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'This is a Continuing Guaranty and shall remain in full force and effect until written notice shall have been received by you that it has been revoked by the undersigned, but any such notice shall not be released the undersigned from any liability as to any instruments, loans, advances or other obligations hereby guaranteed, which may be held by you, or in which you may have any interest, at the time of the receipt of such notice. *No act or omission of any kind on your part in the premises shall in any event affect or impair this guaranty,* nor shall same be affected by any change which may arise by reason of the death of the undersigned, of any partner (s) of the undersigned, or of the Borrower, or of the accession to any such partnership of any one or more new partners." (Italics supplied)

In fine, we find the petition to be without merit as no reversible error was committed by respondent Court of Appeals in rendering the assailed decision.

WHEREFORE, the decision of the respondent Court of Appeals is hereby *AFFIRMED.* Costs against the petitioner.

SO ORDERED.

Regalado, Melo, and *Puno, JJ.,* concur.

Mendoza, J., no part, having concurred in the decision of the Court of Appeals when he was a member of that Court.

FIRST DIVISION

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

FELICIANA DAGSA-AN, *complainant, vs.* **RODOLFO SEL CONAG, Clerk of Court, Municipal Trial Court, Palompon, Leyte,** *respondent.*

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SYNOPSIS

Respondent Clerk of Court was charged with failure to pay debt in the amount of ₱17,400.00. In her complaint, complainant further alleged that respondent and she had an illicit relationship. However, after the complaint was referred to the Executive Judge of the Regional Trial Court of Palompon, Leyte for investigation, report and recommendation, complainant manifested, under oath, that she was no longer interested in pursuing the case. The dismissal of the complaint was thereupon recommended by the Executive Judge and reiterated by the Office of the Court Administrator. Meanwhile, the records disclosed that respondent, using the letterhead of the Supreme Court, attempted to improperly obtain information that could sullen complainant's character and reputation.

The Supreme Court held that although the withdrawal of a complaint or desistance of complainant does not necessarily warrant the dismissal of the administrative complaint, however, in instances where an administrative complaint cannot proceed without the active cooperation of the complainant, the Court has no other alternative but to dismiss the complaint. The act of respondent in attempting to obtain information through the use of the letterhead to sullen the character and reputation of complainant constitutes conduct unbecoming of an officer of a court of justice. Respondent was admonished.

SYLLABUS

1. **CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; ADMINISTRATIVE COMPLAINT; WITHDRAWAL OF COMPLAINT OR DESISTANCE OF COMPLAINANT DOES NOT NECESSARILY WARRANT DISMISSAL OF 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*, 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." In instances, however, where an administrative case cannot proceed without the active cooperation

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of the complainant, the Court may find itself with hardly any alternative but to dismiss the complaint. This kind of situation, according to the investigating judge the OCA, is what has unfortunately occurred in this instance.

2. **ID.; ID.; ID.; USE OF SUPREME COURT'S LETTERHEAD IN ATTEMPT TO OBTAIN INFORMATION TO SULLEN COMPLAINANT'S CHARACTER CONSTITUTES CONDUCT UNBECOMING OF AN OFFICER OF A COURT OF JUSTICE.**— 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.

RESOLUTION

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 Polompon, Leyte, with failure to pay his debt amounting to ₱17,400.00. 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,

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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 Madrona 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,

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[1] 85 SCRA 10.

[2] At page 26.

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

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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.

THIRD DIVISION

[G.R. No. 110110. May 13, 1998]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **INOFERIO VENERABLE, *alias* PORFERIO VENERABLE,** *accused-appellant.*

SYNOPSIS

Appellant, in an information for rape, pleaded not guilty and interposed the defense of denial and alibi. He claimed that Clara Angcon, a 51- year old widow, was his sweetheart although he failed to introduce any evidence to support their alleged relationship. Clara, on the other hand, denied any amorous relation with appellant, and on the contrary positively identified appellant as the person who raped her four times in the absence of her common-law husband. The prosecution presented Dr. Fe Besario, the examining physician, whose findings though negate the presence of seminal fluids and spermatozoa in the victim's vagina. Nonetheless, the trial court rendered judgment finding appellant guilty as charged. Hence, this recourse, appellant assailing the credibility of complainant.