

ALLAN RIÑOS, PETITIONER, VS. SPOUSES ANICETO URGEL AND REMEDIOS URGEL, RESPONDENTS.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is a Petition for Review[1] under Rule 42 of the Rules of Court assailing the Orders dated January 10, 2012[2] and July 16, 2012[3] of the Regional Trial Court (RTC), Branch 10, Abuyog, Leyte in Civil Case No. 640. The assailed January 10, 2012 Order dismissed the petitioner's appeal from the July 10, 2011 Decision[4] of the Municipal Circuit Trial Court (MCTC), MacArthur-Mayorga, Leyte for failure to file an appeal memorandum while the July 6, 2012 Order denied the petitioner's Motion for Reconsideration[5] for lack of merit.

The Antecedents

The instant petition stemmed from a complaint[6] for recovery of ownership and possession of fishpen, damages, with prayer for preliminary injunction and temporary restraining order filed by herein respondents Spouses Aniceto and Remedios Urgel against petitioner Allan Riños before the 13[th] MCTC, MacArthur-Mayorga, Leyte.[7]

After due proceedings, the MCTC rendered its Decision[8] on July 16, 2011, in favor of herein respondents. On September 2, 2011, a Notice of Appeal[9] was filed by herein petitioner.[10] On September 28, 2011, the original records of the instant case were transmitted to the RTC pursuant to the Order[11] of the MCTC dated September 5, 2011 giving due course to the instant appeal.[12]

On September 30, 2011, a Notice of Appealed Case[13] was then issued by the Clerk of Court of the RTC, Atty. Isagani S. Espada, requiring the herein petitioner to submit his appeal memorandum within fifteen (15) days from receipt thereof. Copies of the said Notice were sent to both parties, through their respective counsels, on October 17, 2011 as per Registry Receipt Nos. 1642 and 1643.[14] Despite due notice, petitioner's counsel failed to submit the required memorandum.

The Orders of the RTC

On January 10, 2012, the RTC dismissed the instant appeal for failure to file the required memorandum pursuant to Section 7(b) of Rule 40 of the Rules of Court.[15] The fallo[16] of the said Order reads:

“WHEREFORE, let the instant appeal be DISMISSED for failure on the part of Defendant-Appeallant's (sic) counsel to file the required memorandum as required by the afore-cited rule.

x x x.”

Apparently aggrieved, petitioner moved for reconsideration[17] anchored on the following reasons: (a) petitioner's counsel was not aware or notified that the RTC had received the complete record or record on appeal; (b) the latter had not received the alleged notice requiring the petitioner to file a memorandum on appeal; (c) after investigation, the receiving clerk of the petitioner's counsel, Mr. Leo Gil, discovered an entry from his own logbook of the alleged notice from the RTC but revealed that he may have probably misplaced it without the same

having forwarded to petitioner's counsel, hence, the latter was not aware of its existence; and (d) the excusable negligence of petitioner counsel's receiving clerk which resulted to the loss of the said Notice should not deprive the herein petitioner of his appeal to be decided on the merits.[18]

On July 16, 2012, the RTC rendered its second assailed Order denying petitioner's motion for reconsideration. The fallo[19] of the pertinent Order states:

“Le[t] the Motion For Reconsideration of the Order Dismissing The Appeal Dated January 10, 2012 be DENIED, for lack of merit. Hereby declaring the Manifestations with motion to set hearing moot and academic.

As held in the case of Ruiz S. De Los Santos 577, SCRA 29, QID-CCRA Part 1, p. 133,

'It is settled that clients are bound by the mistakes, negligence and omission of their Counsel.'

In another case, it has been held:

'No prudent party would leave the fate of his case completely to his lawyer – it is the duty of the client to be in touch with his Counsel so as to be constantly posted about the case, 2009 QID-SCRA Part 1, 133.'

x x x.”

