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SECOND DIVISION

[Adm. Mat. No. 68-MJ. February 25, 1975]

ZACARIAS JUNIO, *complainant, vs.* **SALVADOR T. MANANZAN, Municipal Judge, Bayambang, Pangasinan,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES, COURT PERSONNEL; CHARGES FOR MISCONDUCT IN OFFICE AND PARTIALITY; UNFOUNDED IN CASE AT BAR.— "Upon the foregoing facts, the undersigned finds no sufficient basis to sustain the complainant's charge and impose any disciplinary action upon the respondent judge. Indeed, the fact that the parties in Civil Case No. 173 had agreed that the report of the surveyor would be the basis of the judgment to be rendered by the Municipal Court, would not matter even if the respondent judge dismissed the case without awaiting the surveyors's report because the Municipal Court had no jurisdiction to hear and determine the case, involving as it does a boundary dispute, and it is not actually one of forcible entry. And regardless of the agreement of the parties, providing that the result of the relocation survey to be conducted by the surveyor would be the basis of the judgment to be rendered, the respondent cannot do otherwise but dismiss the case for lack of jurisdiction inasmuch as it actually involves a boundary dispute and not forcible entry. Jurisdiction is conferred by law and not by the parties."

RESOLUTION

FERNANDEZ, *J.*:

Complainant, in his verified letter-complaint, dated November 20, 1970, charged Municipal Judge Salvador Mananzan of Bayambang, Pangasinan, with misconduct in office and partiality in connection with Civil Case No. 173, entitled "*Zacarias Junio vs. Maximiano Edoria and Roman Edoria*," wherein respondent

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ordered the dismissal of said case in an Order issued on January 23, 1969.[1]

Respondent was required to answer the complaint. Thereafter, the Department of Justice referred the case[2] to District Judge Pedro Ramirez, Court of First Instance, San Carlos City, Pangasinan for investigation, report and recommendation.

The Investigator submitted his Report, dated February 10, 1972, recommending the dismissal of the charges. The Department concurred in a 2nd Indorsement to the President of the Philippines dated December 14, 1972.

It appears that complainant filed a forcible entry case against Maximiano and Roman Edoria, who allegedly encroached upon his land- creek.[3] Respondent's Order, dated August 14, 1968,[4] set the case for pre-trial on August 24, 1968, on which latter date, the parties, through counsel, voluntarily signed and submitted a document entitled "Stipulation of Facts," which is quoted hereunder for ready reference:[5]

"Plaintiff and defendants, duly assisted by their respective counsels come now before this Honorable Court and respectfully agree and submit the following facts:

1. That they agree on the boundaries of the land described in the complaint as well as in the answer;

2. That the instant case is one of the boundary dispute on the northern part of the land described in the complaint which adjoins the Tomao-creek;

3. That in as much as it involves the property of both the plaintiff and defendants respecting the boundary limits of each, they stipulate and agree that a relocation be made on the properties

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[1] *Rollo*, p. 22.

[2] 1st Indorsement, dated August 10, 1971.

[3] Civil Case No. 173, docketed in the Municipal Court presided by respondent Judge.

[4] Annex "A", *Rollo*, p. 17.

[5] *Rollo*, p. 18.

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mentioned by a duly licensed surveyor to be contacted by counsel for the defendants, Atty. Felipe R. Santillan, which relocation be conducted on August 31, 1968;

4. That the payment to be charged by the surveyor should be borne by the party who will later be found out by the surveyor to be encroaching on the other's property;

5. That whatever findings the surveyor may have as a result of the relocation shall be made the basis of the decision of the Court in the final disposition of the case.

WHEREFORE, it is respectfully prayed this Court approve the foregoing stipulation of facts.

Bayambang, August 24, 1968."

Based on this agreement, to the effect that what was actually in dispute is the matter of who encroached upon whose property, and which could be decided merely within the context of the surveyor's report relative to the exact boundaries of their respective lots, the respondent judge issued an Order dated October 22, 1968 notifying the plaintiff and defendants that the relocation would be held on November 9, 1968 which was reset for November 16, 1968.

On January 23, 1969, respondent issued the Order dismissing the case on the ground that it "partakes of relocation of the boundaries and not forcible entry as alleged therein x x x."

We concur with the recommendation of District Judge Ramirez and sustained by the Department of Justice, for the respondent properly dismissed Civil Case No. 173. Pertinent portion of Judge Ramirez' report is here quoted with approval:

"On January 23, 1969, the respondent Judge issued an order dismissing Civil Case No. 173 (Exhibit E, p. 22, rec.). As admitted by Atty. Teodoro Junio, counsel for the herein complainant in Civil Case No. 173, the case was dismissed by agreement of the parties because it involved a boundary dispute and was not actually a case of forcible entry, and the Municipal Court did not have jurisdiction to hear and determine the same (see testimony of Atty. Teodoro Junio, t.s.n., January 26, 1972). Likewise, as admitted by Atty. Junio, he received a copy of the order of dismissal from the respondent's clerk (*supra*).

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"Upon the foregoing facts, the undersigned finds no sufficient basis to sustain the complainant's charge and impose any disciplinary action upon the respondent judge. Indeed, the fact that the parties in Civil Case No. 173 had agreed that the report of the surveyor would be the basis of the judgment to be rendered by the Municipal Court, would not matter even if the respondent judge dismissed the case without awaiting the surveyor's report because the Municipal Court had no jurisdiction to hear and determine the case, involving as it does a boundary dispute, and it is not actually one of forcible entry. And regardless of the agreement of the parties, providing that the result of the relocation survey to be conducted by the surveyor would be the basis of the judgment to be rendered, the respondent cannot do otherwise but dismiss the case for lack of jurisdiction inasmuch as it actually involves a boundary dispute and not forcible entry. Jurisdiction is conferred by law and not by the parties."

WHEREFORE, this administrative complaint against respondent Judge Salvador Mananzan is hereby dismissed and he is hereby exonerated of the charges filed against him.

SO ORDERED.

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

EN BANC

[Adm. Mat. No. P-113. February 25, 1975]

JOSE RAÑOSA, *complainant, vs.* **JOSE R. GARCIA,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; CHARGE OF ILLEGAL PRACTICE OF LAW; PROVEN IN CASE AT BAR.— Respondent's duties