

CARLOTA DELGADO VDA. DE DELA ROSA, PETITIONER, VS. COURT OF APPEALS, HEIRS OF MACIANA RUSTIA VDA. DE DAMIAN, NAMELY: GUILLERMO R. DAMIAN & JOSE R. DAMIAN; HEIRS OF HORTENCIA RU...

G.R. No. 103028. October 10, 1997

Ponente: TORRES, JR., J.

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TORRES, JR., J.:

Assailed in this petition for review on certiorari is the Resolution of Court of Appeals' Seventh Division in CA-G.R. SP No. 23415 promulgated on November 27, 1991, granting the private respondents' upon petition for certiorari and mandamus. The appellate court had ruled for the approval of the private respondents' record on appeal, thus paving the way for the continuance of their appeal from the decision of the Regional Trial Court of Manila Branch 55 in SP Case No. 97668.

On May 8, 1975, Luisa Delgado, Vda. De Danao filed a Petition for Letters of Administration of the intestate estate of the deceased spouses Josefa Delgado, who died on September 8, 1972, and Dr. Guillermo Rustia who died on February 28, 1974. The case was docketed as SP Case No. 97668. The petition was filed by Luisa Delgado on behalf of the surviving sisters, brothers, nephews, nieces and grand-nephews and grand-nieces of Josefa Delgado. In due course, the petition was opposed by Marciana Rustia Vda. De Damian, Hortencia Rustia-Cruz, (sisters of the deceased Dr. Guillermo Rustia); Josefina Albano, Virginia Rustia-Paraiso, Roman Rustia, Jr., Sergio Rustia Francisco Rustia, Leticia Rustia Miranda, (children of the late Roman Rustia, brother of the deceased Dr. Guillermo Rustia); and Guillermina Rustia Rustia (de facto adopted daughter of Josefa Delgado and Guillermo Rustia).

With the permission of the trial court, Guillerma S. Rustia-(Alaras) was allowed to intervene in the proceedings upon her assertion of the status of an acknowledged natural child, and thus, the only surviving child and sole heir, of Dr. Guillermo J. Rustia.

On January 14, 1976, oppositor Hortencia Rustia-Cruz died and was substituted in the estate proceedings by her husband Fidel Cruz and their five children Teresita, Horacio, Josefina, Amelia and Fidel, Jr. In time, oppositor Marciana Rustia Vda. De Damian also died and was substituted by her children Guillermo and Jose.

On April 3, 1978, Luisa Delgado filed an Amended Petition for Letters of Administration, this time alleging that the deceased Josefa Delgado and Guillermo Rustia had been living continuously as husband and wife, but without the benefit of marriage.

In the ensuing proceedings, the parties presented their respective evidence upon the following issues, as enumerated by the estate court:

1. Whether or not the deceased Josefa Delgado was legally married to Dr. Guillermo Rustia;

2. In the negative, whether or not the petitioner and the other claimants to the estate of the late Josefa Delgado are entitled to her estate, if any;
3. Whether or not the intervenor was acknowledged as a natural or illegitimate child by the deceased Dr. Guillerma Rustia in his lifetime;
4. Whether or not the oppositor Guillerma Rustia has any right or interest in the estate in controversy;
5. Whether or not the estate of Josefa Delgado was legally settled; and
6. Who is entitled to the estate's administration?[1]

On March 14, 1988, herein petitioner Carlota Delgado Vda. De Dela Rosa was substituted for her sister, the petitioner Luisa Vda. de Danao, who had died on May 18, 1987.

On May 11, 1990, the Regional Trial Court of Manila Branch 55, in the proceedings for joint administration of estate of the late Josefa Delgado and Dr. Guillermo Rustia, rendered its decision[2] appointing herein petitioner Carlota Vda. De Dela Rosa as administrator of the estates of the two mentioned deceased. The dispositive portion of the trial court's decision reads:

"WHEREFORE, in view of all the foregoing, petitioner (Carlota Delgado Vda. De Dela Rosa) and her co-claimants to the estate of the late Josefa Delgado listed in the petition, and enumerated elsewhere in this Decision, are hereby declared as the only legal heirs of the said Josefa Delgado who died intestate in the City of Manila on September 8, 1972, and entitled to partition the same among themselves in accordance with the proportions referred to in this Decision.

"Similarly, the intervenor Guillerma S. Rustia is hereby declared as the sole and only surviving heir of the late Dr. Guillermo Rustia, and thus, entitled to the entire estate of the said decedent, to the exclusion of the oppositors and the other parties thereto.

