

[ADMINISTRATIVE ORDER NO. 69, October 15, 1954]

REMOVING MR. BUENAVENTURA SABULAO FROM OFFICE AS JUSTICE OF THE PEACE OF KIDAPAWAN, COTABATO.

This is an administrative case against Justice of the Peace Buenaventura Sabulao of Kidapawan, Cotabato, for fixing an excessive bond for the provisional release of one Marciano Sumagaysay who was prosecuted in his court.

It appears that on March 22, 1954, a complaint for malicious mischief was filed in respondent's court by Ugalingan Bayawan against Marciano Sumagaysay. According to the offended party, the value of the damage caused to his property was P1,211. The respondent gave due course to the complaint and fixed a bond of P6,000 for the temporary release of the accused, believing, according to him, that the penalty for the offense charged is that provided in Article 328 of the Revised Penal Code, or prision correccional in its minimum and medium periods. However, the bond was subsequently reduced to P4,000 upon petition of the accused.

The bond fixed by the respondent was obviously excessive as the accused was prosecuted for ordinary malicious mischief under Article 327 of the Revised Penal Code, which is penalized under Article 329 of said code. Under this article, the penalty for the offense is arresto mayor in its medium and maximum periods inasmuch as the value of the alleged damage exceeds P1,000. Such being the case, the customary bond required of the accused should not have exceeded P600.

Respondent's explanation that, inasmuch as Article 327 on which the prosecution was based does not provide any penalty, he thought that the penalty provided in Article 328 could be applied, is unsatisfactory. Article 328 penalizes "special cases of malicious mischief", such as causing damage to obstruct the performance of public functions, or using any poisonous or corrosive substance, etc., whereas the offense charged in the case is ordinary malicious mischief which falls under Article 329 of the code.

In the study of this case I have observed certain circumstances tending to show that the respondent deliberately fixed an excessive bond against Sumagaysay. He is one of the attorneys for the petitioners in a certiorari case pending in the Court of First Instance, entitled "Ugalingan Ingkal et al. vs. Maura Valencia." The land involved in the case is the same land on which the alleged malicious mischief, for which Sumagaysay was prosecuted, had been committed; and Sumagaysay is the tenant of the heirs of Maura Valencia, respondent in the case for certiorari. It is evident, therefore, that the interests of respondent's clients conflict with those of Sumagaysay. This fact was admitted by the respondent when he asked the District Judge that he be allowed to inhibit himself from taking cognizance of the Sumagaysay case. Commenting on respondent's actuation, the District Judge said: