

CECILIO DE LOS ANGELES, JR., PETITIONER, V. HON. ROLANDO G. HOW, IN HIS CAPACITY AS PRESIDING JUDGE OF RTC BRANCH 257, PARAÑAQUE CITY, AND SPOUSES MICHAEL AND MARJORIE QUIJANO, ...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Before Us are the Petition for Review[1] ("Petition" for brevity) and the Second Motion for Extension of Time to File Petition for Review[2] ("Second Motion for Extension" for brevity) filed by petitioner Cecilio De Los Angeles, Jr. ("Petitioner" for brevity).

Records revealed that petitioner was previously granted an extended period or until October 6, 2010,[3] to file his Petition. However, instead of filing his Petition, petitioner filed on October 6, 2010, a "Second Motion for Extension"[4] asking for another fifteen (15) days to file his Petition.

Petitioner then filed his Petition[5] on October 21, 2010, which was, however, fifteen (15) days beyond October 6, 2010 or the last day of the extension granted to petitioner.

A party, such as petitioner here, can not assume that his Motion for Extension of Time[6] would be granted. This was as similarly held by the Supreme Court in *Wilson T. Go vs. BPI Finance Corporation*, G.R. No. 199354, June 26, 2013, to wit:

"The rule is clear that an appeal to the CA must be filed within a period of fifteen (15) days. While a further extension of fifteen (15) days may be requested, a specific request must be made with specifically cited reason for the request. The CA may grant the request only at its discretion and, by jurisprudence, only on the basis of reasons it finds meritorious.

XXX

Under the requirements, it is clear that only fifteen (15) days may initially be requested, not the thirty (30) days Go requested. The petitioner cannot also assume that his motion has been granted if the CA did not immediately act. In fact, faced with the failure to act, the conclusion is that no favorable action had taken place and the motion had been denied. It is thus immaterial that the resolution granting the extension of time was only issued four months later, although such late action is a response we cannot approve of. In any case, the late response cannot be used as an excuse to delay the filing of its pleading as a party cannot make any assumption on how his motion would be resolved. Precisely, a motion is submitted to the court for resolution and we cannot allow any assumption that it would be granted." (Emphasis supplied)

As a result of all these, petitioner violated Section 1, Rule 42 of the Rules of Court, which provides:

"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 supplied)

Thus, petitioner's Petition[7], which was filed beyond the extended period granted, should be dismissed. That this is the consequence is in accordance with the following pronouncement of the Supreme Court in *Cosmo Entertainment Management, Inc. vs. La Ville Commercial Corporation*, G.R. No. 152801, August 20, 2004:

"xxx the CA, upon filing of a motion for extension and payment of the appellate docket and other lawful fees within the reglementary period, may grant an additional period of fifteen (15) days only within which to file the petition for review. As a general rule, no further extension shall be granted except for the most compelling reason and in no case to extend fifteen (15) days.

In this case, the CA did grant the petitioner an extension of fifteen (15) days within which to file its petition for review. xxx

Motions for extensions are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extensions or postponement will be granted or that they will be granted the length of time they pray for. With more reason in this case where the petitioner, or its counsel, asked for a second motion for extension of time, which, as a general rule, is not granted except for the most compelling reason.

Reasons such as 'pressure of work on equally important cases' are addressed to the sound discretion of the CA. Obviously, in this case, the reason advanced by the petitioner's counsel in asking for a second motion for extension of time, i.e. 'heavy volume of work and equally urgent filings in courts and administrative agencies,' was not considered a compelling reason by the CA as it subsequently denied the petition for review for being filed out of time. The CA could not be faulted for this." (Emphasis supplied)

Besides, even if the Petition[8] could be considered to have been filed within the reglementary period, the Petition[9] was revealed to have suffered from several defects, to wit:

First, petitioners failed to make the complete statement of the material dates showing the timeliness of filing the Petition, and failed to attach certified true copies, respectively, of the assailed RTC Decision and of other documents and/or pleadings in support of the Petition. Providing a complete statement of material dates and attaching certified true copies of pertinent documents are as required under Section 2, Rule 42 of the Rules of Court, which states:

"Section 2. Form and contents. – The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition." (Emphasis Supplied)

Failure to comply with any of such requirements under Section 2, Rule 42 of the Rules of Court shall be a sufficient ground for the dismissal of the Petition, pursuant to Section 3, Rule 42 of the Rules of Court, to wit:

"Section 3. Effect of failure to comply with requirements. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof." (Emphasis supplied)

Second, petitioner's counsel, Atty. Carlos C. Abesamis failed to indicate in the Petition[10] the date of issuance of his MCLE Certificate of Compliance. This is in violation of Bar Matter No. 1922. Bar matter No. 1922, which provides:

Bar Matter No. 1922:

"Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to REQUIRE practicing members of the bar to INDICATE in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records." (Emphasis and Underlining Supplied)

Third, petitioner also failed to submit a Certification of Non- Forum Shopping, which Certification is required under Section 2, Rule 42 of the Rules of Court, which states:

"Section 2. Form and contents. – xxx

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom." (Emphasis Supplied)

The right to Appeal by Petition for Review is neither a natural right nor a component of due process but a "mere statutory privilege", and "may be exercised only in the manner and in accordance with the provisions of law". Petitioner's failure to strictly comply with the requirements under Rule 42 of the Rules of Court, renders the Petition dismissible, as is in accordance with the following pronouncement of the Supreme Court in Boardwalk Business Ventures, Inc. vs. Elvira A. Villareal, etc., et. al., G.R. No. 181182, April 10, 2013:

"The right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law xxx.

x x x an appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated.

xxx In this case, petitioner must comply with the following requirements laid down in Rule 42 of the Rules of Court:

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 xxx. 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. xxx.

Sec. 2. Form and contents.

The petition shall be x x x accompanied by x x x copies x x x of the pleadings and other material portions of the record as would support the allegations of the petition.

xxx

In addition, the Rules also require that the Petition must be verified or accompanied by an affidavit by which the affiant attests under oath that he 'has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.'

And finally, Section 3 of Rule 42 provides that non-compliance 'with any of the foregoing requirements x x x shall be sufficient ground for the dismissal thereof.'" (Emphasis supplied)

GIVEN ALL THESE, the Second Motion for Extension of Time to File Petition for Review[11] is DENIED. The Petition for Review[12] is DISMISSED.

SO ORDERED.

Dicdican (Chairman) and Paredes, JJ., concur.

[1] Rollo, pp. 16-31. erroneously captioned as "PETITION FOR REVIEW ON CERTIORARI"

[2] Rollo, pp.12-14. "SECOND MOTION FOR EXTENSION OF TIME (TO FILE PETITION FOR REVIEW ON CERTIORARI)"

[3] Rollo, p. 11.

[4] Rollo, pp. 12-14.

[5] Rollo, pp. 16-31.

[6] Rollo, pp. 12-14.

[7] Rollo, pp. 16-31.

[8] Rollo, pp. 16-31. erroneously captioned as "PETITION FOR REVIEW ON CERTIORARI"

[9] Rollo, pp. 16-31. erroneously captioned as "PETITION FOR REVIEW ON CERTIORARI"

[10] Rollo, pp. 16-31. erroneously captioned as "PETITION FOR REVIEW ON CERTIORARI"

[11] Rollo, pp.12-14.

[12] Rollo, pp. 16-31. "PETITION FOR REVIEW ON CERTIORARI"

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