

JOEL B. NUÑEZ, PETITIONER, VS. RAQUEL T. VIOJAN, RESPONDENT.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This case refers to a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure assailing the Resolution dated February 10, 2012 and the Order dated November 22, 2013 of the Office of the Ombudsman (Visayas) docketed as OMB-V-C-10-0032-A.

On July 21, 2014, this Court granted petitioner's Motion for Extension[1], praying for an extension of fifteen (15) days from May 6, 2014 or until May 21, 2014 to file the petition.

On May 22, 2014, the Judicial Records Division (CA-JRD) send a letter[2] to the petitioner directing him to rectify his postal money checks and to countersign the (portion), authorized Postal District Manager.

On May 27, 2014, petitioner filed a Motion for Additional Time to file Petition[3], seeking another fifteen (15) days from May 21, 2014 or until June 5, 2014 to file his petition.

On June 6, 2014 petitioner filed a Motion for a Five-Day Extension[4] to file Petition from June 6, 2014 or until June 11, 2014.

On June 11, 2014, from the said date, petitioner filed a Motion for Extension[5] of one (1) day to file a Petition or until June 12, 2014 (holiday).

On June 13, 2014, petitioner filed a Petition for Review[6], through his counsel.

Subsequently, on June 20, 2014, petitioner filed a Compliance[7] with attached Postal Money Order.

On June 30, 2014, respondent filed a Manifestation with Motion and prayer to Deny Due Course[8], stating despite the extension granted from May 6 to May 21, 2014, no petition was filed. Thus, when petitioner filed on May 27, 2014 a Motion for Additional Time of fifteen (15) days to File Petition, there was no more additional period to speak of. Hence, respondent prayed that the petitioner's Petition for Review be denied due course.

On July 15, 2014, respondent filed a Manifestation with Motion and prayer to Deny Due Course[9], stating the same allegations which the respondent filed on June 30, 2014.

Section 1, Rule 42 of the Rules of Court provides that:

Section 1. How appeal taken; time for filing. — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an

additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (emphasis Ours)

Notwithstanding that this Court issued its Resolution already on July 21, 2014 granting the Motion for Extension of Time to File Petition for fifteen (15) days from May 6, 2014 or until May 21, 2014, no petition was filed within the period sought. It was only filed on June 13, 2014. Petitioner cannot use as an excuse for filing late his Petition, that it was only on July 21, 2014 that this Court issued the Resolution granting him the extension he asked. This Court in resolving the Motion for Extension, can only order in the alternative, to grant the period of extension sought or to deny it. In either case, petitioner was required to file the Petition for Review within the time frame that he personally requested to this Court. He did not. Therefore, when he filed the petition on June 13, 2014, the period to do so had expired.

As laid down in *Roxas v. CA*[10], filing a motion for extension to file appellant's brief, the movant should not presume that the Court would grant said motion nor expect that the extension that maybe granted shall be counted from notice. The required brief should be filed within the extended period requested.

WHEREFORE, the two Manifestations with Motions and Prayer to Deny Due Course are GRANTED. The Petition is DENIED DUE COURSE for failure of petitioner to file it within the reglementary period.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[1] Rollo, pages 3-5.

[2] Rollo, page 7.

[3] Rollo, pages 11-13.

[4] Rollo, pages 22-24.

[5] Rollo, pages 25-27.

[6] Rollo, pages 28-38.

[7] Rollo, page 9.

[8] Rollo, pages 16-18.

[9] Rollo, pages 150-153.

[10] G.R. No. L-76549, December 10, 1987.

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