

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REMIGIO ESTEBIA, ACCUSED-APPELLANT. IN THE MATTER OF ATTORNEY LOPE E. ADRIANO, MEMBER OF THE PHILIPPINE BAR.

G.R. No. L-26868. February 27, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Once again, this Court is confronted with the unwanted task of ascertaining whether certain acts and conduct of a member of the Bar deserve disciplinary action.

The problem arose because of facts that follow:

One Remigio Estebia was convicted of rape by the Court of First Instance of Samar,[1] and sentenced to suffer the capital punishment. His case came up before this Court on review.

On December 14, 1966, Lope E. Adriano, a member of the Bar, was appointed by this Court as Estebia's counsel de oficio. In the notice of his appointment, Adriano was required to prepare and file his brief within thirty days from notice. He was advised that to enable him to examine the case, the record would be at his disposal. Adriano received this notice on December 20, 1966. On January 19, 1967, Adriano sought for a 30-day extension to file appellant's brief in mimeographed form. On February 18, Adriano again moved for a 20-day extension (his second). This was followed by a third filed on March 8, for fifteen days. And a fourth on March 27, also for fifteen days. He moved for a "last" extension of ten days on April 11. On April 21, he even sought a special extension of five days. All these motions for extension were granted. The brief was due on April 26, 1967. But no brief was filed.

On September 25, 1967, Adriano was ordered to show cause within ten days from notice thereof why disciplinary action should not be taken against him for failure to file appellant's brief despite the lapse of the time therefor. Adriano did not bother to give any explanation.

For failing to comply with the September 25, 1967 resolution, this Court, on October 3, 1968, resolved to impose upon him a fine of P500 payable to this Court within fifteen days from notice with a warning that upon further non-compliance with the said resolution of September 25, 1967 within the same period of fifteen days, "more drastic disciplinary action will be taken against him." Still, counsel paid no heed.

Finally, on December 5, 1968, this Court ordered Adriano to show cause within ten days from notice thereof why he should not be suspended from the practice of law "for gross misconduct and violation of his oath of office as attorney." By express order of this Court, the resolution was personally served upon him on December 18, 1968. He ignored the resolution.

Upon the facts just narrated, we now pass judgment.

1. By specific authority, this Court may assign an attorney to render professional aid to a destitute appellant in a

criminal case who is unable to employ an attorney. Correspondingly, a duty is imposed upon the lawyer so assigned "to render the required service." [2] A lawyer so appointed "as counsel for an indigent prisoner," our Canons of Professional Ethics demand, "should always exert his best efforts" in the indigent's behalf. [3]

No excuse at all has been offered for non-presentation of appellant's brief. And yet, between December 20, 1966, when he received notice of his appointment, and December 5, 1968, when the last show-cause order was issued by this Court, more than sufficient time was afforded counsel to prepare and file his brief de officio. The death sentence below imposed was upon a plea of guilty. The record of the proceedings leading to the lower court's sentence consists of but 31 pages. Counsel had the record since January 19, 1967. In fact, in his third motion for extension of time, he manifested that the drafting of appellant's brief "is more than half-way through" and that "additional time is needed to review, effectuate the necessary corrections, put in final form and print the said brief." In his motion for fourth extension, he intimated that the preparation of the brief "is almost through" and that "additional time is needed to redraft and rehash some significant portions of said brief and have the same stencilled and mimeographed upon completion of a definitive text." His motion for last (fifth) extension of time came with the excuse that he "suddenly got sick (influenza) in the course of redrafting and rehashing some significant portions of said brief, which ailment hampered and interrupted his work thereon for sometime." Finally, in his "Special Extension of Time" to file brief, he claimed that he needed only five days from April 21, 1967 to put said brief in final form and have the same stencilled and mimeographed.

In the face of the fact that no brief has ever been filed, counsel's statements in his motions for extension have gone down to the level of empty and meaningless words; at best, have dubious claim to veracity.

It is true that he is a court-appointed counsel. But we do say that as such counsel de officio, he has as high a duty to the accused as one employed and paid by defendant himself. Because, as in the case of the latter, he must exercise his best efforts and professional ability in behalf of the person assigned to his care. His is to render effective assistance. The accused defendant expects of him due diligence, not mere perfunctory representation. We do not accept the paradox that responsibility is less where the defended party is poor. It has been said that courts should "have no hesitancy in demanding high standards of duty of attorneys appointed to defend indigent persons charged with crime." [4] For, indeed, a lawyer who is a vanguard in the bastion of justice is expected to have a bigger dose of social conscience and a little less of self-interest. Because of this, a lawyer should remain ever conscious of his duties to the indigent he defends.

