

**NELITA FONSECA AND ARTURO TUASON, PETITIONERS, VS. THE
HON. COURT OF APPEALS AND ADOLFO AL. GUTIERREZ,
RESPONDENTS.**

G.R. No. L-36035. August 30, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a special civil action for certiorari and mandamus with prayer for preliminary injunction asking that the public respondent be enjoined from executing its decision dated May 4, 1972 which the petitioners allege was rendered with grave abuse of discretion amounting to lack of jurisdiction.

In their complaint against the private respondent for specific performance of a contract, the petitioners-spouses alleged, among others, that the petitioners are the true and lawful owners of an auto-mobile, a 2-door Ford Sedan with Motor No. U-5B G-104510 with Plate No. L-18759; that by virtue of an informal sale executed between the petitioners and the private respondent on June 8, 1964, the former sold to the latter the said automobile for P4,000.00; that the private respondent made a partial payment of P1,500.00 and agreed to pay the balance of P2,500.00 within sixty (60) days from the date of the sale; that when the 60-day period elapsed, the private respondent unilaterally and illegally notified the petitioners that he had rescinded the contract of sale since the corresponding customs duties and taxes of the said automobile had not been paid and further demanded for the refund of his initial payment of P1,500.00; that the petitioners informed the private respondent of the payment of the compensating taxes due on the said automobile as evidenced by Official Receipt No. 251007 dated January 4, 1957; that despite repeated verbal and formal demands to comply with the terms of the contract of sale in question, the private respondent has failed and refused to recognize its validity and to perform his part of the contract; and that the petitioners are willing to execute the corresponding Deed of Absolute Sale of the said automobile in favor of the private respondent upon payment of the remaining balance of P2,500.00 together with interest and other charges due thereon.

In his answer with counterclaim, the private respondent counter-alleged, among-others, that he purchased the petitioners' automobile with the understanding that the taxes and duties due thereon had been lawfully and fully paid; that upon inquiries made with the Motor Vehicles Office on July 2, 1964, the private respondent discovered that the said automobile was listed as a "hot car"; that similar investigations with the Land Transportation Commission resulted in a finding that the purported payment of compensating taxes on the said automobile was false, Official Receipt No. C-251007 being spurious and un-lawfully procured; and that when the private respondent confronted the petitioners with their contractual misrepresentations and demanded from them the rescission of the contract of sale in question and the refund of his initial payment, the latter refused to do so without any valid reason.

On March 24, 1965, the parties submitted a joint stipulation of facts stating that the sale of the subject automobile was embodied in an informal agreement-receipt dated and containing the terms and conditions as alleged in the

complaint; that the private respondent had refused to pay the balance within the stipulated 60-day period; and that an Administrative complaint was also filed against the private respondent with the Government Service and Insurance System dated September 24, 1964.

After trial, the Court of First Instance of Manila, Branch XIII on February 28, 1967 decided the case in favor of the petitioners-spouses. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered declaring as unwarranted and without legal effect the notice of rescission, Exhibit C; and ordering the defendant to pay to the plaintiff the balance Of P2,500.00 of the purchase price of the car described in par. (1) of the complaint with legal interest thereon from August 8, 1964 until fully paid. The defendant is further ordered to pay to the plaintiff the amount of P2,000.00 as exemplary damages, and another P2,000.00 by way of damage as and for attorney's fee of counsel retained by the plaintiff for the enforcement of her valid and just claim against the defendant.

"With costs against the defendant." (pp. 32-33, Record on Appeal)

On appeal by the private respondent to the Court of Appeals, the case was docketed as CA-G.R. No. 40039-R.

On May 4, 1972, the appellate court rendered a decision reversing the judgment of the trial court as follows:

"WHEREFORE, the judgment appealed from is hereby set aside, and another entered, declaring rescinded the contract of sale between the parties relative to the car in question, and ordering the plaintiffs-appellees to refund to the defendant-appellant the sum of P1,500.00 with legal interest thereon from August 13, 1964, until fully paid, without pronouncement as to costs." (p. Rollo)

On June 2, 1972, the appellate court ordered the entry of judgment in the case.

