

LUCIANO TAGA-AN, PETITIONER, VS. MAHATMA G. ROA, RESPONDENT.

A.M. No. P-214. August 31, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In a joint affidavit-complaint dated January 21, 1974 signed by Pedro L. Apolinario, Feliciano Batoy, Jr., Josephine C. Puliran, Carlita Y. Dagohoy and Visitacion Aguhob; in a verified complaint dated February 15, 1974 filed by the same affiants except Visitacion Aguhob; and in a verified supplemental complaint dated April 17, 1974 filed by Josephine C. Puliran, the complainants, all court personnel, City Court of Oroquieta, Branch I, charged Mahatma G. Roa, Clerk of said Court, with being notoriously undesirable for:

- (1) Being indicted for various offenses;
- (2) Selling untaxed blue seal cigarettes;
- (3) Attending law review classes at Ozamiz City law school during office hours;
- (4) Illegal possession of firearm which is an exhibit in a criminal case pending before the City Court;
- (5) Conviction of slight physical injuries; and
- (6) Harassment and oppression of his subordinates and other malfeasance and misfeasance in office.

The affiants, in their joint affidavit dated January 21, 1974, specifically alleged, among others:

"That Mr. Mahatma G. Roa, Clerk of Court of the City Court of Oroquieta is notoriously known to be undesirable employee because he was charged for (sic) Illegal Possession of Firearms before the Municipal Court of Aloran docketed under Criminal Case No. 2602 for shooting his brother-in-law in the person of Demetrio Undag with a paltik revolver, caliber .22 committed at 2:30 in the afternoon of November 10, 1967 in front of the municipal hall of Aloran, Misamis Occidental and such act was committed during office hours. (Copy of complaint is herewith attached as Annex 'A').

"It is stated further that the Revolver Caliber 22 with three ammunitions was an exhibit in Criminal Case No. 9155 docketed in the City Court of Oroquieta against Ledinilo Perez who was charged for Illegal Possession of Paltik Home-made Firearm 22 caliber & ammunitions as evidenced by a receipt duly signed by Mr. Mahatma G. Roa and marked as Annex 'B', and the said Revolver, Caliber 22 was deposited in the PC per receipt issued by Claudio A. Galorio, PC Sgt., Firearm Clerk dated August 17, 1968 and marked as Annex 'C'.

"That Mr. Mahatma G. Roa, Clerk of Court of the City Court was again charged for Attempted Homicide as amended to Light Threats in Criminal Case No. 2597 before Municipal Court of Aloran, Misamis Occidental and such case was committed on November 10, 1967 at about 2:30 in the afternoon in front of the municipal hall of Aloran and the same was committed during office hours. (Complaint attached herewith as Annex 'D').

"That Mr. Mahatma G. Roa, Clerk of Court was charged by Paulita S. Paladar, complainant for Grave Oral

Defamation and amended to Light Oral Defamation committed against the person of Paulita S. Paladar in the Municipal Court of Oroquieta, Misamis Occidental, now Oroquieta City, docketed under Criminal Case No. 9172 sometime on August 17, 1967 inside the public market of Oroquieta at 9:00 o'clock in the evening. (Complaint attached herewith as Annex 'E').

"That Mr. Mahatma G. Roa, Clerk of Court was again charged for Slight Physical Injuries committed against an old man at the age of 60 in the person of Luciano Tagaan docketed under Criminal Case No. 10020 in the City Court of Oroquieta City on December 19, 1972 at 9:00 o'clock in the morning during office hours, now pending decision in the City Court, Branch II. (Information is attached herewith as Annex 'F').

"That Mr. Mahatma G. Roa was charged by the RASAC Agent for Illegal Possession of Untaxed Blue Seal Cigarettes.

"That Mr. Mahatma G. Roa attended refreshal course at Ozamiz City during school year 1967-68 leaving the office usually at 9:00 o'clock in the morning and 2:00 o'clock in the afternoon using government time attending his private business as a conductor of his transportation and attending classes using government time which is considered prejudicial to the government in terms of salary paid to him as Clerk of Court.

"Furthermore, Mr. Mahatma G. Roa sometime in the year 1968 accused Mr. Feliciano Batoy, Jr., Clerk of the same Court for having stolen the flag of the Court and he even brought a policeman in the person of Glicerio Apes of the Oroquieta Police Department to the house of Feliciano Batoy, Jr. to get the flag that was displayed by Mr. Feliciano Batoy, Jr. during the Independence Day of that year, when in truth and in fact the flag of the court was inside the cabinet of the office.

