

IN RE: ATTY. SANTIAGO F. MARCOS

Adm. Case No. 922. December 29, 1987

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PER CURIAM:

By resolution dated February 20, 1970 in CA-G.R. No. 08475-CR, People of the Philippines vs. Dominador Sibayan, the Court of Appeals referred to this Court, "for whatever disciplinary action it may deem proper to take against Atty. Santiago Marcos", what it found to be said lawyer's unjustified delay in filing brief for the accused-appellant Dominador Sibayan.

The resolution was predicated on the following factual premises:

"(O)n October 9, 1968, notice to file brief was received by the appellant. As appellant did not file his brief, a similar notice dated January 15, 1969, was sent to Atty. Santiago F. Marcos, his counsel in the court below, but the same was returned to this Court with the notation 'unclaimed'. On March 6, 1969, this Court issued a resolution requiring the appellant to show cause, within 10 days from notice, why his appeal should not be dismissed. On March 27, 1969, the appellant filed a 'Manifestation' praying that his appeal be not dismissed and that he be granted an extension of 30 days within which to file his brief. The request was granted in our resolution of April 14, 1969.

"In the meantime, Atty. Santiago F. Marcos filed an 'Appearance with Motion to Extend Time to File Brief' praying that he be granted an extension of at least 25 days from notice within which to file the appellant's brief. In our resolution of June 17, 1969, Atty. Marcos was granted 'up to June 30, 1969 within which to file appellant's brief'. A copy of said resolution was sent by ordinary mail to said counsel on June 21, 1969. No appellant's brief having been filed with the period granted, this Court, in its resolution of October 28, 1969, again required the appellant to show cause, within ten days from notice, why his appeal should not be dismissed.

"In the 'Explanation, etc.' dated November 26, 1969, the appellant's counsel claims -

'2. That accused-appellant's failure to file his brief aforesated is due to the fact that he was unaware of the resolution of this Honorable Court dated June 17, 1969, granting his motion for extension of time to file his said brief, and it was only upon his receipt of the resolution of this Court dated October 27, 1969, that he came to know that his motion for extension was granted;

'3. That, moreover, due to the trouble caused to accused-appellant's undersigned counsel by the recent election, he being a political leader, not to mention other legal works which pre-occupied him, he failed to check from time to time the constant status of this case, particularly his last motion filed for extension, lest he is sure that he (has) not received by mail or personal delivery a copy of said resolution of this Honorable Court dated June 17, 1969, granting him (accused-appellant) extension of time to file brief;

x x x.'

and, accordingly, prays that the appeal be not dismissed and that he be given an extension of 25 'days from today' within which to file the appellant's brief. In another motion of December 20, 1969, the appellant's

counsel again asked for an extension of 15 days from receipt of an order to that effect 'within which to submit the appellant's brief'. Up to this time, no appellant's brief has as yet been filed. (pp. 2-4, rollo)"

Having found the proffered explanation for the 15-month delay in the filing of brief unsatisfactory, the Court of Appeals dismissed the appeal of Dominador Sibayan and, as aforesaid, referred to this Court for appropriate action its charge against Sibayan's counsel of intentional delay in the termination of the case.

Required by this Court to answer the charge, Atty. Marcos stated that he "did not bother filing any brief for the (accused-appellant) * * because of the * * pleas and requests of accused-appellant himself and the latter's relatives, particularly one Mr. Benito Paas, the uncle of appellant D. Sibayan * * not to pursue anymore said appeal for fear that the decision of the lower court might be changed graver against Sibayan * *." He sought to substantiate these averments at the investigation conducted by the Office of the Solicitor General on this Court's instructions.

The Court finds respondent's defenses to be untenable. As correctly pointed out by the Solicitor General:

"1. Respondent did not allege a similar defense in his Explanation dated November 26, 1969 to the Court of Appeals. Yet Benito Paas allegedly first requested respondent in November, 1969 to desist from pursuing the appeal of Dominador Sibayan. Respondent gave only two reasons to the said Court: that he was unaware of the Court's Resolution dated June 17, 1969 granting his motion for extension of time to file appellant's brief; and that he was then engrossed in the elections as he was a political leader. Both explanations were considered unsatisfactory by said Court.

"2. If there as such request for desistance in pursuing the appeal in November and December, 1969, respondent could have then filed the appropriate pleading to such effect. He did not. His witness Benito Paas admitted that he has not seen any such pleading. Such explanation could perforce be an afterthought.

"3. As earlier stated, respondent had been given full opportunity to present additional evidence, but he apparently opted not to adduce more."

An attorney is bound to protect his client's interest to the best of his ability and with the utmost diligence. (Del Rosario vs. Court of Appeals, 114 SCRA 159) A failure to file brief for his client certainly constitutes inexcusable negligence on his part. (People vs. Villar, 46 SCRA 107) The respondent has indeed committed a serious lapse in the duty owed by him to his client as well as to the Court not to delay litigation and to aid in the speedy administration of justice. (Canons 21 and 22, Canons of Professional Ethics; People vs. Daban, 43 SCRA 185; People vs. Estocada, 43 SCRA 515)

WHEREFORE, Atty. Santiago F. Marcos is severely reprimanded and suspended from the practice of law for three (3) months effective from date of his receipt hereof. He is further admonished to henceforth exercise greater care and diligence in the performance of his duties towards his clients and the court. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration will be entertained. Let copies of this decision be attached to Atty. Marcos' personal record and circulated among the different courts.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, Paras, and Gancayco, JJ., concur.

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