

PHILIPPINE NATIONAL BANK AND NATIONAL INVESTMENT DEVELOPMENT CORPORATION, PETITIONERS, VS. HON. COURT OF APPEALS, HON. RODOLFO A. ORTIZ, PRESIDING JUDGE OF THE REGIONAL TRIAL CO...

G.R. No. 108870. July 14, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

The petitioners ask this Court to reconsider the decision of 3 March 1994[1] which upheld the Court of Appeals[2] in sustaining the order of the Regional Trial Court (RTC), Branch 89, Quezon City, disallowing the petitioners' appeal.[3]

The petitioners allege in their motion for reconsideration that:

- PETITIONERS' RIGHT TO APPEAL IS AN ESSENTIAL PART OF OUR JUDICIAL SYSTEM AND MAY NOT BE DENIED OR FORFEITED FOR A MERE 3-DAY DELAY (ASSUMING THERE IS SUCH A DELAY) IN FILING THE NOTICE OF APPEAL, ESPECIALLY SINCE PRIVATE RESPONDENTS' SUBSTANTIAL RIGHTS HAVE NOT BEEN PREJUDICED BY SUCH DELAY.

- PLDT V. NLRC (128 SCRA 402 [1984]) APPLIES TO THE CASE AT BAR, AS RULED BY THE SAME SECOND DIVISION OF THIS HONORABLE SUPREME COURT IN ITS DECEMBER 15, 1993 RESOLUTION IN PNB V. COURT OF APPEALS (G.R. NO. 111305) INVOLVING THE SAME FACTUAL MILIEU; IN PNB'S CASE AS WELL AS THOSE OF OTHER PARTIES MAINTAINING OFFICES IN MULTI-STORIED BUILDINGS, NO BETTER RULE CAN SERVE JUSTICE AND FAIR PLAY IN THESE COMPLICATED AND CHANGING TIMES THAN THE RUDIMENTARY AND WISE PRECEPT THAN WHEN PARTY IS REPRESENTED BY COUNSEL NOTICES BE SENT TO THE LATTER.

- JUSTICE AND EQUITY FOR ALL OF THE PARTIES, ASSUMING ARGUENDO THAT PNB'S NOTICE OF APPEAL WAS THREE (3) DAYS LATE, DEMAND THAT THIS 19-YEAR P20 MILLION CASE BE DECIDED ON THE MERITS NOT ON TECHNICALITY.

- PETITIONERS' APPEAL CAN BE GIVEN DUE COURSE UNDER THE DOCTRINE IN PHHC V. TIONGCO (12 SCRA 471 [1964]), ABSOLVING A PARTY FROM THE EFFECTS OF THE NEGLIGENCE OF ITS COUNSEL.

The private respondents countered by filing a motion to expunge the motion for reconsideration on the ground that the same is frivolous and dilatory being a rehash of arguments previously raised.

The petitioners then filed a motion for leave to admit supplemental motion for reconsideration and opposition to the private respondents' motion to expunge. The supplemental motion touches on the alleged "fundamentally grave and reversible errors of the 20 January 1992 decision of the trial court, which warrant a review on its merits

by the appellate court." The private respondents moved to strike it out, reiterating for that purpose their motion to expunge.

Pursuant to the resolution of the Court en banc of 4 October 1994, a Special Second Division was created to resolve the motion for reconsideration.

On 21 November 1994, the Special Second Division heard the parties in oral arguments on the motion for reconsideration and the opposition thereto. The parties were, thereafter, granted fifteen days within which to settle the case and to inform the Court of the settlement, if any, and, in any event, to submit simultaneous memoranda within the said period.

In view of the importance of the issue involved, the Special Second Division referred this case to the Court En Banc which accepted it on 27 June 1995.

The core issue in the motion for reconsideration remains to be that as explicitly defined in the decision of 3 March 1994:

[W]hether herein petitioners ... are deemed to have received a copy of the decision of the trial court on January 23, 1992 when the mail containing the decision was received by the PNB mailing clerk from the post office or only on January 28, 1992 when the mail was delivered by said clerk to the Legal Department of the PNB.

