

ROSARIO CRUZ, COMPLAINANT, VS. ATTY. EDMUNDO CABAL AND ATTY. MANUEL CALUPITAN, RESPONDENTS.*A.C. No. 482. October 31, 1964*

Ponente: CONCEPCION, J.

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Upon complaint of Rosario Cruz, respondents, Edmundo T. Cabal and Manuel A. Calupitan were, in effect, charged by the Solicitor General with gross negligence in the performance of their duties. The facts are not disputed. As set forth in the Solicitor General's report:

"On April 14, 1958, petitioner Rosario Cruz filed with Regional Office No. 4 (formerly No. 3), Department of Labor, a claim for compensation (W.C. Case No. RO3-53285) against the Royal Theater, the employer of her deceased husband Juanito Guinto (pp. 7, 15-16, rec.; pp. 3, 14, t.s.n.). Because of the failure of the respondent employer to report to the Department of Labor the death of petitioner's husband, Hearing Officer Vicente Leonardo, Jr. issued on August 21, 1958, an administrative award, on the basis of the pleadings and without any hearing, requiring the respondent Royal Theater to pay the amount of P4,200.00 to claimant Cruz (p. 4, t.s.n., p. 7, rec).

"Before the Regional Office aforementioned could enforce and execute said award, the Royal Theater filed on September 29, 1958, in the Court of First Instance of Manila, a complaint for prohibition with preliminary injunction (Case No. 37982) against Rosario Cruz, her nine children, and the administrator and chief of the Workmen's Compensation Section of Regional Office No. 3 (now No. 4), urging that said Regional Office did not have the power and authority to hear and decide the claim filed by Rosario Cruz, and that Reorganization Plan No. 20-A, insofar as it conferred judicial powers upon the regional office of the Department of Labor, was unconstitutional and void (pp. 7, 15-20, rec.; p. 4, t.s.n.).

"On September 30, 1958, Judge. Bienvenido A. Tan issued ex parte the writ of preliminary injunction prayed for in the complaint for prohibition, together with an order requiring all the defendants to file their answer to the complaint within ten days from receipt of said order (pp. 8, 22, 23, rec).

On October 2, 1958, Regional Administrator F. A. Fuentes referred the complaint to herein respondent Manuel A. Calupitan, chief of the Legal Division of Regional Office No. 3 (now No. 4), for action and representation at the hearing in the Court of First Instance of Manila (pp. 8, 24, rec; pp. 4-5, t.s.n.). Respondent Calupitan, in turn, assigned the case to herein respondent Edmundo Cabal, one of his assistants (p. 5, t.s.n.). Atty. Cabal, on October 9, 1958, filed the answer to the complaint in behalf of defendants Regional Officers F. A. Fuentes and Vicente Leogardo, Jr., defending the validity of Reorganization Plan 20-A and Republic Act No. 997, as amended by Republic Act No. 1241, and praying, among other things, that the complaint be dismissed and the writ of preliminary injunction be dissolved (pp. 8-9, 24-37, rec.; p. 5, t.s.n.).

"After trial, the Court of First Instance of Manila rendered a decision holding that the Workmen's Compensation Unit of Regional Office No. 3 of the Department of Labor did not have authority to try W. C. Case No. RO3-53285, and making the writ of preliminary injunction issued in the case permanent (p. 9, rec; p. 5, t.s.n.).

"Said decision was received personally by herein respondent Manuel A. Calupitan on January 9, 1959 (p. 10, rec.; p. 15, t.s.n.). Upon receipt thereof, he delivered it to the other respondent Edmundo Cabal who, through negligence or inadvertence, misplaced it so that it was attached to the records of another case and was not located until February 12, 1959 (p. 10, rec; pp. 19-20, t.s.n.), or 19 days after the reglementary period for appeal from said decision had expired (Sec. 17, Rule 21, Rules of Court). Whereupon, respondent Cabal filed with the trial court on the same day, February 12, 1959, a motion praying for an extension of at least 10 days within which to perfect the necessary appeal in the case, alleging that no appeal had been taken within the period provided by law because the records of the case had been misplaced, and urging that the case involved a constitutional question which ought to be decided by the Supreme Court to avoid confusion in the filing of claims with the Department of Labor (pp. 10, 38-39, rec.; p. 20, t.s.n.). Finding the motion meritorious, the Court issued on February 14, 1950, an order giving the defendants ten days from receipt thereof within which to make the necessary appeal (pp. 10, 40, rec.).

"Respondents received said order on February 19, 1959, and the following day, February 20, 1959, the Undersecretary of Labor indorsed the case to the Solicitor General, requesting representation in the appeal from the decision in the case to the Supreme Court (pp. 10-11, 41, 42, rec). On February 25, 1959, however, the Solicitor General, advised the Undersecretary of Labor that the period for appeal in the case had expired on January 21, 1959, and that as said period could not be extended by the parties or by the courts the order of the trial court extending said period was patently erroneous, and that he could not in conscience prosecute the appeal (pp. 11, 43, rec.).

"In view of this development, respondents Calupitan and Cabal filed at their own instance the notice of appeal on February 27, 1959, and on March 2, 1959, the appeal bond of P60.00 was posted by claimant Rosario Cruz.

