

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO ROSQUETA, JR., EUSEBIO ROSQUETA AND CITONG
BRINGAS, DEFENDANTS-APPELLANTS, ATTY. GREGORIO B. ESTACIO,
RESPONDENT.**

G.R. NO. L-36138. January 31, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

Every now and then, although there seems to be more of such cases of late, a member of the bar is proceeded against for failure to live up to the responsibility owed to a client as well as to this Court. This is another such instance. In our resolution of May 25, 1973, we required respondent Gregorio B. Estacio, counsel de parte for appellants to show cause why disciplinary action should not be taken against him for failure to file the brief for appellants within the period which expired on March 30, 1973. He failed to show cause as thus required, and on September 7, 1973, we issued a resolution suspending him from the practice of law except for the purpose of filing the brief which should be done within thirty days from receipt of notice. Then on October 22, 1973, he filed a motion for reconsideration wherein it appeared that he did seek to explain his failure to file the brief on time, but he left it to be mailed on June 9, 1973 with Antonio Rosqueta, Sr., father of appellants Antonio Rosqueta, Jr. and Eusebio Rosqueta, who, however, was unable to do so as on the 10th of June, his house caught fire. He would impress on this Court that he was not informed of such occurrence until the preparation of his motion for reconsideration. At any rate, he would stress that both Antonio Rosqueta, Sr. and Salvador Labariento, father-in-law of the third appellant, Citong Bringas, informed him they would withdraw the appeal as they could not raise the money needed for pursuing it. He had a supplement to such motion for reconsideration filed on October 25, 1973 wherein he stated that he could not secure the affidavits of appellants themselves as two of them were in the Penal Colony in Davao and the third in the Iwahig Penal Colony in Palawan. On November 5, 1973, this Court required appellants to comment on a motion for reconsideration of respondent concerning specifically their alleged desire to withdraw appeal.

Then on December 27, 1973, there was a motion of respondent submitting two affidavits, one from Antonio Rosqueta, Jr. and the aforesaid Citong Bringas and the other from Eusebio Rosqueta wherein they indicated their consent and approval to respondent's motion to withdraw appeal. The joint affidavit of the first two appellants reads as follows: "1. That we are the same persons named above who have been charged in Criminal Case No. L-36138 entitled People vs. Antonio Rosqueta, Jr., et al. pending on appeal before the Supreme Court of the Philippines; 2. That we hereby consent and approve the motion to withdraw the appeal filed by our counsel, Atty. Gregorio B. Estacio before the Supreme Court of the Philippines on that Criminal Case No. L--36138 then pending in said Court; 3. That we have given our consent and approval of our own will voluntarily, without duress, force, threat or fraud or deceit; [In witness whereof], we have hereunto set our signatures this 4th day of December 1973 in the Municipality of Panabo, Davao." [1] The affidavit of Eusebio Rosqueta follows: "1. That I am one of the accused in that case entitled People vs. Antonio Rosqueta, Jr., et al. under G.R. No. L-36138 now

pending before the Supreme Court of the Philippines; 2. That I hereby give my consent and approval to the Motion to Withdraw the Appeal which has been filed by our counsel Atty. Gregorio B. Estacio before the Supreme Court on the above-stated case; 3. That I have reached this conclusion after I have conferred with our counsel Atty. Gregorio B. Estacio and this statement hereby revokes and nullifies the statement signed by me on December 5, 1973 at the Central Sub-Colony, Iwahig Penal Colony, Palawan before witnesses, namely, Mr. Abencio B. Gabayan and Miss Merle J. Jopida; 4. That I have executed this affidavit of my own free will, without intimidation, threat, fraud, deceit, duress or force; [In witness whereof], I have hereunto set my hand this 13th day of December, 1973 in the City of Puerto Princesa."[2]

Respondent's liability is thus mitigated but he cannot be absolved from the irresponsible conduct of which he is guilty. Respondent should be aware that even in those cases where counsel de parte is unable to secure from appellants or from their near relatives the amount necessary to pursue the appeal, that does not necessarily conclude his connection with the case. It has been a commendable practice of some members of the bar under such circumstances, to be designated as counsel de oficio. That way the interest of justice is best served. Appellants will then continue to receive the benefits of advocacy from one who is familiar with the facts of the case. What is more, there is no undue delay in the administration of justice. Lawyers of such category are entitled to commendation. They manifest fidelity to the concept that law is a profession and not a mere trade with those engaged in it being motivated solely by the desire to make money. Respondent's conduct yields a different impression. What has earned a reproof however is his irresponsibility. He should be aware that in the pursuance of the duty owed this Court as well as to a client, he cannot be too casual and unconcerned about the filing of pleadings. It is not enough that he prepares them; he must see to it that they are duly mailed. Such inattention as shown in this case is inexcusable. At any rate, the suspension meted on him under the circumstances is more than justified. It seems, however, that well-nigh five months had elapsed. That would suffice to atone for his misdeed.

WHEREFORE, the suspension of Atty. Gregorio B. Estacio is lifted. The requirement to file the brief is dispensed with but Atty. Gregorio B. Estacio is censured for negligence and inattention to duty. Likewise, as prayed for by appellants themselves, their appeal is dismissed.

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

[1] Joint Affidavit of appellants Antonio Rosqueta, Jr. and Luis Bringas.

[2] Affidavit of Eusebio Rosqueta.

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