"Again, Mr. Feliciano Batoy, Jr. sometime on October, 1973 was required by Mr. Roa to explain why no administrative case should be filed against him for bringing the office typewriter to his house without asking permission from him and even going to the extent of furnishing your good office of the said memorandum issued to Clerk Feliciano Batoy, Jr., when in fact Mr. Batoy secured a permission from Judge Malcolm S. Enerio because at that time, Mr. Roa was out of the office and in fact he noted his daily time record that he was present during that time. After that memorandum, Mr. Mahatma Roa sent a letter to the City Fiscal to investigate Mr. Feliciano Batoy, Jr. for bringing the typewriter without the necessary permission from him and requested the City Fiscal to file necessary criminal action but he was advised by the Assistant City Fiscal that that was an internal affair and you should conduct an investigation right in your office.

"Another incident that transpired was against Mrs. Carlita Dagohoy, the stenographer, who was requested by Mr. Mahatma G. Roa to type an affidavit (private in nature) which Mrs. Dagohoy refused on the ground that she was transcribing her stenographic notes and she could not attend to the request of Mr. Mahatma Roa and because of her refusal Mr. Roa made a remark by saying 'We should attend to the public because we are here to work for public service' and the expediente was bumped on the table in front of Mrs. Dagohoy and because of fear, Mrs. Dagohoy cried.

"An incident happened again in Branch II of the City Court of Oroquieta City with Stenographer Visitacion Aguhob against Mr. Roa be-cause Miss Visitacion Aguhob typed a motion for postponement for Mrs. Elena Camacho, defendant in a Collection Case filed by Mahatma Roa. He harassed Stenographer Visitacion Aguhob of Branch II, City Court, to be placed in stockade for preparing a motion for postponement in favor of his opponent in the collection case, and for using the government paper, typewriter and using official hours for the preparation of the said motion. According to Mr. Roa it was a clear case of Estafa.

"That Mr. Mahatma G. Roa, Clerk of Court is fond of harassing and humiliating his subordinate by reporting to the Supreme Court and Department of Justice without passing or coursing his communications to the Honorable Judge and therefore is considered insubordination.

"That all the actuations made by Mr. Mahatma G. Roa is considered purely harassment and without legal basis

in fact and in law.

"That this affidavit is executed in order to inform the Honorable Chief Justice of the Supreme Court that Mr. Mahatma G. Roa based on the above-mentioned records is not worthy to become a public servant but abusing his government position as Clerk of Court and considered notoriously known to be undesirable under the New Society and requesting that he be separated from the service" (pp. 113-115, rec.).

The verified complaint filed with the Chief Justice of this Court dated February 15, 1975 practically contains the same charges as embodied in the above joint affidavit against respondent, as follows:

"That respondent, Mahatma G. Roa, in the above-entitled case sometime during the entire school year of 1967-68 took his review course, LLB, at the Misamis Colleges, Ozamis City 40 kilometers from his Office station thereby leaving the office at 9:00 o'clock in the morning and returned to the office at nearly 12:00 o'clock noon and reported to the office at 2:00 o'clock in the afternoon then left the office at 2:30 P.M. going to Ozamis City acting as a conductor of his Honda transportation from Monday to Saturday until the end of the school year, but it appearing in his daily time records that said respondent was in the Office, but in truth and in fact respondent was always out of the Office. These facts are supported by the Affidavit of his Driver, Vicente Galavea and attached to this complaint and marked as Annex 'A';

"That on November 10, 1967, while respondent was on his way to Ozamis City conducting his Honda Bus, at about 2:30 P.M. in the municipality of Aloran, Misamis Occidental, respondent committed a crime for slight threats against the person of Demetrio Unday with the use of 22 caliber Revolver and the crime was committed during office hours. This case is docketed under Criminal Case No. 2597, before the Municipal Court of Aloran, Mis. Occ. Amended complaint is hereto attached and marked as Annex 'B';

"That respondent, Mahatma G. Roa was again charged before the Municipal Court of Aloran, Misamis Occidental, for Illegal Possession of Firearm with ammunition by the Chief of Police of Aloran, Misamis Occ., Zosimo A. Sanchez and the same was docketed under Criminal Case No. 2602, and attached to this complaint and marked as Annex 'C';

"That respondent was again charged for slight physical injuries before the City Court of Oroquieta City, against the herein complainant, Pedro L. Apolinario and the crime was committed in the City Court of Branch II at 2:30 P.M. of January 9, 1974. The Information is now docketed under Criminal Case No. 11077 and attached to this complaint and marked as Annex 'D';

"That respondent Mahatma G. Roa was charged for Light Oral Defamation by Paulita Sy Paladar, before the Municipal Court of Oroquieta now then City of Oroquieta, under Criminal Case No. 9172, on August 17, 1967, the complaint is hereto attached and marked as Annex 'E';

