

JOSE LACSAMANA, COMPLAINANT, VS. MUN. JUDGE MELJOHN DE LA PEÑA, RESPONDENT.

A.M. No. 457-MJ. May 15, 1974

Ponente: CASTRO, J.

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CASTRO, J.:

The complainant Jose Lacsamana charges the respondent Municipal Judge Meljohn de la Peña of Maripipi, Leyte with (a) a violation of the lawyer's oath to "do no falsehood, nor consent to the doing of any in court," and (b) failure to comply with the lawyer's duty, imposed by section 20(d) of Rule 138 of the Rules of Court, "to employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth and honor."

Lacsamana alleges in his complaint, inter alia, that in civil cases B-0198 and B-0199 filed by him with the Court of First Instance of Leyte against Severina Malayao and Eddie Ho for "Recovery of Ownership of Real Property," the respondent de la Peña, as counsel for the defendants therein, introduced in court, in the course of the presentation of evidence for the defense, a document entitled "Escritura de Compraventa Absoluta," which deed appears to have been notarized by Enrique Sibucan of Naval, Leyte on April 30, 1939 and entered in his notarial register as Doc. 91, page 95, series of 1939; but that a verification of the notarial register of the said notary public in the National Archives in Manila revealed that Doc. 91, page 95, series of 1939 pertained instead to an affidavit of one Ireneo Machete and not to the compraventa document. Upon the foregoing allegations, Lacsamana brands the "Escritura de Compraventa Absoluta" as spurious.

Commenting on the administrative complaint against him, Judge de la Peña disowns knowledge or belief that the document in question is simulated or fraudulent. He attached to his comment an affidavit of Perfecto Adobo, one of the heirs of Evaristo Adobo, wherein the affiant states that he identified the document in court as one of the papers left by his deceased father, and that this paper was surrendered to Eddie Ho when the land was sold to the latter. The respondent judge also points out that although the annexes to Lacsamana's complaint, which are a photostatic copy of the compraventa and a photostatic copy of page 95 of Sibucan's notarial register, show that the compraventa was executed on April 30, 1939 and entered as Doc. 90, whereas the affidavit of Machete was executed on April 29, 1939 and entered as Doc. 91, the discrepancy cannot be attributed to him (the said respondent judge).

It is our view, and we so hold, that no prima facie case has been established, hence further investigation is not warranted.

That the "Escritura de Compraventa Absoluta" was entered in the notarial register ahead by one notch or number than the affidavit does not necessarily make the compraventa document simulated or spurious; and even assuming that it is, the complainant has not alleged that the respondent knew of such infirmity, and that despite such knowledge he nevertheless presented the document as evidence in court.

ACCORDINGLY, the administrative complaint against the respondent Judge Meljohn de la Peña is hereby

dismissed.

Makalintal, C.J., Teehankee, Esguerra, and Munoz Palma, JJ., concur.

Makasiar, J., is on leave.

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