"The Affidavit of Self-Adjudication of the estate of Josefa Delgado executed by the late Guillermo J. Rustia on June 15, 1973 is hereby SET ASIDE, and declared of no force and effect.

"As the estates of both decedents have not as yet been settled, and their settlement are considered consolidated in this proceeding in accordance with law, a single administrator therefore is both proper and necessary, and, as the petitioner Carlota Delgado Vda. de Dela Rosa has established her right to the appointment as administratrix of the estates, the Court hereby APPOINTS her as the ADMINISTRATRIX of the intestate estate of the deceased JOSEFA DELGADO in relation to the estate of DR. GUILLERMO J. RUSTIA.

"Accordingly, let the corresponding LETTERS OF ADMINISTRATION issue to the petitioner CARLOTA DELGADO VDA. DE DELA ROSA upon her filing of the requisite bond in the sum of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

"Finally, oppositor GUILLERMINA RUSTIA RUSTIA is hereby ordered to cease and desist from her acts of administration of the subject estates, and is likewise ordered to turn over to the appointed Administratrix all her collections of the rentals and income due on the assets of the estates in question, including all documents, papers, records and titles pertaining to such estates to the petitioner and appointed Administratrix CARLOTA DELGADO VDA. DE DELA ROSA, immediately upon receipt of this Decision. The same oppositor is hereby required to render an accounting of her actual administration of the estates in controversy within a period of sixty (60) days from receipt hereof.

"SO ORDERED."

In due time, the private respondents (oppositors below) filed a notice of appeal on May 20, 1990, thereby notifying the court of their intention to appeal the decision. The Record on Appeal was filed with the trial court on

June 21, 1990, thirty-one (31) days from the time counsel for private respondents' counsel received the court's decision. On September 25, 1990, the Regional Trial Court of Manila Branch 55, the Hon. Hermogenes R. Liwag, denied due course to, and dismissed the appeal on the ground that the Record on Appeal was filed a day late, pursuant to Batas Pambansa 129 and the Interim Rules.

Private respondents assailed the ruling in a petition for certiorari and mandamus, filed with the Supreme Court on October 20, 1990. However, in a Resolution dated November 5, 1990, this Court referred the petition to the Court of Appeals, the latter then having concurrent jurisdiction with the Court over the petition. The petition was docketed as CA-G.R. SP No. 23415. On March 20, 1991, the respondent appellate court ruled that the appeal was not perfected in time, and the trial court's decision had thus become final and executory. The court observed that the perfection of an appeal within the time prescribed by the rules is a jurisdictional requirement, and failure to do the same removes from the appellate court any jurisdiction over the action.

However, on motion for reconsideration by the private respondents filed on April 11, 1991, and after hearing the parties' respective oral arguments, the appellate court reversed itself, and ruled that in the light of special circumstances attending the proceedings leading to the issuance of the letters of administration, and in the interest of substantial justice, the private respondents' appeal should be given due course.[3]

In its Resolution dated November 27, 1991, the Court of Appeals held that the trial court should have proceeded with caution in considering the allowance of private respondents' appeal, as every party-litigant should be afforded ample opportunity for the proper and just determination of his cause, free from the constraints of technicalities. The court cited Supreme Court rulings furthering exceptional instances where delay in filing a record on appeal, in order to perfect an appeal, was ignored, when, on its face, the appeal appears to be impressed with merit.

“WHEREFORE, the decision dated March 21, 1991 is hereby RECONSIDERED the petition for certiorari and mandamus is GRANTED, the Order of respondent Court dated September 25, 1990 is ANNULLED and SET ASIDE and another one is rendered APPROVING the Record on Appeal and GIVING DUE COURSE to the appeal interposed by oppositors-appellants-petitioners from the decision of respondent court rendered on May 11, 1990 in SP-97668.

“SO OREDERD.”

Petitioner Carlota Delgado Vda. de Dela Rosa is now before us, insisting on the final and executory nature of the trial court's May 11, 1990 decision naming her as administrator of the subject estates. She argues that the Court of Appeals erred in setting aside the trial court's decision dismissing the private respondents' appeal, as the taking of an appeal and the filing of the record on appeal within the reglementary period is mandatory and jurisdictional in nature, and the private respondents' failure to comply with such requirement renders their appeal nugatory.

“A. It is clear and patent error for the Court of Appeals to have granted the petition for certiorari and mandamus of respondents Guillerma R. Rustia and the heirs of Marciana Vda. de Damian, although Hermogenes R. Liwag acted within his jurisdiction and in accordance with the law when he dismissed the appeal of Guillerma R. Rustia et. al. since they filed their record on appeal beyond the reglementary period of thirty (30) days.