Worth remembering is the 1905 case of *In the matter of Jose Robles Lahesa*. [5] He was counsel de officio before the Supreme Court in two cases: one for robo en cuadrilla and the other for homicide. He failed to take any action in behalf of the defendants in both cases. This Court imposed upon him a fine of P200. Significant is the pronouncement we there made that: "This court should exact from its officers and subordinates the most scrupulous performance of their official duties, especially when negligence in the performance of those duties necessarily results in delays in the prosecution of criminal cases and the detention of accused persons pending appeal." The validity of the foregoing observation remains to the present day. [6] It applies to the present case.

Here, appellant was without brief since December 20, 1966. The effect of this long delay need not be essayed. We, therefore, find that Attorney Lope E. Adriano has violated his oath that he will conduct himself as a lawyer according to the best of his "knowledge and discretion".

2. An attorney's duty of prime importance is "[t]o observe and maintain the respect due to the courts of justice and judicial officers." [7] The first Canon of the Code of Ethics enjoins a lawyer "to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance." By his oath of office, the lawyer undertook to "obey the laws as well as the legal orders

of the duly constituted authorities." In *People vs. Carillo*,^[8] this Court's pointed observation was that as an officer of the court, it is a lawyer's "sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice."

Here, we have a clear case of an attorney whose acts exhibit willful disobedience of lawful orders of this Court. A cause sufficient is thus present for suspension or disbarment.^[9] Counsel has received no less than three resolutions of this Court requiring compliance of its orders. To be recalled is that on September 25, 1967, this Court directed him, in ten days from notice, to show cause why disciplinary action should not be taken against him for his failure to file appellant's brief despite the lapse of the time therefor. Nothing was done by counsel for over a year. To impress upon counsel the gravity of his repeated failure to obey this Court's orders, on October 3, 1968, a fine of P500 was clamped upon him. He was directed to pay that fine in ten days. He was in that order also required to file his brief in fifteen days. He was warned that more drastic disciplinary action would be taken upon his failure to do either. Still he remained unmoved. Then, this Court issued the peremptory order of December 5, 1968 commanding him to show cause within ten days from notice thereof why he should not be suspended from the practice of law for gross misconduct and violation of his oath of office. The Court made it certain that this order would reach him. He personally acknowledged receipt thereof. He has not paid the fine. He has done nothing.

This is 1969. No brief has as yet been filed. And this, in spite of the fact that as early as March 27, 1967, when he moved for a fourth extension of time to file his brief *de officio*, he represented to this Court that all that was needed was to redraft and to rehash some significant portions of the brief which was almost through and to have the same stencilled and mimeographed upon completion of a definitive text.

Disrespect is here present. Contumacy is as patent. Disciplinary action is in order.

Controlling here is the 1961 decision in the Matter of Atty. Filoteo Dianala Jo.^[10] There, as here, counsel failed to file appellant's brief (in a criminal case) despite extensions of time granted him by this Court. Likewise, this Court issued a show-cause order why disciplinary action should not be taken against him. The explanation was considered unsatisfactory. This Court imposed a fine of P50 payable in ten days from notice. Attorney Dianala Jo did not pay that fine. Came the subsequent resolution of this Court advising him to pay the fine, otherwise, he would be arrested and confined to jail. This warning was not heeded. On November 18, 1960, the Court resolved to give him ten days from notice within which to explain why he should not be suspended from the practice of law. Despite receipt of this notice, he did not care to explain his behaviour which this Court considered as "contumacy and unwillingness to comply with the lawful orders of this Court of which he is an officer or to conduct himself as a lawyer should, in violation of his oath of office." He was suspended from the practice of law for three months.

In the present case, counsel's pattern of conduct, it would seem to us, reveals a propensity on the part of counsel to benumb appreciation of his obligation as counsel *de officio* and of the courtesy and respect that should be accorded this Court.

For the reasons given, we vote to suspend Attorney Lope E. Adriano from the practice of law throughout the Philippines for a period of one (1) year.

Let a copy of this resolution be attached to the personal record, in this Court, of Lope E. Adriano as member of the Bar.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Criminal Case C-1331, entitled "People of the Philippines, Plaintiff, versus Remigio Estebia, Accused."

[2] Section 31, Rule 138 of the Rules of Court.

[3] Canon 4.

[4] State vs. Delaney, 351 P. 2d. 85, 90.

[5] 4 Phil. 298, 300.

[6] See: Javellana vs. Lutero, 20 SCRA 717; Blanza vs. Arcangel, Adm. Case 492, September 5, 1967, 21 SCRA 1.

[7] Section 20(b), Rule 138, Rules of Court.

[8] 77 Phil. 572, 580.

[9] Section 27, Rule 138, Rules of Court.

[10] 1 SCRA 31.

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