

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
VICTOR VILLAR, JR. ALIAS, “JUN FRUTO”; DEFENDANT,
REYNALDO REPULLOSO, DEFENDANT AND APPELLANT, SENEN S.
BURGOS, RESPON...**

G.R. No. L-34072. July 29, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

This is another one of those cases when a member of the bar, Senen S. Burgos, was by our resolution of June 5, 1972, required to explain his failure to file appellant's brief on time. Then on the twenty-third of that same month, his explanation was submitted to this Court, worded thus: "1. That on April 28, 1972, undersigned left Oas, Albay to settle agrarian troubles involving the estate of his late father; 2. That on April 28, 1972, undersigned left for Oas, Albay to settle above-entitled case together with the final draft of appellant's brief to his clerk-typist Mr. Jose Segundino with the instructions to type the same together with the decision of the lower court to be filed not later than May 2, 1972; 3. That he also left instructions to the same clerk-typist that in the event that the typing could not be finished on or before May 2, 1972, to request for an extension of five (5) days; 4. That when undersigned came back to Manila on May 16, 1972, he found out to his dismay that his clerk-typist had not reported for work since May 2, 1972 and that the appellant's brief together with the decision were not typed, and neither was there an extension requested; 5. That because there was no longer a typist, undersigned had to do the typing himself and considering that he is a slow typist (not touch system) and other cases which he had to attend to personally, he was only able to finish the complete set of appellant's brief on May 22, 1972; 6. That his messenger Mr. William Sarte was only able to file the same on May 25, 1972; 7. That up to the present the clerk-typist hereinabove named has not reported for work; 8. That the delay in filing of appellants brief has been due to a chain of unfortunate circumstances beyond the control of the undersigned."

Even with full recognition of the facts therein above set forth, respondent Senen S. Burgos is not thereby entitled to be completely exonerated from the charge of failing to live up to a duty required of a lawyer, especially one in a de officio capacity. It is of course understandable that he could not be expected to neglect the settlement of agrarian troubles involving the estate of his late father. At the time he left for Albay, however, on April 28, 1972, he could not have been unaware that his brief was due in four days. The next day was Saturday, when his clerk-typist ordinarily would be at work only half-a-day. The last day of the month fell on a Sunday. The first day of May is a legal holiday. Under the circumstances then, he ought to have taken pains to assure that before he went to Albay, the brief was ready for filing. Failing that, he ought to have asked for postponement. It certainly was a mark of neglect when he entrusted such a delicate matter to his clerk-typist who fortuitously, for reasons unknown, has conveniently disappeared. Moreover, from the affidavit attached to the brief respondent Burgos submitted, it would appear he has a partner, his law office being Burgos and Sarte. It certainly smacked of carelessness on his part, when he did not even seek the assistance of his partner to file such a motion for postponement, when it appeared that he had to leave for the provinces at such a crucial time and he had doubts as

to the brief being ready for filing. It likewise defies explanation how respondent Burgos could just entrust to a clerk-typist the preparation and the filing of a brief due in four days, knowing as he must have known then that he would not be back on time, when such a brief had to be signed by him. All of the above circumstances reduce considerably the quantum of whatever persuasive quality his explanation may possess. It cannot, to repeat, be considered entirely satisfactory.

A member of the bar is expected at all times, especially so in pleadings to be filed with this Court, to be on the alert and ever attentive to when they are due. While of course, fortuitous events or force majeure may in most cases suffice to exculpate him from liability for late filing, no such circumstances could plausibly be availed of by respondent Burgos. He has therefore failed in some measure, although perhaps not impressed with sufficient gravity, in the performance of a duty incumbent on a lawyer especially a counsel de oficio. [1]

Wherefore, respondent Senen S. Burgos is admonished to exercise greater care in the discharge of the responsibility he is called upon to meet as a member of the bar. Let a copy of this resolution be entered on his record.

Concepcion, C J., Reyes, J. B. L, Makalintal, Zaldivar, Castro, Teehankee, Barredo, Makasiar, Antonio and Esguerra, JJ., concur.

Respondent admonished.

[1] Cf. *People vs. Daban* L-31429, Jan. 31, 1972, 43 SCRA 185; *People vs. Estocada*, L-31024, Feb. 29, 1972, 43 SCRA 515; *People vs. Tigulo*, L-34334, May 12, 1972 and *People vs. Casimiro*, L-33416, June 29, 1972.

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