

REMBERTO CARBONELL, COMPLAINANT VS. MUNICIPAL JUDGE SIMPLICIO CABADING, RESPONDENT.*Adm. Matter No. 34-MJ. January 17, 1975*

Ponente: FERNANDO, J.

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It has been remarked, and with truth, that the freedom of action of an occupant of the bench is circumscribed, he being expected to act with greater care and circumspection, even his conduct as a man being subject to appropriate scrutiny if short of the decorum required of one in his position. The perils and pitfalls of judicial life outside of the usual risks attendant to performance of duty which could possibly displease litigants are thus many and varied. Such an observation finds confirmation in this administrative complaint for misconduct against respondent Municipal Judge Simplicio Cabading of Lamut, Ifugao. It was alleged by complainant, Remberto Carbonell, that on September 17, 1972, while respondent was under the influence of liquor, he inflicted physical injuries on the former, causing his hospitalization, an actuation characterized as "a disgrace to the officialdom of the country".[1] The complaint was filed with the Secretary of Justice who endorsed the matter to the District Judge of the Court of First Instance of Ifugao for investigation. Respondent, upon being required to answer, submitted the same on October 31, 1972. It was worded thus: "(a) That I deny generally and specifically all the material allegations of the letter complaint of Remberto Carbonell dated September 29, 1972. (2) That it is not true that I was under the influence of liquor on September 17, 1972 at about 6:30 in the evening when I approached one Remberto Carbonell at Cabaruan, San Juan, La Union to request him to conduct me and my companions to Daguing, San Juan, La Union or a distance of about 3 kilometers. He demanded P15.00 for the conduction service and I handed him a P20.00 bill. He started to drive his jeep and as we were going along I asked him for the P5.00 change and he said: 'Why do I have to give you any change yet. The road is very rough and you hired the whole jeep'. I reminded him to comply with our contract and in an angry mood he stopped his jeep and said: 'If you are that miserable you better get down and walk your way' and simultaneously he picked up a big knot and bolt from his sit and attempted to hit me with it. I was a little fast in parrying the blow and the piece of iron rebounded to his face. We struggled for the iron and because he was very much under the influence of liquor I succeeded in wrestling it from him. (3) That it is not true that I had a gun. I lost my pistol covered by Sp. No. 370645 and same was reported to the Lagawe Philippine Constabulary long before the incident. San Juan, La Union is my home town and I have no enemies there. Precisely, the barrio I visited is populated by Cabadings and I had no need for a gun. (4) That it is not also true that I threatened to bring back to San Juan, La Union a battalion of NPA dissidents. This is very remote from my mind. I am a government employee and very loyal to the administration of President Marcos. I have stayed as a Municipal Judge of Lamut, Ifugao since 1960 and I have never cooperated with the NPA's. I could not have been very imprudent as to have boasted ability to command a battalion of NPA's. Advantage is taken by my accuser of the Proclamation of Martial Law to blacken my name and see me punished. The incident happened before the Proclamation but the complaint was filed after September 21, 1972. He is visibly mad for having been hurt by the very knot and bolt that he tried to hit me with."[2] Even more to his credit was the last paragraph thereof: "That I would like to have a formal hearing on this case."[3]

The matter was referred to the then District Judge Francisco M. Abad, who set it for hearing on November 21, 1972. On that day, the complainant was absent, but respondent, who appeared on his behalf, gave his version of the incident. The District Judge, desirous of affording opportunity to complainant to present his side of the controversy, notified him that on December 28, 1972 he would have the opportunity to do so. Complainant asked for another date as he was not available; the next hearing was then scheduled for January 26, 1973, with another postponement requested, resulting in the choice of February 16, 1973. There was again a motion for postponement, which was denied by Judge Abad in an order of March 6, 1973.

