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WHEREFORE, the writ of *certiorari* prayed for is granted, nullifying and setting aside the writ of preliminary injunction issued by respondent Judge in Civil Case No. 2984 of the Court of First Instance of Bataan. The injunction issued by this Court on March 18, 1965 enjoining the enforcement of the aforesaid writ of preliminary injunction of respondent Judge is hereby made permanent. Costs against private respondent Edgardo Gener.

Zaldivar, Antonio, Fernandez, and *Aquino, JJ.*, concur.

Barredo, J., did not take part.

FIRST DIVISION

[A.M. No. 457-MJ. May 15, 1974]

JOSE LACSAMANA, *complainant, vs.* **MUN. JUDGE MELJOHN DE LA PEÑA,** *respondent.*

SYLLABUS

ADMINISTRATIVE PROCEEDINGS; COMPLAINT AGAINST A MUNICIPAL JUDGE; CHARGE OF VIOLATION OF THE LAWYER'S OATH AND FAILURE TO COMPLY WITH THE LAWYER'S DUTY; DISMISSAL THEREOF FOR FAILURE TO ESTABLISH A *PRIMA FACIE* CASE.— The complainant charges the respondent Municipal Judge with (a) a violation of the lawyear's oath to "do no falsehood, nor consent to the doing of any in court," and (b) failure to comply with the lawyer's duty, imposed by Section 20 (d) of Rule 138 of the Rules of court, "to employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth and honor." Held. - No *prima facie* case has been established. That the *"Escritura de Compraventa Absoluta"* was entered in the notarial register ahead by one notch or number than the affidavit does not necessarily make the *compraventa* document simulated or spurious; and even assuming that it is, the complainant has not alleged that the respondent knew

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of such infirmity, and that despite such knowledge he nevertheless presented the document as evidence in court. The administrative complaint against the respondent Municipal Judge is dismissed.

RESOLUTION

RUIZ CASTRO, *J.:*

The complainant Jose Lacsamana charges the respondent Municipal Judge Meljohn de la Peña of Maripipi, Leyte with (a) a violation of the lawyer's oath to "do no falsehood, nor consent to the doing of any in court," and (b) failure to comply with the lawyer's duty, imposed by Section 20(d) of Rule 138 of the Rules of Court, "to employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth and honor."

Lacsamana alleges in his complaint, *inter alia*, that in Civil Cases B-0198 and B-0199 filed by him with the Court of First Instance of Leyte against Severina Malayao and Eddie Ho for "Recovery of Ownership of Real Property," the respondent de la Peña, as counsel for the defendants therein, introduced in court, in the course of the presentation of evidence for the defense, a document entitled *"Escritura de Compraventa Absoluta,"* which deed appears to have been notarized by Enrique Sibucao of Naval, Leyte on April 30, 1939 and entered in his notarial register as Doc. 91, page 95, series of 1939; but that a verification of the notarial register of the said notary public in the National Archives in Manila revealed that Doc. 91, page 95, series of 1939 pertained instead to an affidavit of one Ireneo Machete and not to the *compraventa* document. Upon the foregoing allegations, Lacsamana brands the *"Escritura de Compraventa Absoluta"* as spurious.

Commenting on the administrative complaint against him, Judge de la Peña disowns knowledge or belief that the document in question is simulated or fraudulent. He attached to his comment an affidavit of Perfecto Adobo, one of the heirs of Evaristo Adobo, wherein the affiant states that he identified the document in court as one of the papers left by his deceased father, and that this paper

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was surrendered to Eddie Ho when the land was sold to the latter. The respondent Judge also points out that although the annexes to Lacsamana's complaint, which are a photostatic copy of the *compraventa* and a photostatic copy of page 95 of Sibucao's notarial register, show that the *compraventa* was executed on April 30, 1939 and entered as Doc. 90, whereas the affidavit of Machete was executed on April 29, 1939 and entered as Doc. 91, the discrepancy cannot be attributed to him (the said respondent judge).

It is our view, and we so hold, that no *prima facie* case has been established, hence further investigation is not warranted.

That the *"Escritura de Compraventa Absoluta"* was entered in the notarial register ahead by one notch or number than the affidavit does not necessarily make the *compraventa* document simulated or spurious; and even assuming that it is, the complainant has not alleged that the respondent knew of such infirmity, and that despite such knowledge he nevertheless presented the document as evidence in court.

ACCORDINGLY, the administrative complaint against the respondent Judge Meljohn de la Peña is hereby dismissed.

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

Makasiar, J., is on leave.