

ELASCIO ESTUCADO AND CARMELINO VARGAS, COMPLAINANTS, VS. HON. JOSE F. LORIEGA, MUNICIPAL JUDGE, LIBERTAD, ANTIQUE, RESPONDENT.

A.M. No. 1226-MJ. October 28, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This is a complaint filed by Elascio Estucado and Carmelino Vargas charging Municipal Judge Jose Loriga of Libertad, Antique with "Land Grabbing and Acts of Oppression".

The case was referred by the Court to the Executive Judge of the Court of First Instance of Antique for investigation, and report.

In his report dated March 30, 1977, the Investigating Judge, Hon. Noli Ma. Cortes recommended the dismissal of the complaint for insufficiency of evidence. According to Judge Cortes, the case was scheduled for hearing on various dates starting September 3, 1976, the last scheduled hearing being on March 24, 1977, but in all the hearings except for one, the complainant failed to appear and invariably moved for postponement. It was only in the hearing of October 5, 1976 when complainant presented one witness in the person of Miguel Salvador whose testimony however failed to establish the allegations in the complaint. The Investigating Judge further reported that the other complainant Carmelino Vargas had filed a motion to withdraw his complaint against the respondent. Hence, the recommendation that the case be "terminated and closed and that the respondent be exonerated". (pp. 115-120, rollo)

In the letter-complaint signed by Elascio Estucado and Carmelino Vargas, it is alleged that Elascio Estucado is the owner of a coconut plantation which was "grabbed by an influential man by the name of Arsenio Salvador" with the help of respondent Judge Loriga; that at the instance of Arsenio Salvador he was accused three times for stealing coconuts and bamboos from the lot in question and respondent Judge ordered his arrest and placed him in jail without the benefit of any investigation or hearing. (p. 6, *ibid.*)

On the other hand, respondent Judge in his comment denied vehemently the charges and alleged the following that he had not grabbed any land either of Elascio Estucado or Carmelino Vargas; the only property that he owns in Libertad, Antique, is a 402 square-meter residential lot where his house now stands; this complaint was motivated by the fact that he acted on three criminal charges filed against Elascio Estucado by Arsenio Salvador, and if Elascio Estucado was placed in jail, it was because of a warrant of arrest issued by him after finding the existence of probable cause based on a preliminary investigation conducted by him; in Criminal Case No. 99, for qualified theft, Estucado was defended in court by a lawyer of the Bureau of Agrarian Legal Assistance of the Department of Agrarian Reform and on August 28, 1973, he (respondent Judge) rendered a decision acquitting Estucado; in Criminal Case No. 100 for simple theft, Estucado was however found guilty after trial during which Estucado was assisted by Atty. Edilberto Miralles of Navas, Aklan. This decision was appealed to the Court of First Instance of San Jose, Antique and subsequently, Estucado filed a motion to withdraw the appeal for which

reason Judge Celso Magsino remanded the case back to the Municipal Court of Libertad for execution of judgment. In Criminal Case No. 104, Estucado was charged with qualified theft and was assisted again by Atty. Miralles but this case was provisionally dismissed on December 5, 1974 at the instance of the private prosecutor. (pp. 18-21, *ibid.*)

Appearing in the record of this case are the following documents submitted by respondent as part of his defense: a) a certification of the Municipal Treasurer of Libertad, Antique to the effect that Elascio Estucado has no real property declared in his name for taxation purposes (p. 22, *ibid.*); b) decision in Criminal Case No. 99 acquitting Elascio Estucado (pp. 23-30, *ibid.*); c) decision in Criminal Case No. 100 convicting Elascio Estucado of simple theft and sentencing him to two months and one day of imprisonment (pp. 31-36, *ibid.*); d) motion to withdraw appeal filed by Elascio Estucado on October 21, 1974 before the Court of First Instance of Antique in Criminal Case No. 734-N (p. 37, *ibid.*); e) an order of the Court of First Instance of Antique remanding the case to the Municipal Court of Libertad for execution of judgment dated November 4, 1974 (p. 38, *ibid.*); f) urgent motion to withdraw complaint dated August 26, 1976 signed by Carmelino Vargas, one of the complainants in this case (p. 48, *ibid.*); and g) a letter addressed to the Investigating Judge Noli Ma. Cortes signed by Miguel Salvador, Vicenta Rufon, Albino Dioso and Iluminado Bagac stating that "they have no knowledge whatsoever about the allegations in the complaint" filed against Judge Jose Loriega wherein they were named witnesses for the complainant (p. 47, *ibid.*).

From the report of the Investigating Judge, it appears that the land which complainant Elascio Estucado claims to have been grabbed from him actually belonged to Plemaco Dioso which was being worked by Valentin Estucado, father of the complainant herein, now deceased. This land was mortgaged by the owner to Arsenio Salvador who took possession of the land and worked on it after the father of the complainant had died. This explains the ill-will and resentment nurtured by Elascio Estucado against Arsenio Salvador and respondent Judge who tried the criminal cases filed against complainant Estucado.

WHEREFORE, on the basis of the report of Judge Noli Ma. Cortes and finding the explanation of the respondent duly substantiated by the documentary evidence submitted by him, We find this complaint unsubstantiated and without merit and We accordingly dismiss the same and exonerate respondent Judge Jose Loriega of the charge.

So Ordered.

Castro, C.J., Fernando, Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion, Jr., Martin, Santos, Fernandez, and Guerrero, JJ., concur.

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