

**MALACAÑANG**  
**Manila**

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 60

0003-391-0

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON  
FIRST ASSISTANT PROVINCIAL PROSECUTOR SESINIO B.  
BELEN, PROVINCIAL PROSECUTION OFFICE, PALAWAN

This refers to the administrative complaint filed by Vicente Buenavista, Jr., against First Assistant Provincial Prosecutor Sesinio B. Belen, Provincial Prosecution Office, Palawan, for serious misconduct, grave ignorance or indifference to the law.

In the affidavit executed by the complainant on 13 September 1988, he alleged that herein respondent was the investigating prosecutor in Criminal Cases Nos. 6744 and 6745 for the rape of complainant's eleven-year-old daughter. These cases were subsequently dismissed, albeit provisionally, on the basis of an Affidavit of Desistance purportedly executed by the victim herself. This affidavit was found to have several infirmities such as: being sworn before the respondent prosecutor without requiring the affiant's parental consent; neither was there a counsel assisting the affiant when she executed it or later when she had it sworn before the respondent; and that there was a discrepancy between the Motion to dismiss and the Affidavit of Desistance. The Motion, which was based on the Affidavit, was dated 04 July 1988 whereas the Affidavit itself was dated 26 July 1988. In other words, the Motion to Dismiss was prepared twenty two (22) days ahead than the Affidavit of Desistance.

These irregularities were brought to the attention of the court, which subsequently ordered for the reopening of the said cases which until now are still pending.

Respondent, in the original administrative case filed against him, submitted his answer-explanation and claimed that somebody accompanied the girl to his office; that he was convinced of the truthfulness and veracity of her statement and that she acted on her own free will; that he had no knowledge that she was the victim of kidnapping by the accused; that he was aware of negotiations between the parties for a possible compromise and that he could not prolong the prosecution of the case because the accused had been

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detained for a long time already. Thereafter, the then Undersecretary of Justice Artemio G. Tuquero resolved the case on 01 February 1991, finding respondent's action "short of the diligence required of a public officer who represents the State". Respondent was thus admonished and reminded to be more careful in the performance of his duties.

Complainant utilized the same Affidavit dated 13 September 1988 to charge the presiding judge handling the cases before the Supreme Court. The dispositive portion of the Supreme Court decision promulgated on 19 July 1990 reads as follows:

"Wherefore, the court finds respondent Judge Marcelo Garcia guilty of serious misconduct and hereby orders his immediate dismissal from the service with forfeiture of retirement benefit except the value of his accrued leaves.

"In view of Asst. Fiscal Sesinio B. Belen's questionable actuations in the dismissal of Criminal Cases No. 6744 and 6745 and Criminal Case No. 9756 (for kidnapping), let a copy of this decision be furnished the Honorable Secretary of Justice for his information and proper disposition."

Subsequently, after the aforementioned decision of the Supreme Court was published and a copy thereof furnished the Department, then Secretary Franklin M. Drilon motu proprio ordered the administrative case against the respondent reopened and to conduct formal investigation of the case. Likewise, on 28 August 1990, complainant sent a letter to the Department appealing for the revival of his complaint against respondent. On 26 February 1991, a reinvestigation was conducted by a Senior State Prosecutor. In the respondent's "Ex-Parte Manifestation" dated 3 April 1991, citing there were no new matters adduced, he submitted the case for resolution to which the complainant concurred. In the same manifestation, respondent raised the issue of res judicata pointing out that the 01 February 1989 resolution wherein he was admonished has become final. He also averred that complainant's reason for re-opening which was "as a result of the very disappointing action taken dated February 1, 1989 by the Undersecretary of Justice Artemio G. Tuquero" is not a valid or legal ground for reopening the case.

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The issue to be resolved is whether or not respondent should still be held administratively liable for the same act as he was previously admonished in the 01 February 1991 resolution of the then Undersecretary of Justice Artemio G. Tuquero.


Respondent's contentions are without merit.

As a general rule, the findings of facts of quasi-judicial agencies, which have acquired expertise because their jurisdiction is confined to specific matters, are accorded not only respect but at times finality if such findings are supported by substantial evidence (Dangan vs. NLRC, 127 SCRA 706; Philippine Labor Alliance Council vs. Bureau of Labor Relations, 75 SCRA 162).

However, in Ateneo de Manila University vs. Court of Appeals, 145 SCRA 100, 106, it states: "However, there are exceptions to this rule and judicial power asserts itself whenever the factual findings are initiated by fraud, imposition or collusion; where the procedure which led to the factual findings is irregular; when palpable errors are committed; or when a grave abuse of discretion, misapprehension of facts, arbitrariness or capriciousness is manifest, (Sichangco vs. Commissioner of Immigration, 94 SCRA 61)".

Scrutiny of the records of the case shows that there was misapprehension of facts. These facts which were taken into consideration by the Supreme Court in its decision dismissing respondent judge from the service, were not considered when the Department resolved the administrative case on 01 February 1991. These are:

1. In the respondent's comments dated 23 September 1988 on the complaint, he stated that when the rape victim Gail Buenavista appeared before him to have her Affidavit of Desistance subscribed by him, the victim was accompanied by somebody. Knowing the affiant to be a minor, respondent should have asked if she had her parents with her, or whether she had a counsel, or who was her companion and for what purpose why that companion was with her.

2. Further, respondent stated that on 26 July 1988 he subscribed the Affidavit of 

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Desistance of Gail Buenavista. This affidavit was made the basis of the motion to Dismiss which was dated 04 July 1988. It appears therefore that the Motion was prepared in anticipation that an Affidavit of Desistance would be executed by the victim. The discrepancy on the dates was not questioned by the respondent when the motion was heard and expectedly did not object to the motion. Moreover, the parents of the victim were not notified of such a hearing. In the administrative case, respondent did not bother to explain his failure to question the discrepancy.

In the administrative case against Judge Marcelo G. Garcia, the Supreme Court ruled that the respondent judge's intervention in brokering a compromise of the criminal cases against the accused Ledesma was improper, immoral, a show of ignorance of the law and was an act unbecoming of a judge. This actuation of the judge was known to the respondent prosecutor as he stated in his answer-explanation. It appears, therefore, that both the judge and the prosecutor conspired with each other to stifle and eventually dismiss the cases against accused Ledesma.


The above circumstances and admissions of the respondent clearly show that there was a serious misconduct, grave ignorance or indifference to the law on the part of the respondent. If one has to carefully read the 01 February 1989 resolution of then Undersecretary Tuquero, these same facts were not taken into consideration.

WHEREFORE, premises considered, respondent First Assistant Provincial Prosecutor Sesinio B. Belen is hereby DISMISSED from the service.

Done in the City of Manila, this 10<sup>th</sup> day of July in the year of Our Lord, nineteen hundred and ninety-three.



By the President:

  
TEOFISTO T. GUINGONA, JR.  
Executive Secretary