The mail containing the trial court's decision was addressed to the petitioners' counsel, Atty. Avamor Perez, whose address is entered in the record as the "6th Floor, PNB Bldg., Escolta Manila." The PNB mailing clerk is Catalino M. Sandoval, who is with the PNB Mailing Division, General Services Department.

The trial court held that the petitioners are, on the ground of estoppel, deemed to have received a copy of the decision on 23 January 1992 when the registered mail containing it was received by Mr. Sandoval. It reasoned thus:

This Court is not persuaded by the submission of defendant PNB that this Court's decision dated January 20, 1992, is not yet final and executory when it filed, thru counsel, its notice of appeal therefrom on February 10, 1992, for the reason that the date to be considered as the receipt by defendants' counsel is January 28, 1992, when the registered letter containing the decision was actually received at the Litigation and Collection Division of the Legal Department of defendant PNB, and not on January 23, 1992, when it was received and signed for by the PNB employee of the Mailing Division.

For, during the oral arguments pertaining to this incident on March 17, 1992, defendants' counsel admitted that all the previous orders of this Court in this case and all notices to him were also received by him through defendant PNB's Mailing Division and all these orders and notices were honored by him.

Defendants' counsel also admitted in open court that he never questioned before the validity of the service of these previous orders and notices in this case, to him, as defendants' counsel, although not received in the first instance by the litigation division of defendant PNB, since it is through the Mailing Division that all officials in defendant PNB receive their mails.

He likewise admitted that the PNB employee detailed at its Mailing Division who received the mails for the different departments and employees of defendant PNB, that day, January 23, 1992, was duly authorized to do so. In fact, according to him, this PNB employee detailed at the Mailing Division had been signing registry return receipts for orders and notices sent to defendants' counsel, without any complaint from the litigation division.

Under these circumstance, this Court holds that defendants' counsel cannot now be validly heard to complain, apparently for the first time, against the regularity of the service on him of the decision of this Court dated

January 20, 1992, by registered letter, received and signed for by the PNB employee of its Mailing Division, since he is already estopped from questioning the validity of the service of the decision to him, thru the Mailing Division, not having questioned before the validity and efficacy of the service to him of the prior orders and notices of this Court in this case all of which he has honored without any complaint whatsoever, especially, as it appears, that the Litigation and Collection Division of the Legal Department of defendant PNB and its Mailing Division of its General Services Department, are housed and located at the same PNB Building at Escolta, Manila.[4]

In the challenged decision of 3 March 1994, this Court agreed with the trial court and quoted extensively portions of the transcripts of the stenographic notes of the oral arguments held before the trial court on 17 March 1992 to support the conclusion that Catalino Sandoval was authorized to receive the registered mail containing the trial court's decision.

After an assiduous re-examination of this case, the Court is of the considered view that the challenged decision should be reconsidered.

It is undisputed that Catalino Sandoval is not connected with the Office of Atty. Avamor Perez in the Litigation and Collection Division of the Legal Department of the PNB either as his clerk or as a person-in-charge of the office. He is admittedly an ordinary employee of the PNB detailed at the Mailing Division of the General Services Department "authorized to receive the mails of defendant PNB." [5]

In their *Precis of Comment*, [6] the private respondents state that:

Petitioners, all throughout the nineteen-year period of trial, have been collecting, receiving and signing for receipt of their notices and/or mail matters in Civil Case No. Q-18176 from the trial court and the private respondents, through PNB's Mailing Division which, under the internal rules and procedures of PNB, is "in charge of collecting all PNB mail matters." (*Italics supplied*).

In paragraphs 3 to 6 of their comment (with opposition to injunction), the private respondents repeatedly assert that Sandoval was in charge of collecting all PNB mail matters. Thus:

