

FELIXBERTO OBUT, PETITIONER, VS. COURT OF APPEALS, THIRD DIVISION, MAMERTA OBUT DAGONDON, AGUSTINA OBUT AND HEIRS OF DECEASED MARIA OBUT, RESPONDENTS.[]

G.R. No. L-40535. April 30, 1976

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Petitioner herein, Felixberto Obut, is the appellant before the Court of Appeals in (a) two criminal cases where he was convicted by the Court of First Instance of Misamis Occidental of falsification of public documents[1] and (b) one civil case of the same court (Civil Case No. OZ-229) for annulment of sale and reconveyance of property wherein he was the defendant.

For having failed to file his consolidated brief with respondent court in the aforementioned three cases[2] within the period granted him, respondent appellate court dismissed petitioner's appeal. Hence, this petition for certiorari and mandamus.

In the Court's Resolution of May 14, 1975, without giving due course to the petition, the Court required respondents to comment thereon. The Third Division of the Court of Appeals, the Solicitor General, and the private respondents filed their respective comments. In a Resolution dated August 6, 1975, the Court resolved to deny the petition for lack of merit.[3]

An urgent motion for reconsideration was filed by petitioner which led Us to require the elevation of the records with the Court of Appeals. After an examination of said records, the Court, in its Resolution of September 29, 1975, reconsidered the denial of the Petition, gave due course to the same, and treated it as a special civil action with the parties submitting their memoranda.[4]

The records show the following incidents:

Respondent court gave notice to petitioner to file his brief within the reglementary period of forty-five days from receipt thereof. On November 19, 1974, petitioner moved for an extension of time to file his brief which respondent court granted by giving him ninety (90) days with a warning of dismissal of his appeal should he fail to file his brief on time. This resolution was received by petitioner on November 29, 1974.

On February 27, 1975, or two days before the expiration of the extended period, petitioner's counsel who was then in Laoag City sent a telegram to respondent court which We quote:

"RE CA-GR NO. 55727 MAMERTA DAGONDON VERSUS FELIXBERTO OBUT PLEASE GRANT ADDITIONAL THIRTY DAYS LAST EX-TENSION FILE CONSOLIDATED BRIEF FROM RECEIPT GRANT ORDER DUE PRESSURE OF OTHER COURT CASES AND ATTENDING SEMINARS AND MEETING BARANGAYS RE-FERENDUM LAOAG CITY STOP WILL FILE WRITTEN MOTION DUE LACK POST OFFICE HOLIDAYS * * *" (p. 10, rollo)

The foregoing telegram was followed by a formal motion for last extension of thirty days from notice, giving the

following reasons for the extension prayed for, to wit:

"1. That due to voluminous records of the above-entitled case especially those involving comparative study of the many exhibits relative to the specimen of handwritings of complainant Mamerta Dagondon on the issue of falsification which require help and assistance of technical experts, much time was devoted along this line in the preparation of the brief involving both the civil and criminal cases;

"2. That due to the pressure of other court cases in the provinces, especially in Laoag City, and due to the participation of undersigned counsel in the series of barangay meetings on the scheduled referendum, the consolidated brief could not yet be finished although the draft is almost finished.

"3. That due to the fact that post-offices were closed from Feb. 25, to 27, 1975, appellant's motion for extension could not be filed except by telegram dated February 26, 1975." (p. 12, rollo)

On March 5, 1975, respondent court acting on the telegraphic request and before having received and considered the written motion for extension quoted above, issued a resolution denying said telegraphic request and dismissing petitioner's appeal in the civil and criminal cases.[5]

An urgent motion for reconsideration dated March 12, 1975, was filed, by counsel for petitioner calling the attention of the court to the grounds invoked in his written motion which was received by said court only on March 5, 1975, the same date it had denied the telegraphic request and dismissed the appeal.[6] This motion for reconsideration was denied in a resolution of March 24, 1975.[7]

In another pleading dated March 30, 1975, petitioner moved that his consolidated brief be admitted the printing of which was delayed due to the Holy Week recess of the Vera Printing Press, a fact confirmed by the latter.[8] This motion together with the consolidated brief received by respondent court on April 3, 1975, elicited the following resolution:

"Since appeal already dismissed, no need to rule one way or the other." (p. 24, rollo)

We can understand the considerations which prompted the appellate court in dismissing petitioner's appeal as explained in its comment filed in this case. Having given, in addition to the forty-five day reglementary period, another ninety days and the extension having carried with it a warning of dismissal of the appeal in case of non-compliance, respondent court had to abide by its order if only, as it said, to maintain its integrity "in not reneging against what it had sternly warned", not to mention the fact that attending seminars and barangay meetings was more of a political than a legal excuse for non-compliance. Yes, We agree that practicing lawyers must indeed be impressed with their solemn obligation to the court as well as to their clients of complying strictly with judicial orders in the interest of an orderly and expeditious administration of justice.

