

RUBEN AUSTRIA, COMPLAINANT, VS. EDUARDO APA, CLERK OF THE MUNICIPAL COURT OF BURAUEN, LEYTE, RESPONDENT.

A.M. No. P-1328. November 27, 1981

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d4cf0b824e85/>

DE CASTRO, J.:

This is an administrative complaint filed by Engr. Ruben L. Austria, General Manager of the Leyte Electric Cooperative, Inc., against Eduardo Apa, Clerk of the Municipal Court of Burauen, Leyte, for Oppression, Arrogance, Highhandedness and Malfeasance in the exercise of his duty as public officer of the government.

The complaint was referred to the Executive Judge of the Court of First Instance of Leyte for investigation, report and recommendation after respondent's comment and complainant's reply thereto were both filed. District Judge Temistocles B. Diez of Branch IX of said Court conducted the investigation and sub-mitted a report with the recommendation that respondent be meted the penalty of severe reprimand for his act.

The report of the Investigator contains the following un-disputed facts:

"Eduardo Apa, the herein respondent is a member-consumer of the LEYECO I (Leyte Electric Cooperative I). He incurred a delinquency in the payment of his electric light bills corresponding to three months in the amount of P122.50 plus the additional sum of P76.70 representing unpaid account for the installation of electric wirings in the house of respondent. Because of this unpaid amount, the electrical connections to the house of respondent was cut off or disconnected by Justiniano Prado and Antonio Pingol, linemen of the LEYECO, on June 15, 1976, at about 3:30 o'clock in the afternoon. Upon hearing of the cutting off or disconnection of his electrical line, the respondent tried to contact the men who disconnected his electrical line and failing in this, sent a telegram (Exh. "7") to the Manager of the LEYECO I in Tolosa, Leyte that he wanted to meet the said linemen in the Police Department of Burauen. When the linemen did not appear at the police department, the herein respondent, who is a clerk of the Municipal Court of Burauen, Leyte, himself prepared a complaint for Malicious Mischief against the linemen who disconnected his electrical lines that same after-noon. Acting on the complaint, the Municipal Judge of Burauen issued the corresponding warrant of arrest for (Jaz) Justiniano Prado and Antonio Pingol. At about 7:00 o'clock of that day, June 15, 1976 Antonio Pingol was arrested by Burauen Policemen Culaban, Sudario and Avila who used a Ford Fierra vehicle owned by respondent Eduardo Apa who drove the vehicle himself and who with two other civilian companions accompanied the police in effecting the arrest. Upon the other hand, Justiniano (Jaz) Prado was arrested at about 9:45 o'clock that date June 15, 1976 at his house at Guinarona, Dagami, Leyte, by the same policemen who arrested Antonio Pingol in company of the respondent and the two civilians, still using the Ford Fierra vehicle of respondent who drove the same."

In his comment, respondent countered that he has three (3) months of unpaid bills as of June 15, 1976 not because of unwilling-ness to pay but through the negligence of the Leyeco collector in not personally contacting him; that he has been paying his bills regularly and it was the first time that the bills accumulated be-cause there was no collector to whom to pay the bills; that he even requested the collector to go to his house either on Saturdays or Sundays, as in other days, respondent is in his office; that the balance of the cost of the housewiring in the amount

of P76.70 remained unpaid because respondent's request to Leyeco to change the faulty electrical switch was not acted upon, and that payment of said balance would be made as soon as the faulty switch is either changed or fixed; that the Leyeco crew were advised by respondent's caretaker to first see respondent in his office before cutting off the electrical connection, but said crew were under the influence of liquor and did not heed the advice; that he did not receive any disconnection order fifteen (15) days in advance; and since there was no such notice, the disconnection was malicious so that herein respondent immediately caused the filing of the complaint and the issuance of a warrant of arrest which was served by a member of the Bureau Integrated Police Force who requested the use of respondent's jeep in looking for the accused. He also mentioned about one Mrs. Florentina Tolfo whose electric line was also disconnected by the same linemen, who urged him to file complaint, as she herself would want to file one, feeling similarly aggrieved.

