

THE PEOPLE OP THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EDUARDO BERDIDA Y INGUITO, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. L-20183. September 30, 1963

Ponente: DIZON, J.

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DIZON, J.:

The present case was forwarded to Us by the Court of First Instance of Manila for compulsory review, the defendants (Criminal Case No. 52339 of the lower court) having been sentenced to death, etc. On March 13, 1963, Atty. Agustin R. Homeres, with address at 1-A Road 8 St., Project 6, Quezon City, was notified by registered mail to file his brief for appellants Loreto Saber on and Jesus Felicia within thirty (30) days from notice.

The corresponding retain card appears to have been signed by one S. Flores on April 22, 1963.

On May 13, 1963, the Clerk of this Court addressed a letter to the Chief of Police, Quezon City, with another copy of the notice mentioned above, with the request that the same be served upon Atty. Homeres, and to inform the court thereafter of the date of said service. The Chief of Police of Quezon City subsequently reported in writing that the notice was delivered to Mrs. Soledad C. Homeres on June 9 1963.

On June 14, 1963, we passed a resolution requiring Atty. Homeres to explain, within ten (10) days from notice, why disciplinary action should not be taken against him for his failure to file the brief for his clients, notice in connection therewith having been served upon him (apparently through one S. Flores, as stated above), since April 22 of the same year. No explanation appears to have been submitted by him, but on July 8, 1963, he filed an urgent petition for a thirty (30) day extension of time, alleging therein that he had received the notice to file brief only on June 9, 1963, (the notice served through the Quezon City Police Department). This petition was granted by our resolution of July 15 of the same year. Prior to this, however, it appears that due to the non-filing of the brief by Atty. Homeres within the time given in the first notice for the purpose, dated March 13, 1963, and received by one S. Flores on April 22 of the same year, Atty. Rafael Ortigas, Jr. was appointed counsel de officio for Saberon and Felicia and required to prepare their brief within thirty (30) days from notice. On July 29 of the same year, Atty. Ortigas appear to have filed a motion for thirty (30) days extension which was also granted by our resolution of August 8, 1963.

On June 27, 1963, we passed a resolution imposing a fine of P100.00 upon Atty. Agustin Homeres for his failure to file the brief for appellants Saberon and Felicia, copy of which resolution was addressed to him at 1-A Road 8 St., Project 6, Quezon City, but was returned to sender because it was not claimed by the addressee.

Finally, on August 8, 1963, Atty. Homeres filed a written explanation coupled with a petition for thirty (30) days extension from August 9, 1963, alleging that he had not received the notice of March 13, 1963; that the S. Flores who appears to have received the same on his behalf on April 22, 1963 is totally unknown to him and was not a resident of 1-A Road 8 St., Project 6, Quezon City; that the only notice he had received was the one served upon

his wife through the Quezon City Police Department on June 9, 1963, in connection with which, on July 8 of the same year, he filed a motion for an extension of thirty (30) days, which was granted, the extension to expire on August 9 of the same year.

We do not find in the record any conclusive proof that the S. Flores who appears to have received the first notice to file brief was duly authorized by Atty. Homeres. On the other hand, what the record discloses is that a second notice was duly served on him, through his wife, by the Quezon City Police Department, on June 9, 1963 and that before the period therein given expired, he filed the corresponding motion for thirty (30) days extension, which was granted by our resolution of July 15, 1963, the extension to expire on August 9 of the same year, and that on August 8, he filed a second motion for an extension of thirty (30) days.

In view of all the foregoing, our resolution of June 27, 1963 imposing a fine of P100.00 upon Atty. Homeres is hereby set aside, and his last motion is granted and he is hereby granted a definitely last extension of thirty (30) days from notice hereof within which to file the brief for appellants Saberon and Felicia.

The appointment of Atty. Rafael Ortigas, Jr. as counsel de officio for the same appellants is hereby set aside, and let the corresponding notice be served on him accordingly.

Bengzon, C.J., Padilla, Bautista Anqelo, Labrador, Barrera, Paredes, Regala and Makalintal JJ., concur.

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