

**ROSARIO G. GALILA AND JOSEFA G. VALLEJO, COMPLAINANTS, VS.
MUNICIPAL JUDGE SERAFIN VILLANUEVA OF JORDAN,
SUB-PROVINCE OF GUIMARAS, ILOILO, RESPONDENT.**

A.M. No. 214-MJ. August 15, 1974

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ANTONIO, J.:

Respondent Judge is charged with:

1. Abuse of authority for issuing warrants of arrest against the accused without first conducting a thorough examination of the witnesses for the prosecution as shown by his failure to subpoena the barrio captain who could testify that the accused took only two cavans of palay and not fifteen cavans as alleged in the criminal complaint; and
2. Ignorance of the law for fixing excessive bail bonds, for imposing a penalty not within the range prescribed by law, and for committing the said accused upon conviction to the municipal jail instead of the provincial jail.

On July 6, 1970, complainants executed a joint affidavit explaining that their complaint against respondent was prepared by Atty. Nicanor Sorongon of Iloilo City and that they were made to sign the same without any explanation from the said lawyer and that they believed that their complaint was against Florentino Magalona who accused their sons. As a consequence of the withdrawal by the complainants of their charges, Executive District Judge Egmedio V. Nietes of the Court of First Instance of Iloilo did not conduct a formal investigation but confined himself to an examination of the records of the cases involved, as everything that concerns the administrative charges could be verified from the records, and on the basis thereof considered respondent's explanation satisfactory and recommended his exoneration.

We have carefully reviewed the records of this case. As regards the first charge, respondent conducted the requisite preliminary examination through searching questions and answers as shown by the sworn statements of Florentino Magalona and Godofredo Ganancial (Annexes "1" and "2"). Having been convinced on the basis thereof of the existence of a probable cause for believing that the persons whose arrest was sought committed the crime charged, there was no necessity for respondent to subpoena other witnesses, as he considered the testimony of those presented already sufficient. As to the barrio captain, it appears that complainants wanted said official to testify on their affidavits admitting that they stole only two (2) sacks and not fifteen (15) sacks of palay. Respondent explained that he had no knowledge of the existence of those affidavits, and assuming that they existed they involve a matter of defense which could be presented by them during the trial of this case.

As to the second charge, it also appears that the bail of P3,000.00 for each of the accused is not excessive, considering the imposable penalty for the crime of theft charged in the complaint, which is prison correctional in its minimum and medium periods (Art. 309, Revised Penal Code) and the provisions of Circular No. 47, dated July 5, 1946, and Circular No. 48 of July 18, 1963, of the Department of Justice. The reasonableness of the rates of bail recommended in the aforementioned Department of Justice Circulars has previously received this Court's imprimatur in *Edaño v. Cea*, L-6821, May 10, 1954, and *Villasenor v. Abano*, L-23599, September 29, 1967.

Finally, the record does not show that the accused were actually committed to the municipal jail. Upon the other hand, respondent's letter of October 13, 1969 (Annex "3") indicates that said accused were sent to the provincial warden for commitment to the provincial jail.

WHEREFORE, the aforecited charges against respondent are hereby dismissed and he is hereby authorized to receive the retirement benefits and the money value of accumulated and unused vacation and sick leaves due to him.

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

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