The charge against respondent is for "Oppression, Arrogance, Highhandedness and Malfeasance in the exercise of his duty as public officer of the government", but the attending circumstances do not show that respondent is guilty as charged. He was prompted to file the complaint for malicious mischief in his honest belief that the linemen, who were allegedly drunk when they went to disconnect respondent's electrical installation, and paid no heed to the request of respondent's caretaker to see the respondent before making the 1 disconnection, acted with malice. Respondent received no prior notice of the disconnection. The notice which the linemen was supposed to serve on him was not served, and it instead bears the annotation: "No occupant." (Exh. 1 & 1-a). It was but natural for him to feel that he was being unduly harassed by the electric company management. This feeling appears to be not without basis considering that the Board of the company enacted a Resolution just after the incident, or on July 11, 1976 "penalizing with indefinite disconnection or suspension of electric service any consumer or member-consumer who files criminal charges against LEYECO I or its duly authorized personnel arising from their performance of assigned duties" (Exh. 5, p. 53, Rollo). To his request for reconnection on June 18, 1977, he was answered in a letter of the President of the company dated July 5, 1977 that by virtue of the aforementioned Resolution passed after the filing of the case of malicious mischief, which to all appearances, was aimed precisely against respondent, the request of respondent cannot be considered, not until the criminal and administrative cases that arose from the stoppage of electric service to respondent's house shall have been resolved. This means that until the present, the re-connection would not be effected before the instant case is disposed of.

While in the view of the Investigator, there was arrogance if not a misplaced sense of amor propio on the part of the respondent in acting the way he did, We fail to see that respondent's act of filing the complaint for malicious mischief is so tainted. The complaint had the support of affidavits attesting to what respondent felt was motivated by ill-will or malice on the part of the linemen. They are supposed to serve notice of the disconnection but they did not do so. The notice (Exh. 1) shows an annotation - "no occupant". The disconnection was done without anyone as a witness. Another party, one Mrs. Florentina Tolfo whose electrical connection was similarly cut off, urged him to file the case, as she herself wanted one filed. The complaint was duly accepted and preliminary examination conducted before the warrant of arrest was issued. There was no irregularity in the arrest attributable to respondent's fault, as the electric company tried in vain to pin responsibility on respondent for illegal arrest and arbitrary detention with which the complainant charged respondent in the Provincial Fiscal's Office, which, however, after proper investigation, dismissed the charge (Exh. 3, p. 56, Rollo). Any irregularity in this regard would be attributable to the Municipal Judge and the Chief of Police, not to respondent, as the Investigator found.

A mere clerk in the Municipal Court, he could not have exerted pressure or influence on the Municipal Judge, first to accept his complaint if there was any impropriety in the filing thereof, and then to issue the warrant of arrest, which was done only after pro-per preliminary examination as required by law. It is, therefore, preposterous to charge that respondent acted with arrogance, oppression or highhandedness, much less with malfeasance in the

exercise of his duty as a public officer. In filing the complaint, he acted as an ordinary private citizen who has the right to seek red-ress in court if he honestly feels aggrieved. He was not alone in reacting to the disconnection of electric installation the way he did, as stated earlier. It cannot be said in the instant case that respondent went beyond the simple exercise of this right, with abuse or misuse of official influence which is hardly existent in his position as a mere clerk in the municipal court, as against the Municipal Judge and the Chief of Police of the town. It is the electric company that would seem to be unduly harrasing the respondent when it passed the Resolution earlier referred to under which respondent would be deprived of electrical service while either the criminal case or the instant administrative case has not been resolved, following the filing of this administrative complaint against respondent, the ill motivation of which becomes thus very evident.

Anent the charge that respondent threatened the guard and maliciously ordered him to lock up the two linemen inside the stinking and congested jail instead of allowing them to sleep on the second floor of the municipal building, complainant failed to fully substantiate the same for the guard concerned was neither named nor presented during the hearing. In any case, giving the linemen preferential treatment not accorded to other detainees who are arrested by virtue of a warrant, as the former have been, is not warranted, and if respondent had tried to correct the improper act, he should not be punished therefor.

WHEREFORE, premises considered, the instant complaint is hereby dismissed for lack of merit.

SO ORDERED.

Makasiar, Fenandez, Guerrero, and Plana, JJ., concur.

Teehankee, C.J., concur with J. Melencio-Herrera's dissenting vote.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.