tried for any breach or infraction of military, naval or constabulary discipline before any military, naval, or constabulary tribunal or authority or the subject of an administrative disciplinary action.'

To this question, the respondent answered "no" (Exhibit "A-4"). As a consequence, of this answer given by the respondent, Juan Oyao, filed two cases against him; one, being Administrative Case No. 1554-MJ before the Honorable Supreme Court; and the second, being a criminal case for falsification of public document before the Office of the Provincial Fiscal of Zamboanga del Sur. These complaints were filed because on September 23, 1974, Juan Oyao had filed an administrative case against therein respondent before the Honorable Supreme Court of the Philippines, said administrative case being known as Administrative Case No. 782-MJ.

"In resolving the criminal case filed by Juan Oyao against the respondent, the Office of the Provincial Fiscal of Zamboanga del Sur ruled that there was a prima facie case against the.. accused. From that resolution the respondent, Municipal Judge Prisco Pabatao, filed a manifestation elevating the same to the Honorable Secretary of Justice for review.

"Acting upon the matter elevated for review, the Hon. Vicente Abad Santos, then Secretary of Justice, wrote the Provincial Fiscal/of Zamboanga del Sur on August 9, 1977 wherein he, among others, ruled:

'On October 20, 1976, complainant charged respondent with falsification of public document under Article 171, paragraph 6, of the Revised Penal Code, alleging that, although respondent knew that he was facing administrative charges before the Supreme Court, he made an untruthful statement in his personal data sheet when he answered 'no' to the second part of question No. 15, which reads as follows: '15. . . . Have you ever been charged or tried for any breach or infraction of military; naval or constabulary discipline before any military, naval or constabulary tribunal or authority or the subject of the administrative disciplinary action? [] Yes [] No. If yes to any question, give particulars below.' In short, the pertinent portion of the question, to which respondent allegedly gave a false answer; reads: 'Have you ever been . . . the subject of an administrative disciplinary action?' The only issue to be resolved is whether or not respondent made an untruthful statement when he answered 'no' to the above question, considering the fact that there was a pending administrative case against him when he made the statement. You found sufficient evidence to establish a prima facie case for falsification against respondent. I find no basis for your conclusion. As a matter of fact, respondent told the truth when he answered 'no' to the question, because, indeed, he had never been the subject of an administrative disciplinary action. There was only an administrative complaint pending against him when he made the statement and it did not even appear at that time that the Supreme Court had given due course to it. Premises considered, your resolution dated January 31, 1977, is hereby reversed, and, accordingly, the complaint in I.S. No. 41-76 is hereby dismissed.' (Exhibit '1', Administrative Matter No. 1554-MJ.)

The basis for the filing of administrative matter No. 1554-MJ is the same as that in the filing of the aforementioned criminal case. While it is true that CSF 212, which became the basis for the filing of this complaint, was executed and filed by the respondent, the same was not exactly the form followed by the Honorable Supreme Court in soliciting information from incumbent municipal judges, at the time when circuitization of municipal courts was about to be implemented. The Supreme Court adopted as "QUESTIONNAIRE" and in answer to one of the questions therein, the respondent admitted that an administrative complaint was filed against him by Juan Oyao but that he does not know whether or not the same was given due course by the Honorable Supreme Court.

"Considering the import of the pertinent portions of Question NO. 15, CSF 212, to which the respondent answered 'no', the undersigned finds that the respondent did not falsify the truth. His answer was true because he has never been administratively punished in the past. The mere pendency of Administrative Case No. 782-MJ did

not amount to an administrative disciplinary action. The findings of Hon. Vicente Abad Santos that the respondent told the truth in answering 'no' to question No. 15 of CSF 212 is irrefutable.

"In view thereof, the undersigned finds that the respondent did not commit dishonesty, falsification or grave misconduct in answering 'no' to a portion of Question No. 15 of his CSF 212."

