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SECOND DIVISION

[A.C. No. 600-MJ. October 13, 1975]

SOFRONIO G. BONJOC, *complainant, vs.* **MUN. JUDGE MARIANO C. TUPAS, Bansalan, Davao del Sur,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE CHARGES; EXONERATION THEREFROM IN THE ABSENCE OF TRUTH TO THE CHARGES. — Respondent Judge was charged of having committed a grave abuse of discretion in dismissing a criminal case for malicious mischief filed by complainant and for rendering with manifest partiality judgment in an action for ejectment filed against the complainant. HELD: The recommendation that respondent be exonerated is adopted where it is clear that the acquittal of the accused in the criminal case was fully justified and where the investigator has not found evidence of any partiality or bad faith on the part of the respondent in the judgment rendered in the ejectment case.

D E C I S I O N

BARREDO, *J.*:

Administrative complaint charging respondent, first, of having committed grave abuse of discretion in dismissing a criminal case, Criminal Case No. 1571, for malicious mischief filed by complainant against Antonio Palma and Pedro Tomas, and, second, of having rendered with manifest partiality judgment in Civil Case No. 140, an action for ejectment filed by Simplicio Belotindos against complainant, in favor of plaintiff notwithstanding that complainant's possession of the property in question started more than 34 years before and that a previous action filed by plaintiff's predecessor had already been dismissed, and of having denied complainant's motion to lift the preliminary mandatory injunction issued against him despite his offer to file

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a bond double the amount of the bond of plaintiff to secure the same.

Respondent having denied the charges in his answer, the case was referred to Judge E.L. Peralta of the Court of First Instance of Davao for investigation and proper recommendation.

In his report, Judge Peralta recommends exoneration of respondent, there being no truth to the charges. According to the report, from the evidence presented by the parties, it is clear that the acquittal of the accused in Criminal Case No. 1571 was fully justified since it was shown that the dam alleged by complainant to have been destroyed by the accused never existed at all. We have gone over the evidence, and We are satisfied that the investigator's observations are sufficiently supported by them. And with respect to Civil Case No. 140, the investigator has not found evidence of any partiality or bad faith on the part of respondent. Such being the case, and considering that the complainant's appeal from decision of respondent complained of is still pending, it would be improper for Us to determine in this proceeding whether or not the said decision is irregular, groundless or tainted with any illegality.

Furthermore, the report suggests that the filing of the instant complaint could be due to complainant's persecution complex, of which there is enough indication in the record.

We approve, therefore, the recommendation that respondent be, as he is hereby, exonerated.

Antonio, Aquino, Muñoz Palma, and *Martin, JJ.,* concur.