

MARTINIANO O. DE LA CRUZ, COMPLAINANT, VS. JUDGE JOSE P. DE LEON, MUNICIPAL COURT OF MARILAO, BULACAN, RESPONDENT.

Adm. Matter No. 2310-MJ. November 12, 1981

Ponente: BARREDO, J.

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BARREDO, J.:

Administrative complaint against respondent Hon. Jose P. de Leon, Judge of the Municipal Court of Marilao, Bulacan for alleged miscarriage of justice by ordering the dismissal allegedly without legal basis of an estafa case.

Respondent was required to comment and upon the filing of said comment, the Court referred the case to the Executive Judge of the Court of First Instance of Bulacan for investigation, report and recommendation. The Hon. Roque A. Tamayo, the Investigator, conducted the required investigation and has sub-mitted his report and recommendation. Justice Lorenzo Relova has endorsed said report to the Court as follows:

"Re: Administrative Matter No. 2310-MJ

(Martiniano de la Cruz vs.

Judge Jose P. de Leon)

"Atty. Martiniano de la Cruz charged Municipal Judge Jose P. de Leon of the Municipal Court of Marilao, Bulacan with miscarriage of justice.

"Records show that complainant filed Criminal Case No. 3412, entitled: 'PP vs. Emilia Bianco', for estafa alleging that accused Bianco made false mani-festation and fraudulent representation to complainant de la Cruz that she had sufficient funds to pay her accommodation in the apartment of the complainant; that Bianco failed and refused to pay de la Cruz the total amount of P992.00 for her accommodation in said apartment for the period from January to September 1978; and that Bianco abandoned said apartment by surreptitiously leaving the premises and removing her baggages thereat.

"Respondent Judge conducted a preliminary investigation of said criminal case No. 3412 following which he issued an order, dated January 5, 1979, dismissing the case stating that the liability of Bianco, if any, is purely civil in nature.

"Executive Judge Roque A. Tamayo of the CFI of Bulacan, investigated this administrative matter and reported, among others:

'From the foregoing, it is evident that the complainant had been resorting to the obnoxious practice of renting his dwelling houses under very strict conditions calling said lease contracts as 'contracts of accom-modations' which are not so and incorporat-ing in said contracts of lease such illegal conditions as:

'18. KUNG UMALIS AKO HINDI BAYAD, KASALANAN KO, ESTAFA, RPC 315, sub-2-e. (Exh. 4, par. 18 of contract of lease with Bianco)

erroneous and unscrupulous belief that violation of the contract would render said violations subject to the penal

provisions of Art. 315 of the Revised Penal Code. He even enumerated cases of estafa he caused to be filed which are however unsubstantiated as far as this Investigating Report is concerned and therefore serves nothing but only to clutter the record for uncollected rentals of his apartment units, thereby converting and relegating the office of the fiscal and the courts into glorified collecting agencies, by invoking their coercive powers of arrest and detention.

'It is precisely on this pronouncement of the Honorable Supreme Court that the respondent herein finding that the complainant was using his court as a collection agency, reversed himself by dismissing Criminal Case No. 3412 (Exhibit 'A') filed against Emilia Bianco, when in a former criminal case, No. 2791, filed against Anastacia Seleterio, he entertained the case until arraignment and trial, wherein the complainant Martiniano de la Cruz suddenly made a turnabout and asked for the dismissal of this case on the ground that it arose merely from a misunderstanding between him and Seleterio. It is not (sic) possible that the dismissal asked for by complainant de la Cruz and granted by the Court, was due to the fact that said complainant Martiniano de la Cruz had already been paid by Seleterio after his arrest and arraignment.'

and recommended that respondent 'be absolved of any responsibility and the administrative case against him be dismissed' x x x 'that the complainant and not the respondent Judge be called to task to answer for his unethical actuations which are unworthy of a member of the Bar for using his knowledge of the law into 'bludgeoning parties to pay or face criminal prosecution', in spite of being a professed 'concerned citizen' and taxpayer, at a time when 'concerned citizens' must rally behind the New Society's call for compassion to his fellowmen.'

"Deputy Court Administrator Romeo D. Mendoza and the undersigned respectfully recommend that: a) respondent Judge Jose P. de Leon be absolved from any responsibility and the administrative case against him be dismissed for lack of merit; and b) complainant Atty. Martiniano de la Cruz be reprimanded as a member of the Philippine Bar with warning that a repetition of the same or similar acts shall be dealt with more severely.

"October 29, 1981.

Respectfully submitted:

(SGD.) LORENZO RELOVA

Court Administrator"

We have also read the report of Judge Tamayo and the annexes thereto. We are satisfied that the evidence against respondent cannot justify any sanction against him. On the contrary, the actuations of complainant Atty. Martiniano de la Cruz revealed in the record are the ones that call for disciplinary action against him as a member of the bar.

WHEREFORE, the complaint against respondent Judge Jose P. de Leon is hereby ordered dismissed. The Court Administrator is directed to furnish the Solicitor General with the pertinent parts of the record showing the apparently improper conduct of Atty. de la Cruz in order that the appropriate investigation may be conducted with a view to the institution, if warranted by the evidence, of the corresponding administrative complaint against said lawyer.

Fernando, C.J., Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, Melencio-Herrera, JJ., concur.

Teehankee, J., no part.

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