

[ADMINISTRATIVE ORDER NO. 50, November 26, 1987]

**SUSPENDING ATTY. ANTONIO S. ROQUE FROM OFFICE AS
REGIONAL DIRECTOR FOR REGION 8 OF THE CITIZENS LEGAL
ASSISTANCE OFFICE**

This refers to the administrative case filed by Florentina L. Laurente, Winifredo Losmagos and Gloria Losmagos against Atty. Antonio S. Roque, Regional Director for Region 8 of the Citizens Legal Assistance Office, for gross negligence and for demanding and receiving from complainants the amount of P500.00.

As regards the first charge, records show that, on December 6, 1979, respondent filed with the then Court of First Instance of Leyte Civil Case No. 5973 (for partition and accounting with damages) with the complainants herein and six others as plaintiffs. On March 31, 1982, the Regional Trial Court of Leyte dismissed the aforesaid case for failure of the plaintiffs to prosecute the case, citing as lack of interest the latter's inaction for almost two (2) years. On motion of the plaintiffs, the Court, in its Order of April 28, 1982, reinstated the case and set it for hearing on May 24, 1982. Thereafter, the Court again dismissed the case. In dismissing the case for the second time, the Court noted that plaintiffs did not move to declare defendants in default despite their (defendants) failure to file a responsive pleading within the reglementary period; and observed that plaintiffs did not even try to find out if the defendants had been served with summons. All these were viewed by the Court as patent and obvious lack of interest on the part of the plaintiffs to prosecute the case. Two motions for reconsideration were filed by respondent, which were, however, denied by the Court in an Order dated July 5, 1982.

In his defense, respondent averred that the civil case was not at all triable, as some defendants had not been summoned, the responsibility for which lies not in him but with the Court; that the Court had not appointed a guardian ad-litem for the three defendants who were minors; and that, since the civil case was for partition of property, a declaration of default would serve no purpose, since a defaulted party will not be excluded from the partition.

The defense interposed by respondent is devoid of merit. Respondent's bare allegation shifting the burden of responsibility to the Court cannot prevail over the positive findings of the latter of plaintiffs' failure to prosecute. There is nothing in the records that would show that, after respondent had filed the case, he tried to determine if the case was ready for trial. Neither did he exert any effort to ensure the early trial of the case.

With regard to the other charge of demanding and receiving P500.00 from complainants without issuing a proper receipt therefor, no sufficient evidence was presented finding respondent guilty thereof.