FINDINGS IN ADMINISTRATIVE MATTER NO. 1514-MJ

"Complainant Sisinando Baruc in this Administrative Matter No. 1514-MJ did not appear and no witness testified thereon. In Criminal Case No. 2614 of the Municipal Court of Molave for estafa against Sisinando Baruc, Anacorita Mahinay, et al. (Criminal Case No. 2066, CFI), the respondent, on August 17, 1976, issued an order 'finding the existence of prima facie case' and fixing the bail bond for the provisional liberty of the accused at P3,000.00 each. Nobody testified that the accused Sisinando Baruc ever asked the respondent for a reduction of the bail bond for his provisional liberty. On the contrary, it has been duly established that the said accused Sisinando Baruc voluntarily appeared before the respondent Municipal Judge bringing his prepared bail bond in Criminal Case No. 2614 for approval by the Court.

"During the consideration of the same bail bond and after scrutinizing the documents covering the properties sought to be posted as securities, it was found out that one of the tax declarations presented was not covered by a tax clearance. Hence, the same was not considered in the computation of the amount to be posted. When the accused Sisinando Baruc requested the respondent that the amount required of him be reduced to P2,500 property bond inasmuch as that is the only total assessed value of the properties available for securities, the respondent granted it. Hence, the bond actually posted by Sisinando Baruc in Criminal Case No. 2614 was only P2,500 (Exhibit 'K'). The allegations, therefore, that the respondent committed discrimination by allowing the accused Anacorita Mahinay to post a cash bond of P300.00 has not been substantiated.

"The fact that Sisinando Baruc and Anacorita Mahinay were charged in the same case does not necessarily mean that the amount of the bond that may be posted by them will be the same. For in fixing the amount of the bond, while originally the Court may fix the bond at the same amount, if any of the parties ask for a reduction, the Court has some discretion and there are many circumstances which the Court will take into consideration in exercising that discretion. This may include but not limited to such circumstances as the gravity of the offense committed by the accused, the extent of their respective participation in the commission of the crime, their individual financial position, the probability or improbability of anyone of them escaping when granted bail, etc., unless there is a grave abuse of this discretion, which amounts to lack of jurisdiction, the action taken by the judge may not be taken against him. On account of these circumstances, bond for different accused in the same case may not always be the same or bonds in different amounts may be required of different accused.

"With respect to incompetence, corruption and falsification, asserted in this particular administrative case, the undersigned finds the facts therein alleged as insufficient to warrant said assertions and what is more no evidence, whatsoever, was presented to prove them.

FINDINGS IN ADMINISTRATIVE MATTER NO. 1534-MJ

"The pertinent testimony presented to support the allegations in this administrative case were those of Anacorita Mahinay and Braulio Villasis.

"The testimony of Braulio Villasis on the matter, however, were, according to him, based upon the information conveyed to him by Anacorita Mahinay. Much, therefore, depends upon the testimony of Anacorita Mahinay and what kind of witness she is.

