

GIDEON R. EVALLA, COMPLAINANT, VS. MUNICIPAL JUDGE ANTONIO B. MAGO OF MERCEDES, CAMARINES NORTE, RESPONDENT.

A.M. No. 524-MJ. March 30, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

In a complaint dated August 27, 1973 Gideon R. Evalla charged Municipal Judge Antonio B. Mago of Mercedes, Camarines Norte with certain irregularities, to wit:

- (a) In 1969, preparing the statement of the prosecution witnesses, Gerardo Villanueva and Basilio Bata-lero, in Criminal Case No. 1184, a grave coercion case filed against Clara R. Evalla, complainant's wife. Judge Mago prepared the statements allegedly at the instance of Jose Pascual, the judge's ninong.
- (b) In 1972, acquitting Eduardo Cabusas and Felipe Badinas in Criminal Case No. 1367, a case of malicious mischief filed by Pura Evalla, the daughter of the herein complainant.
- (c) On August 21, 1973, Judge Mago allegedly "flung away" the letter of the complainant, addressed to the Chief Executive, wherein he denounced Edmundo Pascual for not paying for complainant's coconut land and trees.
- (d) On August 22, 1973, Judge Mago allegedly re-fused to furnish the complainant with copies of the transcript to be used in the hearing of Criminal Case No. 1578 filed by Eduardo Cabusas and Teodora B. Sena against Ruben Alarcon.

After Judge Mago had submitted his answer to the charges, this Court, upon the recommendation of the Judicial Consultant, dismissed for lack of merit charges (a), (c) and (d) (See Resolution dated June 25, 1975).

Two additional charges were filed by Evalla against Judge Mago: demanding P120 from the complainant for the purchase of two lawbooks and irregular ratification of a special power of attorney.

After Judge Mago had answered those charges, the same, together with the charge of having dismissed Criminal Case No. 1367, were referred to the Executive Judge of the Court of First Instance of Camarines Norte for investigation, report and recommendation. The charges were investigated by Judge Domingo Medina Angeles.

Dismissal of malicious mischief case. - The investigator found that Judge Mago acquitted Badinas and Cabusas after trial and after conducting an ocular inspection and that he rendered a decision based on the law and the facts established during the trial. Herein complainant Gideon Evalla did not testify in that case. His wife was the offended party therein.

Judge Angeles concluded that the verdict of acquittal was correctly rendered by Judge Mago who decided the case on the merits and who acquitted Badinas and Cabusas because their guilt was not established beyond reasonable doubt.

Improper exaction. - Judge Angeles also found that the charge of having demanded P120 for the purchase of two lawbooks was not proven by Evalla. He did not file any bribery charge against Judge Mago. There is no evidence that Evalla delivered P120 to Judge Mago.

However, it is apparent that there was an improper motivation on respondent's part in writing on a page of complainant's notebook the titles of two lawbooks and their prices. In that respect his behavior was not above reproach.

Irregular ratification of special power of attorney. - The evidence shows that Restituto Caro signed a special power of attorney in favor of Felipe Eborde, a barrio captain, empowering him (Eborde) to receive from the district highway engineer at Daet the compensation for the construction of the Masalongsalong bridge.

Judge Mago ratified the said document in Caro's absence on April 12, 1975. That date is blurred. It was superimposed on a prior date. The document was prepared by a clerk in Judge Mago's office at Eborde's instance. Caro testified that he had no complaint against Judge Mago.

On the strength of that special power of attorney, Eborde allegedly collected from the municipal treasurer of Mercedes the sum of P3,000 as payment for the construction of the bridge. It appears that Caro was the ostensible contractor and Eborde was the one who actually supervised the construction. Eborde supposedly paid Caro a certain amount for consenting to act as Eborde's dummy. Apparently, the law prohibits barrio captains from entering into any contract with the government for any construction project.

The investigator recommends that Judge Mago be exonerated of the charge. The Judicial Consultant recommends that respondent Judge be suspended for fifteen days.

The act of a notary in administering an oath in affiant's absence, while not amounting to gross misconduct, is censurable (National Bureau of Investigation vs. Morada, 112 Phil. 717; Viuda de Veloso vs. Madarang, 61 Phil. 773; Ramirez vs. Ner, Adm. Case No. 500, September 27, 1967, 21 SCRA 207).

In the case of a municipal judge, a higher degree of ethical standard should be observed.

WHEREFORE, respondent Judge is exonerated of the charge of having improperly acquitted the defendants in the malicious mischief case, it not appearing that his decision was unjust (In re Climaco, Adm. Case No. 134-J, January 21, 1974, 55 SCRA 107).

In connection with the charge of illegal exaction, respondent Judge is admonished to avoid improper or unbecoming conduct that will cast a doubt on his integrity.

As to the last charge, the respondent is suspended for a period of fifteen days for having irregularly ratified the special power of attorney executed by Restituto Caro. The commission of another irregularity on his part will be treated with more severity. Let a copy of this decision be attached to his personal record.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.

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