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[Adm. Case No. 1270. February 27, 1976]

SECOND DIVISION

VICTORIANA BAUTISTA and FELIPE BUCAO, complainants, *vs.* ATTY. MACARIO G. YDIA, respondent.

ADMINISTRATIVE CASE against a member of the Bar.

SYNOPSIS

For failure of respondent to take an appeal from an adverse decision in cases handled by him on behalf of complainants, the latter filed a complaint for disciplinary action against him, alleging professional misconduct. Respondent claimed that he desisted from making the appeal upon instruction of one of the complainants. The Solicitor General, to whom the complaint was referred for investigation, report and recommendation, concluded that the charge has not been proven and recommended its dismissal. The Supreme Court, after going over the report and the evidence presented by the parties concurred with the investigator's findings.

Case dismissed.

SYLLABUS

Of the Ruling of the Court

LEGAL ETHICS; ATTORNEYS; PRESUMPTION OF INNOCENCE.– An attorney is presumed innocent of the charge against him until the contrary is proved by convincing evidence.

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APPEARANCES OF COUNSEL

Felipe Bucao on his behalf as complainant.
Tanopo & Serafica for the respondent.

RESOLUTION

BARREDO, *J.* :

Complaint for disciplinary action against respondent, Atty. Macario G. Ydia, alleging professional misconduct in that said respondent failed to take the necessary appeal against a decision of the Court of First Instance of Pangasinan in the cases handled by him on behalf of complainants. Respondent's defense is that he desisted from making the appeal upon instructions of complainant Felipe Bucao himself.

The issue of fact thus emerging from the complaint and answer was referred to the Solicitor General for investigation and appropriate recommendation. After due hearing, wherein complainants and respondent submitted their respective evidence, the Solicitor General submits that the charge has not been proven and this case should be dismissed.

We have gone over the report of the Solicitor General and the record of the evidence presented by the parties and We are satisfied that indeed it is safe to conclude that it was with the knowledge and consent of Felipe Bucao that respondent desisted from taking further action in the case of complainants, convinced as they were that an appeal from the adverse decision of the trial court would be futile. In any event, there is, as pointed out by the Solicitor General, a presumption that an attorney is innocent of the charge against him until the contrary is proved by

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convincing evidence. Complainants' evidence in this case does not appear to meet such standard.

Wherefore, this case is dismissed.

Fernando, Chairman, Antonio, Aquino and *Concepcion Jr., JJ., concur.*

Case dismissed.

[No. L-22202. February 27, 1976]

SECOND DIVISION

PEDRO TAPAS and MARIA ORIÑA DE TAPAS, petitioners, *vs.* COURT OF APPEALS, ROBERTO DE JESUS and CEFERINA DE JESUS, respondents.

PETITION FOR REVIEW of a decision of the Court of Appeals.

SYNOPSIS

In the appealed decision, the Court of Appeals made an express finding that the transaction in question was one of absolute deed of sale. Nonetheless, petitioners would claim that said court committed an error in denying them the right to repurchase in view of the third paragraph of Art. 1606 of the Civil Code which states: "However, the vendor may still exercise the right to repurchase within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase."