

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLORENTINO COPRO, DEFENDANT-APPELLANT. ATTORNEY
LEOVIGILDO L. CERILLA, RESPONDENT.**

G.R. No. L-37599. July 31, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

This Court, unhappily of late, has been compelled to take the appropriate disciplinary action against members of the bar in view of their lack of proper concern for and inattention to the duties incumbent on legal practitioners. This is still another instance. Our resolution of March 13, 1974 called upon respondent Leovigildo L. Cerilla, counsel for appellant, to explain within ten days from notice why he failed to file appellant's brief within the extended period which expired on February 23, 1974. He attempted to do so in a pleading filed on March 25, 1974, referring to an earlier manifestation of his. As will be shown, what was alleged in his defense is not completely satisfactory. He has failed, therefore, to exculpate himself from accountability.

In the manifestation referred to above, respondent Cerilla alleged: "1. That the last day to file appellant's brief had expired on February 23, 1974, without the required brief having been submitted by him due to no fault of his, but because of the repeated failure of Mr. Marciano Carable, father-in-law of appellant, who was the one who retained the services of the undersigned, to secure a complete copy of the transcript of stenographic notes of the trial, thereby preventing him from finishing the draft of the brief he was preparing, besides the fact that Mr. Carable had also failed to deliver the amount needed to defray the cost of printing said brief; 2. That right on the very day that the notice of appeal was filed in court in this case, Mr. Carable was already told of the necessity of securing without delay a complete copy of the transcript of stenographic notes and of bringing it to the undersigned at least three (3) weeks before the expiry date of the reglementary period for submitting the brief but he failed until the undersigned suffered from a heart ailment, compelling him to seek an extension of the original period for filing the brief; but, in spite of this extension and another extension granted by this Honorable Court, still Mr. Carable failed to deliver the much needed complete copy of the transcript; 3. That on January 28, 1974, his secretary sent a letter by registered mail to Mr. Carable impressing upon him the consequences of his failure to secure the transcript of stenographic notes. . . . 4. That, in spite of the letter aforementioned, Mr. Macario Carable showed up in the office of the undersigned only a few days ago — and still without the transcript, much less, the amount needed to defray the cost of printing the brief; 5. That he has made the foregoing manifestation to inform this Honorable Court that appellant's failure to file brief was not due to any fault or negligence on the part of the undersigned who, despite his physical condition, tried to perform his professional duties." [1] It was his prayer that this Court take note of his manifestation.

That, we have done, but as noted at the outset, it is our opinion that respondent cannot be said to be in the clear. For as far back as January 10, 1974, there was this resolution: "Considering the motion of counsel for appellant stating that due to his heart ailment, his doctor advised complete bed rest for at least two (2) months and praying that he be given a second extension of sixty (60) days from December 25, 1973 to file brief and should this

motion be denied, that said counsel be given sufficient time to seek the conformity of his client for his withdrawal as counsel for appellant, the Court resolved to [grant] the extension prayed for." [2]

It is obvious then that in addition to the original thirty-day period, he had, as of February 23, 1973, a period of ninety days. If, as alleged by him, his client could not comply with his instruction to secure a copy of the transcript of stenographic notes and if, as alleged by him further, his state of health would not permit him to attend to his duties as defense counsel, he ought to have asked this Court to be relieved from such responsibility. He failed to do so. What is clear from his manifestation was that his failure to comply with the submission of the brief was due not to his fear that a risk to his health would be incurred but to the fact that he had not been furnished the transcript of stenographic notes. If the reason were the former, then certainly it would be unreasonable to hold him liable. Since, however, the cause for his being remiss in his obligation was predicated solely on the failure of a client's family, possibly indigent, to secure a copy of the stenographic notes, he has not made out a case for exculpation. The brief was originally due on November 25, 1973. It is now July, 1974. Still, no brief has been submitted. What is worse, even his manifestation, which he believed should be taken into consideration by this Court, was submitted after the ninety-day extension was granted him. Under the above circumstances, his accountability is clear.

In a resolution handed down three months ago, in *Visayan Stevedore Transportation vs. Court of Industrial Relations*, [3] we stated the following: "What concerns this Court was his neglecting to comply with a duty owed it. For offenses of such character, this Tribunal, to refer only to resolutions of the past two years, had taken to task the members of the bar involved." [4] In the case referred to, *People vs. Rosqueta*, [5] we had occasion to stress the following: "Respondent's liability is thus mitigated but he cannot be absolved from the irresponsible conduct of which he is guilty. Respondent should be aware that even in those cases where counsel de parte is unable to secure from appellants or from their near relatives the amount necessary to pursue the appeal, that does not necessarily conclude his connection with the case. It has been a commendable practice of some members of the bar under such circumstances, to be designated as counsel de oficio. That way the interest of justice is best served. x x x Respondent's conduct yields a different impression. What has earned a reproof however is his irresponsibility. He should be aware that in the pursuance of the duty owed this Court as well as to a client, he cannot be too casual and unconcerned about the filing of pleadings." [6]

Even a neophyte should be aware that his responsibility to the judiciary, especially to this Court, frowns on any delay occasioned by negligence or inattention to duty. Respondent, therefore, clearly has merited the appropriate disciplinary action.

WHEREFORE, respondent Leovigildo L. Cerilla is reprimanded for his failure to file the brief on time and to explain satisfactorily such occurrence. He is given a period of thirty days within which to file appellant's brief or, in the alternative, to request permission from this Court to retire from the case in view of his alleged heart condition so that counsel de oficio can be appointed for the accused.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.
Barredo, J., took no part.

[1] Manifestation, 1-2.

[2] Resolution dated January 10, 1974.

[3] L-37650, April 30, 1974, 56 SCRA 831.

[4] Ibid, 34. The cases cited follow: *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, 45 SCRA 1; People vs. Casimiro, L-33416, June 29, 1972, 45 SCRA 554; People vs. Villar, L-34092, July 29, 1972, 46 SCRA 107; People vs. Macellones, L-33639, Feb. 28, 1973, 49 SCRA 529; People vs. Vicente, L-35243, May 25, 1973, 51 SCRA 94; People vs. Rosqueta, L-36138, Jan. 31, 1974, 55 SCRA 486.

[5] 55 SCRA 486.

[6] Ibid, 489.

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