Undeterred, petitioner filed the present petition raising the following assigned errors:

I.
THE HONORABLE REGIONAL TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO WANT OR EXCESS OF JURISDICTION WHEN IT MADE FINDINGS THAT PETITIONER'S COUNSEL [is] GUILTY OF MISTAKE AND NEGLIGENCE WITHOUT HEARING.

II.
THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THAT COUNSEL FOR THE DEFENDANT/HEREIN PETITIONER IS GUILTY OF MISTAKES [sic] AND NEGLIGENCE.

III.
THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THAT DEFENDANT/HEREIN PETITIONER IS ALSO GUILTY OF MISTAKES [sic] AND NEGLIGENCE.

IV.
THE HONORABLE REGIONAL TRIAL COURT ERRED IN DISMISSING THE APPEAL [due] TO TECHNICALITY.[20]

This Court's Ruling

The petition is bereft of merit.

The issues raised being interrelated, they shall be discussed jointly hereunder.

At the outset, procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are, thus, enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[21]

In *Asian Spirit Airlines v. Spouses Bautista*,[22] it was clarified that procedural rules are required to be followed

except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. While rules of procedure may be relaxed for the most persuasive reasons, however it was held in *Galang v. Court of Appeals*,^[23] that:

“Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party’s substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.”

It is well-entrenched that the right to appeal is not a natural right and is not part of due process. It is merely a statutory privilege, and may be exercised only in accordance with the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.^[24]

It is necessary to impress upon litigants and their lawyers the necessity of a strict compliance with the periods for performing certain acts incident to the appeal and the transgressions thereof, as a rule, would not be tolerated; otherwise, those periods could be evaded by subterfuges and manufactured excuses and would ultimately become inutile.^[25]

Strict compliance with the Rules of Court is indispensable for the orderly and speedy disposition of justice. The Rules must be followed, otherwise, they will become meaningless and useless.^[26]

Bearing these principles in mind, We shall now resolve the issues at hand.

Strict Application of the Rules Warranted; Filing of Memorandum on Appeal is Mandatory

The principal issue underlying the instant petition is whether or not the RTC committed a reversible error of law in dismissing petitioner’s appeal for failure to file an appeal memorandum.

Petitioner faults the RTC with grave error of law when it dismissed his appeal in accordance with Section 7(b), Rule 40 of the Rules of Court. He avers that the RTC should have decided his appeal on its merits instead of dismissing the same for failure to file memorandum.

We do not agree.

Section 7, Rule 40 of the 1997 Rules of Civil Procedure provides:

“Sec. 7. Procedure in the Regional Trial Court. -

(a) Upon receipt of the complete records or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant’s memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.

(c) Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed.” (Emphasis supplied)

As provided above, the filing of a memorandum is a mandatory obligation on the part of the appellant, such that, the failure to do so warrants a concomitant dismissal of the appeal. In the case of *Enriquez v. Court of Appeals*,^[27] it was held, thus:

“Rule 40, Section 7 (b) provides that, “it shall be the duty of the appellant to submit a memorandum” and failure to do so “shall be a ground for dismissal of the appeal.” The use of the word “shall” in a statute or rule expresses what is mandatory and compulsory. Further, the Rule imposes upon an appellant the “duty” to submit his memorandum. A duty is a “legal or moral obligation, mandatory act, responsibility, charge, requirement, trust, chore, function, commission, debt, liability, assignment, role, pledge, dictate, office, (and) engagement.” Thus, under the express mandate of said Rule, the appellant is duty-bound to submit his memorandum on appeal. Such submission is not a matter of discretion on his part. His failure to comply with this mandate or to perform said duty will compel the RTC to dismiss his appeal.” (emphasis Ours)

In this case, the RTC dismissed petitioner’s appeal for his failure to file an appeal memorandum in accordance with Section 7(b), Rule 40 of the Rules of Court.

