

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ROGELIO DE JESUS Y QUIZON, ALIAS “ELIONG”;
DEFENDANT AND APPELLANT, ATTORNEY BENITO A. MENDOZA,
RESPONDENT.**

G.R. No. L-39087. August 29, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

Respondent Benito A. Mendoza, a member of the Philippine Bar, seeks the reconsideration of our resolution of February 5, 1975 requiring him as counsel de parte to show cause why disciplinary action should not be taken against him for failure to submit an explanation necessitated by his allowing the period to file the brief for appellant which expired on January 17, 1975 without complying with such responsibility; our resolution of April 4, 1975 which imposed a fine of P200.00 for not heeding the aforesaid resolution of February 5, 1975 and giving him an additional period of fifteen days from notice to file such brief, as well as to furnish this Court with an explanation for his being remiss in his professional responsibility; and our resolution of May 30, 1975, worded thus: "For failure of Atty. Benito Mendoza, counsel for appellant to comply with the resolution of April 4, 1975 which imposed upon him a fine of P200.00 for failure to comply with the resolution of February 5, 1975, the Court Resolved (a) to [suspend] Atty. Benito Mendoza from the practice of law, effective upon receipt of this resolution; (b) to [direct] the Judicial Consultant to circularize this suspension to all Courts of the Philippines; (c) to let the Clerk of Court attach a copy of this resolution to the personal records of said lawyer; and (d) to [appoint] a counsel de oficio for appellant by strict rotation and to give said counsel de oficio a period of thirty (30) days from notice of appointment within which to file appellant's brief." [1]

His motion for reconsideration was filed on the afternoon of July 18, 1975. It reads thus: "That before the Notice on appeal was filed in the lower court, there was an oral contract between the undersigned and the father of the accused-appellant to the effect that the latter would undertake all necessary expenses in connection thereto; That likewise, before the record on appeal was transmitted to this Honorable Tribunal, the undersigned sent a letter-telegram, through the RCPI Cauayan branch, Cauayan, Isabela, to the father of accused-appellant in his address at Amistad, a remote barrio twelve kilometers more or less from the municipality of Alicia, province of Isabela, requesting him to contact the undersigned at the earliest possible time in his temporary address at C/o Ruiz Tailoring, Santiago, Isabela for the purpose of preparing appellant's brief, but the same was returned and received by the undersigned's wife with the notation, 'Addressee could not be located;' That the undersigned could no longer find the letter-telegram with the notation which was inadvertently misplaced among his files despite due diligence; That the undersigned after having been informed that the father of the accused-appellant could no longer be found in the above-stated address, went to see the accused-appellant in the New Bilibid Prisons at Muntinlupa, Rizal and informed him that his father could no longer be found in their home address at Amistad, Alicia, Isabela, and that in case his father goes to the New Bilibid Prisons for a visit he should inform his father to see the undersigned immediately without delay in connection with his appealed case; That the undersigned after