If this Court, however, is disposed to overlook the delay in the filing of herein petitioner's brief, and to afford him, as he prays, "a day in court," it is because of the presence of certain circumstances which respondent court failed to consider.

Thus: 1. The appeal involved three cases the records of which, as stated in the motion for last extension, were voluminous. 2. Petitioner also claimed in his motion that the preparation of the consolidated brief involved a comparative study of the many exhibits presented relative to the specimens of handwriting of the complainant, now respondent, Mamerta Dagondon, on the issue of falsification which would require the help and assistance of technical experts. 3. Two of the cases appealed by petitioner are criminal in nature which carried in each case a sentence of 1 year and 1 day of prision correccional as minimum to 3 years 6 months and 20 days of prision correccional as maximum with the corresponding accessory penalties, plus a fine of P1,000.00 with subsidiary imprisonment in case of insolvency.

The foregoing would have justified respondent court, in the exercise of its judicial discretion, to depart from its announced rigid policy so as to assure itself that the conviction of petitioner for the crime he is charged with and his consequent deprivation of liberty are truly meritorious, rather than to leave his fate at the mercy of a pure technicality.

The Solicitor General, however, in his comment to this Petition alleges that a reinstatement of the appeal of petitioner will serve no useful purpose because the petition does not show that appellant has a good chance of securing his acquittal in the event the appeal is reinstated and his brief is admitted. (p. 44, rollo)

Of course, We shall not discuss the issues of fact involved in this litigation and the merits of the case which are to be left to respondent appellate court to pass upon. Suffice it to state for purposes of this Petition that petitioner claims exclusive ownership over a parcel of coconut land of around 46,600 sq. m. originally belonging to his deceased father, Isidoro Obut, by virtue of two documents, to wit: an "Extra-judicial Settlement and Sale" and an "Absolute Deed of Sale", executed in his favor by his mother, Gertrudes Cagoco and his sisters, Mamerta, Agustina, Maria and Victoria, whereby they conveyed and sold for valuable consideration their respective shares in said coconut land. After a lapse of ten years after the execution of said documents, private respondents Mamerta and Agustina claiming either that they did not sign the questioned documents or that they were not aware of the contents thereof, filed a complaint for annulment of sale and reconveyance of their share in said property and caused the institution of two criminal cases for falsification of public documents against petitioner. As already indicated earlier, the trial court rendered judgment in favor of private respondents.

In petitioner's motion for reconsideration of Our Resolution denying outright his petition for lack of merit, and in his supplemental motion for reconsideration, the Court's attention was called to the following circumstances which We believe warrant an examination by the appellate court of the findings of fact made by the court a quo, viz: 1. The mother of the litigating parties testified in the court below that her daughters Mamerta and Agustina signed the questioned documents marked as Exhibits A and B; 2. Francisco Dagondon, husband of respondent Mamerta Obut, signed as a witness in the document claimed by the latter to be falsified; and 3. Private respondents allowed ten years to lapse from the execution of the documents of sale in 1959 before the present complaints were instituted against petitioner notwithstanding the alleged open and adverse possession by the latter of said property. These circumstances, if true, would undoubtedly put into serious question the correctness of the trial court's findings and conclusion that the questioned documents Exhibits A and B are falsified. Hence, a liberal application of the rules becomes imperative and conversely an overstrict or rigid enforcement of the reglementary period for the filing of briefs, extensions of which for justifiable reasons are after all addressed to the sound discretion of the court, is to be shunned and avoided lest a grave miscarriage of justice be committed.[9]

The spirit in which this Court decided the case of *Ordoveza vs. Raymundo* on July 31, 1936 (63 Phil. 275), can very well be made to prevail in the instant litigation. In *Ordoveza*, the period for the filing of appellant's brief in the Court of Appeals expired on March 20, 1936 without the brief having been filed, and so on March 31, 1936, the Court of Appeals dismissed the appeal and ordered that after 15 days therefrom the record of the case was to be remanded to the court below. On April 6, 1936 the appellant filed a petition for reconsideration of the order dismissing his appeal but this was denied on April 8, 1936. A second petition for reconsideration was filed by appellant and in view thereof, the Court of Appeals on April 14, 1936, reconsidered its previous resolution for the reasons given in the second petition for reconsideration and the particular circumstances of the case. The appellee *Ordoveza* elevated that resolution to this Court on certiorari. In denying the petition, the Court, with Justice Jose Abad Santos as the writer of the opinion, held inter alia that while ordinarily motions for extension of time for the filing of brief must be presented before the expiration of the time allowed for filing the briefs, the failure of the appellant to file his brief within the time prescribed does not have the effect of dismissing the appeal

automatically, that the dismissal of the appeal rests within the sound discretion of the court as well as the granting of an additional extension within which to file the appellant's brief which in fact may be granted even without any previous application thereof, and this is so because, quoting the Supreme Court of the United States, "it is always in the power of the court to suspend its own rules, or to except a particular case from its operation, whenever the purposes of justice require it." [10]