"This witness, while claiming on her testimony in chief, that she was brought by the respondent to his house sometime during the month of August, 1976, the days of which she does not remember, and ordered to do some household chores for three days until she escaped, testified, when presented on rebuttal that she was brought by the respondent to his house on August 27, 1976. Cross-examined on this point, she gave evasive and meaningless answers. Again this witness testified that after she escaped from the house of the respondent, it was the wife of the respondent, Atty. Naty Pabatao who posted the cash bond of P300.00 for her provisional liberty. The record, however, clearly shows (Exhibit 'L') that it was Faustino Go who posted the cash bond for her. Again she testified that she did not sign Exhibit 'M', the Addendum to the Undertaking as required by Letter of Instruction No. 40 but a cursory examination of the signature appearing in Exhibit 'M' and comparing it with the signatures appearing in Exhibit 'A', one need not be an expert document examiner to tell that the person who wrote the name Anacorita in all these documents is one and the same person. This witness testified on cross-examination that it was the respondent who filed the estafa case against her but the record of Criminal Case No. 2614 of the Municipal Court of Molave which is now Criminal Case No. 2066 of this Court (Exhibit 'J') show that the information in the lower court was filed by First Assistant Provincial Fiscal Rufino Cadelinia. Again while on her testimony in chief, this witness testified that the signatures appearing in Administrative Complaint No. 1534-MJ, as well as those found in her affidavit and sworn statement attached thereto are hers, when presented on rebuttal and while being cross-examined, this witness disowned all said signatures. For that matter, although she has completed first year high school and actually scanned the whole record of Administrative Matter No. 1534-MJ, she testified that not one of the signatures appearing in the whole record belonged to her. This witness testified that the respondent, while she was in his house, continuously asked her if she gave one drum of gasoline to Col. Villasis and money to Sisinando Baruc and yet she reported to Col. Villasis, she asked him whether she gave one drum of gasoline to him. (Col. Villasis) and money to Sisinando Baruc. Why has she to ask Col. Villasis when she is in the best position to know as to whether or not she gave one drum gasoline to Col. Villasis and money to Sisinando Baruc?

' This witness on cross-examination also testified that between June and September 8, 1976, she went to Molave only on September 8 categorically stating that between these two dates she never did go to Molave and this was emphasized by her. In spite of the fact that she was made to realize the implication of her testimony and although as a second year high school student, she ought to know that the month of August 1976 falls between June and September 1976, she went to Molave. How in the world then can the Court believe that she was brought by the respondent to and detained by him in his house during the month of August 1976?

"From these testimonies alone, it is dangerous to believe Anacorita Mahinay. But more than that is her appearance, demeanor and general behavior while she was testifying on the witness stand. While on the witness stand, she continuously scratched her hair, kept on looking down and never faced the judge frontally. She looked at the Presiding Judge only in a sly manner.

"This witness pretends to be naive but she is not. She pretends to be clever but also she is not. As a whole, one can only say that this witness is a consummate liar.

"Viewed from this aspect, the information which this witness conveyed to Braulio Villasis could not be better and could not have more truth than her testimony in court. If she can afford to lie to the Court while testifying under oath, with more reason the information that she conveyed to Braulio Villasis become more unbelievable, if not preposterous.

' The testimony of Braulio Villasis regarding matters or information he obtained from this witness would not be true for as the saying goes: water could not be purer than its source.

"While the complainant presented Celestino Saladaga, on rebuttal, for the purpose of belatedly corroborating the

testimony of Anacorita Mahinay, yet the testimony of said witness is unreliable. It is, as a matter of fact, unbelievable.

"In view of the foregoing, the investigator finds the allegation that the respondent committed grave abuse of authority, serious misconduct, violation of anti-graft law and falsification as alleged in this particular case, has not been substantiated.

"The testimony of the respondent and his wife that it was foolhardy and incredible for respondent to keep Anacorita Mahinay in his house for the reason that the residence of Col. Braulio Villasis, the manager of the Molave Rural Bank, who filed Criminal Case No. 2614 against Anacorita Mahinay, to his house is barely 100 meters is very plausible. It is the height of indiscretion and irresponsibility on the part of the respondent to expose and make himself vulnerable to attack by Col. Villasis. More than that, if it is true that Anacorita Mahinay was allowed by the respondent to stay in his house for three days, she could have been easily seen by anyone from the residence of Col. Villasis or by any member of the Police Force of Molave, considering that the residence of the respondent is right on the way in going to and from the Municipal Hall of Molave, where the Police Station is located.

FINDINGS IN ADMINISTRATIVE MATTER NO. 1513-MJ

"On specification No. 1: Vindictiveness, oppression, grave misconduct, corruption and violation of Anti-Graft Law.

