

DOLORES BAGALANON, WENIFREDO MARVILE, AND WILLIAM SEVILLA, PETITIONERS, VS. COURT OF APPEALS, ANIANO AMATONG AND MARIANITO BALLADORES, RESPONDENTS.

G.R. No. L-43043. March 31, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

The only issue raised in this petition for certiorari to review the decision of the Court of Appeals,[1] in CA--G.R. No. SP-04793, entitled "Dolores Bagalanon, Wenifredo Marvile and William Sevilla, petitioners, vs. The Honorable Court of First Instance of Zamboanga del Norte, Branch II, Aniano Amatong and Marianito Balladores, respondents", is whether or not respondent Court of Appeals committed a grave abuse of discretion in dismissing the petition for review of the decision of the trial Court in the aforesaid cases for having been filed out of time.

On July 18, 1971, a collision between a motor cab and a passenger jeepney took place in the City of Dipolog rise to two civil cases - Civil Cases Nos. B-1592 "entitled Aniano L. Amatong vs. Wenifredo Marvile, Dolores Bagalanon and William A. Sevilla, operating under the name and style of Sevilla Lines and B-1603, entitled Marianito Balladores vs. Wenifredo Marvile, Dolores Bagalanon and William A. Sevilla, operating under the name and style of Sevilla Lines". Both cases were jointly tried in the City Court of Dipolog City, Branch II, for damages arising from quasi delict. After trial, the City Court of Dipolog City rendered a decision, the dispositive portion of which reads:

"WHEREFORE, their liability having been established by clear and convincing evidence defendants Wenifredo Marvile, Dolores Bagalanon and William A. Sevilla, the latter operating under the name and style of Sevilla Lines, are hereby condemned to pay plaintiffs Aniano L. Amatong and Marianito Balladores in the manner, as follows:

A. To plaintiff Aniano L. Amatong:

1. P2,600.00 for the actual value of the motor cab which was damaged;
2. P500.00 for moral damages; and
3. P500.00 for attorney's fees

B. To plaintiff Marianito Balladores:

1. P1,400.00 for salaries he failed to receive by reason of his incapacity due to injuries sustained;
2. P200.00 for moral damages;
3. P300.00 for attorney's fees and costs in both cases.

IT IS SO ORDERED".

Both cases were appealed to the Court of First Instance of Zamboanga del Norte. On August 29, 1975, the Court of First Instance of Zamboanga del Norte, Branch II affirmed the decision of the City Court of Dipolog City. Petitioners received the decision of the Court of First Instance of Zamboanga del Norte, Branch II on September 25, 1975 but due to pressure of work of the petitioners' counsel, the petition for review was actually finished only on October 25, 1975 at about 3:00 o'clock in the afternoon of that day which was a Saturday. As the Post Office of Dipolog City opened its offices only up to 12:00 o'clock on that day, petitioners' counsel was not able to mail the petition for review on October 25, 1975. He was able to register the same on the next working day on October 27, 1975, October 26, being a Sunday. According to the resolution of the respondent Court of Appeals, en banc dated August 12, 1971, regarding cases elevated to the Court of Appeals under Republic Act 6031, the petition for review must be filed within 30 days from notice of the judgment or decision in civil cases (Section 3, Rule 41, Revised Rules of Court). There is no dispute that the petitioners failed to file their petition for review on October 25, 1975 because when they arrived at the Post Office of Dipolog City on Saturday afternoon, the office was already closed. They were late by a few hours because the office closed at exactly 12:00 o'clock on that day. And that was the reason why the petition had to be filed on October 27, 1975, October 26, 1975 being a Saturday. Actually, petitioners were late only a few hours in beating the deadline for filing their petition. It may be argued, however, that it was the fault of the petitioners not to have come on time to the Post Office to mail the petition, but the fault was not serious enough as to amount to inexcusable negligence. It is evident from the records that the delay of the filing of the petition for review by petitioners was far from being intentional and dilatory. At least it could be deduced from the conduct of the petitioners that they were in earnest in meeting the deadline for the filing of the petition by going to the Post Office of Dipolog City on the very same day only that they were late by a few hours. It has been held in a number of cases that pleadings, as well as remedial laws, should be construed liberally, in, order that litigants may have ample opportunity to prove their respective claims, and that a possible denial of substantial justice, due to legal technicalities, may be avoided.[2] Certainly, to dismiss the petition for review due to its late filing for a few hours or even a day or two without regard to the circumstances for the delay is giving too much importance to legal technicalities which may unfortunately amount to a denial of substantial justice to petitioners. Normally, a petition for review of the decision of the lower court could be thrown out for being filed out of time except when there is a special circumstance that may warrant a liberal attitude of the Court. For this Court has already considered Section 1, Rule 50 of the Revised Rules of Court[3] as discretionary, not mandatory. Thus, in *Maqui v. Court of Appeals*,[4] this Court had reiterated the caveat we have enunciated in *Philippine National Bank vs. Philippine Milling Co., Inc.*,[5] to the effect that "Rule 50, Section 1 of the Revised Rules of Court which provides specific grounds for dismissal of appeal manifestly 'confers a power and does not impose a duty. What is more it is directory, not mandatory.'" This Court reasoned out:

"A right adherence to the technical rules of procedure disregards the fundamental aim of procedure to serve as an aid to justice, not as a means for its frustration (*Economic Ins. Co. v. Uy Realty Co.*, 34 SCRA 744, 749) and the objective of the Rules of Court to afford litigants just, speedy and inexpensive determination of their controversy. Thus, excusable imperfections of form and technicalities of procedure or lapses in the literal or rigid observance of a procedural rule or non-jurisdictional deadline provided therein should be overlooked and brushed aside as trivial and indecisive in the interest of fair play and justice when public policy is not involved, no prejudice has been caused the adverse party and the court has not been deprived of its authority or jurisdiction."

Since it is within the discretion of the respondent Court to dismiss or not to dismiss the petition for review filed by petitioners and this discretion is supposed to be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case, the respondent Court should have considered the circumstance for the delay in the filing of the petition in question in petitioners' favor as one deserving the respondent Court's leniency. Besides there is no showing that the dismissed appeal was frivolous

and for the purpose of delay.

WHEREFORE, the resolution sought to be reviewed in this case is set aside and the respondent Court ordered to reinstate the petition for review and give due course to the same. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

[1] Second Division, composed of Justices Mariano Serrano, Ramon G. Gaviola and Delfin Batacan.

[2] Quibuyen vs. Court of Appeals, 9 SCRA 741; Lurteveco Employees Association, CCLU vs. Luzteco, Inc., 15 SCRA 660; Arches vs. Bellosilli, 20 SCRA 32.

[3] "Section 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds x x x x;

(b) Failure to file, within the period prescribed by these rules, the notice of appeal, appeal bond or record on appeal. (Alonzo v. Villamor, 16 Phil. 315)." x x x x x."

[4] G. R. No. L-41609, February 24, 1976.

[5] 26 SCRA 712.

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