

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
FELIMON MANANGAN, ERNESTO ORTIGUERRA ALIAS
“BUDA”, GREGORIO MOTOL ALIAS “GREG”
ALIAS “GORIO”, ISMAEL HALILI ALIAS “ROG...**

G.R. NOS. L-32918-19. April 30, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

This is a motion for the reconsideration of our resolution of January 29, 1974 which suspended Amado S. Duran, a member of the Philippine bar, from the practice of law for a period of six months. The resolution reads as follows: "It appearing that Atty. Amado S. Duran, counsel de parte for appellant, failed to pay the fine of P200.00 within the period which expired on December 31, 1973, and to explain his failure to comply with the resolution of November 6, 1973, as required in the resolution of December 17, 1973, the Court Resolved to [suspend] Atty. Amado S. Duran from the practice of law for a period of six (6) months, effective from receipt hereof, except to file appellant's brief within thirty (30) days from notice. Let this resolution be [circularized] to all courts of the Philippines, thru the Judicial Consultant and a copy thereof be attached to the personal record of Atty. Duran." [1]

The resolution of suspension was due to the failure of such counsel to file a brief for his client, Ricardo Gloria. So it was stated in our resolution of August 16, 1973 worded thus: "It appearing that Atty. Amado S. Duran, counsel de parte for appellant failed to file brief within the period which expired on July 14, 1973, the Court Resolved to require aforesaid counsel, to [explain] within ten (10) days from notice hereof, why the appeal in this case should not be dismissed for such failure." [2] Then came our resolution of November 6, 1973 which is self-explanatory: "It appearing that Atty. Amado S. Duran, counsel de parte for appellant, failed to file explanation required in the resolution of August 16, 1973, within the period which expired on September 1, 1973, the Court Resolved to require Atty. Amado S. Duran to [show cause], within ten days from notice hereof, why disciplinary action should not be taken against him for such failure." [3] It was followed, in view of the failure to comply therewith, with another resolution of December 17, 1973 to this effect: "It appearing that Atty. Amado S. Duran, counsel de parte for appellant failed to comply with the resolution of November 6, 1973, which required him to show cause why no disciplinary action should be taken against him for failure to file explanation why the appeal in this case should not be dismissed for his failure to file brief within the required period, the Court Resolved: (a) to [impose] a fine of P200.00 on said counsel, payable to this Court; and (b) to require him to [explain] such failure, both within ten (10) days from notice hereof." [4] With the respondent Duran not having been heard from, this Court had no alternative but to promulgate its resolution of suspension of January 29, 1974.

In the motion for reconsideration, the first ground alleged by respondent Duran was that accused-appellant Ricardo Gloria had escaped from prison as far back as December 16, 1970. He admitted, however, that it was not until August 24, 1973 that by resolution of this Court, it was shown that it was first made aware of the escape by appellant Ricardo Gloria. Certainly, as counsel de parte, respondent Duran was duty bound to be acquainted with events bearing on his obligation to file the brief and to transmit to this Court the necessary information on such

matter. As of July 14, 1973, then, when the brief was due, there was nothing on the record to indicate that respondent Duran had, by the force of such circumstance, already been freed from his task of submitting the brief. The first ground sought for the motion for reconsideration is therefore devoid of merit. Nor is the second ground that he has not been receiving notice of this Court anymore persuasive, for certainly, there was manifest negligence on his part, if as now alleged by him, he had in the meanwhile moved to another residence. If such indeed were the case, he was called upon to make known to this Court that notices to him should be sent to his new address. Even a newly admitted member to the bar is not to be heard to plead ignorance as to the necessity for such a move.

There is this additional argument, however, in his motion for reconsideration: "The order or resolution of this Honorable Court suspending the undersigned counsel to practice, was not immediately known to him for the reason that when said resolution was released and sent, the undersigned counsel was already confined at the Capitol Medical Center, Quezon City for a [Myocardial infarction] (Heart Attack) up to January 23, 1974 when he was released from the hospital but still prohibited to attend trials by his Physician.... In view of the gravity of the ailment of the undersigned counsel, he was prohibited by his attending physician to handle any single case in court from January 2, 1974 when he was rushed to the hospital up to the instant moment and he learned only of his suspension thru one of his clients who was trying to postpone a case in the Court of First Instance of Pasay City on the ground of counsel's sickness, whereon, said client was informed by the Presiding Judge, Hon. J. Campos, that his counsel has been suspended to practice his legal profession within a period of 6 months per Resolution of this Honorable Court and it was only then that undersigned counsel forthwith investigated the records before this Honorable Court and immediately thereafter filed this Motion for Reconsideration." [5] It was followed by this disclaimer of any intent to be either disrespectful or disobedient to this Tribunal: "It was not and it could not have been the intention of the undersigned counsel in any manner, to defy, disobey, or otherwise, disregard, any order of any Court, much more of the highest judicial Tribunal of our country, and besides, undersigned counsel has no other means of livelihood other than his income from the practice of law. He has a modest Law Office at 702 Roman Santos Bldg., Plaza Lacson, Manila, and he is now a resident of 1144 M. de la Fuente, Sampaloc, Manila. Undersigned counsel has never entertained the intention and would never want to destroy in any manner his only means of income and in view thereof, had he received any Resolution of the Court particularly one which asked for an explanation for his failure to file the Appellant's brief, there is no reason why undersigned counsel would not explain as he has in his side a very meritorious ground as herein above-stated." [6]

It would appear then that while the conduct of respondent betrayed on its face a negligence that cannot be overlooked, still compassionate justice should infuse our power to discipline with an element of mercy. The motion for reconsideration then, if only from that standpoint, has served its purpose. A certain degree of favorable response is indicated.

WHEREFORE, our resolution of January 29, 1974, suspending respondent Amado S. Duran from the practice of the law for a period of six months commencing from the receipt of the aforesaid resolution is hereby modified in the sense that such suspension should terminate as of May 1, 1974. The fine imposed is likewise remitted. Let a copy of this resolution be spread on his record.

Zaldivar, (Chairman), Barredo, Antonio, Fernando, and Aquino, JJ., concur.

[1] Resolution dated January 29, 1974.

[2] Resolution dated August 16, 1973.

[3] Resolution dated November 6, 1973.

[4] Resolution dated December 17, 1973.

[5] Motion for Reconsideration dated February 27, 1974, 2-3.

[6] Ibid, 3.

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