

BENJAMIN PAULINO AND BERNARDA A. ANDINO, PETITIONERS, VS. COURT OF APPEALS, FEDERICO APELIZAN AND PRIMITIVA APELIZAN, RESPONDENTS.*G.R. No. L-46723. October 28, 1977*

Ponente: TEEHANKEE, J.

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The Court sets aside respondent appellate court's re-solutions denying petitioners' motion for extension to file a petition for review of the adverse decision of the Manila court of first instance for having been filed two days late on a Monday and the petition for review as subsequently submitted with petitioners' motion for reconsideration, on the strength of controlling jurisprudence that the special circumstances of the case warranted a more liberal attitude on respondent court's part and the granting of the extension in the sound exercise of its discretion. The case is remanded for determination on the merits.

The case at bar originated from an action for ejectment filed by private respondents against petitioners based on an alleged sale of petitioners' house in favor of respondents and petitioners' alleged refusal to vacate the same. The Manila city court rendered judgment for P2,000. -compensatory damages, P500. -exemplary damages, P500. -attorney's fees and P300. -litigation expenses plus costs of suit.

On appeal, the Manila court of first instance modified the city court's judgment as prayed for by respondents (although they had not appealed the same) by ordering petitioners to vacate the house which petitioners had constructed in another place nearby the original location in lieu of the P2,000. -compensatory damage award.

On the 29th day after receipt on May 26, 1977 of the court of first instance's decision, petitioners (who are indigent but nevertheless paid the docket and other fees after some difficulty in raising the same) through their counsel, the Free Legal Assistance Group, represented by Atty. Sergio L. Guadiz, prepared on June 24, 1977 a motion for a 15-day extension from June 25, 1977 within which to file a petition for review by certiorari of said decision, pursuant to the procedure provided by Republic Act 6031. Counsel's office messenger, however, could not file the motion on said date since June 24, 1977 was declared a special public holiday in Manila. He was instructed to file it the next day, June 25, 1977 (a Saturday) but he found no one in the premises except a man clad only in an undershirt whom he assumed to be a security guard, who informed him that there was no one inside the building to receive the motion and corresponding payment of the docket and other fees and could not tell him if any court personnel would be reporting on that day since the previous day was declared a special holiday in Manila.[1] (He could not mail the motion either since it was necessary to make payment of the corresponding fees simultaneously.) The messenger after waiting for some minutes left the premises and returned the following Monday morning June 27, 1977 at about 9 a.m. and filed the motion for extension and paid the necessary fees.

On July 9, 1977, petitioners' counsel filed a motion for second (and last) extension for 10 days up to July 20, 1977. On July 15, 1977, counsel however received respondent court's first resolution dated June 30, 1977 denying the original motion for extension for having been filed out of time on Monday, June 27, 1977, i.e. two days late.

On July 18, 1977 or within the second extension previously requested, counsel filed a motion for reconsideration of the denial resolution submitting the messenger's affidavit in support thereof and praying respondent court to admit the petition for review that was simultaneously filed therewith. Respondent court however in its Resolution of July 29, 1977 denied both the motion for recon-sideration and the petition for review submitted therewith, stating that the court records showed that the employee on duty as a skeleton force on Saturday, June 25, 1977 "was at her assigned post at the Receiving Section on that very day from 7:35 o'clock in the morning until 4:30 o'clock in the afternoon."

Taking at face value respondent court's records (and pres-cinding from the notorious tendency of people to consider also as a holiday a Saturday sandwiched between two [2] holidays over the weekend as in this case) the Court believes that respondent court acted with undue severity in not considering as excusable negligence petitioners' late filing by two days on Monday, June 27, 1977, of the motion for extension under the relevant circumstances of the case.

As the Court held in the similar and controlling case of *Bagalanon vs. Court of Appeals*[2], where the therein petitioner-appellant failed by some three hours to finish the petition for re-view in time to be able to mail the same at Dipolog City Post Office which was open only up to 12 noon as the last day fell on a Saturday and consequently could mail the same only two days late on the next working day, Monday, "actually, petitioners were late only a few hours in beating the deadline for filing their petition. It may be ar-gued, 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 op-portunity to prove their respective claims, and that a possible denial of substantial justice, due to legal technicalities, may be avoided. 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 circum-stances for the delay in 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 deci-sion 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."[3]

Special circumstances do exist here for granting the ex-tension (although filed two days late) and admitting the petition in the exercise of sound discretion in consonance with the tenets of justice and fair play: petitioners' indigency, the sandwiching of the last day (Saturday) for filing between two public holidays (at best, respondent court's skeleton force of one might have decided to declare a private holiday, as sworn to by counsel's office mes-senger and at worst, the messenger was misled into believing that there was no one in the court premises), the earnest efforts exerted by counsel to meet the deadline as shown by the prompt filing of the motion on the next working day and of the petition for review itself within the reasonable extended period requested and the demands of substantial justice, and lack of any showing that the review sought is merely frivolous or dilatory.

The petition for review filed with respondent court has been submitted[4] and we are satisfied from a reading thereof that the same raises substantial issues (although the amounts involved may be relatively small but certainly not for petitioners) that deserve determination on the merits and therefore direct that respondent court give due course thereto and resolve the same on the merits.

The underlying principle in the administration of justice and application of the rules is substantial justice and fair play. As restated by the Court in *Obut vs. Court of Appeals*[5], "(W)e can-not look with favor on a course of

action which would place the ad-ministration of justice in a straightjacket for then the result would be a poor kind of justice if there would be justice at all. Verily, judicial orders, such as the one subject of this petition, are issued to be obeyed, nonetheless a non-compliance is to be dealt with as the circumstances attending the case may warrant. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities."

ACCORDINGLY, the resolutions under re-view are hereby set aside and the case is remand-ed to respondent appellate court for further pro-ceedings and determination on the merits. No costs.

Makasiar, Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

* Ninth Division composed of Justices Vasquez, Batacan, ponente, and Jimenez.

[1] Duly verified in the affidavit of the messenger, Manuel Ledesma, Rollo, page 79.

[2] 76 SCRA 233, 236-237 (March 31, 1977) per Martin, J., citing Maqui vs. Court of Appeals, 69 SCRA 368, and other cases.

[3] Emphasis supplied.

[4] Annex C, petition.

[5] 70 SCRA 546, 554 (April 30, 1976), per Muñoz Palma, J.

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