

LIBERATO V. CASALS, AND JOSE T. SUMCAD, PETITIONERS, VS. HON. VICENTE N. CUSI, JR., PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF DAVAO, BR. I, REBECCA T. PALANCA AND GRECAN...

G.R. No. L-35766. July 12, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court imposes a three-months suspension from the practice of law upon counsel of respondents for improper conduct and abuse of the Court's good faith by his acts in the case at bar manifesting gross disrespect for the Court's processes and a willful disregard of his so-lemn duty to conduct himself with all good fidelity to the Court and tend-ing to embarrass gravely the administration of justice.

Upon the filing on November 2, 1972 of the petition at bar for certiorari and prohibition with prayer for writ of preliminary in-junction, the Court as per its resolution of November 9, 1972 resolved, without giving due course to the petition, to require respon-dents to comment thereon within ten days from notice and to issue a temporary restraining order restraining respondent court inter alia from proceeding with the hearing of the case[1] pending before it below.

Under date of December 8, 1972, Atty. Leonido C. Delante as counsel for respondents, stating that while he had received on No-venber 15, 1972 notice of the Court's resolution of November 9, 1972, "no accompanying copy of the petition has been attached thereto, hence the undersigned counsel would not be able to prepare the comments of the respondents as directed in said resolution without said copy, " filed his first motion for a ten-day extension of time from receipt of such petition within which to submit respondents' comment. The Court granted such first extension per its resolution of December 15, 1972.

Under date of December 14, 1972, Atty. Primo O. Orellan on behalf of Delante, Orellan & Associates as counsel for respondents filed a verified second motion for extension of ten days from Decem-ber 15, 1972 within which to submit respondents' comment on the ground "2. That Atty. L. C. Delante, counsel of record, got sick on Decem-ber 6, 1972 and had not reported to work as yet" as per verified medical certificate attached to the motion and "3. That Atty. Delante has just recovered from his ailment, and has requested the undersigned to spe-cially make this motion for another extension of TEN (10) days in order to enable him to finish the comments for the respondents. "

Under date of December 28, 1972, Atty. Leonido C. Delante filed a third motion for "a last extension of fifteen days from December 29, 1972 to submit the required comment, stating "That the undersigned counsel has already prepared the final draft of the desired comments, but due to pressure of work in his office and matters occasioned by the Christmas season, the same has not been finalized and typed out in a clean copy," for filing by the expiry date on December 28, 1972.

The Court per its resolution of January 15, 1973 granted the said extensions totalling twenty-five days. Having noted respondents' failure to file their comment notwithstanding the numerous extensions sought by and granted

to their counsel, which expired on January 12, 1973, the Court as per its resolution of April 12, 1973 resolved to require Atty. Delante as counsel for respondents to explain and show cause within ten days from notice why they failed to file the required comment.

Atty. Delante filed in due course his explanation dated May 7, 1973, wherein he claimed for the first time that "in view of (his) pressing professional commitments, " he requested his clients "to have the answer. . . . prepared by another lawyer for which reason (respondents) took delivery of the records of the said case from his office and contracted the services of Atty. Antonio Fernandez. "

Atty. Delante goes on to claim that it was only upon receipt of the Court's resolution of April 12, 1973 requiring his explanation that he learned that Atty. Fernandez who had been contracted "to prepare an answer, underwent a surgical operation, " attaching a copy of Atty. Fernandez' affidavit together with a medical certificate which certified however to the latter's confinement at the Davao Doctors' Hospital only from "Dec. 23-26, 1972" and "(D)aily follow up: Dec. 26, 1972 to Jan. 15, 1973." Atty. Fernandez in his affidavit however stated that after his services had been retained by respondents "sometime on December 12, 1972" he "had been confined in the Davao Doctors' Hospital and subsequently operated on for sinusitis" (on December 23-26, 1972) and that Gregorio Cañeda, president of respondent Grecan Co. Inc. "saw me in the hospital and asked from me the answer and I told him that I may not be able to proceed and prepare the answer because of the operation that I just had, hence he got the records of the case G.R. No. L-35766 from me. "

