

A-ONE FEEDS, INC., PETITIONER, VS. THE COURT OF APPEALS, AND EDUARDO HONRADO AND WIFE, RESPONDENTS.

G.R. No. L-35560. October 30, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petitioner A-One Feeds, Inc. filed this special civil action of certiorari with preliminary injunction to nullify and set aside the resolution of the Court of Appeals dated July 7, 1972 denying herein petitioner's motion to dismiss the appeal of respondents-spouses Honrado in CA-G.R. No. 47204-R entitled, "A-One Feeds, Inc., plaintiff-appellee vs. Eduardo Honrado and wife, defendants-appellants."

In the Court of First Instance of Rizal (Branch XI), petitioner filed on July 30, 1969 a complaint against the respondents for the collection of a sum of money, docketed as Civil Case No. 120756 On September 18, 1969, respondents filed a motion to dismiss to which the petitioner filed its opposition. On December 12, 1969, the lower court denied the aforesaid motion to dismiss.

Subsequently, the respondents' answer with counterclaim which was mailed on January 14, 1970 was received by the lower court on January 23, 1970. Before the lower court received the said answer with counterclaim, petitioner filed on January 19, 1970, a motion to declare respondents in default for failure of the latter to answer the above-mentioned complaint. The motion was set for consideration and approval on January 24, 1970 which was granted on the same date by the lower court in its order[1] declaring respondents in default and authorizing the petitioner to present its evidence ex-parte before the Branch Clerk of Court who was duly commissioned for the purpose.

On January 30, 1970, the lower court issued another order[2] stating that the answer with counterclaim, not having been filed within the reglementary period, is not considered attached to the records of the case, and that the order dated January 24, 1970 declaring respondents in default stands.

Acting upon respondents' motion to set aside the order declaring them in default and the opposition thereto which was followed by a reply, the lower court on February 13, 1970 issued an order[3] denying the motion to set aside the order declaring them in default. A motion for reconsideration by the respondents from the above-mentioned order having been denied, petitioner presented on March 13, 1970 its evidence before the Branch Clerk of Court, upon which on April 2, 1970, the lower court rendered a decision[4] in favor of the petitioner and against the respondents ordering, among others, the latter to pay the former the amount of P13,416.39. Dissatisfied with the aforementioned decision, the respondents filed a notice of appeal and on May 30, 1970, their record on appeal was approved.

On February 25, 1972, the respondents filed their brief as appellants with the respondent Court of Appeals. The petitioner was granted, on May 31, 1972, an extension of 90 days from April 15, 1972 within which to file its brief. Instead of filing its brief, the petitioner filed a motion to dismiss[5] the respondents' appeal on June 23, 1972, more than two years after the record on appeal was approved. Said motion to dismiss was based on the

failure of the record on appeal to show on its face that the appeal was perfected within the period fixed by Section 1 (par. a), Rule 50 of the Rules of Court. In particular, petitioner alleges, in its motion to dismiss, that the record on appeal does not show on its face that an appeal bond was filed and the date of the filing thereof.

After the filing of the respondents' opposition to the aforementioned motion to dismiss and the petitioner's reply thereto, the respondent court in its resolution[6] dated July 7, 1972, denied the petitioner's motion to dismiss. Hence, this present recourse.

To the issue raised in this petition, We find relevance of Our liberal rulings in several cases[7] whenever the "material-data rule" is being invoked in a motion to dismiss an appeal. Because there is no vested right in technicalities, in meritorious cases, a liberal, not literal, interpretation of the rules becomes imperative and technicalities should not be resorted to in derogation of the intent and purpose of the rules which is the proper and just determination of a litigation. Litigations should, as much as possible, be decided on their merits and not on technicality. Dismissal of appeals purely on technical grounds is frowned upon, and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims. As has been the constant rulings of this Court, every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, free from the constraints of technicalities. The respondent Court, therefore, correctly denied the petitioner's motion to dismiss the respondents' appeal.

In the present case, while the printed record on appeal[8] failed to state that an appeal bond was posted and the date of its filing, an examination of the aforesaid printed record on appeal shows that, in the motion[9] of the respondents for the approval of the record on appeal, approval of the appeal bond was also prayed for. Thus -

"WHEREFORE, it is respectfully prayed that this Record on Appeal together with the Appeal Bond be approved and the same be transmitted to the Court of Appeals, together with all the evidence, oral and documentary."

From the above quoted prayer, the approval of the record on appeal necessarily includes the approval of the appeal bond. Annex 2 to respondent's Answer, an official receipt no. 1145774 dated May 21, 1970[10] issued in favor of respondent Eduardo Honrado for the payment of an appeal bond in the amount of One Hundred Twenty Pesos and Sixty Centavos (P120.60) proves that an appeal bond was posted by the respondents within the reglementary period. The issuance of the said official receipt and the approval of the record on appeal by the lower court on May 30, 1970 serve to cure whatever defects and omissions[11] in the printed record on appeal, if defects or omissions they really are.

WHEREFORE, this Court resolves to order as it hereby orders the dismissal of this petition, without pronouncement as to costs.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] p. 36, Rollo.

[2] p. 37, Rollo.

[3] p. 50, Rollo.

[4] p. 15, Rollo.

[5] p. 67, Rollo.

[6] p. 76, Rollo.

[7] Berkenkotter vs. CA, 53 SCRA 328; Pimentel vs. CA, 64 SCRA 475; Morales vs. CA, 67 SCRA 309; Republic vs. CA, 67 SCRA 322; Villanueva vs. CA, 68 SCRA 216; Rodriguez vs. CA, 68 SCRA 262; Krueger vs. CA, 69 SCRA 50; Maqui vs. CA, 69 SCRA 368; Obut vs. CA, 70 SCRA 546; Araneta vs. Doronilla, 72 SCRA 413; Gregorio vs. CA, 72 SCRA 120; De las Alas vs. CA, 83 SCRA 200; Goldo vs. Rosete, 84 SCRA 238; Santos vs. CA, 90 SCRA 223.

[8] p. 22, Rollo.

[9] p. 64, Rollo.

[10] p. 101, Rollo.

[11] Garcia vs. CA, 77 SCRA 149; Garcia vs. CA, 76 SCRA 609; Del Rosario vs. Cunanan, 76 SCRA 136; Libongco vs. CA, 75 SCRA 333; Pajarillo vs. CA, 74 SCRA 151; Gregorio vs. CA, 73 SCRA 608; Cabalza vs. CA, 73 SCRA 593; Zuzuarregui Vda. de Reyes vs. CA, 73 SCRA 593; Morales vs. CA, supra; Republic vs. CA, supra; Santos vs. CA, supra.

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