"That respondent was again charged for Slight Physical Injuries before the City Court of Oroquieta, Branch II, by Luciano Taga-an an old man at the age of 68 years old and the crime was committed at the corner of Washington Street, Oroquieta City. The crime was committed during office hours at 9:00 o'clock in the morning more or less and such fact is supported by Criminal Information filed by the City Fiscal No. 10020, dated December 19, 1973 and attached to this complaint and marked as Annex 'F';

"That on April 28, 1971, respondent Mahatma G. Roa was charged by the RASAC, Agent for Illegal Possession of Untaxed Blue Seal Cigarettes consisting of one (1) ream of Champion and 23 packages of Union cigarettes and the records of the investigation was in the possession of the Honorable City Fiscal, and such fact is supported by Affidavits executed by Milquiades Medija, RASAC Agent, dated April 28, 1971, Antonio Revera, dated April 29, 1971, and the Affidavit of Cirila Fernandez, sales girl of re-spondent Mahatma G. Roa dated June 8, 1971 and the same are hereto attached and marked as Annex 'G', 'G-1' and 'G-2', respectively; translation of 'G-2' marked as Annex 'G-3';

"That the respondent, Mahatma G. Roa in his capacity as Clerk of Court assumed the responsibility of

recording our time of arrival and departure in the office in his personal Log Book without any legal basis nor authority and as such thereby prejudicing the herein complainants by making it appear in his personal log book that we complainants were late in coming to the office. There are times that complainant, Carlita Y. Dagohoy transcribing her stenographic notes and typing decisions in her house, respondent will annotate in the personal log book that she was absent from the office. Again, if complainants Pedro L. Apolinario and Feliciano Batoy, Jr., are doing official works outside the office by order of the Presiding Judge, respondent Mahatma G. Roa will enter in his personal log book that we are absent from the office or undertime inspite of his personal knowledge;

"That for the information of the Honorable Chief Justice of the Supreme Court, by order of the Honorable Presiding Judge, Malcolm S. Enerio a separate log book was procured for us to indicate our time of arrival and departure in compliance with Memorandum Circular No. 4, dated June 15, 1973;

"That the actuation of the herein respondent is considered violative of the provision of the Civil Service Law and Rules, Revised Penal Code and Letter of Instruction No. 14-A, and as such respondent is notoriously known to be undesirable under the New Society" (pp. 92-94, rec.).

And in another verified supplemental letter dated April 17, 1974 Josephine C. Puliran alleged that respondent has continuously committed acts inimical to the public interest. She attached copies of the following documents:

"1. Copy of conviction of Mr. Mahatma G. Roa in the case of People versus Mahatma G. Roa, Criminal Case No. 10,020, for Slight Physical Injuries;

"2. Copies of the affidavits of the complaining witnesses against Mahatma G. Roa of Smuggling of Untaxed Blue Seal Cigarettes;

"3. Copy of the information and affidavits in support thereof, in the case of People versus Mahatma G. Roa, Criminal Case No. 11,077, for Slight Physical Injuries."

By 1st Indorsement dated February 8, 1974, this COURT referred the joint affidavit of January 21, 1974 to respondent, through the Executive Judge, City Court, Oroquieta City, requiring him to show cause why no disciplinary action should be taken against him. By 2nd Indorsement dated February 26, 1974 the Presiding Judge, Branch I, Oroquieta City Court, referred the affidavit to respondent. By 3rd and 4th Indorsements both dated March 6, 1974, the respondent submitted his verified Explanation/Answer.

Respondent answered that Pedro L. Apolinario, Feliciano L. Batoy, Jr. and Josephine C. Puliran had challenged his eligibility and/or protested his appointment as clerk of said court. Said complainants' efforts to harass him were manifested by their recent stubborn resistance and resentment to his enforcement of Memo-randum Circular No. 4 of this Court concerning punctuality among court personnel.

Respondent admits having been charged with illegal possession of firearm in Criminal Case No. 2602 in the Municipal Court of Aloran, Misamis Occidental, but contends that the instigator was a first cousin of the then Chief of Police and that he was framed and maliciously indicted. There was no evidence to support the charge and the case was dismissed. Criminal Case No. 2597 for attempted homicide, filed against him before the Municipal Court of Aloran, Misamis Occidental, was also dismissed upon petition of the offended party, Demetrio Undag. The case of grave oral defamation was dismissed for failure of the complainant Paulina Sy Paladar to appear on the day of the hearing. According to respondent, this case was an offshoot of his act of reporting Paulina Sy Paladar to the BIR for operating a sari-sari store without license. Criminal Case No. 10020, for slight physical injuries, was filed by Luciano Tagaan before the City Court of Oroquieta City. Respondent intimated that previous to the filing of this case he filed a civil case against the said complainant. The charge of selling untaxed blue seal cigarettes by RASAC had been dropped by special counsel Paulino L. Corral, Jr., for lack of legal basis.