In not a few instances, the Supreme Court relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merits. This is in line with the time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses. Technicality and procedural imperfection should, thus, not serve as basis of decisions. In that way, the ends of justice would be better served.[28] For, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.[29] In this case, however, such liberality in the application of rules of procedure may not be invoked if it will result in the wanton disregard of the rules or cause needless delay in the administration of justice. It is equally settled that, save for the most persuasive of reasons, strict compliance is enjoined to facilitate the orderly administration of justice.[30]

Petitioner cannot likewise claim that he was deprived of due process of law. As We have said earlier, the right to appeal is not a natural right or part of due process.[31] The right to appeal is a statutory right and the party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.[32] More so, as in this case, where the petitioner not only neglected to file its appeal memorandum within the stipulated time but also failed to seek an extension of time for a cogent ground before the expiration of the time sought to be extended.

Negligence of Petitioner and Counsel is Fatal to Their Cause

As stated earlier, procedural rules may be relaxed for the most persuasive reasons. However, in the present case, this Court finds no cogent reason to exempt the petitioner from the effects of his failure to comply with the Rules of Court. Petitioner’s excuse for their failure to file his appeal memorandum was flimsy and discreditable and, thus, the propriety of the dismissal of his appeal. Indeed, as declared by the RTC, the records of the case clearly showed that the petitioner, through his counsel, received the alleged Notice which required him to submit its memorandum. Thus:

“The record shows that the original records of the instant case was transmitted to this Court on September 28, 2011 pursuant to the Order of the lower court dated September 5, 2011. A Notice of Appealed Case dated September 30, 2011 was then issued by the Clerk of Court of this Court, Atty. Isagani S. Espada[,] requiring the Appellant to submit his memorandum within fifteen (15) days from receipt thereof. Copies of said notice were sent to both Counsels on October 17, 2011 per attached Registry Receipt Nos. 1642 and 1643. xxx.”[33]

This Court also notes that petitioner’s counsel advanced this reason for his failure to submit the appeal memorandum on time:

“(8) That after investigation, Leto Gil, the receiving clerk told the undersigned that he had not remembered having received said notice. After further searched (sic), Let had not found said notice. What he discovered was only an entry from his own log book of certain notice from this Honorable Court, but had not remembered

to have received it, nor had forwarded it to the table/desk of the undersigned counsel. According to Mr. Leto Gil, if he had received said notice, he had probably misplaced said (sic) it without having forwarded the same to my table, hence[,] the undersigned was not aware of its existence. xxx.”[34]

Such excuse contrived by the petitioner’s counsel is totally unacceptable. It bears stressing that it is the duty of counsel to adopt and strictly maintain a system that insures that all pleadings should be filed and duly served within the period therefor and, if he fails to do so, such negligence to file such pleadings on time is imputable to the said counsel.[35]

The general rule is that a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique.[36] There are exceptions to this rule, such as when the reckless or gross negligence of counsel deprives the client of due process of law, or when the application of the general rule results in the outright deprivation of one’s property through a technicality.[37]

Here, We find no reason to exempt the petitioner from the general rule. The cause of the delay in the filing of the appeal memorandum, as explained by petitioner’s counsel, was not due to gross negligence. It could have been prevented by petitioner’s counsel, if he only acted with ordinary diligence and prudence in handling the case. In one case, the Supreme Court ruled that failure to file appellant’s brief can qualify as simple negligence but it does not amount to gross negligence to justify the annulment of the proceedings below.[38]

Finally, petitioner cite jurisprudence which, in essence, declared that dismissal of an appeal on purely technical ground is frowned upon and that, as much as possible, appeals ought to be decided on the merits in the interest of justice and equity.

The petitioner’s plea for the application of the principles of substantial justice in his favor deserves scant consideration. Petitioner should be reminded that technical rules may be relaxed only for the furtherance of justice and to benefit the deserving.[39] While the petitioner adverted to jurisprudential rulings which set aside procedural rules, it is noted that there were underlying considerations in those cases which warranted a disregard of procedural technicalities to favor substantial justice. Here, there exists no such consideration.