The principle of substantial justice expounded in *Ordoveza* was reiterated in *Philippine National Bank and Development Bank of the Philippines vs. Philippine Milling Company, Inc.*, the Court of Appeals, et al., L-27005, Jan. 31, 1969, 26 SCRA 712. In this case, the Court, citing the *Ordoveza* ruling, through then Chief Justice Roberto, Concepcion, stressed that even if an appellant failed to file a motion for extension of time to file his brief on or before the expiration of the reglementary period, the Court of Appeals does not necessarily lose jurisdiction to hear and decide the appealed case, and that the Court of Appeals has discretion, to dismiss or not to dismiss appellant's appeal which discretion must 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.

Thus, a too-rigid application of the pertinent provisions of the Rules of Court [11] will not be given premium where it would obstruct rather than serve the broader interests of justice in the light of the prevailing circumstances in the case under consideration.

We cannot look with favor on a course of action which would place the administration 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.

IN VIEW OF THE ABOVE CONSIDERATIONS, the re-resolutions of respondent court dated March 5 and 24, and April 14, 1975, are hereby set aside. The appeal of petitioner Francisco Obut, in the aforementioned three cases is ordered reinstated and his consolidated brief admitted. Respondent court is accordingly directed to proceed with the consideration of petitioner's appeal. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Esguerra, and Martin, JJ., concur.

Makasiar, J., concurs in the result.

[*] This petition as originally filed on April 25, 1975 named as respondents, the Court of Appeals, Third Division, and the Justices composing it namely, the Honorable Justices Magno S. Gatmaitan, Crisolito Pascual and Francisco Chanco. In the Court's Resolution of Nov. 7, 1975 the private respondents Mamerta Obut, Dagondon, Agustina Obut and the heirs of deceased Maria Obut were ordered impleaded.

Appearances were made by the Third Division of the Court of Appeals, the Office of the Solicitor General for and in behalf of the People of the Philippines as two of the cases involved in this Petition are criminal in nature and lastly by the private respondents.

[1] CFI Crim. Cases Nos. OZ-690 & OZ-691.

[2] CA-G.R. No. 16993-94-CR entitled "People vs. Felixberto Obut", and CA-G.R. No. 55727-R, "Mamerta O. Dagondon, et al. vs. Felixberto C. Obut".

[3] p. 51, rollo.

[4] p. 59, *ibid*.

[5] p. 15, *ibid*.

[6] p. 17, *ibid*.

[7] p. 22, *ibid*.

[8] pp. 19-20, *ibid*.

[9] See *Amante vs. Hon. Sunga, et al.*, May 28, 1975, 64 SCRA 192; *Lim Tanhu, et al. vs. Hon. Ramolete, et al.*, Aug. 29, 1975, 66 SCRA 425.

[10] See *Tiglao vs. Commission on Elections, et al.*, Feb. 29, 1972, 43 SCRA 535; *Lorenzo Jose vs. Court of Appeals & People of the Phil.*, L-38581, March 31, 1976; *Rodriguez vs. Court of Appeals*, G.R. No. L-37522, Nov. 28, 1975, 68 SCRA 262; *Sollorano vs. Court of Appeals*, G.R. No. L-28018, Feb. 25, 1975, 62 SCRA 478.

[11] Sections 10, 15 Rule 46, Rules of Court. Section 10. Appellant's brief. – After receipt by the appellant of fifteen (15) copies of the printed record on appeal, it shall be his duty to file with the clerk, within forty-five (45) days from receipt of notice of the clerk to the effect that all the evidence, oral and documentary, is already attached to the record, forty (40) copies of his printed brief together with proof of service of five (5) copies thereof upon the appellee. If the appellant is duly authorized to appeal as pauper, or if for sufficient cause he is relieved of the obligation to file a printed brief, he may file seven (7) legibly typewritten or mimeographed copies of his brief with copies of the judgment or order appealed from as appendix thereto, within forty-five (45) days from notice by the appellate court that all the evidence, oral and documentary, is already attached to the record of the case, and shall serve a copy of the brief on the appellee.

Section 15. Extension of time for filing brief. – Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended.

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