- The PNB Mailing Division, admittedly "in charge of collecting all PNB mail matters" ... claimed, collected and received the decision from the post office and signed the registry return card to acknowledge receipt thereof on 23 January 1992 — this has been the practice of [petitioners] in regard to mail matters of the PNB, inclusive of all notices, pleadings, motions, and other processes in connection with Civil Case No. RQ--18176 a quo....
- From 23 January 1992 onwards, therefore, the copy of the subject decision thus collected and received by petitioners passed into petitioners' complete control and disposition — in fine, how petitioners' officials/employees handled/disposed of the same is petitioners' sole business to the exclusion of the whole world, knowledge and/or participation-wise.
- And the fact is the envelope, addressed to petitioner's legal counsel of record, gave out in print reasonable notice as to the nature of its contents and to whom specifically it must go.... Consonant as aforesaid with petitioners' internal rules and practice, not Atty. Avamor Perez of petitioners, but petitioners' own Mailing Division — "in charge of collecting [all] PNB mail matters" — went to the post office to collect and receive and sign for the same. No third party intervened in the collection, receipt and signing for this PNB mail.
- Thus, anent the self-serving claim that petitioners' Legal Department received subject decision only on 28 January 1992 (a matter incapable of verification by anyone) is petitioners' own responsibility as employer for all PNB officers and employees — the procedures and men of the Mailing Division, as the designated "in charge of

collecting all PNB mail matters," are, after all, petitioners' own making, exclusively within petitioners' supervision and control, and in petitioners' pay.[7] (*Italics supplied*)

At the hearing on 17 March 1992, it was established on questions by the trial court that the authority of Sandoval was limited to mails for the PNB. Thus:

COURT:

He was duly authorized to get the mails for the PNB?

ATTY. PEREZ:

Yes, your Honor.

COURT:

Alright.

ATTY. PEREZ:

Just mail matters. But the fact that he received the registry return receipt of that decision he was not authorized to do so. He was not authorized to do so. He should have received, just receive, your Honor, the registry return card of that decision inasmuch as he does not understand the import of such a thing.

COURT:

He was not authorized to receive the what?

ATTY. PEREZ:

Your Honor, he was authorized....

COURT:

He was authorized to receive mail for the PNB....

ATTY. PEREZ:

Yes.[8]

The registered mail containing the trial court's decision of 20 January 1992 was not a mail matter for the PNB or for petitioner National Investment Development Corporation (NIDC). It was a registered mail matter addressed to and exclusively intended for Atty. Avamor Perez, in his capacity as counsel for the petitioners, and not as an official or employee of the PNB.

Service of final orders and judgments can only be made either by personal service or by registered mail, or in special cases by publication. Section 7, Rule 13 of the Rules of Court expressly provides:

SEC. 7. Service of final orders or judgments. — Final orders or judgments shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, final orders or judgments against him shall be served upon him also by publication at the expense of the prevailing party.

Personal service shall be done in the manner set forth in Section 4 of the said Rule:

SEC. 4. Personal service. — Service of the papers may be made by delivering personally a copy to the party or his attorney, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his office, or his office is not known, then by leaving the copy, between the hours of eight in the morning and

six in the evening, at the party's or attorney's residence, if known, with a person of sufficient discretion to receive the same.

Service to a party is allowed only if the party is not represented by counsel. If he is, then, pursuant to Section 2 of Rule 13, service shall be made upon the attorney, unless service upon the party himself is ordered by the court. Unless so ordered, service on the party himself who is represented by counsel is not notice in law and is invalid.[9] The term "every written notice" in Section 2 includes notices of decisions or orders.[10] It follows that even granting that the registered mail containing a copy of the trial court's decision was served upon the petitioners through Sandoval, the service was still invalid and without any legal effect because the petitioners were represented by counsel and the trial court did not specifically order that the decision be served on them.

Under Section 8 of the same Rule, personal service is complete upon actual delivery, while service by registered mail is complete upon actual receipt by the addressee. Section 8 reads:

SEC. 8. Completeness of service. — Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of five (5) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee; but if he fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect at the expiration of such time. (*Italics supplied*).

Thus, the general rule is that service by registered mail is complete upon actual receipt by the addressee. The express exception is when the addressee does not claim his mail within five days from the date of the first notice of the postmaster, in which case the service is deemed complete at the expiration of such time.[11] An implied exception is where the addressee has authorized another to receive the registered mail matter, in which case the service shall take effect upon receipt thereof by the latter.

The issue then is whether Atty. Avamor Perez may be deemed to have authorized Sandoval to claim and receive the registered mail containing the decision.