"While complainant alleged that Atty. Naty Pabatao, wife of respondent, as legal counsel for the Molave Rural Bank of which he (complainant) was President and Manager, committed grave anomalies in the collection of exorbitant charges and kickbacks from the bank borrowers for notarization and indorsement of applications for loan, the complainant admitted, in his testimony, that it was the Molave Rural Bank which collects from bank borrowers and Atty. Naty Pabatao receives the fees for her services from the said bank. If Atty. Naty Pabatao's charges for notarial services were exorbitant and that she receives kickbacks, could it not be possible that the Molave Rural Bank, of which complainant was the President and Manager, tolerated it or that it was as guilty as Atty. Naty Pabatao? Be that as it may, the complainant failed to introduce evidence of any single anomaly. The testimony of the complainant failed to introduce any evidence to show respondent's participation in his wife's alleged anomalous transactions, if any.

"No evidence was introduced to show that the respondent had ever refused to notarize any document, which under the law, he was required to notarize.

"As regards complainant's allegations that the respondent contacted and exerted influence upon Anacorita Mahinay, Agatona Magadan and Sisinando Baruc to let (make) them execute perjured affidavits against him (complainant) with offers of juicy and substantial rewards consisting of P10,000.00 for Agatona Magadan, the dismissal of Criminal Case No. 2614 as against Sisinando Baruc and leniency in favor of Anacorita Mahinay by not letting her post bail bond for her provisional liberty but respondent just required her to work in his house, suffice it to state that only Anacorita Mahinay gave testimony against the respondent. Neither Agatona Magadan nor Sisinando Baruc was called to testify. Hence the respondent was not given the opportunity to cross-examine the said witnesses. The testimony of Anacorita Mahinay, on the other hand, had already been discussed by the undersigned in his findings in Administrative Matter No. 1514-MJ, supra.

"The uncorroborated testimony of the complainant that the respondent offered to give P10,000.00 to Agatona Magadan, in addition to shouldering her debt of P10,000.00 with the Molave Rural Bank, is not only hearsay but incredible and unbelievable.

"The claim that the respondent violated the Anti-Graft Law shall be taken up under the fourth specification of this complaint.

"On Specification No. 2: Illegal Abuse of Judicial Process.

"The complainant alleged that after the respondent received a communication from Assistant Provincial Fiscal Rufino Cadelinia on October 28, 1976, requiring him to tender a counter affidavit in connection with a complaint of falsification of public document filed against him, he (respondent), on the same date, maliciously, vindictively and rashly accepted and docketed a complaint for dereliction of duty (Criminal Case No. 2637) against Fiscal Cadelinia, which the respondent himself prepared with accompanying affidavits and through imposition of his authority and influence, caused the same to be signed by the Station Commander and the witnesses; and that respondent on the same day, illegally and with abusive use of the processes of his office, issued and caused to be served upon the Bookkeeper of the complainant's bank a highly irrelevant subpoena duces tecum for the obvious purpose of fishing for evidence against Fiscal Cadelinia and to strike fear into the complainant.

"No evidence was introduced to show that Fiscal Cadelinia was the investigator of any falsification case filed against the herein respondent and neither has any evidence been presented to prove that Fiscal Cadelinia ever communicated with the respondent on October 28, 1976, requiring him to file counter affidavit in any falsification case.

"It has been proved, however, that some farmers, among them were Felipe Vicente and his Junior, who were charged of estafa by the Molave Rural Bank, through Assistant Provincial Fiscal Rufino Cadelinia, went to the Police Station of Molave to complain why they were the only ones charged while other borrowers of the said bank were not? Their statements were taken by Station Commander Montano Sanchez. Later on, the said Station Commander filed Criminal Case No. 2637 with the Municipal Court of Molave against First Assistant Provincial Fiscal Rufino Cadelinia for dereliction of duty (Exhibit 'H-I'). It was received in the Office of the respondent on October 28, 1976. This was duly established through the testimony of Montano Sanchez, Felipe Vicente, Saludino Elidio and that of the respondent. The negative testimony of the complainant and his witnesses that no case was pending against Fiscal Cadelinia when respondent issued Exhibit 'B' cannot prevail over the positive testimony of the aforementioned witnesses. In addition, the record of Criminal Case No. 2637 (Exhibit 'H') is the best evidence.

