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a formal party in the case, has assumed or participated in the defense.[5] By coming forward with the original litigants in moving for a judgment on a compromise and, furthermore, by assuming such interest in the final adjudication of the case as would place them in unequivocal liability, together with the Rebollados, to the plaintiff therein, the Tolentinos effectively submitted themselves to the jurisdiction of the city court. They were and are thus subject to its judgment.

ACCORDINGLY, the judgment *a quo* of December 20, 1973 is reversed, and the order of the city court of November 26, 1971 in Civil Case 204601, directing the release of the writ of execution against the Rebollado spouses and the Tolentino spouses, is hereby affirmed, with costs against the respondents Federico and Felisa Tolentino.

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

EN BANC

[A.C. No. 199 MJ. June 28, 1974]

CIRILO MANLUGON, *complainant, vs.* **JUDGE EPIFANIA TRINIDAD VILLABROZA,** *respondent.*

SYLLABUS

ADMINISTRATIVE PROCEEDINGS; MISCONDUCT IN OFFICE; EXTORTION; CHARGE OF EXTORTION NOT SUBSTANTIATED BY EVIDENCE; INSTANT CASE

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[5] Eagle Mfg. Co. *vs.* Miller, 41 Fed. 351; Dicks Press Guard Mfg. Co. *vs.* Bowen, 229 Fed. 193; Hoskins *vs.* Hotel Randolph Co., 211 N.W. 423; Crane *vs.* Cameron, 81 Pac. 480; Lessert *vs.* Krebs, 196 Pac. 1070; Schmidt *vs.* Louisville & N.R. Co., 35 S.W. 135, 36 S.W. 168; Independent Elevators *vs.* Davis, 217 N.W. 577; Schroeder *vs.* Hotel Commercial Co., 147 Pac. 417.

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DISMISSED.— Where the charge of extortion is not substantiated by the evidence, respondent's exoneration from the charge is warranted.

RESOLUTION

ANTONIO, *J.*:

Respondent Municipal Judge Epifania Trinidad Villabroza of Perez, Quezon, is charged with Gross Misconduct in Office by Cirilo Manlugon. In his complaint, the complainant claims that respondent asked from him the sum of P500.00 when he was an accused in Criminal Case No. 547 for Trespass to Dwelling before the Municipal Court of Perez and that it was only after he had agreed and paid the said amount that he was released and the case against him dismissed. Respondent in her answer denied the aforementioned charge and explained the improbability of complainant's assertions and the circumstance that the aforesaid false accusation was instigated by one Jose Trinidad, who was accused of slight physical injuries and grave threats in her court. Respondent stated that complainant was accused in Criminal Case No. 504 for Qualified Trespass to Dwelling instituted by complainant Monina Diasanta, which complaint was supported by the sworn statements of the aforementioned complainant and policemen Nestor Almadrones and Eusebio Saberto; that the aforesaid criminal case was subsequently dismissed after Cirilo Manlugon was able to settle the same with Monina Diasanta to whom he paid the sum of P500.00 in reparation of the damage caused to said complainant, thru his brother-in-law Gaudencio Bustos, and that the case against Manlugon, was dismissed because of the voluntary desistance of the complainant Monina Diasanta. This case was subsequently referred to the Judge of the Court of First Instance of Quezon, Branch III, at Gumaca, for investigation, report and recommendation "with the suggestion that said Judge take into his custody the records of the Criminal Case referred to in the complaint."

On May 25, 1974 the investigating Judge, after conducting the requisite investigation, submitted his report.

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1. The investigating Judge discussed the evidence submitted thus:

"After going over the evidence presented by both parties in this case, this court is of the opinion that the charge of extortion embodied in the complaint filed by Cirilo Manlugon against the respondent Epifania Trinidad Villabroza, Municipal Judge of Perez, Quezon, has not been proven by the complainant therein. As will be noted, the evidence presented by the complainant consisting mainly of the oral testimony of Rosauro P. Villamayor and the entire record of Criminal Case 504 of the Municipal Court of Perez, Quezon, entitled People of the Philippines *vs.* Cirilo Manlugon, for qualified trespass to dwelling and marked as Exhibit "A", is not in anyway material or relevant to the issue of extortion raised in the complaint and if ever the Court acceded to the request of counsel for the complainant to allow him to submit the entire record of Criminal Case 504 for examination to the NBI because of his doubt as to the authenticity and genuineness of the records as there may be certain pages thereof that might have just been recently inserted thereto, it was because of his assurance that if the findings of the NBI so warrant he himself will move for the dismissal or withdrawal of the instant complaint. The Court, however, has not yet received the result or findings of the NBI until date hereof. Moreover, it has been observed that complainant Cirilo Manlugon was conspicuously absent during the hearings of this case and it is not understood, if really there is truth in his allegation, why he was not presented as witness to substantiate his assertion.

"On the other hand, the evidence of the respondent tends to show that during the scheduled arraignment on January 14, 1969 of Cirilo Manlugon who was accused in Criminal Case No. 504 before the sala of respondent Judge, the offended party Monina Diasanta accompanied by the Chief of Police appeared in Court. The Chief of Police informed the Court that Monina Diasanta has something to say which was granted by the Court. Monina Diasanta informed the Court that she is no longer interested in prosecuting her case against the accused, because she is not certain as to the identity of the accused, whereupon, the accused moved to dismiss the complaint which was granted by the Court in its Order of the same date.

"The reason that prompted Monina Diasanta to change her mind in prosecuting her case was because she agreed to settle the case in consideration of the amount of P500.00 which was handed to her the previous day by Gaudencio Bustos who is the brother-in-law of Cirilo Manlugon. The amount of P500.00 was part of the purchase price in the sale of the share of Cirilo Manlugon in the inheritance of his parents.

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"As will be seen, there is nothing in the record that will show that respondent Judge has anything to do with the settlement of the case and the court would like to believe, in the absence of evidence to the contrary, that respondent Judge is not even aware of it."

2. It was therefore his recommendation that "respondent Epifania Trinidad Villabroza, Municipal Judge of Perez, be exonerated from any liability of the charge of extortion, the same having been found to be not substantiated by any evidence."

3. This Court is inclined to lend its approval to the recommendation of the investigating Judge.

WHEREFORE, respondent Municipal Judge Epifania Trinidad Villabroza is exonerated from the charge of gross misconduct in office.

Makalintal, C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Makasiar, Esguerra, Fernandez, Muñoz Palma, and *Aquino, JJ.*, concur.

Teehankee, J., took no part.

EN BANC

[A.M. No. 280 MJ. June 28, 1974]

LUCITO MACABASA, *complainant, vs.* **TOMAS P. BANAAG,** Municipal Judge of Jasa-an, Misamis Oriental, *respondent.*

SYLLABUS

1. ADMINISTRATIVE PROCEEDINGS; COMPLAINT AGAINST A MUNICIPAL JUDGE; CHARGES OF NEGLIGENCE AND DERELICTION OF DUTY; RESPONDENT JUDGE HELD ADMINISTRATIVELY LIABLE; PENALTY IMPOSED.— Respondent Judge was administratively proceeded against on charges of negligence and dereliction of duty for not appearing