Even brushing aside the procedural flaw in the instant petition, We find petitioner’s plea for his appeal be decided on the merits in the interest of substantial justice as wanting of any factual or legal basis. The petitioner did not even bother to append in its petition the record of the MCTC proceedings as well as the matters and/or issues discussed therein. Hence, there is no way for Us to properly weigh and assess THE SUBSTANTIAL AND OBVIOUS MERITS OF his APPEAL so as to warrant the adjudication thereof on the merits.

The petitioners ought to be reminded that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party’s substantive rights.[40]

WHEREFORE, the instant Petition is hereby DISMISSED for lack of merit. The Orders of the RTC, Branch 10, Abuyog, Leyte in Civil Case No. 640 dated January 10, 2012 and July 16, 2012 are hereby AFFIRMED IN TOTO.

SO ORDERED.

Hernando, and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pages 2-18, 54-75.

[2] Penned by Judge Buenaventura A. Pajaron, rollo, pages 22-23.

[3] Penned by Judge Buenaventura A. Pajaron, rollo, page 38.

[4] Copy not in rollo.

[5] Rollo, pages 24-29.

[6] Not in rollo.

[7] See Petition, supra, at note 1.

[8] Not in rollo.

[9] Not in rollo.

[10] See Petition, supra, at note 1.

[11] Not in rollo.

[12] See RTC Order dated January 10, 2012, rollo, page 22.

[13] Not in rollo.

[14] See RTC Order dated January 10, 2012, rollo, page 22.

[15] Supra, at note 2.

[16] Rollo, page 23.

[17] Supra, at note 4.

[18] Supra, at note 4.

[19] Supra, at note 3.

[20] Pages 4-5 of the Petition, rollo, pages 6-7.

[21] Garbo v. Court of Appeals, 258 SCRA 159 (1996).

[22] 491 Phil. 476 (2005).

[23] 199 SCRA 683 (1991).

[24] Dimarucot v. People, G.R. No. 183975, September 20, 2010.

[25] Don Lino Gutierrez & Sons, Inc. vs. CA, G.R. No. L-39124, November 15, 1974.

[26] Id. at 668-669.

[27] G.R. No. 140473, January 28, 2003.

[28] El Reyno Homes, Inc. v. Ong, 397 SCRA 563 (2003), citing Republic v. Court of Appeals, 292 SCRA 243 (1998).

[29] Ibid., citing Udan v. Amon, 23 SCRA 837 (1968).

[30] Id., citing Ortiz v. Court of Appeals, 299 SCRA 708 (1998).

[31] Producers Bank of the Phils. v. Court of Appeals, 430 Phil. 812 (2002).

- [32] Ozaeta v. Court of Appeals, 179 SCRA 800 (1989).
- [33] Page 1 of RTC Order dated January 10, 2012, rollo, page 22.
- [34] See page 2 of Motion for Reconsideration, rollo, page 25.
- [35] Asian Spirit Airlines (Airline Employees Cooperative) v. Bautista, G.R. No. 164668, 14 February 2005.
- [36] R Transport Corporation v. Philippine Hawk Transport Corporation, G.R. No. 155737, October 19, 2005.
- [37] R Transport Corporation v. Philippine Hawk Transport Corporation, G.R. No. 155737, October 19, 2005.
- [38] Redeña v. Court of Appeals, G.R. No. 146611, February 6, 2007.
- [39] Barangay Dasmariñas v. Creative Play Corner School, G.R. No. 169942, January 24, 2011, citing Alfonso v. Sps. Andres, G.R. No. 166236, July 29, 2010.
- [40] Lazaro v. Court of Appeals, 386 Phil 412, 417 (2000), citing Galang v. CA, G.R. No. 76221, July 29, 1991.

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