

ESTRELLA LLAMAS ATIENZA, PETITIONER, VS. HON. MARIA GRACIA CADIZ-CASACLANG, (IN HER CAPACITY AS PRESIDING JUDGE OF BRANCH 155, RTC – PASIG), LILIA BANARES, BENJAMIN CAYABYAB, GR...

Ponente: BUESER, J.

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BUESER, J.:

Estrella Llamas Atienza is before this Court with a petition for certiorari under Rule 65 of the Rules of Court seeking to nullify and set aside the Orders of the Regional Trial Court, Branch 155, of Pasig City (“trial court”) dated January 7, 2013 and March 21, 2013, in Criminal Case Nos. 14766-61.

The Antecedents

Estrella Llamas Atienza (“petitioner”) filed a criminal complaint for libel and slander against Lilia Banares, Benjamin Cayabyab, Gretta Talla, Sammy Galicia, Ricardo Garcia, Victoria Rentino, Belinda Palomar, Antonio Mateo, George Maupoy, Marina Lagunday, Demetrio Amantillo, Pepito Delgado, and The Office of the Pasig City Prosecutor (respondents) with the Office of the Pasig City Prosecutor.

On March 12, 2012, the Pasig Prosecutor's Office (“Prosecutor's Office”) issued a Joint Resolution finding probable cause to charge all respondents with three (3) counts of libel.

In the meantime, respondents filed a motion for reconsideration. Consequently, the Prosecutor's Office came out with a resolution recommending the dismissal of the complaints and withdrawal of the information. The trial court, acting on the motion to withdraw information filed by the Prosecutor's Office, issued an order and directed the withdrawal of the information.

Aggrieved, petitioner filed a motion for reconsideration. It was denied by the trial court in its order dated June 8, 2012.

On July 20, 2012, petitioner filed a notice of appeal. Respondents filed a motion to dismiss and expunge from the records of the case the notice of appeal. They submitted a certification issued by the Makati Central Post Office certifying that the Order dated June 8, 2012 of the trial court was received by petitioner's counsel on June 28, 2012 hence, the filing of the notice of appeal was beyond the reglementary period.

On January 7, 2013, the trial court rendered the first assailed Order,[1] the dispositive portion of which reads -

“WHEREFORE, premises considered, the instant Motions filed by the accused are hereby GRANTED. Accordingly, the Order dated August 6, 2012, is hereby RECALLED and SET ASIDE while the Notice of Appeal filed by private complainant on July 20, 2012 is hereby DISMISSED for being filed out of time and without the requisite conformity of the public prosecutor.

SO ORDERED.”[2]

Petitioner's subsequent motion for reconsideration was denied by the trial court in its second assailed Order.[3]

Hence, this petition.

This Court's Decision

In ascribing grave abuse of discretion to the trial court, petitioner argues the trial court erred in giving more credence to the unnotarized certification of the postmaster rather than the registry return card.

A special civil action of certiorari under Rule 65 of the Rules of Court may be resorted to only where there is a clear showing that the court had acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[4]

After perusing the trial court's assailed Orders, We find that the trial court acted with grave abuse of discretion when it ordered the dismissal of the notice of appeal in the ground that it was filed out of time based on the certification issued by the Post Office.

The registry return card[5] shows that the Order dated June 8, 2012, of the trial court was received by petitioner's counsel on July 5, 2012. Therefore, the notice of appeal was timely filed within the 15 day filing period. The registry return card is a document that speaks for itself as evidence of when the registered mail reached the recipient-addressee.

The Supreme Court in *Eureka Personnel and Management Services, Inc. vs. Eduardo Valencia*[6] ratiocinated that the evidentiary worth of a registry return card is more than a subsequent certification that counters what the registry return card plainly states. It explained -

“The registry return card carries the presumption that it was prepared in the course of official duties that have been regularly performed; in this sense, it is presumed to be accurate, unless proven otherwise, and should be distinguished from a mere written record or note secured by a party to prove a self-serving point. This latter record or note, not being a regular record in the usual course of business, is open to easy fabrication and cannot be accepted and trusted at face value; as Valencia correctly noted, it was not even under oath nor under seal, aside from the fact that it does not mention the name of the Postmaster of the Malate Post Office. Thus, it does not carry the same level of evidentiary integrity that an official record enjoys, particularly when it seeks to impugn what the official record establishes. As we stated in *Mangahas v. Court of Appeals*:[7]

There is a presumption that official duties have been regularly performed. On this basis, we have ruled in previous cases that the Postmaster's certification is sufficient evidence of the fact of mailing. This presumption, however, is disputable. In this case, the Affidavit/Certification of the alleged Assistant Postmaster cannot give rise to such a presumption, for not only does it attest to an irregularity in the performance of official duties (i.e., mistake in stamping the date on the registered mail), it is essentially hearsay evidence.”

In the case at bar and in like manner, although a postmaster's certification is usually sufficient proof of mailing, its evidentiary value must be differentiated from the situation presently before us where the postmaster's certification is intended to prove that the post office had committed a mistake in placing the date of receipt on the registry return card[8]. In other words, the Postmaster's certification is offered to overcome the presumption that the Makati Post Office regularly performed its official duties when the registry return card was filled up by the recipient of the trial court's Order dated June 8, 2012 with July 5, 2012 as the date of receipt. We find it significant that both respondents and the postmaster's certification failed to show that the Makati Post Office committed an inadvertence in handling the registry return card so that a corrective certification from the Postmaster was necessary. In the absence of such justification for the certification, we are compelled to deny it of any evidentiary value for the purpose it was submitted[9].

WHEREFORE, the petition is GRANTED DUE COURSE. The assailed Orders dated January 7, 2013 and March 21, 2013 are ANNULLED and SET ASIDE. Respondent court is ordered to give due course to petitioner's appeal.

IT IS SO ORDERED.

Bruselas, Jr., A.D., Chairman and [*]Paredes, V.I., A., JJ., concur.

[*] Acting Junior Member for 15 working days only from February 24, 2015 per Office Order No. 55-15-ABR dated February 23, 2015.

[1] Rollo, p.18.

[2] Id. At 19.

[3] Id. at 20.

[4] Punonbayan vs. Punongbayan, G.R. no. 158642, December 10, 2004.

[5] Rollo, p.159.

[6] G.R. No. 159358, July 15, 2009.

[7] G.R. No. 173375, September 25, 2008.

[8] Id.

[9] Id.

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