

IMPOSING THE PENALTY OF SUSPENSION FOR THREE (3) MONTHS WITHOUT PAY ON ASSISTANT PROSECUTOR AURELIO H. CASTILLO OF THE PROVINCIAL PROSECUTION OFFICE OF RIZAL, LAS PIÑAS SUB-OFFICE

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This is an administrative case against Assistant Provincial Prosecutor Aurelio H. Castillo, Office of the Provincial Prosecutor of Rizal, Las Piñas Sub-Office, for inefficiency and incompetence in the performance of official duty.

The formal charge arose from respondent Castillo's taking cognizance of a complaint lodged against spouses Danilo and Milan Rose Bajador for falsification of public document and thereafter causing the filing of two (2) separate informations, one in the Regional Trial Court (RTC) and, the other, in the Metropolitan Trial Court (MTC), both of Las Piñas, Metro Manila. Claiming to have been prejudiced by respondent Castillo's actuations, Mrs. Bajador instituted the instant administrative complaint.

On May 14, 1998, respondent, as required by the Secretary of Justice, submitted his answer to complaint, therein stating that he was waiving his right to a formal investigation.

From the complaint and the answer and their respective annexes, I gather the following facts:

On April 19, 1996, a criminal complaint for estafa thru falsification of public document was filed against the Bajador spouses by Milagros D. Mandras, docketed as I.S. No. LP 96-531. In support of her complaint, Ms. Mandras adduced in evidence two (2) deeds of donation dated June 14, 1995 and June 20, 1995.

After the preliminary investigation, respondent Castillo, as prosecuting officer, rendered a resolution dated July 10, 1996, dismissing the charge of estafa, it being his finding that the deed of donation dated June 14, 1995 was genuine. He, however, found a probable cause to indict spouses Bajador for falsification of public document with respect to the deed of donation dated June 20, 1995, which on its face was executed and notarized in the City of Manila. On August 7, 1996, respondent filed the corresponding information with the RTC of Las Piñas, Metro Manila, Branch 225, where the case was docketed as Criminal Case No. 96-0340. Subsequently, he filed a "Motion to Withdraw Information", therein stating that, considering the nature of, and the imposable penalty for, the offense charged, the case falls within the jurisdiction of the MTC of Las Piñas. Without awaiting, however, the RTC's resolution on his motion to withdraw, respondent, on September 3, 1996, filed with the MTC of Las Piñas an information for falsification of public document, docketed thereat as Crim. Case No. 29055.

Subsequently, or on September 16, 1996 to be precise, RTC Judge Florentino Alumbres, acting on the said motion to withdraw information filed vis-a-vis Crim. Case No. 96-0340, issued an order granting the motion, at the same time directing that the case be remanded to the MTC of Las Piñas, Branch 79. The information that was remanded to the MTC was docketed as Criminal Case No. 29201. As things thus stood, the spouses Bajador were made to contend with two (2) separate criminal charges arising from the same transaction, not to mention of their being required to twice post a cash bond of P6,000.00 each for their provisional liberty. It was only on December 5, 1996 when the MTC of Las Piñas, Branch 79, noting the case duplication, ordered the withdrawal/dismissal of Crim. Case No. 29201.

It is Mrs. Bajador's posture that respondent Castillo should not have taken cognizance of the offense of falsification of public document, alleging that all the essential elements of the crime took place in the City of Manila. As she argued, the document in question was a deed of donation dated June 20, 1995 executed in that city.

In defense, respondent Castillo avers that the error he committed was rectified by his filing with the RTC of a motion to withdraw information, *supra*, and the filing of a new information with the MTC before this motion was acted upon by the former court. He further averred that the said error was due to the voluminous work in his office, and that the same was an honest and excusable mistake, it being his belief that once the RTC grants the motion to withdraw information, the records of the case will be remanded to the Department of Justice and not to the MTC. Moving on, he also claims that his filing of the information in the court of Las Piñas relative to the deed of donation dated June 20, 1995 is justified by the fact that the deed was presented to the Office of the Register of Deeds of Las Piñas for registration.

Respondent's defense may be accorded some merit, but for a nagging reality. I refer to the fact that the purportedly falsified deed of donation dated June 20, 1995 was executed and notarized in the City of Manila. Thus, the act of falsification, if this be the case, was consummated in the said city. Any improper or illegal use of said deed in Las Piñas is of no moment. In this regard, respondent Castillo, through sheer incompetence, failed to observe the rule that the authority of his office to conduct preliminary investigation is confined only to crimes cognizable by the proper court within his territorial jurisdiction (Rule 112, Section 2, New Rules of Court), and that criminal action shall be instituted and tried in the court of the municipality or city where the offense was committed or any of its essential ingredients took place (Rule 110, Section 15(a), *Ibid*). Additionally, in his taking cognizance of the falsification case and the subsequent filing of the information in the courts of Las Piñas, respondent patently displayed his ignorance of the basic rules on criminal procedure. His incompetency is further shown by the fact that he initially filed the information for falsification before the RTC of Las Piñas which has no jurisdiction over the nature of the offense.

Respondent's invocation of good faith, in defense, cannot be accepted. For, it is basic, almost elementary, that the authority of city or provincial prosecutors to conduct preliminary investigation is limited to offenses committed within their respective territorial jurisdictions. The spouses Bajador could have been spared a lot of inconvenience and expense if respondent had been a little more circumspect in the performance of his functions. Had he bothered to examine more closely the document which the Bajador spouses supposedly falsified, he would have discovered that the same could not be the basis for prosecution for falsification in Las Piñas. As it were, respondent fell short of the degree of professionalism ordinarily expected of prosecutors.

WHEREFORE, and as recommended by the Secretary of Justice, Assistant Provincial Prosecutor Aurelio H. Castillo of the Office of the Provincial Prosecutor, Las Piñas Sub-Office, is hereby suspended for a period of three (3) months without pay for inefficiency and incompetence in the performance of duty, effective upon his receipt hereof.

Adopted: 28 Aug. 1999

BY THE PRESIDENT:

(SGD.) RONALDO B. ZAMORA

Executive secretary

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