

## CORAZON ORTALIS, PETITIONER, VS. HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

*G.R. No. L-36088. May 16, 1973*

Ponente: ESGUERRA, J.

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### ESGUERRA, J.:

Petition to set aside the resolution of the Court of Appeals dated February 15, 1972, in its CA-G.R. No. 11335-CR entitled "People of the Philippines vs. Corazon Ortalis", dismissing the appeal of petitioner Corazon Ortalis from the decision of the City Court of the City of Silay, finding her guilty in Criminal Case No. 4586-C of the crime of estafa and sentencing her to suffer four (4) months of arresto mayor, as minimum, to one (1) year, eight (8) months and twenty-one (21) days of prision correccional as maximum, to indemnify the offended party in the sum of P6,500.00, and to suffer subsidiary imprisonment in case of insolvency. Basis of the dismissal of petitioner's appeal is failure to file appellant's brief, notwithstanding the notice to her counsel requiring him to do so.

An examination of the record of CA-G.R. 11335-CR which this Court caused to be brought before it shows that on January 28, 1971, the Clerk of Court of the Court of Appeals sent by registered mail to Atty. Ramon H. Garaygay, counsel for petitioner as appellant in the abovementioned estafa case, the notice to file appellant's brief within thirty (30) days from receipt thereof. The registered letter of the Court of Appeals, containing said notice, was addressed as follows:

"Atty. Ramon H. Garaygay

Express Communication

Arroyo Bldg., Lacson St.

Iloilo City

The said letter was never received by Atty. Ramon H. Garaygay and it was returned unclaimed as his correct address is as follows:

"Atty. Ramon H. Garaygay

Express Communication

Arroyo Bldg

Lacson St., Bacolod City

The herein petition to set aside the resolution of the Court of Appeals was referred to the Solicitor General for comment and recommendation and to the City Court of the City of Silay for information as to the correct address of Atty. Ramon H. Garaygay during the trial of the case and when the record was elevated to the Court of Appeals pursuant to the appeal of the accused. This was done in view of the vehement insistence of Atty. Ramon H. Garaygay that his correct address is Bacolod City where he has his law office, and not Iloilo City. The Clerk of

Court of the City Court of Silay informed this Court and the Solicitor General that the address of record of Atty. Ramon H. Garaygay is "Express Communication, Arroyo Building, Lacson St., Bacolod City."

The Solicitor General, commenting on the petition, believes that there was no reason at all to send the notice to file the brief to Atty. Ramon H. Garaygay at Iloilo City which is not his address. He, therefore, concurs with the petitioner in her plea that there is no basis for the resolution of respondent Court of Appeals dated February 15, 1972, dismissing petitioner's appeal in CA-G.R. 11335-CR. We consider his comment as his answer to the petition and We now proceed to decide this case.

We have thoroughly examined the record of CA-G.R. 11335-CR and there is absolutely nothing therein to indicate that the address of Atty. Ramon H. Garaygay is Iloilo City. This Court had to ask the Judge of the City of Silay to inform Us of the correct address of Atty. Ramon H. Garaygay appearing in the record of Criminal Case No. 4586-C of the City Court of the City of Silay as the same had been remanded by the Court of Appeals to said City Court after entry of final judgment for execution of the trial court's decision.

The dismissal of the appellant's appeal was caused either by gross negligence or deliberate and wanton error committed by someone in the Office of the Clerk of Court of the Court of Appeals who sent the notice to file appellant's brief to a wrong address. It is unfortunate that the Court of Appeals refused to listen to the plea of Atty. Ramon H. Garaygay that he does not have his law office in Iloilo City as it is in Bacolod City. Without making any effort to verify the correct address of Atty. Ramon H. Garaygay, the Court of Appeals turned a deaf ear to his correct claim that the notice was not received by him and persisted in its refusal to reconsider the dismissal of the appeal. For this ineptitude and obstinacy, petitioner had to come to this Court for relief and incur additional expense. An undue delay in the administration of justice as well as unnecessary expense in obtaining the same was thereby perpetrated. This Court, therefore, finds the herein petition of Corazon Ortalis meritorious.

FOR ALL THE FOREGOING, the petition is hereby granted. The resolution of the Court of Appeals dated February 15, 1972, dismissing petitioner's appeal, and the entry of its final judgment in CA-11335-CR, are hereby set aside and the appeal reinstated. The record of Criminal Case No. 4586-C of the City Court of Silay City shall be returned to the Court of Appeals so as to give due course to the appeal of petitioner Corazon Ortalis.

The Presiding Justice of the Court of Appeals is hereby requested to conduct an investigation into the gross negligence and inefficiency of the personnel of the Clerk of Court of the Court of Appeals in sending the notice to file appellant's brief to an address which does not appear in the record of the case. A report of the investigation shall be submitted to this Court with his comment and recommendation.

The record of CA-G.R. 11335-CR is hereby returned to the Court of Appeals.

No costs.

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

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