“B. The Court of appeals committed grave abuse of discretion in setting aside the order of September 25, 1990 of Judge Hermogenes R. Liwag, which dismissed the appeal of respondents Guillerma R. Rustia et. al. contrary to law and settled jurisprudence that the taking of an appeal including the filing of the record on appeal within the reglementary period is mandatory and jurisdictional.

“C. The Court of Appeals acted without jurisdiction and with grave abuse of discretion in approving the record on appeal of Guillerma R. Rustia et. al. although it was filed beyond the thirty (30) day reglementary period.

“D. The Court of Appeals acted without jurisdiction and committed grave abuse and reversible error in giving due course to the appeal of Guillermina R. Rustia et. al. although their record on appeal was filed out of time.

1. Judge Hermogenes R. Liwag did not commit grave abuse of discretion nor acted without or in excess of jurisdiction in issuing the order of September 25, 1990 which, denied due course to the appeal of respondents heirs of Marciana Vda. de Damian and accordingly dismissed the appeal.
2. Mandamus cannot and should not be granted to set aside the order of September 25, 1990 to compel Judge Hermogenes R. Liwag to give due course to the appeal of respondent heirs of Marciana Vda. de Damian.”

The general rule still holds, that the right to appeal is not a natural right, but statutory. The appellate jurisdiction of the courts is conferred by law, and must be exercised in the manner and in accordance with the provisions thereof and such jurisdiction is acquired by the appellate court over the subject matter and parties by the perfection of the appeal.[4] However, dismissal of appeals based on purely technical grounds is frowned upon by the courts as it is their policy to encourage hearings of appeals on the merits.[5]

As a rule, periods prescribed to do certain acts must be followed. However, under exceptional circumstances, a delay in the filing of an appeal may be excused on grounds of substantial justice.[6]

Even assuming that the private respondents’ record on appeal was filed a day late, strong consideration of substantial significance are manifest, as attested to by the appellate court’s findings, which urge this Court to relax the stringent application of technical rules in the exercise of our equity jurisdiction, in spite of the apparent negligence of counsel. The appellate court’s discussion is hereby reproduced:

“A look at oppositors’ Record on Appeal which was also forwarded with the case records, shows that it consists of 361 pages. It was dated ‘Quezon City, for Manila, Philippines, 20 June 1990’. On its page 360, counsel for oppositors-appellants submitted that the Record on Appeal together with the evidence be certified to this Court. Counsel also submitted that the Record on Appeal and the Notice of Appeal be heard and approved ‘on Friday, June 29, 1991.’ Page 361 of the Record on Appeal shows that a copy thereof was sent by registered mail to counsel for private respondents. The record on Appeal, therefore, can speak for itself, that it was already prepared, completed, finished and signed by counsel for oppositors on June 20, 1990, or within the 30-day reglementary period from counsel’s receipt of the decision sought to be appealed. Though the Record on Appeal should have been presented on or before June 20, 1990, but was submitted on the following day, June 21, the intent of counsel for oppositors to comply strictly with rules governing the manner and period for perfecting the appeal as well as to avoid needless delays so necessary to the orderly and speedy discharge of judicial business is manifest. Also counsel have filed a motion for extension for more time to submit the Record on Appeal, which is allowable under the rules, she did not to do so but deemed it best to file the Record on Appeal. This is also a clear manifestation of her not to delay the proceedings.

“A look at the case records also show that in between June 21- when the Record on Appeal was filed, - up to September 25 – when the Record on Appeal was disapproved and the appeal was dismissed – there were numerous pleadings submitted before respondent court as well as certain proceedings had and taken in connection therewith which must have contributed to the delay in the resolution of the Record on Appeal. Intervenor Guillerma Rustia filed a motion for reconsideration of the decision and an amplificatory arguments (sic) in support of her motion. The respondent court heard her motion for reconsideration as well as granted counsels time within which to submit their comment/opposition/reply and Guillerma filed her rejoinder. Private respondent Carlota Vda. de Dela Rosa then filed an urgent ex-parte motion for implementation of the decision naming and appointing her as administratrix and a reply to oppositors’ opposition to her urgent ex-parte motion. The respondent court issued an order considering the urgent ex-parte motion submitted for

