

## **LUIS BALANTAKBO, COMPLAINANT, VS. MUNICIPAL JUDGE ERNESTO S. TENGCO, RESPONDENT.**

*A.M. No. 573-MJ. June 28, 1974*

Ponente: ANTONIO, J.

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### **ANTONIO, J.:**

In the verified complaint of Luis Balantakbo, dated January 20, 1970, filed with the Secretary of Justice, he charges respondent Municipal Judge Ernesto S. Tengco, of Liliw, Laguna, with oppression, persecution and partiality in the performance of his official duties, thus:

1) Notwithstanding the circumstance that the theft of coconuts, subject of Criminal Cases Nos. 920 and 925, occurred on the same day and place and committed substantially by the same persons, respondent Judge allowed the filing of two (2) separate criminal complaints against the accused, to favor Pio Arsenal, President of the Laguna Agro-Industrial Cooperative, Inc., the corporation which is the owner of the alleged stolen properties, and a client of respondent Judge in a civil case pending in the Court of First Instance of Laguna; and

2) Even after the respondent Judge had inhibited himself from hearing the aforesaid cases because of his relationship to some of the accused therein, namely, Amadeo Balantakbo, Luis Balantakbo, and Donato Balantakbo, and Judge Pedro Urrea had been designated to take over the cases, the said respondent, without any request, verbal or written, to reduce the bond of one of the accused, granted the reduction of the bailbond of accused Romero Banay in Criminal Case No. 925 from P2,000.00 to P1,000.00, and ordered the release of said accused upon receipt by him of the cash bond in the said amount of P1,000.00, the evident purpose being to gain the good graces of Jaime Banay, father of the accused, in order that Jaime Banay would favor said respondent with his testimony in an administrative case in which respondent was interested.

This complaint was referred to the respondent Judge for comment on January 29, 1970, and on February 25, 1970, respondent Judge submitted his comment and explanation. The case was thereafter referred to the District Judge of the Court of First Instance of Laguna on October 1, 1970 for investigation, report and recommendation. On March 23, 1971, the Hon. Maximo A. Maceren, Judge, Court of First Instance of Laguna and of the City of San Pablo, submitted his report and recommended that the complaint against respondent Judge be dismissed. The recommendation of the investigator is predicated on the following:

1) It has been established during the investigation that, although two (2) criminal complaints for qualified theft (Crim. Cases Nos. 920 and 925) were filed by the Chief of Police of Liliw, Laguna, it was only Criminal Case No. 925 which was accepted and the preliminary examination conducted by respondent Judge on the basis of which the warrant of arrest was issued against the accused. The investigator found and as admitted by the complainant, that the two (2) criminal cases involved the taking of different coconuts from two (2) distinct and separate parcels of land, located in different places, as to manifest that the same was not the product of a single criminal impulse; and

2) On the subject of the reduction of the bailbond, it was shown that the bailbond of the accused, Romero Banay,

in Criminal Case No. 925, was reduced from P2,000.00 to P1,000.00 because of the tender age of said accused, being then only 12 years old, and the circumstance that at the time, he was feverish and his immediate release from detention was necessary for humanitarian reasons. While it is true that such action could have been done by Judge Pedro Urrea, who had been designated to hear the case, in view of the urgent plea of the father of Romero Banay, the physical condition of said accused, and the difficulty of immediately contacting Judge Urrea on the afternoon of November 21, 1969 as he was then residing 12 kilometers away, and the absence of any proof of improper motives, the act of respondent Judge under these circumstances could not be considered as a sufficient basis for any administrative sanction.

WHEREFORE, in view of the foregoing, the recommendation of the Investigating Judge is hereby approved, and the charges against respondent Judge are hereby ordered dismissed.

Makalintal, C.J., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

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