"On the same date, on account of the statement of witness Heparva that Fiscal Cadelinia is heavily indebted with the bank in the sum of P40,000.00, direct or indirect loans, the respondent issued a subpoena duces tecum (Exhibit 'B') on the Bookkeeper of the Molave Rural Bank ordering him 'to bring the books of account of the Bank showing outstanding obligation or loan of Fiscal Rufino B. Cadelinia, directly or 'indirectly' on November 4, 1978. This subpoena was not satisfied or complied with.

"The complainant maintains that the issuance of this subpoena duces tecum amounted to an illegal abuse of judicial process.

"The respondent, however, testifying on this point, among others, said:

"That the case was filed by the Chief of Police of Molave and he accepted it because anybody can file a case before a court; that he issued the subpoena duces tecum to the Molave Rural Bank because he was conducting the preliminary investigation and there was an allegation that Fiscal Cadelinia was indebted to the Rural Bank and to determine if it is true, considering that Fiscal Cadelinia was the first assistant provincial fiscal, he was extra careful and so he was to issue a subpoena duces tecum so that he could be guided properly; that he did not issue the subpoena duces tecum to prejudice anybody but in fact that was issued in the interest of justice; that in issuing the subpoena duces tecum, he believes that he was not acting as a prosecutor at the same time because the court was conducting searching questions and he cannot be signing affidavits without first

conducting searching questions; that he had to know the allegations of the witnesses during the course of the proceedings; that it is so done in the better administration of justice and to evaluate the testimony of the offended party, he had to issue a subpoena duces tecum to determine the truth or veracity of the statement; and that he believes that there is no necessity for the filing of a motion in this case because the sole responsibility of the presiding judge is to conduct searching questions; that in his resolution he found no prima facie case against Fiscal Cadelinia and so he dismissed the case; that he denied the motion filed by the station commander because the station commander has no authority to file the motion to dismiss considering that the provincial fiscal has taken control over the case.'

' Normally, subpoena duces tecum are issued upon the motion of any of the parties, but there is nothing in the law which prohibits the judge hearing a case from issuing one if the interest of justice so required. In the light of the foregoing and taking into consideration the explanation of the respondent, coupled with the fact that the subpoena duces tecum was not complied with—hence no prejudice was caused upon the Molave Rural Bank, the undersigned finds and so holds that the respondent did not commit any illegal abuse of judicial process.

"On the Third Specification: Usury, Sabotage and Violation of Presidential Decree No. 583 and the Land Reform Program.

"No evidence whatsoever was presented to prove usury.

"On the claim of violation of Presidential Decree No. 583 and the Land Reform Program, it has been established through the testimony of both the complainant and the respondent that the complainant and the respondent used to be good friends. There were occasions when the complainant advised the respondent to engage in farming during his spare time.

' On one occasion, Claro Pasuran, a tenant cultivating a two hectare land of the complainant, sold his rights for P2,800.00 to the respondent. Then respondent requested the complainant to let him lease said land at thirty-five (35) cavans of palay per harvest. The complainant agreed. Thereafter, respondent has been tilling the farm after office hours since 1972. In doing so, he hires the services of laborers. The complainant (Braulio Villasis), on the other hand, is receiving the rental up to the present.

"Subsequently, when the friendly relationship between the complainant and the respondent soured out, the complainant tried to oust the respondent from this land. The latter refused to vacate, claiming that he is a tenant. Hence, the complainant filed Civil Case No. 1880 on August 16, 1979 before the Court of First Instance of Zamboanga del Sur, Branch IV, against the respondent, where it is still pending.

