

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
VICTOR SUSANO BLANCAS Y ALFORQUE, ACCUSED AND
APPELLANT, ATTYS. CRISTETO O. CIMAGALA, RUDOLFO E. YAP,
CARLOS G. GARCIA...**

G.R. No. L-34104. June 15, 1972

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Respondents Attys. Cristeto O. Cimagala, Rudolfo E. Yap, Carlos G. Garcia and Paulino G. Clarin, members of the Philippine Bar and counsels de parte of accused-appellant Victor Susano Blancas y Alforque, sentenced under the trial court's 28-page decision of July 20, 1971 to reclusion perpetua for the crime of rape, were required per our resolution of April 4, 1972 "to explain why disciplinary action should not be taken against them for failure to file timely appellant's brief, within the period which expired on February 18, 1972."

Respondent Cimagala, who is principal counsel in this appeal in accordance with his own manifestations, upon receipt on January 10, 1972 of the notice to file appellant's brief, filed under date of January 21, 1972 (received February 5, 1972) a motion for extension of thirty (30) days time and for leave to submit a typewritten or mimeographed brief. Said respondent counsel alleged in his duly verified motion several reasons, among them, that "(C)ounsel himself has been ill for the last two (2) weeks and could not raise the necessary funds for printing among the relatives of appellant who could have been asked to advance the printing costs. It may be pertinent to mention here that appellant is without any source of income, abnormal of feet and hands and is otherwise incapable of earning, even were he out on bail: he has to depend entirely, on his parents;" and that "(A)ccused-Appellant in our humble opinion has an excellent defense and this could dot he projected properly, unless an adequate brief can be submitted for him.

The Court accordingly granted the extension and leave to be excused from filing the brief in printed form, per its resolution of February 10, 1972.

Nothing more was heard thereafter from respondent counsel and the extended period expired on February 18, 1972. Hence, the Court's requirement for counsel's explanation of his failure to file appellant's brief.

Respondent counsel, in his verified explanation dated May 3, 1972, stated that notwithstanding that he had duly informed appellant's mother of the necessity for filing appellant's brief within the extended period granted by the Court, "(F)or reasons which the mother of the Accused-Appellant did not explain to the undersigned nor to his co-counsel, the mother informed him that while she and her husband were in Manila they were able to contact a prominent person quite close to His Excellency, the President of the Philippines who assured them that they could secure a pardon for their son through him if they wanted and that in view of said assurance, she and her husband were abandoning the idea of continuing with the appeal or even with the filing of the brief: apparently, this decision was reached by the couple to save on the expenses they were made to understand even if the brief were to be in mimeographed or typewritten form;" and "(T)he mother further asked the undersigned how long an

appealed case will take to be decided and when informed that lawyers do not have a definite idea as to that since it is the Supreme Court alone which can decide that, she looked dismayed, hinting that maybe their son will languish longer in jail if they went ahead with the appeal she then reiterated her decision to secure a pardon apparently putting much reliance on the assurance of their new friend who she claimed was their close relative and also close to the President."

Counsel Cimagala further stated that "(S)ince then the mother did not show up before any one of the lawyers of her son. Under such circumstances the undersigned and his fellow-attorneys felt they would be imposing themselves on the parents of the accused-appellant were they to insist that an appeal brief should nonetheless be filed for their son. The undersigned and his fellow-attorneys had all been ready, willing and able to prepare a brief within the deadline given: it was the parents, the mother especially of the accused, who appeared no longer interested," and he "'came' into the case only when a motion for reconsideration of the conviction was filed with the court: the other three lawyers handled the case for the accused during the entire trial. While it is true that the undersigned was made to understand originally by the parents that he was to prepare the brief but had to coordinate with the other three (3) lawyers, the above supervening circumstances compulsively changed the decision of the undersigned and his three fellow-lawyers." He thus prayed "for himself and his fellow attorneys" that "the failure to file a brief for the accused-appellant be not laid against the lawyers and that they be accordingly absolved completely of any blame."

The Court finds counsel's explanation to be unsatisfactory. Even granting full credence thereto, he does not explain his neglect in failing to inform the Court of the alleged decision of appellant's parents to seek executive clemency instead of pursuing the appeal and to file the corresponding motion that would discharge him from his obligation to file appellant's brief. Again, from his own explanation, it appears that appellant's parents had not made any definite decision with regard to the withdrawal of the appeal, but that he and his co-counsel were restrained by an improper sense of inhibition from definitely verifying the matter. As was held by the Court through Mr. Justice Fernando in a recent case,[1] "respondent (counsel) in patent violation of the obligation a lawyer owes his client did not even bother to communicate with his client on such an important matter as the withdrawal of an appeal with all the adverse consequences it entails * * *." More so were counsel bound to obtain directly their client's final decision on the matter, in view of their opinion that he has an "excellent defense" to the serious charge of which he stands convicted by the trial court.

The Court has noted with concern such improper and undesirable conduct on the part of counsels who simply fail to file within the reglementary period the brief on behalf of accused-appellants, and wait to be required by the Court to show cause why they should not be subjected to disciplinary action. Such conduct does not speak well of the earnestness and zeal with which they are called upon to defend their client's rights nor of their appreciation of their privilege and duty as officers of the courts to do their share so that the administration of justice be attended to well and efficiently. Such unworthy attitude and conduct on the part of attorneys will not be tolerated.

WHEREFORE, respondent Cristeto O. Cimagala is hereby severely reprimanded and warned that a repetition of such misconduct would be penalized with more severity. Let a copy of this resolution be entered upon his record.

As counsel for accused-appellant he is hereby required, in the interest of justice, to file appellants brief within a final period of thirty (30) days from notice.

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

[1] Resolution dated May 12, 1972 in L-34334 "People vs. Tigulo."

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