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SECOND DIVISION

[A.C. No. 3872. October 4, 2010]

TRINIDAD IRORITA, *petitioner, vs.* **ATTY. JIMMY LUCZON,** *respondent.*

SYLLABUS

REMEDIAL LAW; ACTIONS; MOOT AND ACADEMIC CASES; THE CASE AT BAR IS PROPERLY DISMISSED FOR BEING MOOT AND ACADEMIC.— The documents submitted sufficiently established the identities of both Atty. Jimmy C. Luczon and Judge Jimmy Henry F. Luczon, Jr., and that they are two different individuals. It is likewise established that Judge Luczon could not have been the respondent in the instant case. Furthermore, in view of the death of Atty. Jimmy Luczon during the pendency of the case, we deem it proper to dismiss the instant case for being moot and academic.

R E S O L U T I O N

PERALTA, *J.*:

Before this Court is the Manifestation with Motion dated April 26, 2010 and Motion to Resolve dated August 2, 2010, filed by Judge Jimmy F. Luczon Jr., which seeks the dismissal of the administrative complaint against his father, Atty. Jimmy C. Luczon, and thereafter correct the discrepancy in the docketing of the case and clear his name.

In his Manifestation/Motion, Judge Luczon averred that on July 20, 1992, a certain Trinidad Irorita filed a disbarment case against his father, Atty. Jimmy Luczon. He claimed that the said disbarment case was docketed as *Trinidad Irorita v. Atty. Jimmy Luczon*. Judge Luczon maintained, however, that he is not the *Atty. Jimmy Luczon* referred to as respondent in the instant case but his father.

For clarification, Judge Luczon stressed that he could not be the Atty. Luczon named as respondent in the instant case because

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at the time of the referral of the case to Atty. Luczon, he was already the presiding judge of the Municipal Trial Court of Lallo, Cagayan, Branch 1, pursuant to his appointment in 1985.[1] He also explained that his father's middle name is "Cortez," while his is "Furagganan," and that his name has the letters "Jr" suffixed to his name.

Judge Luczon, likewise, manifested that his father died on August 4, 1994 as evidenced by the Certificate of Death issued by the National Statistics Office.

Judge Luczon compulsorily retired from the service as Presiding Judge of the Regional Trial Court of Tuguegarao City, Branch 1, Cagayan on May 24, 2010. His retirement benefits, as well as the monetary value of his leave credits, however, have yet to be released since the necessary clearances cannot be issued due to the pendency of the instant case. He presumed that the docketing of the case with only *Atty. Jimmy Luczon* stated in the case title probably caused confusion, since he and his father are namesakes. Hence, Judge Luczon prays that the instant case be resolved in order to clear his name and absolve him from administrative liability.

We find Judge Luczon's motion to be meritorious. The documents[2] submitted sufficiently established the identities of both Atty. Jimmy C. Luczon and Judge Jimmy Henry F. Luczon, Jr., and that they are two different individuals. It is likewise established that Judge Luczon could not have been the respondent in the instant case. Furthermore, in view of the death of Atty. Jimmy Luczon during the pendency of the case, we deem it proper to dismiss the instant case for being moot and academic.

ACCORDINGLY, the *Manifestation* and *Motion* dated April 26, 2010 and *Motion to Resolve* dated August 2, 2010

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[1] Judge Luczon took his oath on September 30, 1985.

[2] Annex "1" - Transmittal letter of Appointment of Judge Luczon dated November 4, 1985; Annex "2" - Panunumpa sa Katungkulan, dated September 30, 1985; Annex "3" — Service Record of Judge Luczon; Annex "4" — Certificate of Death of Atty. Jimmy Cortez Luczon issued by the National Statistics Office.

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are *GRANTED*. Administrative Case No. 3872, against Atty. Jimmy Luczon is *DISMISSED* for being moot and academic. The Court further *ORDERS* the Office of the Bar Confidant to make the necessary correction in the records of both Atty. Jimmy C. Luczon and Judge Jimmy Henry F. Luczon, Jr., in order to facilitate the release of the retirement benefits of Judge Luczon in the event that there is no other pending administrative complaint against him.

SO ORDERED.

Velasco, Jr.,[*] *Nachura,*[**] *Mendoza,* and *Sereno,*[***] *JJ.,* concur.

SECOND DIVISION

[G.R. No. 158090. October 4, 2010]

GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), *petitioner, vs.* **HEIRS OF FERNANDO F. CABALLERO, represented by his daughter, JOCELYN G. CABALLERO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; KINDS OF PLEADINGS; COUNTERCLAIM; TESTS TO DETERMINE WHETHER A COUNTERCLAIM IS COMPULSORY OR NOT.— To determine whether a counterclaim is compulsory

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[*] Designated as an additional member in lieu of Senior Associate Justice Antonio T. Carpio, per Special Order No. 897, dated September 28, 2010.

[**] Per Special Order No. 898, dated September 28, 2010.

[***] Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 903, dated September 28, 2010.