

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. CARLOS MEDINA Y DE GUZMAN, REYNALDO DANTES Y LAXAMANA, ET AL., ACCUSED, REYNALDO DANTES Y LAXAMANA AND RODOLFO BALINAS ...

G.R. No. L-37937. January 31, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

It is not often that this Court has occasion to make use of its power to impose a temporary suspension on members of the bar for failure to live up to the obligation incident to his status as an officer of the Court. It had to do so in this case of respondent Cesar G. Fajardo, who for a period close to four months paid no attention to a resolution of this Court, and when required to pay a fine for such omission did nothing about it. He now seeks to lift the order of suspension, explaining that the rather blatant disregard of what ought to have been done was due to the mental and emotional state he was in. Considering the lapse of time that had elapsed and his disavowal of any intent to disobey what is ordered by this Tribunal, his plea is granted.

The train of events that led to his sad plight started from his failure to comment on a letter from the Senior Executive Assistant and Acting Administrative Officer of the Bureau of Prisons informing this Court that, according to appellant Rodolfo Balinas, his counsel was a certain Cesar Fajardo, care of Criminal Court, Manuel Pamaran, City Hall, Manila. In a resolution of May 16, 1974, he was asked to explain this omission. Again, there was no compliance on his part, resulting in this resolution of June 18, 1974: "It appearing that Atty. Cesar Fajardo failed to show cause why he failed to comply with the resolution of February 21, 1974, which required him to comment on the letter of Julio M. Alcantara, that according to appellant Rodolfo Balinas y Villena, the complete name and address of his counsel is Atty. Cesar Fajardo, c/o Circuit Criminal Court, City Hall, Manila, within the period which expired on June 1, 1974, the Court Resolved: (a) to [Impose] a fine of P100.00 upon Atty. Fajardo payable to this Court for his failure to file the aforesaid comment; and (b) to require him to [comply] with the aforesaid resolution of February 21, 1974, both within ten (10) days from notice hereof." Surprisingly, he still was not heard from, thus necessitating the resolution of suspension of August 6, 1974. It is worded thus: "For failure of Atty. Cesar Fajardo to comply with the resolution of February 21, 1974 within the period which expired on March 10, 1974 and to pay the fine of P100.00 imposed upon him in the resolution of June 18, 1974, within the period which expired on July 8, 1974, the Court Resolved: (1) to [Suspend] Atty. Fajardo from the practice of law until further orders from this Court; (b) to [Circularize] this resolution to all courts in the Philippines; and (c) to require appellant Balinas to [State] within ten (10) days from notice hereof, whether or not he has another lawyer to represent him in this case or whether he desires that a counsel de officio be appointed for him by this Court. Let a copy of this resolution be attached to the personal records of Atty. Fajardo." It appears, however, that as far back as July 19, 1974, he had prepared a Motion for Reconsideration and Explanation, but it was not submitted for the consideration of this Court until after the aforesaid resolution. As set forth in such Motion for Reconsideration and Explanation: "1. That herein counsel was ordered to comment 'on the letter of Julio M. Alcantara, Senior

Executive Assistant and Acting Administrative Officer of the New Bilibid Prison, Muntinlupa, Rizal, informing this Court that according to appellant Rodolfo Balinas y Villena, the complete name and address of his counsel in this case is Atty. Cesar Fajardo, c/o Circuit Criminal Court, Manuel Pamaran, City Hall, Manila' within the period prescribed in said Order; 2. That failure of herein counsel to make said comment within the period specified in said resolution and for his subsequent failure to explain such failure to comment, this Honorable Tribunal fined him ONE HUNDRED PESOS (P100.00); 3. That undersigned herein has no intention of disregarding the order of the Honorable Tribunal, and if ever he failed to make the comment on time, the same was caused by some pressing personal problems brought about by the detention of a relative (sister) by the military in the province and hence he was not able to attend the said resolution of the Court within such reasonable period; 4. That undersigned counsel has no intention of disregarding the resolution of this Honorable Tribunal and for his failure to comply with its order, undersigned herein is respectfully begging the indulgence of the Court and undertakes that no similar incident will occur; ... 6. That herein counsel is not the present counsel of appellant Rodolfo Balinas, as his services have not been formally engaged by said appellant. This representation merely acted as de officio lawyer upon order of the Circuit Criminal Court during the trial of said case and upon its termination his appointment as de officio counsel was also extinguished. However, as member of the Bar, this representation will be most willing to assist appellant Rodolfo Balinas in his appeal, should this Honorable Tribunal order him to do so as de officio counsel."

Thereafter came this plea for the reconsideration of the resolution of August 6, 1974 suspending respondent: "1. That in the Resolution of the Honorable Tribunal dated August 6, 1974, and received by undersigned on August 12, 1974, this representation was ordered [suspended] from the practice of law until further orders from this Honorable Tribunal, for his failure to comply with the Resolution of February 21, 1974, with the period prescribed by law; 2. That this representation humbly seeks the indulgence of this Honorable Tribunal for the reconsideration of the aforesaid resolution on the ground that he never intended to disregard the orders of this Court, and by way of further explanations, this representation is manifesting that he is incorporating herein the contents of his Motion for Reconsideration and Explanation dated July 19, 1974 by way of reference to this petition as reasons for his failure to comply with the resolutions of this Honorable Tribunal; 3. That the suspension of herein counsel from the practice of law in the Philippines will adversely affect not only his entire family but also his numerous clients with pending cases both before the different trial Courts as well as before the Court of Appeals and the Supreme Court; 4. That if given another chance and the suspension of undersigned herein will be reconsidered and lifted, herein counsel undertakes that no similar incident will occur and promises to be more careful and prompt in the fulfillment of his duties and obligations as member of the Bar; 5. That likewise, undersigned herein is reiterating his willingness and readiness to help assist accused-appellant Rodolfo Balinas in his appeal before this Court, should this Honorable Tribunal give him another chance to do so as counsel de officio."

It is obvious that respondent would desire to make amends. He has affirmed not once but twice the lack of any intention on his part to disregard orders and resolutions from this Tribunal that may be corrected, but it is equally certain that the contretemps in which he now finds himself would have been avoided had he shown the slightest diligence. He does not deny that he has received the copy of the resolution that dates back to February 21, 1974, when he was given 10 days to comment on the letter of the Senior Executive Assistant and Acting Administrative Officer of the Bureau of Prisons. He simply ignored it. Even on the assumption that there were pressing personal problems traceable to the detention of a sister by the military, he could have filed a motion asking for additional period within which to do so. He did not. He could have done so within a period of well-nigh four months, but again there was nothing but silence on his part. There was clearly then a failure to exercise due diligence. The fine was not imposed until the resolution of June 18, 1974, but it has never been paid. What could he expect then? It

does appear quite manifest that respondent's conduct had to be visited with the appropriate sanction. Nonetheless, as mentioned at the outset, his plea for the lifting of the suspension may be acted on favorably. Sufficient time for him to feel the dire consequence of such inattention to duty has elapsed. Moreover, due note is taken of the mental and emotional stress he must have been laboring under during such period. Nor is this all. With the penalty that he had to suffer, there ought to be a reminder that he should display greater awareness of the obligations incident to membership in the bar, especially so where a command is traceable to an order of this Court.

WHEREFORE, the resolution of August 6, 1974 suspending respondent Cesar G. Fajardo from the practice of the law is lifted and set aside. This resolution becomes effective, however, only upon respondent Fajardo paying the fine of P100.00. Let a copy of this resolution be entered in his record.

Makalintal, C.J., Castro, Teehankee, Barredo, Makasiar, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Antonio, J., is on sick leave.

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