

ROSALITO FAJARDO, COMPLAINANT, VS. MUNICIPAL JUDGE GUALBERTO B. BACARRO, SR. OF TAMBULIG, ZAMBOANGA DEL SUR, RESPONDENTS.*Adm. Matter No. 1879-MJ. September 30, 1982*

Ponente: DE CASTRO, J.

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An administrative complaint for dishonesty was filed against Municipal Judge Gualberto B. Bacarro of Tambulig, Zamboanga del Sur. In a sworn statement^[1] dated January 27, 1978, complainant alleged that sometime in August, 1974, his uncle, Vicente Fajardo got his pig and promised to pay the same later on; that his uncle failed to pay for the pig so he decided to file a complaint against him; that his uncle did not sell the pig but gave it to respondent judge because the latter promised to dismiss the frustrated murder case against the former; and that the criminal case against complainant's uncle was later dismissed by herein respondent.

In his comment,^[2] respondent claimed that the charge is absolutely false and highly preposterous; that the sworn statement is a product of hate nursed not by complainant but by men who have prejudiced minds against him (respondent); that he received complaints from the prisoners in the Tambulig Municipal Jail that they were not well-treated and adequately fed despite the increased allowances; that he decided to investigate the matter which was the beginning of the rift between him and the police station commander; that he repudiated the charge that he received the pig from Vicente Fajardo as consideration for the dismissal of the latter's case; that the private prosecutor in that case filed a motion to dismiss on the ground that the parties have amicably settled the case after the accused paid the hospital expenses of the offended party; that the records of the criminal case were forwarded to the Court of First Instance of Zamboanga del Sur for review; that if it were true that he took the pig from his nephew, herein complainant, without paying for the same, the latter would not have waited for about four years before reporting the matter to the Philippine Constabulary; that the affidavit executed by complainant was merely fed to him and he was under powerful threats of the police, since complainant was then under detention; that said affidavit was designed primarily to embarrass respondent not only before his superiors but also before the general public; and that there are some men who have malicious and vicious minds against respondent ever since he took up the cudgel for the prisoners after learning of their sad and deplorable plight.

Deputy Court Administrator Leo D. Medialdea recommended the dismissal of the complaint for dishonesty for lack of merit but stressed that respondent judge should be reprimanded for his irregular actuation in dismissing the criminal case for frustrated murder against Vicente Fajardo based on an improper ground.

We agree with the recommendation. A perusal of the records show that there is no clear evidence to prove the charge of dishonesty. Complainant's uncle, Vicente Fajardo, who allegedly gave the pig to respondent and who can possibly substantiate the charge rejected as unfounded the report of complainant to the Philippine Constabulary.^[3] Indeed, the fact that it took Rosalito four years before he reported the pig incident to the authorities is an indication that the charge is ill-motivated and complainant himself, in an affidavit^[4] he executed

before Municipal Mayor Edmedio A. Ebarle of Tambulig, disowned his denunciation against respondent, expressing his regrets and explained that he could not resist the insistence of one Pat. Alfredo Suan to make him sign his earlier statement. It likewise appears in Vicente Fajardo's sworn affidavit^[5] that he never gave any pig to respondent which lends support to the latter's defense that the charge is absolutely false and highly preposterous.

However, the action of respondent judge in dismissing the criminal case against Vicente Fajardo on the ground that the parties therein amicably settled their case, is unwarranted. As held in *Hibberd vs. Robde & Mcmillan*,^[6] "A person suffering from the commission of such a crime may not barter away the benefits of public order and personal safety and security of the people by representing to the culprit that he will actively aid in the task of securing immunity from public prosecution if his civil damages are made good. Courts are charged with the duty of administering the law and they should not lend their aid to the enforcement of any contract which looks to its perversion."

WHEREFORE, premises considered, the administrative complaint against Municipal Judge Gualberto B. Bacarro is hereby dismissed for lack of merit, but he is **REPRIMANDED** for his irregular actuation of dismissing a criminal case for frustrated murder based on an improper ground. A repetition of similar offense will be dealt with more severely by this Court. Let a copy of this resolution be attached to respondent judge's personal record.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Guerrero, JJ., concur. Escolin, J., joins J. Abad Santos on his separate opinion.

[1] p. 1, Rollo.

[2] pp. 3-6, Rollo.

[3] pp. 8-9, Rollo.

[4] p. 16, Rollo.

[5] *Supra*.

[6] 32 Phil. 482.

SEPARATE OPINION

ABAD SANTOS, J.:

I am not convinced that when respondent judge dismissed the criminal case against Vicente Fajardo on the ground that the parties had amicably settled the case, he necessarily committed an impropriety. The dismissal can not be construed as an approval of the agreement which would be wrong; the judge simply yielded to the reality of the situation. For if Fajardo had refused to prosecute his case after he had received a settlement satisfactory to him, there is nothing that respondent could have done. It is trite but bears repeating nonetheless that one can lead a horse to water but to make it drink the water is another matter. Accordingly, I vote that the administrative case against Municipal Judge Gualberto B. Bacarro be dismissed in toto.

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