

**LEORIO, ALMER, NOEL, JACINTO, URVIL, CHRISTYBEL, ALL
SURNAMED CANUEL, LEONIDAS C. AMARANTE, ZELPHA C.
JEREMIAS, DAPHNE C. NEPOMUCENO, ERDINE UNILONGO,
DJUUVANEE C. DACALAÑO, PLA...**

Ponente: SADANG, J.

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SADANG, J.:

Records show that counsel for Leorio, Almer, Noel, Jacinto, Urvil, and Christybel, all surnamed Canuel, Leonidas C. Amarante, Zelpha C. Jeremias, Daphne C. Nepomuceno, Erdine Unilongo, and Djuuvanee C. Dacalaño (hereafter, appellants) received on May 13, 2014 a notice to file appellant's brief within forty-five (45) days from receipt of notice, or until June 27, 2014.

On July 3, 2014, appellants filed a motion for extension to file appellant's brief[1] seeking a thirty-day extension, or until July 27, 2014, within which to file the appellant's brief. The motion was granted in the Resolution[2] dated July 8, 2014. On August 5, 2014, appellants filed a second motion for extension to file appellant's brief[3] praying for an extension of twenty (20) days from July 27, 2014, or until August 16, 2014, within which to file their appellant's brief due to the loss of electricity caused by Typhoon Glenda. The motion was granted in the Resolution[4] dated August 20, 2014, which was received by the appellants' counsel on September 11, 2014.

Per verification report of the Judicial Records Division (JRD) dated October 10, 2014, no appellant's brief was filed. Thus, a Resolution[5] was issued on October 22, 2014 requiring the appellants' counsel to show cause, within ten (10) days from notice, why the appeal should not be dismissed. The December 17, 2014 JRD verification report shows that per docket book entry, the appellants' counsel has not filed any compliance with the October 22, 2014 Resolution.

The appeal must be dismissed.

Pursuant to Section 7 of Rule 44[6] of the Rules of Court, it is the duty of the appellant to file with the court an appellant's brief within forty-five (45) days from notice of the clerk. Section 1 (e) of Rule 50[7] of the same Rules grants to the Court of Appeals the discretion to dismiss an appeal either motu proprio or on motion of the appellee should the appellant fail to serve and file the required number of copies of the appellant's brief within the time provided by the Rules of Court.

There is no gainsaying that the right to appeal is not a natural right but a statutory privilege, and it may be exercised only in the manner and in accordance with the provisions of law.[8] It is true that a litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, it does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. Like all rules, they are required to be followed except only for the most persuasive of reasons.[9]

In the present case, the appellants were twice granted sufficient extensions of time to file their appellant's brief but

despite thereof, appellants still failed to seasonably file the said pleading which was due on August 16, 2014. Notwithstanding such failure, the appeal was not dismissed outright and the Court extended liberality towards the appellants by giving them the opportunity to show cause why their appeal should not be dismissed for failure to file appellant's brief on time. To date, appellants have not filed any compliance with October 22, 2014 Resolution or presented any justifiable reason for such failure.

As further borne by the records, from the time appellants filed their second motion for extension of time to file appellant's brief on August 5, 2014, they have not filed or submitted any other pleading or motion in compliance with the resolutions of this Court. Considering the leeway given to the appellants, their unjustified inaction clearly indicates lack of interest to pursue the appeal and is tantamount to an abandonment thereof[10].

Hence, the circumstances attendant in the present appeal warrants its motu proprio dismissal.

WHEREFORE, in view of the foregoing, the Court RESOLVES to DISMISS the appeal for failure of the appellants to file an appellants' brief.

SO ORDERED.

Dimaampao, J., Chairperson, and Diamante, JJ., concur.

[1] Rollo, pp. 15-16.

[2] Id. at 18.

[3] Id at 19-20.

[4] Id. at 22.

[5] Id. at 23.

[6] Rule 44, Section 7. Appellant's brief. — It shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee.

[7] Rule 50, 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:

xxx xxx xxx

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

[8] Dolorita C. Beatingo v. Lilia Bu Gasis, G.R. No. 179641, February 9, 2011 citing Cariño v. Espinoza, G.R. No. 166036, June 19, 2009, 590 SCRA 43, 48.

[9] Sea Power Shipping Enterprises, Inc. v. Court of Appeals, 412 Phil. 603, 611-612 (2001).

[10] See Spouses David Bergonia and Luzviminda Castillo v. Court of Appeals (4th Division) and Amado Bravo, Jr., G.R. No. 189151, January 25, 2012 where the Supreme Court affirmed the dismissal of the appeal before the Court of Appeals on the ground of petitioner's abandonment thereof.

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