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FIRST DIVISION

[A.M. No. P-1592. August 29, 1980]

ESPERANZA ESQUIROS, *complainant, vs.* **MIGUEL G. BERNARDO and ELPEDIFORO T. IPAC, Deputy Sheriffs, Office of the City Sheriff, Pasay City,** *respondents.*

RESOLUTION

GUERRERO, *J.*:

In a letter-complaint under oath filed April 14, 1977, Esperanza Esquiros charged Elpediforo T. Ipac and Miguel G. Bernardo, Senior Deputy Sheriff and Deputy Sheriff, respectively, of the Office of the City Sheriff of Pasay City, for unethical conduct and extortion.

The complainant alleged that she is the aunt of Eduardo Esquiros, defendant in Civil Case No. 11199 for ejectment filed in the City Court of Pasay City, Branch I, entitled "*Carmen Loreche vs. Eduardo Esquiros*"; that in the afternoon of January 10, 1977, at around 5:00 o'clock, she went to visit her said nephew at his shop in Fortuna Street, Pasay City, but Eduardo was out; that while there, herein respondents Elpediforo Ipac and Miguel Bernardo, together with Atty. Genaro Aguas and Emmanuel Angeles, arrived; that said Atty. Aguas demanded from her the payment of an alleged obligation of her nephew in the above-mentioned case and threatened her that he would take action against her if she failed to make good such obligation; that when she replied that she had nothing to do with her nephew's case, Atty. Aguas insisted that she should pay also his attorney's fees in the amount of ₱2,000.00 so that she would not be dragged into the case; that since she did not know the complications of a legal action, she told Atty. Aguas that she would try her best to help her nephew in paying his alleged obligation; that on January 17, 1977, herein respondents Ipac and Bernardo went to see her at the Quezon Institute and asked her to help them

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locate a jeep which allegedly belonged to her nephew; that when she denied any knowledge about the jeep, said respondents demanded from her the amount of ₱200.00 as alleged reimbursement for their expenses in locating the jeep, insisting that she was liable for said amount, she being the aunt of Eduardo Esquiros; that when she did not give the amount asked for, she was required to report to the office of respondents at the Pasay City Hall for investigation; that subsequently, she received a notice from the Office of the City Fiscal of Pasay City informing her that she was being charged with Theft of a jeep; and, that this theft case was instigated by respondents because of their failure in extorting money from complainant.[1]

The complaint was referred to respondents for comment.[2]

In their respective Comments dated May 14, 1977, both respondents set forth substantially the same allegations, to wit: that on January 10, 1977, in implementation of the Order of Execution dated December 10, 1976 issued by the judge of the City Court of Pasay in Civil Case No. 11199 and directing the ejectment of defendant Eduardo Esquiros and the collection from him of back rents amounting to ₱11,444.00, respondents levied upon a jeep with Plate No. J-LU 173 owned by and registered in the name of said defendant Eduardo Esquiros; that they posted a guard at the place where the jeep was then located, in view of the absence of the owner, to advise the latter of the confiscation upon his arrival; that at about 7:30 p.m. on the same date, January 10, 1977, upon being informed by Atty. Genaro Aguas by telephone that a lady was taking the jeep in question, respondent Ipac went to the place where the jeep was located and met herein complainant Esperanza Esquiros; that said complainant claimed that she was taking the jeep in payment of the debt of Eduardo Esquiros to her but failed to show any papers to support her claim; that when respondent Ipac told complainant that the jeep had been levied

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[1] *Rollo*, pp. 1-2.

[2] *Rollo*, pp. 3-4.

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upon, the latter refrained from insisting on taking the jeep and promised to go to the Sheriff's Office the next day to present the necessary papers; that the following morning, the Sheriff's Office was informed that the jeep was taken away by a group of persons accompanied by complainant Esperanza Esquiros; that on February 12, 1977, respondent Bernardo and Atty. Genaro Aguas reported the loss of the jeep to the Headquarters of the Metropolitan Police Force, South Police District No. 1; that on January 17, 1977, respondents and Atty. Aguas went to the Quezon Institute where the former talked with complainant at her office in the 2nd floor of the building; that then, complainant admitted that she took the jeep and claimed that she bought it from her nephew Eduardo Esquiros; that respondents advised complainant to return the jeep and to file the corresponding third party claim to protect her interests over the jeep, and complainant promised to go to the Sheriff's Office on January 20, 1977 to return the jeep and bring along the necessary papers to show that her claim was proper; and, that on the appointed date, complainant did not show up, so respondents decided to file charges against her with the Fiscal's Office for Qualified Theft. Both respondents denied complainant's allegations of unethical conduct and attempt at extortion.[3]

In the resolution of October 16, 1978, this Court referred and forwarded the records of this case to Executive Judge Jose Campos, Jr., of the Court of First Instance of Rizal at Pasay City, for investigation, report and recommendation.[4]

The Executive Judge set the case for hearing on November 16, 1978, but complainant failed to appear, so the case was reset for November 23, 1978.[5] On November 16, 1978, a sworn Affidavit of Desistance executed by complainant was filed in the lower Court,[6] and at the hearing on November 23, 1978,

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[3] *Rollo*, pp. 6-12.

[4] *Rollo*, pp. 14-15.

[5] *Rollo*, p. 17.

[6] *Rollo*, p. 16.

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complainant appeared and affirmed her said Affidavit[7] pertinent portions of which are quoted, thus:

"That in one of our confrontations at the Fiscal's Office of Pasay City, and after the herein respondents explained the matter to me, I am fully convinced that this complaint arose from a mere misunderstanding between us and herein respondent(s) acted without malice and intent to extort money from me;

"In view thereof, I am withdrawing my administrative complaint which I filed against them. The delay in the withdrawal of this present complaint is due to the fact that I was under the impression that with the dismissal of the criminal complaint in the City Fiscal's Office I also thought and sincerely believed that this administrative complaint was automatically withdrawn."

Thereupon, the Executive Judge recommended the dismissal of the administrative case against Elpediforo Ipac and Miguel Bernardo,[8] in his Order of even date.

The recommendation is well-taken, and We approve the same.

IN VIEW OF THE FOREGOING, for failure to prosecute the charges against the respondents Elpediforo T. Ipac and Miguel G. Bernardo, Senior Deputy Sheriff and Deputy Sheriff of the Office of the City Sheriff of Pasay City, the same are hereby DISMISSED.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, De Castro, and *Melencio-Herrera, JJ.*, concur.

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[7] *Rollo*, p. 19.

[8] *Rollo*, p. 20.