"Under the foregoing facts, did the respondent violate the provisions of Presidential Decree No. 583 and the Land Reform Program?

"Sec. 2 of Presidential Decree No. 583 provides:

'Any Judge of the Court of Agrarian Relations, Court of First Instance, City or Municipal Court or any fiscal or other investigating officer, including members of the Armed Forces of the Philippines, who shall order the ejectment, ouster, exclusion or removal of any tenant-farmer from the land tilled by or who shall take cognizance of any ejectment case or any other similar case designed to exclude, oust, eject, or remove a tenant-farmer from the land tilled by him without first complying with the provisions of Presidential Decree No. 316 shall, upon conviction, be punished by prision mayor and perpetual absolute disqualification.'

"In the instant case, the respondent did not order the ejectment of Claro Pasuran, a former tenant of the complainant. Claro Pasuran sold his rights over the land he tilled for a consideration to the respondent. The replacement of Claro Pasuran by the respondent as tenant of complainant Braulio Villasis was done upon the

agreement of all three of them. There is no evidence to show that Claro Pasuran filed a case of ejectment against the respondent. On the other hand, the respondent did not violate the land reform program of the government when he bought the rights of Claro Pasuran. A Municipal Judge is not prohibited from engaging in farming after office hours.

"On the Fourth Specification: Ill-gotten Wealth and Violation of the Anti-Graft Law.

"The complainant in his testimony asserted that the respondent, during his term of Office as Municipal Judge of Molave, acquired a beautiful and well-furnished house, a Ford Escort car, a parcel of land known as Lot No. 1099-P located at Mabuhay, Molave, with an assessed value of P3,880.00 and covered by tax declaration No. 3289 (Exhibit 'C'), a parcel of land known as Lot No. 6657, with an area of 433 square meters, with an assessed value of P3,640.00 under tax declaration No. 633 (Exhibit 'D') and another lot located at Dalaon, Molave, containing an area of two and one-half hectares assessed at P1,870.00 under tax declaration No. 2408.

"The evidence on record shows that the lot declared under Exhibit 'D' is the lot where the house of the respondent is erected and that the same was acquired and the house was constructed in 1968 before he became a Municipal Judge—he having been appointed Judge only on August 16, 1970. It has been established further that the house was constructed with funds borrowed from the GSIS. It has an assessed value of P15,130.00 (Exhibit 'D')- This is further shown by the real estate mortgage marked as Exhibit '5'. As a matter of fact, the amortization for the loan was to be deducted from the salary of respondent's wife at the rate of P200.38 a month for the first eight years and at the rate of P147.00 in the next succeeding years.

"The Ford Escort car was acquired by the respondent in 1976 on a car plan or purchase payable on monthly installment, as follows:

Amount Payable

Date Payable

P2.190.00

February

15, 1976

2,165.00

March

15, 1976

-do-

April

15, 1976

-do-

May

15, 1976

-do-

June

15, 1976

-do-

July

15, 1976

-do-

August

15, 1976

-do-

September

15, 1976

-do-

October

15, 1976

-do-

November

15, 1976

1,805.00

December

15, 1976

-do-

January

15, 1977

-do-

February

15, 1977

-do-

March

15, 1977

-do-

April

15, 1977

-do-

May

15, 1977

-do-

June

15, 1977

-do-

July

15, 1977

"The monthly amortization on the respondent's house during the middle part of the 1976 was P200.38 and in the later part of that year up to 1977, the monthly amortization was at P147.00. This being the case, the respondent and his wife pay a combine monthly amortization on the house and car in the amount of P2,365.38 in 1976 and P1,952.00 in 1977.

' 'Considering that the gross income of the respondent and his wife during the year 1976 was P33,131.00 (Exhibit '7-B') or P2,710.00 monthly, it follows that respondent's monthly liability during that year was within manageable proportion. During the year 1977, respondent's gross income increased to P38,271.00 whereas his monthly liability for the amortization of his house and car went down to only P1,952.00. This computation does not include savings of the respondent and his wife.