having visited the accused-appellant in the New Bilibid Prisons at Muntinlupa, Rizal, which visit was duly recorded in the visitor's logbook, not to be remiss to his sworn duty as a lawyer went to barrio Amistad to further find out whether or not the father of the accused-appellant was really and in truth no longer residing in said barrio; That however, the undersigned upon reaching the junction of the road going to barrio Amistad and after being informed by a reliable person that barrio Amistad was once the hideout of the NPAs, and was still a dangerous place, desisted from proceeding thereto; That since then the undersigned never had contact with the father of accused-appellant up to the present; That the undersigned, his wife, and children except his oldest son who is employed in Manila have resided temporarily in the municipality of Santiago, province of Isabela in the following addresses: apartment of Mr. Mariano Ruiz, from the latter part of May, 1974 up to November 9, 1974; apartment of Councilor Diaz, from November 10, 1974 up to February 15, 1975, both located at Rizal Street; and in the boarding house of Mrs. Cordova, from February 16, 1975 up to May 7, 1975, located at Turingan Street; That due to the fact that he has no fixed address in Isabela, undersigned instructed his oldest son to receive and remit all letters, memoranda, Orders, or messages to his sister, Emeteria Mendoza, at Plaridel, Santiago, Isabela, but has neither received nor being informed of any letter, memorandum, Order, or message from this Honorable Tribunal up to the present; That the undersigned had neither personal knowledge nor notice of any memorandum, or Order with respect to the Resolution of this Honorable Tribunal dated April 4, 1975 and February 5, 1975, except its Resolution dated May 30, 1975 which was personally delivered to him by his wife in Ramon, Isabela on July 3, 1975 where he usually resides on account of the fact that his real properties were located there; That likewise, the wife of the undersigned had no personal knowledge of any notice, memorandum, or Order with respect to the Resolutions of this Honorable Tribunal dated April 4, 1975 and February 5, 1975, to be able to inform accordingly the undersigned, except its Resolution dated May 30, 1975 which she personally delivered to him at Ramon, Isabela; That furthermore, on May 7, 1975, the wife of the undersigned and his children left Isabela for Quezon City to avoid unnecessary expenses particularly the house rentals of One Hundred Pesos a month, and as a consequence never received any such notice, Order or Resolution of this Honorable Tribunal except the one dated May 30, 1975; That at any rate, the undersigned was left behind in Isabela because of Court cases which he was handling, and of his desire to closely supervise the cultivation of his land thereat, although upon receipt of the Resolution of this Honorable Tribunal dated May 30, 1975, undersigned had to rush back to Manila to file the instant Motion for Reconsideration for the kind consideration of this Honorable Tribunal; That it could be possible that the Resolutions of this Honorable Tribunal dated April 4, 1975 and February 5, 1975 were received by one of the boarders of the undersigned, either Mrs. Cresencia Domingo, or her married daughter, Mrs. Elizabeth San Juan who rented part of his house from January, 1975 up to the later part of April, 1975 when they left for the province of Nueva Ecija, without however, informing the undersigned or his wife of the receipt of said Resolutions; That Mrs. Cresencia Domingo, or her married daughter, Mrs. Elizabeth San Juan, in truth and in fact did not know the exact address of the undersigned in Santiago, Isabela; That by and large, undersigned has no intention to defy the Resolutions of this Honorable Tribunal dated April 4, 1975 and February 5, 1975 but had always the noble and honest intention of strictly observing his Oath of Office as a lawyer and a dignified member of the legal profession for which he had devoted the best of his life.”[2]

This Court is appreciative of circumstances mentioned, which precluded compliance on his part with his sworn duty. It is, therefore, disposed to accord leniency to respondent. There can never be, however, complete exculpation. It is obvious that there was carelessness and negligence on his part that rendered him unable to receive copies of orders and resolutions coming from this Tribunal. Moreover, if his calendar were kept in proper order, he ought to have realized when the brief of appellant was due. If he had doubts, he could have sought information from the Clerk of Court. It is hard to avoid the impression, therefore, that respondent had not lived up to the exacting obligation that is assumed by a member of the legal profession who expects to remain in good standing. Since, however, he has been sufficiently penalized by the suspension imposed as of May 30, 1975, this

Court is disposed to grant his motion to that effect. With an attorney de oficio having been appointed as counsel for the accused-appellant, he is no longer required to submit the appellant's brief. The fine, however, remains.

WHEREFORE, the order of suspension of May 30, 1975 is lifted. He is, however, ordered to comply forthwith with that portion of the resolution of April 4, 1975 imposing a fine of P200.00. Until after such payment is made, the Judicial Consultant is not required to circularize the fact of the suspension having been lifted. Let a copy of this resolution be spread on his record.

Makalintal, C.J., Barredo, Aquino, and Martin, JJ., concur.

Antonio and Concepcion, Jr., JJ., are on official leave.

[1] Resolution of this Court dated May 30, 1975.

[2] Motion for Reconsideration, 1-4.

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