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SECOND DIVISION

[A.M. No. 88-MJ. January 25, 1977]

ALEJANDRO B. SUERTE, *complainant, vs.* **MUNICIPAL JUDGE MARCIAL G. UGBINAR of Badian, Cebu,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE COMPLAINT AGAINST A JUDGE BEING PENAL IN NATURE MUST BE PROVED BEYOND REASONABLE DOUBT.— The above recommendation, a reiteration of what was submitted to the Department of Justice by Judge Cinco, merits the approval of this Court. This is to defer the basic concept first announced in 1922 in this jurisdiction in Justice Malcolm's opinion in the leading case of *In re Horrilleno* that proceedings of this character being "in their nature highly penal," the charge "must, therefore, be proved beyond reasonable doubt." To paraphrase the opinion further, there is no showing of the alleged incompetence and gross ignorance of the law "by a preponderance of the evidence, much less beyond a reasonable doubt." Such an exacting standard has been adhered to by this Court in subsequent decisions. Nor should the circumstance be ignored, as was specifically made mention of in the memorandum of the then Acting Judicial Consultant, that with the compulsory retirement of respondent Judge, there is an added justification for the dismissal of this complaint.

RESOLUTION

FERNANDO, *J.*:

It is immediately apparent from this administrative action for incompetence and gross ignorance of the law against Marcial G. Ugbinar, then municipal judge of Badian, Cebu, now retired, that complainant Alejandro B. Suerte of the same municipality was motivated either by a strong sense of civic duty or by deep personal animosity. He did rake up acts of respondent Judge,

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who in 1918 and then again in 1970 allegedly notarized affidavits its immoral and illegal in character. To demonstrate incompetence and gross ignorance, complainant also set forth the assumption of jurisdiction by respondent Judge in 1968 in a criminal case beyond his jurisdiction and his attributing to a certain lawyer the filing of a motion when such was not the case. It is of interest to note that he did not appear to be the aggrieved party in any of the matters specified. His verified letter complaint was filed with the Department of Justice on August 14, 1972. Respondent Judge was made to answer. He did so. Thereafter, Judge Antonio Cinco of the Court of First Instance of Cebu was designated to investigate the complaint and to submit his report and recommendation.

In compliance with such directive from the Secretary of Justice, Judge Cinco heard the complaint and then on April 10, 1973, submitted the following report with his recommendation: "When this administrative case '*Re-Alejandro B. Suerte v. Municipal Judge of Badian, Cebu*' was received by the undersigned last January, 1973, from the Executive Judge, the undersigned had it calendared for hearing on February 23, 1973. On that date, neither the complainant nor the respondent appeared. It was reset for March 10, 1973. Counsel for the complainant moved to postpone that March 10, 1973 hearing and so it was postponed to March 17, 1973. When the case was called for hearing on March 17, 1973, complainant and respondent appeared with their lawyers. The complainant took the witness stand and testified. Without having been able to finish testifying on direct examination, the hearing was postponed to April 7, 1973. When April 7, 1973 came, the parties appeared together with their lawyers. Atty. Hilario Davide appearing for the complainant handed to the Court a motion for dismissal, and at the same time verbally moved the Court to dismiss this administrative case on the ground stated in the complainant's motion for dismissal signed by the complainant's attorney, the complainant himself, with the conformity of the respondent and the latter's counsel who have also signed. After studying carefully the propriety of acceding to the motion for dismissal, the undersigned proceeded to read carefully the charges alleged

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in the complaint, and the respondent's answer together with the annexes. After reading the explanation of the respondent to each of the charges and the supporting affidavits-Annexes, the undersigned is constrained to make the observation that the respondent's answer and his explanations therein contained are satisfactory and are entitled to full weight and credit. It is recommended that the charges against the respondent be dropped not only because the complainant himself has filed a motion for dismissal thereby failing to substantiate his charges; but also, because the respondent's answer deserves belief and credit."[1]

The present Constitution having come into force and effect in the meanwhile, with the transfer of supervision over inferior courts to this Tribunal, the records of this administrative complaint were transmitted to us. The then Acting Judicial Consultant, retired Justice Manuel P. Barcelona of the Court of Appeals, went over the pleadings, the transcript of stenographic notes, and the report of Judge Cinco. He arrived at the same conclusion that Judge Cinco did. As he stated in his brief memorandum, "the dismissal of the complaint is in order and the same is hereby recommended."[2]

The above recommendation, a reiteration of what was submitted to the Department of Justice by Judge Cinco, merits the approval of this Court. This is to defer the basic concept first announced in 1922 in this jurisdiction in Justice Malcolm's opinion in the leading case of *In re Horrilleno*[3] that proceedings of this character being "in their nature highly penal," the charge "must, therefore, be proved beyond reasonable doubt."[4] To paraphrase the opinion further, there is no showing of the alleged incompetence and gross ignorance of the law "by a preponderance

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[1] Report and Recommendation of Judge Cinco dated April 10, 1973.

[2] Memorandum of the then Acting Judicial Consultant, Manuel P. Barcelona of January 31, 1975.

[3] 43 Phil. 212.

[4] *Ibid*, 215.

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of the evidence, much less beyond a reasonable doubt."[5] Such an exacting standard has been adhered to by this Court in subsequent decisions.[6] Nor should the circumstance be ignored, as was specifically made mention of in the memorandum of the then Acting Judicial Consultant, that with the compulsory retirement of respondent Judge, there is an added justification for the dismissal of this complaint.

WHEREFORE, the administrative complaint against respondent Judge Marcial G. Ugbinar is dismissed. Let a copy of this resolution be spread on his record.

Barredo, Antonio, Aquino, and *Concepcion, Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. L-36545. January 26, 1977]

ESSO PHILIPPINES, INC. (now PETROPHIL CORPORATION), *petitioner, vs.* **MALAYANG MANGGAGAWA SA ESSO (MME), PHILIPPINE FEDERATION OF PETROLEUM WORKERS (PFPW) and the COURT OF INDUSTRIAL RELATIONS,** respondents.

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[5] *Ibid.*

[6] Cf. *Enriquez v. Araula,* Adm. Case No. 270-J. Dec. 18, 1973, 54 SCRA 232; *Tombo v. Medina.* Adm. Case No. 929. Jan. 17, 1974, 55 SCRA 13; *Lampauog v. Villarojo,* Adm. Case No. 381-MJ. Jan. 28, 1974, 55 SCRA 304; *Bartolome v. De Borja,* Adm. Case No. 1096, May 31, 1976, 71 SCRA 153; *De Guzman v. De Leon,* Adm. Case No. 1328-MJ. July 30, 1976; *Meimban v. Balite,* Adm. Case No. 131-MJ. August 21, 1976; *Tolentino v. Tiong.* Adm. Case No. 535-MJ. Aug. 21, 1976; *Amosco v. Magro.* Adm. Case No. 439-MJ. Sept. 30, 1976.