On March 29, 1973, he submitted this report: "It will be observed that the undersigned scheduled the hearing of this case several times but in no occasion did the complainant and/or his witnesses [appear]; that only motions to reset the schedule(s) were forwarded to the undersigned at Lagawe, Ifugao on the ground that he (complainant) filed a motion to the Honorable Secretary of Justice asking for a change of the place of the investigation. The undersigned received and adduced evidence in the persons of Elizabeth Sobremonte, witness for the respondent and the respondent himself as early as the 29th of November 1972. As can be gleaned from the statements of the witness Elizabeth Sobremonte and the respondent himself, the complainant was the aggressor and the respondent who was the object of the former's aggression only acted in the instinct of self-preservation to parry the attacks." [4]

Then, on April 10, 1973, there was from the complainant himself a pleading entitled "Manifestation of Desistance". It was therein stated: "(1) That he is the complaining witness in a case of Less Serious Physical Injuries pending before the Municipal Court of San Juan, La Union; (2) That the above Administrative Case and the criminal case pending before the Municipal Court of San Juan, La Union, arose from one and single incident of which criminal case the complaining witness has already desisted from its prosecution and the corresponding affidavit of desistance is hereto attached for ready reference; (3) That [in] the instant administrative case the complaining witness after also analyzing thoroughly the facts and circumstances which led to its filing . . . is now fully convinced that he has no cause of action against the respondent, considering that the incident complained of arose from a mere misunderstanding and misapprehension of facts [for] which no one may be legally blamed; (4) That in my estimation when the incident happened I stated that the respondent was intoxicated, however I now realize that I could not substantiate the said charge so that it would be most unfair to him; (5) That I execute this statement freely of my own free will without any promise of reward or compensation and that I therefore ask the Honorable Supreme Court to dismiss the above complaint against the respondent". This Court, instead of acceding to the plea for dismissal filed by complainant Carbonell, issued this resolution of September 24, 1973: "Administrative Matter No. 34-MJ (Remberto Carbonell vs. Municipal Judge Simplicio Cabading). — Considering the letter-complaint filed against Judge Simplicio Cabading, Municipal Court of Lamut, Ifugao, for conduct unbecoming a member of the Philippine Bar, the first indorsement of respondent judge by way of answer thereto, the manifestation of desistance of complainant, as well as the motion of the respondent to dismiss this case, the Court Resolved: (a) to DENY the aforesaid motion to dismiss this case; and (b) to REFER this case to the District Judge of the Court of First Instance of San Fernando, La Union for investigation of the reason why the complainant executed an affidavit of desistance, to find out the status of Criminal Case No. 882, 'People vs. Simplicio Cabading,' in the Municipal Court of San Juan, La Union, and to proceed with investigation of this case if his findings so warrants."

In the meanwhile, a new District Judge, Angel A. Daquigan, had taken over from the former District Judge Abad. It was to him that the above resolution was referred for action. On November 17, 1973 he submitted his report. It was therein stated that there was such a move to desist on the part of complainant from further prosecuting the complaint not only because of his being convinced that the injuries inflicted were accidental but also because of the close relationship between the parties, it appearing that the grandmother of the complainant is a half sister of

the mother of respondent. It was, likewise, mentioned that the criminal complaint, filed against respondent judge in the municipal court of San Juan, La Union, arising from the same incident, had already been dismissed. Moreover, Judge Daquigan expressed conformity with the conclusions reached by Judge Abad in his report of March 29, 1973 that the complainant was the aggressor and that respondent only acted under the instinct of self-preservation to parry the attack, and that the dismissal of the criminal case, as well as the execution of the affidavit of desistance, could not, in any wise, be attributed to the respondent judge and recommended that he be cleared of the administrative charge filed against him.

A study of the record persuades us that in the light of the known circumstances, there is no sufficient justification for any disciplinary action against respondent judge. The quantum of proof required that would warrant the imposition of any penalty on a member of the judiciary was not met.[5] Moreover, there was a voluntary desistance on the part of complainant. While the reluctance of an aggrieved party to press charges does not necessarily merit approval, still there is nothing in the record outside of the unsubstantiated allegation in the complaint to impute to respondent Judge conduct that was truly reprehensible.

Wherefore, the administrative complaint against Municipal Judge Simplicio Cabading is dismissed. Let a copy of this resolution be spread on his record.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Complaint filed with the Secretary of Justice.

[2] First Indorsement, October 31, 1972.

[3] Ibid.

[4] First indorsement, March 29, 1973.

[5] Cf. In re Horrilleno, 43 Phil. Reports, 212, March 20, 1922.

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