

[ADMINISTRATIVE ORDER NO. 380, January 21, 1976]

EXONERATING MR. ANASTACIO G. AZCARRAGA, CLERK OF COURT OF FIRST INSTANCE OF LEYTE AND EX OFFICIO PROVINCIAL SHERIFF, SINCE RETIRED

This refers to the administrative case against Mr. Anastacio G. Azcarraga, Clerk of Court of the Court of First Instance of Leyte and Ex Officio Provincial Sheriff, since retired, and Inocentes de la Peña, Deputy Provincial Sheriff, for gross ignorance of the law. The charge was formally investigated by District Judge Meneleo C. Melecor of the Court of First Instance of Leyte who found respondent Azcarraga not guilty thereof and recommended that he be exonerated, in which the Secretary of Justice concurs.

The charge arose in connection with the levy and sale at public auction of five parcels of land belonging to complainant Evangelista de Guia, judgment debtor in Civil Case No. 410 of the Court of First Instance of Leyte, Branch VI. On May 28, 1969, complainant filed a sworn complaint against respondents charging them with gross ignorance of the law under the following specifications: (1) that although the public auction sale of the five (5) parcels of land of complainant took place on November 6, 1967, to satisfy a judgment debt in Civil Case No. 410, entitled "Bonifacio Bustillo vs. Evangelista de Guia," as conducted by respondent Deputy Sheriff Inocentes de la Peña, both respondents "manipulated" the records to make it appear that the registration of the sheriff's sale was made on December 2, 1967, instead of January 9, 1968; (2) that due to such "manipulation" the respondents refused to take action on his protest and notice of redemption which he filed with them on December 13, 1968, thereby allowing the period of redemption to lapse; (3) that in the service of the corresponding writ of possession, De la Peña at first placed the successful bidder of one of the auctioned parcels in accordance with the agreement of complainant, but later and without court authority transferred said bidder to another lot; and (4) that De la Peña conducted the sale of the property in Barugo, Leyte, instead of the municipal treasurer's office in Carigara, same province, as advertised in the published and posted notices.

Respondent De la Peña not being a Presidential appointee, the discussion will be confined to respondent Azcarraga as regards specifications 1 and 2.

After hearing duly conducted, the District Judge-Investigator found respondent innocent of the charge and recommended his exoneration. Anent the first specification of "manipulation", the same was found to have been irresponsibly made, as there is absolutely no evidence that respondent had misrepresented that the registration of the certificate of sale was made on December 2, 1967. Nowhere in all the documents presented by both sides in the case does this particular date appear.