"As regards the lots covered by Exhibits 'C and 'E', it has been proved that the respondent bought them for P8,000.00 and P2,500.00 during the year 1974 and 1976, respectively. Inasmuch as the respondent and his wife during those years were employed as Municipal Judge and Election Registrar, respectively, and there is no showing that they had liabilities other than the amortization for the house and car, it can be reasonably implied that the respondent and his wife bought these two lots with the use of their own income and savings as testified to by the respondent. -

"In this regard, the undersigned cannot help but take note of the fact that the complainant never introduced any positive evidence to show the irregular manner of acquisition by respondent of any of his properties. On the contrary, the complainant testified that he suspects (*italics supplied*) that the respondent may have acquired his properties in violation of the anti-graft law.

"The value of the properties acquired by the respondent are not big. They can all be bought by a reasonably thrifty man such as the respondent. This is especially so if one takes into consideration the fact that the cost of living in the Province of Zamboanga del Sur is one of the lowest in the country.

RESPONDENT'S DEFENSE

"The respondent maintains that these administrative cases were filed against him as a form of harassment instigated by Col. Braulio Villasis because the latter suspects him to be the one who informed the Sangguniang Bayan of Molave of anomalies committed in the Molave Rural Bank affecting the Masagana 99 project of the government.

"The undersigned is inclined or disposed to believe the contention of the respondent for the following reasons:

"First, three criminal cases—I.S. No. 41-76, I.S. No. 151-177 and I.S. No. 48-76 filed by Mrs. Paz Villasis, wife of the complainant Braulio Villasis, and others but of which Mrs. Paz Villasis was the witness, were all dismissed;

"Second, Col. Braulio Villasis did not categorically deny the respondent's testimony to this effect, as shown by the following answers given by him; "Atty. Arao, B.:

"Atty. Arao, B.:

Q

Col. Villasis, Judge Pabatao, respondent in this case, also testified before this Honorable Court that all of these cases, the administrative cases, which are now under investigation were filed by you and your motive was to harass him and his wife because you believed that he was the one who reported all the activities of the Molave Rural Bank. What can you say about that?

A

Those people came to me for some advice and I told them you sign affidavits and told them you better bring that to the Fiscal's Office.

Q

Is it true that you were the one who instigated Anacorita Mahinay to file a case against the spouses Judge Prisco Pabatao and Mrs. Naty Pabatao?

A

Well, based on what those people told me there is no reason why we do not support those people who are being harassed before the Court of Justice.

Q

Judge Prisco Pabatao testified here also that you filed several cases against him. What can you say about this?

A

Those are different cases. They are civil cases.

Q

Is it true also that your purpose of filing these civil cases against the respondents is you wanted to harass him? A The purpose of mine is to get back the land he only borrowed for which he wanted to establish the fact that he is a tenant. How could he be a tenant when he is a justice of the peace and how could that be when he is not the man behind the clouds.

Q

Respondent Judge also testified that he constructed his building before he became a judge which is his residential building near the Molave municipal building. What do you say about that?

A

I do not pay much attention, Your Honor, if that is what he says. I cannot say anything against it if it is documentary evidence. (TSN, Aug. 4, 1981, Maghanoy, pp. 16-18.)

"Third, although the complainant was not prejudiced by the issuance of the subpoena duces tecum in Criminal Case No. 2637 (Exhibit 'H'), he personally took up the cudgels against the herein respondent by including Specification No. 2 in Administrative Matter No. 1513-MJ; and

"Finally, the complainant failed to introduce any evidence at all to some of the allegations in the same Administrative Matter No. 1513-MJ."

After a careful review of the records, we have found the report of the Inquest Judge to be amply supported by the facts and the law.