On November 29, 1972, the petitioners, though their substitute counsel, filed an omnibus motion with the Court of Appeals to Set aside its May 4, 1972 decision and/or to dismiss the private respondent's appeal for want of jurisdiction or to lift entry of judgment. The appellate court denied the said motion on the ground that the judgment had already become final and executory.

The denial of their subsequent motion for reconsideration led to the filing of the present action by the petitioners.

The petitioners impute grave abuse of discretion amounting to lack of jurisdiction on the part of the Court of Appeals -

(a) in not dismissing the appeal for want of jurisdiction considering that the private respondent's record on appeal did not show on its face that the appeal was perfected on time; and

(b) in entering judgment despite the fact that the decision has not become final and executory considering that the copy thereof was erroneously sent to the former address of the petitioners' counsel notwithstanding the notice of change of address filed pendency of the appeal. (p. 110, Rollo)

The principal issue adduced by the petitioners is whether or not the public respondent committed a reversible error in allowing the private respondent's appeal and consequently entering judgment against the petitioners.

The petitioners are insistent in their position that the Court of Appeals had no jurisdiction over the private respondent's appeal owing to the fact that the record on appeal submitted by the private respondent did not show on its face the jurisdictional requirement that the appeal was perfected within the reglementary period.

To support their position, the petitioners invoke the provisions of Rule 41, section 6 of the Rules of Court quoted, in part, below:

"Record on appeal; form and contents thereof. - The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the order or judgment from which the appeal is taken, and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed order or judgment and necessary for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time. x x x." (Italics supplied)

In the case of *Pimentel v. Court of Appeals* (64 SCRA 475), we stated the rationale behind the aforequoted rule thus:

"The reason for Section 6, Rule 41 of the Revised Rules of Court in requiring that the record on appeal shall include such data as will show that the appeal was perfected on time, was to obviate and eliminate waste of time that would be incurred by the Appellate Tribunal in requiring the lower court to forward the original record and in examining such records to determine the timeliness of the appeal (*Araneta v. Madrigal & Co., Inc.*, 18 SCRA 446, 449-50; *Government v. Antonio*, 15 SCRA 119).x x x." (at p. 477)

The time to reject the appeal because of defects in form was at its inception. Since it could be ascertained from the records of the case that the appeal was perfected within the period required by the Rules of Court, although the record on appeal failed to show such fact, the Court of Appeals decided to assume jurisdiction over the appeal. After all, no party has any vested right in technicalities. The case has since been decided. Once again we hold with great emphasis that:

xxx xxx xxx

"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. x x x." (*A-One Feeds, Inc. v. Court of Appeals*, 100 SCRA 590, 594).

Moreover, it is noteworthy that starting from the case of *Berkenkotter v. Court of Appeals* (53 SCRA 228 [1973]), strict adherence to the material data rule provided under Rule 41, section 6 of the Rules of Court has been relaxed. The Court is inclined to give every party-litigant the amplest opportunity for the proper and just determination of his cause, freed from the constraint of technicalities. (*De Mesa Abad v. Court of Appeals*, 137 SCRA 416). The Court of Appeals in the case at bar cannot be charged with gravely abusing its discretion in giving due course to the appeal of the private respondent. It yielded to the demands of substantial justice.

With respect to the petitioners' claim that the public respondent erred in having made an entry of judgment of its decision dated May 4, 1972, it is true that the appellate court acted with inadvertence considering that a notice of change of address was filed by the petitioners' counsel during the pendency of their appeal. However, after giving due course to this petition we have found no lawful and valid defense on the merits of the case which would warrant the issuance of the corrective writ of certiorari. As of this extremely late date, the petitioners have not submitted any copy of the assailed decision nor any pertinent pleading attacking the merits of the appellate court's May 4, 1972 decision. The basic issue is relatively simple. What are the circumstances of this case which warrant the purchaser's not assuming that the car he is buying is not a hot car and that all taxes have been paid? As stated by the respondent to petitioners have elected to stand or fall exclusively on the issue of jurisdiction and improper service of judgment. The petitioners acquired actual knowledge of the decision they seek to nullify as

early as November 1972. They have consistently attacked the decision on the basis of purely technical grounds. WHEREFORE, the petition is hereby DISMISSED. The judgment appealed from is AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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