PEOPLE OF THE PHILIPINES, PETITIONER, VS. ANGELITO AMBROSIO, ROMAN OZAETA III AND WARREN QUE, RESPONDENTS.

G.R. NO. 135378. June 23, 2005

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-135378/

AUSTRIA-MARTINEZ, J.:

On April 14, 2004, the Court promulgated a decision sentencing accused-appellant Warren Que to suffer the penalty of reclusion perpetua. Thereafter, the following incidents transpired:

- A letter dated June 14, 2004 was filed through mail on June 17, 2004 by accused-appellant Warren Que, praying for the reconsideration of the Court's Decision dated April 14, 2004, stating that his lawyer abandoned him in the course of his appeal and that he is poor and cannot afford to hire another lawyer.

- On July 28, 2004, the Court issued a Resolution considering said letter as a motion for reconsideration of the decision and denying the same for having been filed beyond the 15-day reglementary period. Based on the Report of the Clerk of Court of the Second Division, the registry return card evidencing the date of receipt of the decision by Atty. Nestor Ifurung, Que's counsel of record, shows that he received it on May 3, 2004; while proof of personal service on the Bureau of Corrections on behalf of appellant Que shows the date of receipt of said decision as April 21, 2004.

- Another letter dated September 5, 2004 was sent to the Court by appellant Que alleging that he was only notified of the Court's Decision dated April 14, 2004 on May 24, 2004. Be that as it may, the letter-motion for reconsideration was still filed beyond the 15-day reglementary period as it was filed only on June 17, 2004, while the last day for filing a motion for reconsideration, reckoned from May 24, 2004, would have been on June 8, 2004. Que reiterated his claim that his counsel of record, Atty. Nestor Ifurung, negligently handled and abandoned his case and requested that his lawyer be required by the Court to explain why he failed to file a motion for reconsideration of the decision.

- Acting on Que's letter dated September 5, 2004, the Court, on December 13, 2004, issued a Resolution requiring Atty. Ifurung to comment on Que's allegation.

- Subsequently, the Court received Atty. Ifurung's Compliance wherein he stated that (a) he cannot be deemed negligent as shown by his well-prepared brief for his client; (b) he is convinced of his client's innocence, but at the time he received the Court's decision, he was and still is suffering from a number of physical ailments; and (c) he already presented in the Appellant's Brief all the legal arguments against the judgment of conviction, and upon reading the Court's Decision, he honestly believed that the Court was not likely to reverse its decision upon a motion for reconsideration and, thus, decided not to file one. It is noted that no medical certificate was attached to Atty. Ifurung's Compliance to substantiate his claim of physical ailments.

- The Court then received an undated third letter from Que wherein it appears that he misunderstood the Court's Resolution dated December 13, 2004 to mean that the Court already ruled Atty. Ifurung to be guilty of neglecting

his duty to defend his client. Que further stated that since his lawyer was found to have abandoned him during the course of the trial of his case, he (Que) presumed that the Court is giving him another chance to prove his innocence. He then inquires what the Court's basis was for affirming his conviction, while his two co-accused were acquitted. Lastly, he again begged that his case be re-examined and reconsidered.

The above circumstances deserve the special attention of the Court.

In his Compliance, Atty. Nestor Ifurung admitted that he decided not to file a motion for reconsideration, as he believed that filing said motion would merely be an exercise in futility. His decision not to file a motion for reconsideration was apparently made without conferring with and without the acquiescence of his client, accused-appellant Que.

It should be emphasized that this is a criminal case involving appellant's conviction for selling a regulated drug without authority of law for which he was sentenced to suffer the penalty of reclusion perpetua. Imprisonment for twenty years and one day to forty years would unquestionably wreak havoc on appellant's life, not to mention that of his entire family. Thus, considering the gravity of the penalty, accused should have been vigorously defended to the end by his counsel of record.

