

**FELICIANA DAGSA-AN, COMPLAINANT, VS. RODOLFO SEL CONAG,
CLERK OF COURT, MUNICIPAL TRIAL COURT, PALOMPON, LEYTE,
RESPONDENT.**

A.M. No. P-98-1269. May 13, 1998

Ponente: VITUG, J.

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VITUG, J.:

In an affidavit complaint, dated 27 January 1996, Feliciana Dagsa-an charged Rodolfo Sel Conag, Clerk of Court of the Municipal Trial Court of Palompon, Leyte, with failure to pay his debt amounting to P17,400.00. Complainant alleged that respondent, a married man with whom she had an illicit relationship, took advantage of her moments of weakness and lack of education in obtaining the loan which he had used to purchase pieces of jewelry and other personal accessories.

The accusation made by complainant was vehemently denied by respondent who claimed that the administrative action had only been an offshoot of his complaint against Prosecutor Nemesio M. Buot, Jr., who instigated the instant administrative case.

In its resolution of 10 February 1997, this Court resolved to refer the case to Executive Judge Buenaventura C. Vilbar of the Regional Trial Court of Palompon, Leyte, for investigation, report and recommendation. Considering, however, that Judge Vilbar was undergoing medical treatment and physically unfit at the time, the case was reassigned, in the Court's resolution of 23 June 1997, to Executive Judge Fortunito Mandrona of the Regional Trial Court of Ormoc City.

In his compliance, dated 04 September 1997, Judge Madrona recommended the dismissal of the complaint due to the formal withdrawal and desistance of complainant who manifested, under oath, that she was no longer interested in pursuing the case.

In its memorandum, dated 02 January 1998, the Office of the Court Administrator. Through DCA Bernardo P. Abesamis, observing that "the complaint will not prosper in the absence of the participation of the complainant," likewise recommended the dismissal of the complaint.

The withdrawal of a complaint or the desistance of a complainant does not necessarily warrant the dismissal of an administrative complaint. In *Vasquez vs. Malvar*,^[1] the Court categorically expressed that "to condition administrative actions upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip this Court of its supervisory power to discipline erring member of the Judiciary."^[2] In instances, however, where an administrative case cannot proceed without the active cooperation of the complainant, the Court may find itself with hardly any alternative but to dismiss the complaint.^[3] This kind of situation, according to the investigating judge the OCA, is what has unfortunately occurred in this instance.

Be that as it may, the Court cannot write *finis* to this matter without making its observation that in his effort to defend himself, respondent has evidently attempted, using the Court's letterhead, to improperly obtain any

information about complainant that could sullen her character and reputation. For this conduct unbecoming of an officer of a court of justice, respondent deserves admonition.

WHEREFORE, the administrative complaint is DISMISSED for lack of evidence. Respondent Rodolfo Sel Conag, however, is ADMONISHED for not having been more circumspect in his actuation than heretofore shown.

SO ORDERED.

Davide, Jr., Bellosillo, Panganiban, and Quisumbing, JJ., concur.

[1] 85 SCRA 10

[2] At page 26

[3] See Alegre vs. Nidea, 64 SCRA 250.

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