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[Adm. Case No. 1383. March 4, 1976]

SECOND DIVISION

RICARDO ROJAS, complainant, *vs.* ATTY. DULCESIMO P. TAMPUS, respondent.

ADMINISTRATIVE CASE against a member of the Bar.

SYNOPSIS

A complaint for malpractice was filed against respondent for having sought interminable postponements of the hearing of a perjury case. After a satisfactory explanation at the hearing, complainant withdrew his complaint. Upon a finding by the Solicitor General that the grounds for the postponements were meritorious, the Supreme Court dismissed the case.

SYLLABUS
of the Ruling of the Court

ADMINISTRATIVE COMPLAINTS; MALPRACTICE; DISMISSAL THEREOF IF NOT SUBSTANTIATED BY EVIDENCE.– Where there is no evidence to substantiate the charge of malpractice due to alleged non-existence of the ground on which the postponements of a case have been sought but, on the contrary, the grounds turned out to be meritorious, dismissal of the case is called for.

APPEARANCES OF COUNSEL

Ricardo Rojas on his own behalf as complainant.
Dulcesimo P. Tampus on his own behalf as respondent.

Supreme Court E-Library

RESOLUTION

AQUINO, *J.:*

Ricardo Rojas, a businessman of Palao, Iligan City, in his verified complaint dated August 16, 1974, charged Atty. Dulcesimo Tampus with malpractice for having allegedly sought interminable postponements of the hearing of Criminal Case No. 9213-AF of the City Court of Iligan City, a perjury case filed by Rojas against Alfonso Delator.

Rojas alleged that on August 7, 1974 Atty. Tampus again moved for the postponement of the trial on the ground that he was to appear at the preliminary investigation in the office of the Provincial Fiscal at Cagayan de Oro City. The Fiscal, in answer to Rojas' inquiry, replied that there was no such investigation.

Respondent Tampus denied the charge. The case was referred for investigation to the Solicitor General. He in turn asked the Provincial Fiscal of Lanao del Norte at Iligan City to receive the evidence.

At the hearing before the Fiscal on March 20, 1975 complainant Rojas, assisted by counsel, withdrew his complaint against Tampus after the latter had explained to Rojas that he (Tampus) actually went to Cagayan de Oro City on August 7, 1974 to attend the preliminary investigation to be conducted by the inquest fiscal but the investigation was not held. That explanation was corroborated by Assistant Fiscal Josefina C. Parrado and Atty. Ruperto P. Eltanal in their respective affidavits.

The Solicitor General after reviewing the record concluded that there was no evidence to substantiate the charge that Atty. Tampus had unreasonably delayed the trial of the perjury case. The postponements were granted

Supreme Court E-Library

by the court presumably because the grounds therefor were meritorious.

WHEREFORE, this administrative case against respondent Atty. Tampus is dismissed.

SO ORDERED

Fernando, (Chairman), Barredo, Antonio, and *Concepcion Jr., JJ.*, concur.

Administrative case dismissed.

[No. L-26854. March 4, 1976]

SECOND DIVISION

MIGUEL RAÑESES, EUSTAQUIA RAÑESES, MARCIANO RAÑESES, EUSEBIO ECHANO, PEDRO ECHANO, FAUSTO ORA, CLAUDIO GALUWA, BONIFACIA CABUGSAN, DELFINA DAYNOS, RUSTICO CABUGSAN, JOSE YAMIT, MARGARITA YAMIT, JUANA YAMIT, JOAQUIN ESCOBIDO and EUSEBIA CALDEO, petitioners, *vs.* THE HONORABLE JUDGE BERNARDO TEVES OF THE COURT OF FIRST INSTANCE OF MISAMIS ORIENTAL, TOMAS JALA, FERNANDO JALA, ZOSIMO KUNIZALA, ALFREDO KUNIZALA, MELOSENA KUNIZALA, CLARITA KUNIZALA, LOURDES KUNIZALA, ANITA ACERO and LEONORA ACERO, respondents.

ORIGINAL ACTION. Certiorari and prohibition.