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Makalintal, Acting C.J., Ruiz Castro, Fernando Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.

Zaldivar, J., is on leave.

FIRST DIVISION

[A.C. No. 282-J. August 15, 1974]

ANUNCIO G. VALLE, *complainant, vs.* **HON. JOSE C. CAMPOS, JR.,** *respondent.*

RESOLUTION

MAKASIAR, *J.*:

In a complaint filed on March 28, 1973, Anuncio G. Valle charges respondent Judge Jose C. Campos, Jr. with undue partiality and with violation of the Anti-Graft and Corrupt Practice Act by reason of his actuations in Civil Case No. Q-16686 of the Court of First Instance of Quezon City, entitled "Rosario Juico and Anuncio Valle *vs.* World War II Veterans Enterprises, Inc., *et al.*" After respondent filed on April 24, 1973 his comment on the complaint, the same was dismissed for lack of merit in Our resolution dated May 3, 1973.

On June 26, 1973, complainant filed a motion for reconsideration of said resolution followed by a supplemental motion dated July 2, 1973; while respondent filed on July 26, 1973 his comment thereon, to which complainant filed a reply on September 29, 1973.

Thereafter, the case was referred to Justice Godofredo Ramos of the Court of Appeals for investigation, report and recommendation.

On July 22, 1974, complainant, now a resident of Glendale, California, U.S.A., filed his motion to dismiss or withdrawal of his complaint, duly authenticated by Vice Consul Francisco

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F. Santos, assigned in Los Angeles, California. The said motion to dismiss or withdrawal of complaint states among others:

"1. That at present he is residing in Glendale, California, United States of America having accompanied his wife who is undergoing further medical treatment in the United States as per advice of their family physician, Dr. Gonzalo Austria of the Manila Doctors Hospital, Manila, Philippines;

"2. That at the outset, he was convinced to file this administrative case due to certain parties interested in purchasing the Tetoron clothing materials subject to the case, from World War II Veterans Enterprises, Inc. (Warvets) or the Reparations Commission (Repacom);

"3. That as the case developed, he signed pleadings and supporting affidavits containing statements of facts, which at that time he believed to be true;

"4. That, however, upon personal and thorough investigation and verification of the facts alleged in the various Comments and Memoranda of the respondent Judge, as well as the supporting documents attached thereto, the undersigned has found them to be true, rendering unfounded the allegation that the respondent Judge committed acts of irregularities and favoritism;

"5. That moreover, after it has been verified, and the Repacom has confirmed, that all the Tetoron textiles were ordered released by the respondent Judge upon full payment or deposit of the sums due to Repacom and Warvets, in cashier's checks, corresponding to the number of bales released, confirming the basic comments of the respondent Judge dated December 26, 1973 (pp. 6-17) and his other comments and memorandum, it is now clear and apparent that the fear assumed by complainant that the subject tetoron textiles would be released without the payment of the corresponding sums to Repacom or Warvets is unwarranted, nor was there any undue haste in the release of the textile nor any irregularity in the substitution of checks for its release;

"x x x x x x x x x

"8. That finally, after reviewing the surrounding facts and circumstances of this administrative case, the undersigned complainant is inclined to believe that he was misled in the filing of the complaint through misapprehension of the facts and circumstances and, therefore, is no longer interested in further

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prosecuting the case and, consequently, hereby moves for the dismissal of this administrative case so as to relieve the respondent Judge from further injury that he might suffer.

"WHEREFORE, it is respectfully prayed that the instant Administrative case be dismissed and/or withdrawn with prejudice."

Accordingly, Justice Ramos recommended the dismissal of this case with prejudice, finding the grounds for the withdrawal of the complaint to be tenable and considering that the charges could not be substantiated as the complainant desists from prosecuting the same.

WHEREFORE, THIS ADMINISTRATIVE CASE AGAINST RESPONDENT JUDGE JOSE C. CAMPOS, JR., IS HEREBY DISMISSED, WITH PREJUDICE.

Makalintal, C.J., Ruiz Castro, Teehankee, Esguerra, and *Muñoz Palma JJ.*, concur.

EN BANC

[G.R. No. L-20620. August 15, 1974]

REPUBLIC OF THE PHILIPPINES, *plaintiff-appellant, vs.* **CARMEN M. VDA. DE CASTELLVI, ET AL.,** *defendants-appellees.*

SYLLABUS

1. **EMINENT DOMAIN; "TAKING" OF PROPERTY; ELEMENTS OF.—** A number of circumstances must be present in the "taking" of property for purposes of eminent domain: (1) the expropriator must enter a private property; (2) the entrance into private property must be for more than a momentary period; (3) the entry into the property should be under warrant or color of legal authority; (4) the property must be devoted to a public use or otherwise informally appropriated or unjuriously affected; and (5) the utilization