Respondent denied the charge of falsifying his daily time record. His defense is that he was on official leave of absence during those dates when he allegedly committed the crimes described in Criminal Cases Nos. 2602 and 10020. In connection with the charge that he used official time in attending law review classes, he submitted that these classes were held after office hours and during the school year 1969-70 and not 1967-68.

Respondent also denied that he pointed to Feliciano Batoy, Jr. as the person who stole or lost the flag of the Court and maintained that Mr. Batoy brought the typewriter of the Court to his house without prior permission from the proper authority.

Respondent likewise denied Mrs. Dagohoy's charge that he violently dumped an expediente on her table when she refused to type for him an affidavit which is private in nature and claimed that, at that precise moment, Mrs. Dagohoy was not, as claimed by her, transcribing stenographic notes but was typing an Absolute Deed of Sale for herein complainant Pedro L. Apolinario.

Respondent furthermore denied that he harassed and threatened to place Visitacion Aguhob in a stockade for having typed a motion for postponement in favor of respondent's opponent in a collection case but admitted having told her (Aguhob) that "she was devoting her time to private business attending to Mrs. Elena Camacho by preparing a Motion using government stationery and facilities x x x."

The verified supplemental letter-complaint dated April 17, 1974 of Josephine C. Puliran, was also re-ferred to respondent for comment in a 1st Indorsement dated May 23, 1974 (p. 3, rec.). By return indorsement dated June 22, 1974, he submitted his reply, thus:

"1. The penalty of Fine in criminal case No. 10,020 for slight physical injuries.

"In this case, there is no imprisonment meted, only fine. Being charge(d) only of (sic) an offense punishable by arresto menor, the disqualification in Article 44 of the Revised Penal Code does not apply, because the penalty of suspension is imposable only during the term of the sentence. Moreover, the incident is the offshoot of a land conflict between the respondent and the complainant in the criminal case and did not occur by reason or on the occasion of the performance of his official functions. Hence, the penalty of dismissal which is being sought for, it is most humbly submitted, is not commensurate to the act committed by the respondent (NASSCO vs. NASSCO Employees and Workers Association, 23 SCRA 552).

"2. The charge of Smuggling of Untaxed Blue Seal Cigarettes.

"As to this charge, the same was already answered on March 6, 1974 which was contained in my 'Explanation' and I quote:

'Charge 5 - RASAC Charge

'To show that the charge on the RASAC had no basis in law and in fact, the same was dropped by Special Counsel Atty. Paulino L. Conol, Jr. even before the charge was filed. The copy of the certification or advise sent by the City Fiscal to me, dropping the case without any information filed therefor, is attached as Annex '6', dated March 1, 1974. It is obvious that there is not a single evidence that the RASAC case may have legal standing in court at all, showing the falsity of the factual basis therefor.'

"3. Criminal Case No. 11,077 for slight physical injuries.

"As to this charge, the same was already answered on April 7, 1974 which was contained in my 3rd indorsement and I quote:

'It is not true that I boxed Mr. Apolinario. The truth of the matter being that he boxed me when I tried to retrieve all the salary checks of our court personnel that he grabbed from the pocket of my polo shirt. I was

preparing a transmittal letter to have Mr. Apolinario's check returned to the Chief Accountant, Supreme Court, Manila, because Mr. Apolinario did not report to this office when the presiding judge was in Manila attending the Boy Scout Jamboree. He was only gallivanting in the nearby Posts Office and the Bureau of Internal Revenue like a pensionado. Well, I have to escape from his blows. A case is now filed with the City Court but I requested for a reinvestigation.'

"WHEREFORE, it is most respectfully prayed that the herein complaint be declared without merit and the same be dropped or dismissed" (p. 2, rec.).

On January 24, 1975, this Court, by resolution of the First Division dated January 22, 1975, resolved to refer this matter to the Executive Judge, Court of First Instance of Oroquieta City for investigation, report and recommendation (p. 120, rec.) which was effected by letter of transmittal dated January 29, 1975 to Judge Melecio A. Genato, Executive Judge of the Court of First Instance of Oroquieta City.

After a formal investigation, Judge Genato submitted the following report and recommendation dated May 8, 1975:

"The respondent is being charged of (sic) being notoriously undesirable, selling of untaxed blue seal cigarettes, using official time in attending law review classes at Ozamiz City law school, illegal possession of firearm, which is a court exhibit in his Court, conviction of a crime, harassment and oppression on his subordinates and other malfeasance and misfeasance in office.

