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SECOND DIVISION

[Adm. Matter No. 679-CJ. December 19, 1974]

JULIO ANDULA, *complainant, vs.* **JUDGE NICOLAS LUTERO, City Court, Branch I, Iloilo City,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; ADMINISTRATIVE PROCEEDING WILL NOT PROSPER DUE TO PARTY'S RETIREMENT; CASE AT BAR.— Respondent has reached the compulsory age of retirement (70 years) on September 3, 1974, and considering that an administrative proceeding is predicated on the holding of an office or position in the Government and following the ruling of this Court that administrative cases against retired judges are moot and academic, We find it unnecessary to make an extensive discussion on the matter.

RESOLUTION

FERNANDEZ, *J.*:

In a verified complaint, dated November 20, 1968,[1] Julio Andula charged City Judge Nicolas Lutero,[2] City Court, Branch I, Iloilo City, for violation of law and misconduct in office.

Complainant alleged that he is one of the plaintiffs in Civil Case No. 4996, filed in 1958, pending before Branch V of the Court of First Instance of Iloilo; that sometime in 1965, respondent, using his influence as a city judge, showed interest in the case and intervened by executing an affidavit which revived the

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[1] It appears in complainant's letter dated October 17, 1973 and received on the 25th of the "inavailability of neither the original nor the copy" of said verified letter; hence, in the same letter he furnished this Court a copy thereof.

[2] Compulsory retired effective Sept. 3, 1974, per Service Record.

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proceedings of the aforecited case; that respondent, in his capacity as a Notary Public *Ex Oficio*, executed and notarized a *pacto de retro* sale, used by the defendant as exhibit in the civil case; that the document does not bear the signature of one of the vendors; that the respondent forged the signature of one of the vendors, Ana Abunto; and that the number of the Residence Certificate of Ana Abunto contained eight (8) digits and the day when it was issued was not specified.

In his answer, dated March 28, 1974 the respondent denied the charges and claimed that he merely executed an affidavit of merit which was attached to the motion filed by the defendant for reconsideration of the court's (Branch V, CFI, Iloilo) order declaring Civil Case 4996 submitted for decision due to the absence of defendants; that he notarized the *pacto de retro* sale; that it was brought to him already prepared by a woman who represented herself to be Ana Abunto and acknowledged that the same was her true act and deed; and that his acts of executing an affidavit and ratifying the document are legal.

We note that the complaint addressed to the Secretary of Justice was dated November 20, 1968. We were not able to verify what action was taken by the Department of Justice on this case since then because the Personal File of respondent was not among those forwarded to this Court.

Respondent has reached the compulsory age of retirement (70 years) on September 3, 1974, and considering that an administrative proceeding is predicated on the holding of an office or position in the Government[3] and following the ruling of this Court that administrative cases against retired judges

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[3] As an administrative proceeding is predicated on the holding of an office or position in the Government and there being no doubt as to the resignation of respondent Judge having been accepted as of August 31, 1967, there is nothing to stand in the way of the dismissal prayed for. (*Diamalon vs. Quintillan*, Adm. Case No. 116, Aug. 29, 1969, 29 SCRA 247, 350).

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are moot and academic,[4] We find it unnecessary to make an extensive discussion on the matter.[5]

IN VIEW OF THE FOREGOING, the complaint having become moot and academic, the present case is hereby DISMISSED.

SO ORDERED.

Fernando (Chairman), Antonio, and *Aquino, JJ.*, concur.

Barredo, J., concurs because in the light of the answer of respondent, he does not see any compelling reason to proceed any further.

SECOND DIVISION

[G.R. No. L-31371. December 19, 1974]

MARIA LIWANAG-REYES, and her children CARLOS, LOURDES, RAFAEL and CARMENCITA, all surnamed REYES, *petitioners, vs.* **THE COURT OF APPEALS, PHILIPPINE TRUST COMPANY, VICTOR S. REYES, and HON. JOSE B. JIMENEZ, as Judge of the Court of First Instance of Manila (Br. VI),** *respondents.*

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[4] *Diamalon vs. Quintillan, supra; Agsalud vs. Ramos*, Adm. Case No. 57, Oct. 30, 1962, 2 SCRA 268, 269; *Reyes vs. Arca*, 35 SCRA 247, 249.

[5] It appearing, however, that the respondent Judge Eusebio Ramos is already retired, we find it unnecessary to make an extensive discussion on the matter. (*Agsalud vs. Ramos, supra*).