Atty. Delante further submitted the so-called "affidavit" dated May 5, 1973 of Gregorio Cañeda, president and general manager of respondent Grecan Co. Inc. supporting his belated claim now that their corporation contracted the services of Atty. Fernandez "to prepare the answer to meet the deadline" and delivered the records of the case to the latter. The so-called "affidavit" is however not sworn to before any official authorized to administer oaths but merely carries the statement "(T)hat the foregoing facts are true and correct as what actually transpired" under the signature of one "Rebecca T. Palanca (Secretary-Treasurer). "

Atty. Delante pleads that "it is far from (his) intention to cause any undue delay in the disposition of the above-entitled case, " and "(T)hat this is the first time it happened to him, and that if given an opportunity to prepare the answer, he will try his best to do it within the period granted by this Honorable Tribunal, and that he assures this Honorable Tribunal that there would be no repetition of this similar incident in the future." He prays that his explanation be accepted and without blinking an eye - notwithstanding that the required comment has long been over-due for almost four months at the time - that he "be given an opportunity to prepare the necessary answer for the respondents."

Counsel for petitioners promptly filed their comments dated May 11, 1973 citing the inconsistencies and contradictions in Atty. De-lante's explanation, opposing his plea to still be allowed to file respondents' comment after his "gross and inexcusable negligence" and praying that the petition be considered submitted for resolution by the Court.

In an earlier resolution of July 9, 1973, the Court took action on the petition and dismissed the same for insufficient showing of grave abuse of discretion on the part of respondent court in denying petitioners' motion to dismiss the case below and appeal in due course from any adverse decision on the merits being the proper and adequate remedy.

The present resolution concerns Atty. Delante's explanation which the Court finds to be unsatisfactory.

Atty. Delante's present explanation that his failure to file respondents' comment is due to the failure of the other lawyer, Atty. Fernandez, contracted by his clients at his instance because of his pressing professional

commitments "to do so, because of a surgical operation, " is unworthy of credence because it is contrary to the facts of record:

- In his previous motions for extension, he never mentioned his belated allegation now that another lawyer had been retained to file the required comment, and no other lawyer, much less Atty. Fernandez, ever entered an appearance herein on behalf of respondents;
- In his second motion for extension, supra, Atty. Delante's law office cited as reason the fact that he had gotten sick on December 6, 1972 and had just recovered and needed the additional 10-day extension "in order to enable him to finish the comments for the respondents;"
- In his third motion for a last 15-day extension, Atty. Delante assured the Court "that (he) has already prepared the final draft of the desired comments" and cited "pressure of work in his office" and the Christmas Season for not having "finalized and typed out (the comments) in a clean copy" - which comments never came to be submitted to this Court;
- His present explanation is not even borne out by Atty. Fernandez' medical certificate which shows that he was confined in the hospital for sinusitis only from December 23-26, 1972 and therefore had sufficient time and opportunity to submit the comments by the extended deadline on January 12, 1973;
- Atty. Fernandez' own affidavit as submitted by Atty. Delante belies the latter's claim that the records of the case had been given to the former, for Atty. Fernandez swore therein that when Gregorio Cañeda (December 23-26, 1972) he advised Cañeda of his inability to prepare the "answer" and Cañeda got back the records of the case from him;
- He submits no explanation whatsoever, why if his "final draft of the desired comments" was "already prepared" since year-end of 1972 and only had to be "finalized and typed out" he utterly failed to submit the same notwithstanding the lapse of over six months - and worse, in his "explanation" of May 7, 1973 asked yet for "an opportunity to pre-prepare the answer [which] he will try his best to do it within the period granted by the Honorable Tribunal" when he had utterly ignored and disregarded the numerous extensions granted him which lapsed on January 12, 1973; and
- He likewise submits no explanation for his gross neglect in not seeing to it, assuming that Atty. Fernandez was to prepare the required comment, that the required comment was filed within the last extension (that expired on January 12, 1973) secured by him from the Court on his assurance that the final draft was ready and did nothing for three months until after he received the Court's resolution of April 12, 1973 requiring his explanation.