"To prove these charges as mirrored in the affidavits of the complainants attached to the records of this case, complainants presented the following witnesses: Melquiades Medija, Claudio Galorio, Vicente Galabin, Domingo Quimno, Benildo Caramba, Valeriano Baco and Pedro L. Apolinario. In substance, the testimonies of these witnesses have sufficiently established the fact that in Criminal Case No. 9155, 'People vs. Ledenilo Perez', filed before the Municipal Court, Exhibit '15', now City Court of Oroquieta City, a 'paltik' revolver, Exhibit 'B', was presented as Court exhibit which was entrusted to the custody of herein respondent in his official capacity as Clerk of Court of said City Court; that respondent on November 10, 1967, while having an altercation with his brother-in-law within the premises of the municipal hall of Aloran, Misamis Occidental, drew and used this court exhibit by aiming at and firing (but same did not explode) it against his brother-in-law; that this incident happened just in front of the municipal hall of Aloran, Misamis Occidental, where aside from Patrolman Valeriano Baco, the policeman on duty at the time, other public officials were around. The said 'paltik' revolver was confiscated and a corresponding complaint for illegal possession of firearm was filed with the Municipal Court of said municipality, Exhibit 'C'. The said 'paltik' revolver, according to the testimony of PC Sgt. Claudio Galorio, was deposited and turned over to him at the PC Headquarters, Oroquieta City, by Municipal Judge Celso P. Largo of the Municipal Court of Aloran, Misamis Occidental, for which he signed a receipt, Exhibit 'A'.

"Witness Valeriano Baco, who was the policeman on duty at the time this altercation between respondent and his brother-in-law occurred, testified that he saw respondent aimed and fired the 'paltik' revolver at his brother-in-law but it did not explode; that the said 'paltik' revolver, Exhibits 'B' and 'B-1', was immediately confiscated from the possession of herein respondent and was deposited in the Office of the Chief of Police of Aloran, Misamis Occidental, where a corresponding complaint for illegal possession of firearm was filed with the Municipal Court, Exhibit 'C'. However, for reasons which this Court could not understand, this criminal case was dismissed but the 'paltik' revolver was turned over as hereinabove stated to the PC Headquarters at Oroquieta City through Sgt. Claudio Galorio.

"On the charges of illegal possession of untaxed blue seal cigarettes, Melquiades Medija testified that being an agent of the RASAC, he confiscated blue seal cigarettes from the store allegedly owned by the respondent and that the filing of a corresponding case was however entrusted by him to his superior. The filing of the corresponding case for illegal possession of untaxed blue seal cigarettes did not materialize because the City

Fiscal did not choose to file the same. This charge has not been proved by proper evidence.

"On the charge of using official time in attending his law review classes at Ozamiz City or falsifying his daily time record, witness Vicente Galabin testified that he was the driver of a passenger truck owned by respondent which used to ply from Oroquieta City to Ozamiz City; that during his trips from 9:00 o'clock in the morning until 11:00 o'clock noon, respondent would ride on this passenger truck acting as conductor and in the afternoon of same day, respondent would again ride on the same passenger truck to Ozamiz City to attend his law review classes in one of the law schools thereat.

"Complainant Pedro L. Apolinario testified on the charge that herein respondent is notoriously undesirable as a public servant because herein respondent had committed several offenses for which he had been criminally prosecuted in Court, Exhibits 'E', 'F' and 'C', one of which he had been convicted by a final judgment by the City Court of Oroquieta City, Exhibits 'E', 'E-1', and 'E-2'. Respondent, in this criminal case, was found guilty of committing the crime of slight physical injuries by his own superior, the City Judge of Oroquieta City, the victim however was an old man. Respondent had several pending criminal cases before the City Court of Oroquieta City implying that he has the propensity to commit criminal acts despite his public position, rendering him unfit or notoriously undesirable to stay in the government service.

"The defense witness, in substance, testified that the charges of complainants are motivated by ill-will among his subordinates as respondent is strict in the enforcement of circulars and memo-randa issued by higher authorities especially in the filling up of daily time records and the registry book concerning the time of arrival and departure from office. Respondent denied that he used the 'paltik' revolver which was the exhibit in Criminal Case No. 9155, Exhibit '15', pending in the City Court of Oroquieta City. Likewise, he denied having used any 'paltik' revolver in aiming or firing at his brother-in-law, alleging that the order of dismissal issued by the Municipal Court of Aloran, Misamis Occidental, regarding the case against him for illegal possession of firearm, Exhibit 'C-1', is the best proof that he did not commit the act. Respondent likewise denied that he falsified his daily time record or had used government time to attend law review classes in Ozamiz City because he was on official leave of absence which was duly approved by competent authorities. He stressed before this Court that the instant charges were inspired by complainant Pedro L. Apolinario who, according to respondent, had always been reprimanded by him because he appeared in cases as a lawyer before the City Court or in the Workmen's Compensation Unit and acting as notary public.

