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[Adm. Case No. 830. January 28, 1971]

WENCESLAO (BEN) ZUBIRI, *complainant, vs.* ATTY. CANDIDO JUMAPAO, *respondent.*

SYLLABUS

LEGAL ETHICS; ATTORNEYS; DISBARMENT; DISMISSAL OF COMPLAINT FOR FAILURE TO PROSECUTE AND TO SUBSTANTIALLY PROVE CHARGES; CASE AT BAR.— On June 21, 1968, Wenceslao Zubiri filed a verified complaint with this Court against respondent Candido Jumapao, praying, on the basis of the facts alleged therein, that said respondent be disbarred. On August 8, 1969, the complainant, instead of presenting evidence to sustain the charges embodied in the complaint filed with the Supreme Court, submitted a motion entitled 'motion to drop complaint,' a copy of which is attached hereto as Annex X and made an integral part of this report, stating in substance that (a) said complainant is 'no longer interested in prosecuting the case,' (b) his witnesses 'are no longer available,' and (c) there is no evidence at hand 'to warrant finding of probable cause.' (What complainant probably meant is that he could not present substantial evidence to prove the main recitals of the complaint). Incidentally, the complainant died on November 9, 1969 in Cebu City of 'acute coronary insufficiency' without having submitted a list of witnesses who may be able to testify against the respondent. For failure of the complainant to prosecute the case and substantially prove the charges embodied in the complaint, the undersigned investigator hereby respectfully recommends that the said complaint be dismissed.

RESOLUTION

DIZON, *J.:*

On June 21, 1968, Wenceslao Zubiri filed a verified complaint with this Court against respondent Candido Jumapao, praying, on the basis of the facts alleged therein, that said respondent be disbarred.

On October 10 of the same year, respondent filed a verified answer controverting the charges made against him.

Supreme Court E-Library

On November 15 of the same year, we referred the case for investigation to the Office of the Solicitor General who, upon motion of the complainant to have the hearings of the case held in Cebu City for the convenience of the parties concerned and their witnesses, referred the case to the Provincial Fiscal of Cebu for investigation. On November 11, 1970, said Provincial Fiscal submitted his report and recommendation, the pertinent portions of which are quoted as follows:

"With due notice to both parties concerned, the investigation was set for April 8, 1969 in the Office of the Provincial Fiscal of Cebu, Provincial Capitol, Cebu City. Parties not being ready to present evidence on said date, the investigation was reset for May 10 of the same year. On May 10, 1969 both parties, represented by their lawyers, jointly moved for postponement of the investigation to June 10, 11 and 12, 1969, on the ground that they needed more time to prepare evidence to be presented in connection with the complaint and the answer thereto, respectively. On June 10, 1969, after a brief discussion on the procedure to be taken in the fact-finding investigation and the necessity of issuing notices and/or subpoena duces tecum to witnesses of the complainant, the hearing of the administrative case was again reset for July 24 and 25, 1969. On July 24, 1969 the investigation of the case had to be postponed once more to August 8, 1969, in view of the fact that Atty. Napoleon Dejoras, one of the lawyers for the complainant, had left for Manila for an important matter and could not be present to represent the complainant.

On August 8, 1969, the complainant, instead of presenting evidence to sustain the charges embodied in the complaint filed with the Supreme Court, submitted a motion entitled 'motion to drop complaint,' a copy of which is attached hereto as Annex X and made an integral part of this report, stating in substance that (a) said complainant is 'no longer interested in prosecuting the case,' (b) his witnesses 'are no longer available,' and (c) there is no evidence at hand 'to warrant finding of probable cause.' (What complainant probably meant is that he could not present substantial evidence to prove the main recitals of complaint). Complainant Wenceslao (Ben) Zubiri moved for the 'dropping or dismissal' of the administrative case against Atty. Candido N. Jumapao. Attached to the said motion is an affidavit — subscribed and sworn to before the Clerk of Court of the Court of First Instance of Cebu — executed by the same complainant stating that one of his witnesses, a certain Dr.

Supreme Court E-Library

Pedro Alda, is 'no longer in a position to testify in view of the fact that he is leaving for the United States for medical treatment,' and that his other witnesses from Iligan City have failed to come to Cebu City to testify in spite of repeated issuance of notices and subpoena duces tecum which were served upon them.

In spite of the motion to dismiss filed by the complainant, the latter was directed to furnish or submit to this investigator a list of other available witnesses who may have knowledge of the facts constitutive of the charges embodied in the complaint, so that a fact-finding investigation may proceed even in the absence of the said complainant. Incidentally, the complainant died on November 9, 1969 in Cebu City of 'acute coronary insufficiency' without having submitted a list of witnesses who may be able to testify against the respondent.

For failure of the complainant to prosecute the case and substantially prove the charges embodied in the complaint, the undersigned investigator hereby respectfully recommends that the said complaint be dismissed."

In view of the facts contained in the report quoted above, we have no alternative but to approve the recommendation therein made. Consequently, the present case is dismissed.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor and *Makasiar, JJ.*, concur.

[G.R. No. L-23383. January 28, 1971]

IN THE MATTER OF THE PETITION FOR NATURALIZATION OF YAO MUN TEK, YAO MUN TEK, *petitioner-appellant, vs.* REPUBLIC OF THE PHILIPPINES, *oppositor-appellee.*

SYLLABUS

1. CONSTITUTIONAL LAW; CITIZENSHIP; NATURALIZATION; GRANT OF CERTIFICATE, A MERE PRIVILEGE; SUBJECT TO CANCELLATION OR NULLIFICATION.— A judgment directing issuance of certificate