resolution. Private respondent Carlota again filed an urgent ex-parte motion for implementation of the portion of the decision appointing her as administratrix. Intervenor Guillerma Rustia also filed a motion praying that she be appointed as special administratrix and a motion to dismiss the appeal. Private respondent Carlota also filed her comment on the Record on Appeal, submitting that 'xxx the record on appeal submitted by oppositors xxx be admitted', however asking that it includes the documents passed upon by the trial court. Intervenor Guillerma Rustia then filed an omnibus motion. Private respondent filed an ex-parte motion praying for the dismissal of the appeal in conjunction with the plea of intervenor Guillerma Rustia. Oppositors filed an opposition to the omnibus motion. The court had two hearings concerning the omnibus motion. Intervenor Guillerma then filed a rejoinder to the opposition filed by oppositors. On September 25, 1991, or after all these pleadings were filed and the proceedings were held that respondent court issued the order denying due course to the record on appeal and dismissed the appeal. It is observed, therefore, that during that intervening period, the respondent court afforded considerable time and opportunity and patience to the private respondent's recourses which lasted for more than three (3) months, yet it resolved to disapprove the Record on Appeal as well as to dismiss oppositors' appeal because the record on appeal was filed 1-day late, thereby showing that respondent court was too stringent in applying the rules on oppositors, when even in the initial comment by counsel for respondent Carlota to the Record on Appeal, he submitted that the record on appeal 'be admitted' despite the fact that the counsel was furnished a copy of the record on appeal and must have found out that it was submitted on June 21, 1990."

The respondent court likewise pointed out the trial court's pronouncements as to certain matters of substance, relating to the determination of the heirs of the decedents and the party entitled to administration of their estate, which were to be raised in the appeal, but were barred absolutely by the denial of the Record on Appeal upon the too technical ground of late filing. The court particularly referred to the importance, from the legal standpoint, of the question of the veracity of the decedents' status as husband and wife. Likewise, the status of intervenor Guillerma S. Rustia, who claims to be a natural child of Dr. Guillermo Rustia with one Amparo Sagarbarria, and that of oppositor Guillermina R. Rustia, who on the other hand claims to have been acknowledged by Guillermo Rustia as his daughter, concern legitimacy of children, and the resolution of their status demands closer consideration. Summing up, the appellate court declared:

"In the light of the peculiar facts embodied in the pleadings and documents and records of the main case, the arguments/issues raised and argued during the hearing, as well as the numerous authorities in point, most importantly, on the substantial implication/effect of the dismissal of the appeal just because the record on appeal was presented 1-day late, and the merits of the oppositors' cause, We find it justifiable to reconsider Our decision and reverse and set aside the order of respondent court dated September 25, 1990."

We are restating the instances wherein we allowed the continuance of an appeal in some cases were a narrow and stringent application of the rules would have denied it, when to do so would serve the demands of substantial justice and in the exercise of equity jurisdiction.

In *Castro vs. Court of Appeals*,^[7] reiterated in *Velasco vs. Gayapa, Jr.*, ^[8] We stressed the importance and real purpose of appeal and ruled:

"An appeal is an essential part of our judicial system. We have advised the courts to proceed with caution so as not to deprive a party of the right to appeal (*National Waterworks and Sewerage Authority vs. Municipality of Libmanan*, 97 SCRA 138) and instructed that every party litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities (*A-One Feeds, Inc. vs. Court of Appeals*, 100 SCRA 590).

"The rules of procedure are not to be applied in a very rigid and technical sense. The rules of procedure are used only to help secure, not override substantial justice. (*Gregorio vs. Court of Appeals*, 72 SCRA 120). Therefore, we ruled in *Republic vs. Court of Appeals* (83 SCRA 453) that a six-day delay in the perfection of

the appeal does not warrant its dismissal. And again in *Ramos vs. Bagasao*, 96 SCRA 395), this Court held that the delay of four (4) days in filing a notice of appeal and a motion for extension of time to file a record on appeal can be excused on the basis of equity.”

The emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.[9]

In *Cawit vs. Court of Appeals*,[10] the Court observed that in the early case of *Berkenkotter vs. Court of Appeals*, promulgated on September 28, 1973, 53 SCRA 228, we departed from the rigid interpretation of Section 6, Rule 41 of the Rules of Court to the effect that failure to state and/or show in the Record on Appeal that the appeal was perfected on time is a sufficient cause for the dismissal of the appeal.

In this instance, private respondents’ intention to raise valid issues in the appeal is apparent and should not have been construed as an attempted to delay or prolong the administration proceedings. Surely, the natural and legal course for them would have been to file a motion for extension of time within which to submit their Record on Appeal, and under usual practice such request would have been granted. However, counsel for private respondents instead continued with the filing of the Record on Appeal with the trial court for approval, albeit belatedly, in the belief that this measure was a more efficient recourse as the Record on Appeal, which consisted of 361 pages, would be submitted for approval earlier than if the time for the submission of the same was extended. Unfortunately, petitioner and the intervenor pounded on this technical lapse to further their own interests, which from a reading of the pleadings and evidence on record, does not appear indubitably valid.

In the inception of this action for issuance of letters of administration, petitioner’s predecessor alleged that Josefa Delgado and Dr. Guillermo Rustia were legally married, only to withdraw such submission later by a belated amended petition, advancing that the two were never actually married, but were only living together as husband and wife. Such change of stance was accepted by the trial court, upon the justification that no record of marriage of Josefa Delgado and Dr. Guillermo Rustia could be found, and that it was highly irregular that the two could celebrate important occasions in grand fashion, when no whiff was made of their own marriage. In corroboration, the testimonies of certain “close friends” of Josefa Delgado disclose that the marriage between Josefa and Guillermo, allegedly, never occurred.

It bears mentioning that the records likewise disclose testimonies pointing out the existence of marriage between the decedents. Needless to state, it is presumed in our jurisdiction that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage. This is the common order of society, and can only be rebutted by sufficient contrary evidence.

In another vein, the propriety of the appointment of Carlota Vda de Damian as sole administrator of the estates of the decedents is put to question, especially in light of the trial court’s finding that Josefa Delgado and Dr. Guillermo Rustia were not married to each other. It has been observed that the estates of deceased spouses may be settled in a single proceeding,[11] but in all other instances, even if the deceased persons are related as ascendants and decendants, their separate estates must be settled in different proceedings.[12] The reason for this is the avoidance of opportunity of encroachment into the estate left by one decedent by the heirs of another, especially in instances, such as this petition, where different heirs are determined for different decedents.

As for the status of Guillerma Rustia-Alaras as an acknowledged child of Dr. Guillermo Rustia, Article 175, in conjunction with Article 173 and 172 of the Family Code provides for the means for proving filiation:

Art. 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same, evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of 172, in which case the action may be brought during the lifetime of the alleged parent. (289a) (Underscoring Ours)

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Art. 172. The filiation of legitimate children is established by any of the following:

- (1) The record of birth appearing, in the civil register or a final judgment; or
- (2) An admission of legitimate filiation is a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

- (1) The open and continuous possession of the status of a legitimate child; or
- (2) Any other means allowed by the Rules of Court and special laws. (265a, 266a, 267a)

xxx

Art. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child shall survive notwithstanding the death of either or both of the parties. (286a)

The cases relied upon in the trial court's decision, pointing to a child's action for establishing filiation even beyond the putative parent's death are modified by the enactment of the above-cited provisions of the Family Code, which cite definite periods within which such actions must be interposed. The acknowledgment of Guillerma Alaras as an acknowledged (illegitimate) child of Dr. Guillermo Rustia, represents a crucial bar in the claim of the private respondents, as under Articles 988[13] and 1003[14] of the Civil Code.

A review of the trial court's decision is needed, in view of the above-demonstrated divergence of the evidence and arguments presented.

WHEREFORE, in view of the foregoing considerations, the Court hereby AFFIRMS the Resolution dated November 27, 1991 of the Court of Appeals in CA-G.R. SP No. 23415, for the APPROVAL of the private respondents' Record on Appeal and the CONTINUANCE of the appeal from the Manila, Branch LV Regional Trial Court's May 11, 1990 decision.

SO ORDERED.

Regalado, (Chairman), Puno, and Mendoza, JJ., concur.

[1] RTC Decision, p. 89, Rollo.

[2] Annex "D", Petition, p. 83, Rollo.

[3] CA Resolution dated June 10, 1991, p. 42. Rollo.

[4] Santiago and Flores vs. Valenzuela and Pardo, No. L-670, April 30, 1947, 78 Phil 397.

[5] Director of Lands vs. Romamban, No. L-36948, August 28, 1984, 131 SCRA 431.

[6] Legasto vs. Court of Appeals, G.R. Nos. 76854-60, April 25, 1989, 172 SCRA 722.

[7] 123 SCRA 782

[8] No. L-58651, July 30, 1987, 152 SCRA 440

[9] Rodriguez vs. Court of Appeals, No. 37522, November 28, 1975, 68 SCRA 262.

[10] No. L-38039, October 4, 1988, 166 SCRA 228

[11] Benigno vs. De la Pena, 57 Phil. 306

[12] Sy Hong Eng vs. Sy Lioc Suy, 10 Phil 209.

[13] Art. 988. In the absence of legitimate descendants or ascendants, the illegitimate children shall succeed to the entire estate of the deceased.

[14] Art. 1003. If there are no descendants, ascendants, illegitimate children or a surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased in accordance with the following articles.

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