

**NATIONAL MINES AND ALLIED WORKERS' UNION
(NAMAWU-MIF), PETITIONER, VS. HONORABLE JUDGE DOMINGO
CORONEL REYES OF THE COURT OF FIRST INSTANCE OF ALBAY;
THE PROVINCIAL SHERIFF OF A...**

G.R. No. 58623. September 30, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

A decision in Civil Case No. 5523 of the CFI, Albay, was rendered on January 23, 1981, ordering the defendant (petitioner herein) to pay sums of money to the plaintiff (private respondent herein).

On August 11, 1981, the respondent judge ordered the execution of the decision on the ground that it had become final. The defendant by motion sought reconsideration of the order on the ground that "the defendant has never received any copy of the decision sought to be executed by the plaintiff." However, the motion was denied on September 22, 1981, for lack of merit because "there has been valid notice of the Decision to the defendant through its counsel on record, Sisenando Villaluz."

The petitioner prays that "judgment be rendered declaring null and void the orders dated August 11, 1981 [ordering execution of the decision] and September 22, 1981 [denying the motion for reconsideration] issued by public respondent and commanding said public respondent to furnish a copy of the decision to petitioner, through its counsel, Atty. Roberto A. Padilla x x x."

On November 16, 1981, We issued the following resolution:

"G.R. No. 58623 (National Mines and Allied Workers' Union (NAMAWU-MIF) vs. Hon. Domingo Coronel Reyes, et al.). - Acting on the petition for certiorari and mandamus with prayer for a writ of preliminary injunction, the Court Resolved without giving due course to the petition to require the respondents to COMMENT, not to file a motion to dismiss, within ten (10) days from notice. The Court further Resolved to ISSUE a TEMPORARY RESTRAINING ORDER, effective as of this date and continuing until otherwise ordered by the Court."

A copy of the resolution was served by registered mail on private respondent on November 23, 1981, but he has not filed the required comment.

The decision of the trial court was sent by it to Atty. Sisenando Villaluz, Sr. with address at Suite 306 Trade Center Bldg. corner P. Faura - A. Mabini, Ermita, Manila, but was returned unclaimed.

It appears that Atty. Villaluz, as stated in the order of September 22, 1981, was the counsel of record of the defendant. He alone signed the motion to dismiss the complaint and the answer with counterclaim. In both pleadings he gave his address as indicated above. However, while Civil Case No. 5523 was being tried, "Atty. Roberto A. Padilla verbally entered his appearance in collaboration with Atty. Sisenando Villaluz, Sr. as counsel for defendant herein petitioner and conducted a direct examination of the latter as witness." (Petition, p. 5 of the

Rollo .) In some pleadings, e.g. Annex H of the petition (p. 64 of the Rollo), Atty. Villaluz gave his address as Suite 202-210 Isabel Bldg. España, Manila. In another pleading, Annex I of the petition (p. 66 of the Rollo), Attys. Padilla and Villaluz gave Suite 202-210 Isabel Bldg., España, Manila, as their address.

It appears that in May, 1979, or before the decision was rendered, Atty. Villaluz ceased to be the counsel of the defendant (petitioner). However, he did not notify the court that his representation had ceased. This explains why the decision was sent to him.

There was negligence on the part of Atty. Villaluz when he failed to inform the court that he had ceased to represent the defendant. There was also negligence on the part of Atty. Padilla in not notifying the court that he remained the sole counsel after the withdrawal of Atty. Villaluz. But the trial court was more negligent when, after the decision sent to Atty. Villaluz with address at Trade Center Building was returned, it did not re-send the decision to Attys. Villaluz and Padilla with address at Isabel Building and which address is a matter of record. The respondent judge was guilty of grave abuse of discretion in issuing the orders mentioned above.

WHEREFORE, the petition is granted but since the petitioner has obviously already a copy of the decision and its purpose is merely to enable it to appeal if it so decides, the petitioner may file a notice of appeal within thirty (30) days from notice hereof. No special pronouncement as to costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

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