In Administrative Matter No. 1513-MJ, there is no evidence to show any anomaly committed by respondent's wife, much less respondent's participation in the alleged anomalous transactions. Neither is there any evidence to prove that respondent Judge had ever refused to notarize any document he was legally required to notarize.

The charge that respondent Judge exerted influence upon Anacorita Mahinay, Agatona Magadan and Sisinando Baruc to make them execute perjured affidavits against the complainant, with offers of rewards, was found by the Inquest Judge to be incredible. Only Anacorita Mahinay testified, i.e., that respondent required her to work in his house in lieu of posting a bond. This lone testimony of Mahinay was brushed aside by the Inquest Judge as coming from a perjured witness. On the other hand, complainant's testimony regarding respondent's offer of cash to Agatona Magadan was correctly considered hearsay evidence, complainant having no personal knowledge thereof.

As regards the charge of abuse of judicial process, the same has not been duly substantiated. The records show it was the Station Commander who filed the case against Fiscal Cadelinia and although respondent Judge issued the questioned subpoena duces tecum motu proprio in connection with the preliminary investigation, the same was not complied with and no damage was caused to anyone. The dismissal of the case against Fiscal Cadelinia by respondent Judge militates against the claim that the latter had an axe to grind against the former.

There was no evidence to substantiate the charge of usury. Upon the other hand, on the charge of violation of Presidential Decree No. 583 and the Land Reform Program, it was established that respondent Judge did not eject the former tenant of complainant from his landholding. Respondent Judge took over as new tenant after the former tenant had sold his rights over the land to the former, with the consent of the landowner.

Complainant likewise failed to substantiate his charge of ill-gotten wealth and violation of the Anti-Graft Law against respondent Judge. As found by the Inquest Judge, no evidence was introduced to show the irregular manner of acquisition by respondent of any of his properties. In fact, complainant admitted that he merely suspected that respondent might have acquired his properties in violation of the Anti-Graft Law.

In Administrative Matter No. 1514-MJ, complainant Sisinando Baruc never appeared to introduce evidence. Neither was there any witness for the complainant who testified therein. Therefore, the complaint therein stands unsubstantiated and should be dismissed.

As regards Administrative Matter No. 1534-MJ, the Inquest Judge found unbelievable the testimonies of the complainant Anacorita Mahinay and her witness Braulio Villasis. The latter's testimony, as admitted by said witness, was based upon what was merely conveyed to him by Anacorita Mahinay and therefore hearsay. On the other hand, the Investigator found the testimony of Anacorita Mahinay to be incredible. He also found her to be a consummate liar judging from her statements, appearance, demeanor and general behavior while she was testifying. Being in a better position to decide issues involving the weight and credibility of testimonies of witnesses he had heard and observed, the findings of the Inquest Judge deserves great respect in the absence of a showing that some facts and circumstances of weight and influence were overlooked or misapplied, or that their significance was misunderstood.

Anent Administrative Matter No. 1554-MJ, we fully agree with the findings and conclusion of the Inquest Judge that respondent did not commit dishonesty, falsification or grave misconduct. When respondent Judge answered "NO" to Question No. 15 of CSF 212 which reads: "Have you ever been ... the subject of an administrative disciplinary action?", he told the truth. The fact that at that time there was a pending administrative complaint against him did not make his answer false because, as correctly found by the Inquest Judge, the mere pendency of an administrative case did not amount to an administrative disciplinary action. Administrative disciplinary action connotes administrative penalty and respondent Judge had never been punished administratively.

WHEREFORE, Administrative Matters Nos. 1513-MJ, 1514-MJ, 1534-MJ and 1554-MJ are hereby dismissed and respondent Judge Prisco N. Pabatao exonerated.

SO ORDERED.

Teehankee (Chairman), Makasiar, Vasquez and Gutierrez, JJ., concur.

Melencio-Herrera, J., is on leave.

Relova, J., took no part.

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