"From the evidence adduced, it is clear that although the case for illegal possession of firearm was dismissed by the Municipal Court of Aloran, Misamis Occidental, Exhibit 'C-1', the fact that the Municipal Judge thereat had personally turned over the said 'paltik' revolver to the PC sergeant, witness Claudio Galorio, of the Philippine Constabulary at Oroquieta City Headquarters for deposit, is a mute but eloquent indicia that respondent had been really, in illegal possession of said firearm. The testimonies of Aloran Patrolman Valeriano Baco have clearly proven this fact and this Court is well convinced of its trustworthiness and veracity. The defense of respondent on this matter is flimsy and weak and deserves scant consideration. The testimony of respondent's witness Faustino Labares are belied by the records of the Municipal Court of Aloran, Misamis Occidental and same testimonies are just given to pervert the truth. Respondent's acts in using said 'paltik' revolver, being a Court official and in official custody of it, renders him truly unfit or notoriously undesirable as a public official as he has betrayed the trust and confidence reposed on him by virtue of his office as the official custodian of said exhibit. The dismissal of the case against him is of no moment. The evidence on record is strong and convincing that respondent had really taken advantage of his position in using said firearm against his brother-in-law but perhaps due to other reasons which this Court could easily understand which was then prevailing under the old society, the case was dismissed by the Municipal Court of Aloran, Misamis Occidental.

"This Court is likewise convinced under the facts proved during the hearing of this case that herein respondent is helplessly notoriously undesirable because he had committed and had been repeatedly charged of several criminal offenses, Exhibits 'C', 'D', 'E' and 'F', one of which he had been finally convicted by the City Judge of

Oroquieta City, his superior, Exhibit 'E-1'. Respondent tried to explain that he has not committed the act for which he was convicted but the judgment is already final against him regarding this matter. On this regard, this Court would like to state that if respondent is an (superior) official worthy of respect and admiration of his employees, the instant administrative charge would not have been filed by practically all his subordinates. The filing of these charges by practically all his subordinates amply show that respondent is a persona non grata to them - that they could not go along with each other because of the derelicts (?) committed by herein respondent which have a bad reflection in their office. Respondent is a superior official who deserves no amount of respect and obedience from his subordinates because of his own malfeasance and misfeasance narrated above. Be that as it may, respondent by his actuations had miserably set a bad example to his subordinates which would justify a stiffer penalty or a change for a (sic) better.

"The other charges or counts were not duly proved by proper evidence, hence, they are considered dismissed or abandoned.

"WHEREFORE, in view of the foregoing, considering the standards set for the New Society by President Ferdinand E. Marcos, this Court is of the considered opinion and so it holds that respondent Mahatma G. Roa is notoriously unfit or undesirable as a public official who in this administrative charge is guilty of illegal possession of firearm, of physical injuries, of having been repeatedly pro-secuted of criminal offenses despite his high public position, but in view of the fact that he has already rendered more than ten (10) years of government service, this Court most respectfully recommends to the Honorable Supreme Court to exercise some degree of leniency by meting out to herein respondent not a dismissal from service but only a reprimand or a six (6) month's suspension from office without pay, with a warning that a repetition of similar offense will be dealt with more severely" (pp. 209-215, rec.).

After a careful review of the evidence on record, WE found that respondent is "notoriously undesirable" for having been "repeatedly charged" in court with various penal offenses. In Criminal Case No. 2602, he was charged with illegal possession of firearm before the Municipal Court of Aloran, Misamis Occidental (Exh. C). In Criminal Case No. 2587, he was accused of light threats before the same municipal court for intimidating with a gun, Demetrio A. Undag in front of the municipal building, Centro, Aloran, Misamis Occidental, although the said firearm "did not fire" (Exh. D). In Criminal Cases Nos. 2599 and 2603, he was indicted for grave coercion and less serious physical injuries before the same municipal court (Exh. D-1). In Criminal Case No. 10020, he was convicted by final judgment of slight physical injuries by his own superior, the City Court Judge of Oroquieta City (Exhs. E, E-1 and E-2). And in Criminal Case No. 11077, which was still pending at the time of the formal investigation of the herein charges against him, he was charged with slight physical injuries before the same City Court (Exh. F). It would also appear that RASAC has charged him with smuggling of untaxed blue seal cigarettes (Annexes G, G-1 and G-2, translation of Annex G is G-3; Annex "6").