"On March 12, 1959, respondent received a notice from the Supreme Court to pay the docketing fee of P21.00 within fifteen days from receipt thereof, otherwise the appeal would be deemed abandoned and dismissed (pp. 11-12, 47, rec.; p. 7, t.s.n.). On March 17, 1959, respondents wrote Atty. Pominador P. Paritlla, counsel of claimant Rosario Cruz, requesting him to go to their office for a conference. Only claimant Cruz appeared, however, and respondents told her to pay the docketing fee of P24.00 to the Supreme Court not later than March 31, 1959. Cruz, with the help of Atty. Padilla, tried to raise the required amount, but when she went to the Supreme Court on April 1, 1959, she was not allowed to pay the docketing fee because she was late by one day in paying the same. Cruz immediately reported what had happened to the respondents, who forthwith filed a petition for the admission of the docketing fee, but the petition was denied by this Honorable Court. (pp. 12-13, 48-50, rec, pp. 7-10, t.s.n.). Respondents filed a motion for reconsideration, but the same was also denied (pp. 13, 51-52, 63, rec.; pp. 10-11, t.s.n.).

"On January 30, 1961, claimant Rosario Cruz wrote this Honorable Court a letter explaining the facts of this case, and blaming respondents Atty. Edmundo Cabal and Atty. Manuel Calupitan for the dismissal of her appeal by this Court (pp. 1-2, rec.)."

It is clear from the foregoing that, as reported by the Solicitor General, respondents Cabal and Calupitan cannot be blamed for the dismissal of the aforementioned appeal to the Supreme Court, said dismissal being due to complainant's failure to pay seasonably the docket fees for said appeal. This notwithstanding, the Solicitor General concluded that, at any rate, said appeal had to be dismissed owing to the fact that the motion for reconsideration of decision of the lower court was filed nineteen (19) days after said decision had become final and executory; that the failure to file said motion within the reglementary Period was due to the fact that, through negligence and inadvertence, respondent Cabal, to whom respondent Calupitan had delivered said decision, had misplaced it, by causing it to be attached to the records of another case, and did not locate it until after the expiration of the aforementioned period; and that respondent Calupitan is also accountable for the late filing of said motion for reconsideration, for, as head of the legal section of the former Regional Office No. 3 (now No. 4) above referred to, to whom copy of the decision of the lower court had been served personally, it was his duty to

see to it that his subordinate Cabal, to whom he had turned over said copy, had seasonably filed said motion for reconsideration.

Respondents assail these conclusions of the Solicitor General upon the ground that, although, said motion had been filed nineteen (19) days late, this defect had been cured by the order of the lower court extending the period to appeal from its decision, on motion of February 12, 1959, filed by respondent Cabal, in case No. 37982 of said court. The Solicitor General maintains that, upon expiration of the reglementary period, the decision aforementioned became final and executory and, hence, the court had no jurisdiction to extend said period. However, this rule is subject to one exception, namely, when a petition for relief under Rule 38 of the Rules of Court is filed and such is the nature of said motion of respondent Cabal, dated February 12, 1959. Although the motion was neither verified nor accompanied by an affidavit of merits, the lack of verification had been offset by the fact that the opponent's counsel had explicitly stated, at the foot of the motion, that he had "no objection" thereto.

Upon the other hand, the absence of an affidavit of merits was not fatal to the motion, because the issue raised in the case and in the proposed appeal—the constitutionality of Reorganization Plan No. 20-A, insofar as the authority of regional offices to entertain, hear and decide claims for compensation under the Workmen's Compensation Law (Act No. 3428, as amended), is concerned—was one of law, which, at that time was debatable, and because said Reorganization Plan should be presumed valid until otherwise held by final judgment of a competent court. Indeed, the constitutionality of said Plan, as regards the power of adjudication of regional offices, was, soon thereafter, upheld by this Court (*Halili vs. Huganas, et al.* G. R. No. L-17776, April 30, 1964; *Pangasinan Transportation Co., Inc. vs. WCC*, G. R. No. L-16490, June 29, 1963; *Madrigal Shipping Co. vs. Melad, et al.*, G. R. Nos. L-17362 & L-17367-69, February 28, 1963; *National Shipyards and Steel Corporation vs. Calixlo, et al.*, G. R. No. L-18471, February 28, 1963; *Madrigal Shipping Co. vs. WCC*, G. R. No. L-17495, June 29, 1962; *Miller vs. Mardo*, G. R. No. L-15138, July 31, 1961; *Pampanga Bus Co. vs. Ramos, et al.*, G. R. No. L-15476, September 16, 1961).

Moreover, the present charge; have been preferred against respondents as lawyers, but, although as members of the legal section of Regional Of Hen No. 3, respondents perform duties as counsel, their relations with Mrs. Cruz were not those of attorney and client. They represented her in said case No. 37984, not because she had engaged their services as her attorneys, but because, as officers of said legal section, it was their official duty to do so. Hence, rather than constituting a breach of their duties as members of the Bar, the aforementioned negligence of respondents partook of the nature of a violation of their "official" duties. In fact, the Solicitor General has so characterized respondents' omission.

In view of the foregoing, we do not believe that the same, is such as to warrant the exercise of our power to discipline herein respondents, Edmundo Cabal and Manuel Calupitan, as members of the legal profession, and the complaint against them is, accordingly, dismissed. It is so ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Makalintal and Zaldivar, JJ., concur.

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