After the promulgation of the Court's Decision of April 14, 2004, the remedy of a motion for reconsideration was still available to Que but his counsel of record admittedly abandoned this remedy. The fact that Que never ceased to send letters to the Court imploring that his case be reconsidered shows that he definitely wishes to exhaust the remedy of a motion for reconsideration. It is a lawyer's sworn duty to present every remedy or defense within the authority of the law in support of his client's cause. A lawyer owes such commitment to his client despite his personal views.[1] As held in Ong vs. Atty. Grijaldo,[2] to wit:

> . . . he [the lawyer] owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense.

Appellant Que was entitled to the benefit of any and every remedy and he was only right in expecting his lawyer to fully exhaust such remedies. Unfortunately, in this case, his counsel withheld such remedy from him. The Court cannot countenance the fact that Que was prejudiced by the fact that he was not duly represented by counsel when he filed his letter-motion for reconsideration, dated June 14, 2004.

In Amil vs. Court of Appeals,[3] the Court held that where the negligence of the lawyer of a party is so gross that said party was deprived of his day in court, as a result of which he is deprived of property without due process of law, said case should be considered an exception to the general rule that a client is bound by the mistakes of his counsel. What is involved in the present case is not property but the very liberty of the accused-appellant. Thus, there is more reason for the Court to consider this as a case that comes under the exception to the general rule.

The Court sees the need to correct the injustice caused to accused-appellant Que by Atty. Ifurung's refusal to file a motion for reconsideration due to his belief that "this Honorable Tribunal will not likely reverse its decision upon a motion for reconsideration."[4] The Court deems it proper to rebuke Atty. Ifurung for having preempted this Court in resolving a motion for reconsideration. It should never be presumed that the Court, as a matter of routine, would refuse to reverse or modify its decision. It is a fact that the Court has modified its own decision if there were good reasons presented in a motion for reconsideration.

Under similar circumstances where the facts on record clearly reveal the misconduct committed by a judge or a

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

lawyer, the Court had, in previous cases,[5] seen it proper to forego the filing of an administrative case and instead imposed sanctions on the person responsible for the misdeed in the disposition of the main case. Here, Atty. Ifurung had clearly been remiss in the performance of his duties, prejudicing the rights of his client. His conduct definitely merits sanction by the Court.

With Atty. Ifurung's admission that he decided on his own not to file a motion for reconsideration, and with the assertion of Que that he cannot afford to hire another lawyer, the Court is fully convinced that appellant was deprived of legal assistance in the filing of his motion for reconsideration. Accused-appellant not having been properly represented by counsel, he is entitled to be given an opportunity to file an appropriate motion for reconsideration, duly assisted by counsel.

IN VIEW OF THE FOREGOING, the Court RESOLVES to:

(1) RECALL and SET ASIDE the Resolution dated July 28, 2004 denying accused Que's letter–motion for reconsideration;

(2) FIND Atty. Nestor Ifurung guilty of being remiss of his duties as counsel for accused-appellant Warren Que and REPRIMAND him for his omission. Let copies of this Resolution be FURNISHED to the Integrated Bar of the Philippines and the Office of the Bar Confidant;

(3) APPOINT the Public Attorney's Office as counsel de oficio for accused Que;

(4) REQUIRE the Division Clerk of Court to FURNISH the Public Attorney's Office with a copy of this Resolution and the Court's Decision dated April 14, 2004; and

(5) REQUIRE the Public Attorney's Office to file a motion for reconsideration of the Decision dated April 14, 2004 in behalf of accused Que within fifteen (15) days from receipt hereof.

SO ORDERED.

Puno, (Chairman), Quisumbing, Callejo, Sr., and Tinga, JJ., concur.

---

[1] See Abay vs. Montesino, 417 SCRA 77 (2003).

[2] 402 SCRA 1, 10 (2003).

[3] 316 SCRA 317 (1999).

[4] Rollo, p. 506.

[5] Cathay Pacific Airways, Ltd. vs. Romillo, Jr., 142 SCRA 262 (1986); Del Mundo vs. Court of Appeals, 252 SCRA 432 (1996).

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.