The Court thus finds unsatisfactory Atty. Delante's explanation for his having allowed his extended period to lapse without submitting the required comment nor extending to the Court the courtesy of any explanation or manifestation for his failure to do so. His inaction unduly prevented and delayed for a considerable period the Court's prompt disposition of the petition. Worse, when this was noted and the Court required his explanation, he gave an explanation that is devious and unworthy of belief since it is contradicted by his own previous representations of record as well as by the "supporting" documents submitted by him therewith, as shown hereinabove.

Furthermore, notwithstanding the lapse of over six months which he let pass without submitting the required comment which according to his motion of December 28, 1972 was "already prepared" by him and was only to be typed in clean, Atty. Delante in his explanation still brazenly asked the Court for a further period to submit respondents' comment which supposedly had been readied by him for submittal six months ago. His cavalier actions and attitude manifest gross disrespect for the Court's processes and tend to embarrass gravely the

administration of justice.

In *Pajares vs. Abad Santos*[2] the Court reminded attorneys that "There must be more faithful adherence to Rule 7, section 5 of the Rules of Court which provides that 'the signature of an attorney constitutes a certificate by him that he has read the pleading and that to the best of his knowledge, information and belief, there is good ground to support it; and that it is not interposed for delay' and expressly admonishes that 'for a willful violation of this rule an attorney may be subjected to disciplinary action.

It should also not be necessary to remind attorneys of their solemn oath upon their admission to the Philippine Bar, that they will do no false-hood and conduct themselves as lawyers according to the best of their knowledge and discretion with all good fidelity to the courts and their clients.

The unsatisfactory explanation given by Atty. Delante as against the pleadings of record in the case at bar evinces a willful disregard of his solemn duty as an attorney to employ in the conduct of a case "such means only as are consistent with truth and honor, and never seek to mislead" the courts "by an artifice or false statement of fact or law. "[3]

The Court has ever stressed that a lawyer must do his best to honor his oath, as there would be a great detriment to, if not a failure of, the administration of justice if courts could not rely on the submissions and representations made by lawyers in the conduct of a case. As stated by the Court in one case, "Time and time again, lawyers have been admonished to remember that they are officers of the court, and that while they owe their clients the duty of complete fidelity and the utmost diligence, they are like-wise held to strict accountability insofar as candor and honesty towards the court is concerned." [4]

Hence, the Court has in several instances suspended lawyers from the practice of law for failure to file appellants' briefs in criminal cases despite repeated extensions of time obtained by them, (except to file the missing briefs), with the reminder that "the trust imposed on counsel in accordance not only with the canons of legal ethics but with the soundest traditions of the profession would require fidelity on their part. "[5]

Considering, however, that counsel's record shows no previous infractions on his part since his admission to the Philippine Bar in 1959, the Court is inclined to act in a spirit of leniency.

ACCORDINGLY, the Court hereby suspends Atty. Leonido C. Delante from the practice of law for a pe-riod of three (3) months effective from his receipt of notice hereof, with the warning that repetition of the same or similar acts shall be dealt with more severely. The clerk of court is directed to circularize notice of such suspension to the Court of Appeals and all courts of first instance and other courts of similar rank.

Let copies of this resolution be filed in his of record and furnished to the integrated Bar of the Philippines.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Civil Case No. 7151 of the court of first instance of Davao, entitled "Greca Co. Inc., plaintiff vs. Gregorio V. Cañeda, et al., defendants. "

[2] 30 SCRA 748, 753 (1969).

[3] Rule 138, section 20.

[4] *Berenguer vs. Carranza*, 26 SCRA 673, 679 (1969).

[5] *People vs. Consaldo Vicente; Romeo P. Rillera and Braulio D. Yaranon*, respondents, G.R. No. L-35243,

Resolution promulgated May 25, 1973.

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