

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIO MACELLONES ALIAS JULY AND NOE MACELLONES, DEFENDANTS-APPELLANTS, DOMINADOR L. NATIVIDAD RESPONDENT.

G.R. No. L-33639. February 28, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

From an order of suspension of November 3, 1972 as well as an imposition of a fine of P200.00 in an earlier resolution of August 17 of that year, a member of the Philippine Bar, respondent Dominador L. Natividad, seeks relief. He was required to pay such fine in view of his inability, as counsel de parte, to file on behalf of the two accused Julio Macellones and Noe Macellones, their brief as appellants, due as far back as April 28, 1972. In the same resolution of August 17, he was granted an additional period of thirty days within which to do so. When the due date came, and no brief was still forthcoming, he laid himself open to the more severe sanction of suspension. Then came what must have been frantic efforts on his part to have the two accused, Julio Macellones and Noe Macellones, withdraw their appeals. That they did. Such a move elicited the approval of this Court in its resolutions of December 12, 1972 and December 29, 1972.

He would have this Court remit the fine and revoke the suspension. With the withdrawal of the appeal, the suspension could be lifted, but only upon the payment of the fine.

In a sense, respondent is not taken too harshly to task, considering that the failure to file the brief for the two accused as far back as April 28, 1972 is inexcusable. The fact that he did prevail on them to withdraw their appeals could mitigate, but certainly could not absolve him from his non-compliance with his obligation as a member of the bar. Such conduct betrays a failure to exert that "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights, and the exercise of his utmost learning and ability." [1] What is worse, it reveals him as lacking in that sense of respect and obedience to the highest Tribunal of the land. He was a counsel de parte. Had he realized his inability to live up to what was required of him, he should have asked his clients to allow him to withdraw, so that they could secure the services of a member of the bar alive to his responsibility and responsive to his duty. While the accused certainly were free to withdraw their appeal, there is no telling that had they been represented by counsel less negligent in attending to a client's interest, a review of their cases might have reduced their penal liability. [2]

Respondent Natividad could not have remained unaware that such flagrant omission did render precarious his good standing and did entail a liability to which he must submit with good grace. He should be appreciative of the fact that less than what such irresponsibility on his part deserved was the penalty meted out to him.

WHEREFORE, the suspension of respondent Dominador L. Natividad is lifted, effective upon the payment of the fine of P200.00 imposed on him according to the resolution of August 17, 1972. He is, however, censured severely for such misconduct. Let a copy of this resolution be spread upon his record.

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

[1] Canon 15 of the Canons of Legal Ethics, adopted by the Philippine Bar Association of 1917.

[2] Cf. *People v. Tigulo*, G.R. No. L-34334, May 12, 1972, 45 SCRA 1.

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