

LUCIA PEDRASTA, COMPLAINANT, VS. ELIAS MARFIL, RESPONDENT.

Adm. Matter No. P-1714. May 17, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

Lucia L. Pedrasta in her verified complaint dated September 18, 1977 denounced Elias T. Marfil, deputy sheriff at Caloocan City, with illegal foreclosure of mortgage in 1965.

The complaint was inadvertently sent on September 27, 1977 to the clerk of court of the Court of First Instance at Pasig, Metro Manila on the assumption that Marfil was working there. He was being required to comment on the complaint.

More than three years later, or on January 30, 1981, the Court Administrator sent a tracer letter. It was only on April 20, 1981 when Marfil, who was stationed at Caloocan City, commented on the complaint. He alleged that there was no more restraining order when he sold the mortgaged properties on August 6, 1965.

At the hearing on July 23, 1981, conducted by Judge Alfredo M. Gorgonio, where Pedrasta did not appear (maybe for lack of interest), only Marfil testified. He presented in evidence the order of Judge Fernando Cruz setting aside the temporary restraining order regarding the foreclosure of the mortgage. All the other records of the case were destroyed by the typhoon "Yoling".

We have to dismiss the case for failure to prosecute. There is no proof that Marfil committed any irregularity in connection with the foreclosure sale. (See *De Dios vs. Alejo and Marfil*, Adm. Matter No. P-137, December 15, 1975, 68 SCRA 3541.)

WHEREFORE, as recommended by the Investigator and the Court Administrator, this case is dismissed and considered closed.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.

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