In connection with four of the five criminal cases enumerated in the preceding paragraph, the respondent's defense is that these cases had been dismissed for lack of evidence to support the charge or for failure of the complaining witness to appear, and/or to prosecute the case, obviously anchored on the rule that it is conviction of a crime involving moral turpitude which is a ground for disciplinary action. But this defense would not exculpate him from further administrative disciplinary action or proceeding by this Court. Penal laws are enforced to protect society from lawbreakers by punishing them. Administrative laws and regulations are enforced to weed out undesirable public servants to maintain morality and harmony, as well as to achieve efficiency, in the government service in order to protect and preserve the integrity of the government to inspire public confidence therein. To obtain conviction in a criminal case proof beyond reasonable doubt is required on the theory that in case of doubt it is preferable to err by letting a guilty person remain unpunished. In an administrative case, if the investigation should show that the conduct of a public servant is not beyond reproach or that he is of doubtful integrity or morality, disciplinary action against him would be justified. This COURT, in the exercise of its adminis-trative

disciplinary power, found on the basis of the substantial evidence on record, in connection with the criminal cases aforementioned, that respondent has portrayed himself to be a person of disreputable conduct; that he has the propensity to commit crimes, obviously taking advantage of his official position; and that his actuations are such that he has not maintained the requisite honesty, integrity and morality in the public service expected of all public servants.

Respondent has been charged, tried and found guilty "beyond reasonable doubt," of slight physical injuries in Criminal Case No. 10020 by the Oroquieta City Court, and sentenced to pay a fine of P75.00 aside from costs (Exhs.E, E-1 and E-2). The Court found that "[w]hile they were waiting for the jeepney to leave Tagaan (complaining witness) and Macario Bongabong saw Mahatma Roa approach them, so he (Bongabong) cautioned Tagaan to keep an eye as Roa has a bad intention. At a distance of one fathom, Roa tried to grab the neck of Tagaan but Roa failed, forcing Bongabong to have Tagaan sit beside him. It was at this instance where Tagaan told Bongabong, we better go down. When Tagaan was in the act of going down, Roa hit Tagaan on the bridge of his nose forcing the latter to land on the ground on bended knees." The victim was then already 60 years old when the offense was committed during office hours - about 9:00 a.m. of December 18, 1972.

Respondent's conviction of slight physical injuries already renders him administratively liable although the incident did not occur while he was performing his official duties. The very nature of his official position as clerk of the City Court demands that he should conduct himself in such a manner as to merit the respect and trust of the people. He should be studiously careful in avoiding any infraction of the law or regulation, lest his example demoralizes the community (Castillo, etc. vs. Barsona, etc., Adm. Matter No. 77-MJ, April 18, 1975).

In Criminal Case No. 2602, for illegal possession of firearm, Municipal Judge Celso P. Largo of Aloran, Misamis Occidental, in an order dated June 22, 1968, dismissed the criminal case but then in the same order, he ordered the confiscation of the 22 caliber paltik revolver (Exhs. B and B-1) "in favor of the government". The fact, moreover, is that the judge personally turned over the revolver to the PC Headquarters in Oroquieta City. These are "mute but eloquent indicia", to borrow the words of the investigator, that the revolver does not belong to respondent, but that he "had been, really, in illegal possession of said firearm."

This must be so. The 22 caliber paltik revolver (Exhs. B and B-1 in Crim. Case No. 2602) is precisely an exhibit in the Oroquieta City Court in Criminal Case No. 9155, and marked as Exhibit 15. He was in custody and therefore had access to the firearm, which he took out of his office in Oroquieta City and brought to the town of Aloran to use it against his brother-in-law. As clerk of court and official custodian of court exhibits, respondent, by so doing, "betrayed the trust and confidence" reposed on him by virtue of his official position. The evidence shows that respondent, while in possession of the revolver, used the same "in aiming or firing at his brother-in-law", although, as observed by the inquest judge, the cause for the dismissal of this particular charge was easily understandable under the old society syndrome.

His very subordinates, who should show him respect, loyalty and support, had the courage to institute these series of administrative charges against him. The complainants during the formal investigation offered testimonial as well as documentary evidence to support their charges. This is tangible evidence that these subordinate employees completely lost their respect for and trust in their superior.

Mr. Justice Esguerra said in Adm. Matter No. P-443, July 31, 1975, in the matter of appeal of former deputy sheriff Apolinar G. Flores, "[i]t is a fundamental and a sacred mandate indispensable to the greatness of the State and of our Society that public officers and employees serve with the highest sense of responsibility and the highest degree of integrity, loyalty and efficiency, and at all times remain accountable to the people and to their conscience."

ADM. MAT. NO. P-214

Complainant Luciano Taga-an, 61 years old on November 12, 1973 when he filed his complaint, charges respondent Mahatma G. Roa with (1) willful falsification of his daily time record and (2) giving false grounds for a request for postponement of the trial of Crim. Case No. 10020 entitled "People of the Philippines vs. Mahatma G. Roa, accused" for slight physical injuries, in which complainant Taga-an is the offended party and of which said respondent was convicted in a decision dated March 18, 1974.

After the respondent submitted his comment dated January 15, 1974 on the aforesaid charges, this administrative case was referred also to Executive Judge Melecio A. Genato of the Court of First Instance of Misamis Occidental. After conducting the investigation at which both parties submitted their respective evidence, Judge Genato, in his report dated November 24, 1975, found the respondent guilty on both counts, which finding is concurred in by the Acting Judicial Consultant.

The evidence on record supports the following findings of the Inquest Judge:

" On the First Charge:

"That in the hearing of Criminal Case No. 2543, entitled 'People of the Philippines, plaintiff, vs. Luciano Taga-an, accused', for Qualified Theft of Coconuts before the Municipal Court of Aloran, this province, on February 3, 1967, herein respondent Mahatma G. Roa was present together with his counsel, Atty. George L. Siton; that in the said hearing Judge Celso P. Largo was present who allegedly was to leave for Manila in the preceding days and so the said hearing was continued on said date, February 3, 1967; that in the hearing of February 3, 1967, Atty. Valeriano S. Kaamiño, counsel for accused Luciano Taga-an, herein complainant, filed a verbal motion for dismissal on the ground that the case is more of civil in nature than criminal and substantiated his motion by introducing documentary evidence; that herein respondent Mahatma G. Roa, falsified his daily time record for the month of February, 1967, Exhibit 'A', by indicating therein that he was present in his office on February 3, 1967, when in truth and in fact he was attending trial at Aloran, Misamis Occidental on said date, Exhibits 'A-1' to 'A-3'.

" On the Second Charge:

"The evidence has sufficiently established that respondent herein has stated false ground in his motion for postponement in Criminal Case No. 10020, entitled 'People of the Philippines, plaintiff, vs. Mahatma G. Roa, accused', before the City Court of Oroquieta City. The ground stated in said motion was a palpable misrepresentation of fact and a mental dishonesty on the part of herein respondent for alleging false fact in his motion just to secure a postponement of the trial of his case. The Court, therefore, with which said motion was filed, was misled into granting said motion when in truth and in fact the grounds therein were not true. Hence, respondent Mahatma G. Roa was guilty of mental dishonesty for alleging a fact not true in his motion - an act manifestly reminiscent of the employees of the Old Society.

"The herein respondent is capitalizing his defense on the notation of the date 'February 13, 1967', Exhibit '2-A', on the upper corner of the folder (cover) of Criminal Case No. 2543 which was allegedly the handwriting of the clerk of said Municipal Court, Francisco Gomez. But the official docket book of the said Court clearly shows in its official entry that the trial of the case was made on February 3, 1967 and this has been re-enforced by the testimony before this Court of Judge Celso P. Largo, the incumbent Presiding Judge thereof, who issued the corresponding certification, Exhibit 'A', to the effect that the trial of the case was really and actually conducted on February 3, 1967. As against the testimony of former clerk Francisco Gomez of the Municipal Court of Aloran, this Court is more inclined to believe the testimony of Municipal Judge Celso P. Largo that the trial of the case really took place before him on February 3, 1967 and that herein respondent Mahatma G. Roa had personally appeared before his Court on said date. This Court, further considering the demeanor of witness Francisco Gomez while testifying on the witness stand, is of the opinion that the figure '1' in the date

February 13, 1967, Exhibit '2', has been lately added to the figure '3' to make it appear as '13'. This Court holds for the trustworthiness of the official entries of the Municipal Court's docket book where it clearly appears that the trial of the said case was on February 3, 1967. This Court, therefore, does not doubt and so it holds that herein respondent Mahatma G. Roa had intentionally falsified his daily time record by indicating in the said daily time record for the month of February, 1967 that he was present in his office on said date, February 3, 1967."

Respondent's culpability of the two charges aggravates his guilt in Adm. Matter No. P-246, which, without even considering his conduct in this Adm. Matter No. P-214, suffices to justify his immediate separation from the service.

WHEREFORE , FOR SERIOUS MISCONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, RESPONDENT MAHATMA G. ROA IS HEREBY DISMISSED FROM THE SERVICE WITH FORFEITURE OF ALL RETIREMENT PRIVILEGES AND WITH PREJUDICE TO REINSTATEMENT IN ANY BRANCH OF THE GOVERNMENT SERVICE, WHETHER PERTAINING TO THE NATIONAL OR LOCAL GOVERNMENT, INCLUDING GOVERNMENT OWNED AND/OR CONTROLLED INSTRUMENTALITIES AND AGENCIES.

Fernando, Acting C.J., Barredo, Muñoz Palma, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Teehankee and Antonio, JJ., in the result.

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