This Court resolves the issue in the affirmative. Atty. Avamor Perez admitted that he had received all the previous notices and orders of the court in Civil Case No. RQ-18176 through Sandoval, who had been signing the registry receipts therefor. He had not questioned the validity of such service. Estoppel will thus bar him from denying Sandoval's authority and from questioning the validity of the service of the decision.

The rule laid down in *Philippine Commercial and Industrial Bank vs. Ortiz*[12] is worth noting. Speaking thru then Associate Justice, now Chief Justice, Andres R. Narvasa, this Court held:

The chief issue is indeed simple, as petitioner intimates, and is quickly resolved. While it is true that the address of record of PCIB's counsel is entered as the "3rd Floor, LRT Building," which is different from that of COMMEEX, which is on the "Ground Floor, LRT Building," it is equally true that notices served on the latter had been reaching the former and that, in any event, the PCIB lawyers had never protested such service on them "thru COMMEEX." The only single instance of protest was as regards the particular instance of service of notice of the judgment on COMMEEX on July 15, 1978. Thus, as shown by the record and not at all disputed by PCIB, service was accepted by its lawyers "thru COMMEEX" without demur of the court notices for (1) the hearing of January 3, 1978, (2) the hearing of April 25, 1978, and (3) the hearing of June 23, 1978.

It is of course the rule that notices, pleadings, motions and papers should be served on a party's counsel of record, at the latter's given address. But it is certain that the counsel is entirely at liberty to change his address, for purposes of service, or expressly or impliedly adopt one different from that initially entered in the record. When he does this, he cannot afterwards complain that the person who received the notice, pleading, motion or paper at

such new address did not promptly deliver the same to him or bring it to his attention. This is what happened in this case. PCIB's attorney's had acquiesced to and impliedly adopted a different address for service of notices to them. They had accepted service at this place, three floors down from the address originally given by them, without objection of any sort. They cannot now disown this adopted address to relieve them from the effects of their negligence, complacency or inattention. Service, therefore, on July 15, 1978 of the notice of judgment at the Ground Floor, LRT Building, should be deemed as effective service on PCIB's attorneys. The failure of the receiving clerk to deliver the notice to them on the same day, and what is worse, the lawyers omission to inquire of said receiving clerk exactly when the notice was received, and their blithe assumption that service was effected on July 17, 1978 since this was the day that the notice was handed over to them, is arrant imprudence and cannot in any sense be deemed to constitute that excusable negligence as would warrant reconsideration under Section 1 [a], Rule 37 of the Rules of Court.[13]

The effort of the petitioners to show that the Legal Department of the PNB had authorized only Antonio Peñalosa, Danilo Masajo, and Dominador de los Reyes to claim and receive mail matters addressed to it or its lawyers pursuant to a written authority, which was duly received by the Central Post Office on 28 October 1986, does not persuade and even fails to evoke sympathy. This fact was revealed for the first time only in their Memorandum filed on 16 January 1995.[14] They should have presented that authority to the trial court at the hearing on 17 March 1992. In any event, the execution of that authority did not prevent Atty. Avamor Perez from thereafter authorizing Sandoval, even if impliedly, to claim and receive for him registered mails containing notices and orders in Civil Case No. RQ-18176.

Hence, Atty. Avamor Perez is deemed to have received the decision of the trial court on 23 January 1992 when the registered mail containing it was picked up by Sandoval from the Post Office. The 15-day reglementary period should be counted from that date. The last day, therefore, was 7 February 1992. Clearly, the appeal filed on 10 February 1992 is three days late.

It has been said time and again that the perfection of an appeal within the period fixed by the rules is mandatory and jurisdictional.[15] But, it is always in the power of this Court to suspend its own rules, or to except a particular case from its operation, whenever the purposes of justice require it.[16] Strong compelling reasons such as serving the ends of justice and preventing a grave miscarriage thereof warrant the suspension of the rules.[17]

Thus, in *Republic vs. Court of Appeals*,[18] although the appeal was perfected six days after the expiration of the reglementary period, this Court ordered the Court of Appeals to entertain the same, as the Republic stood to lose close to 300 hectares of land already titled in its name and used exclusively for educational purposes.

In *Siguenza vs. Court of Appeals*,[19] the appeal which was perfected thirteen days late was permitted, "since on its face the appeal appeared to be impressed with merit." Instead of remanding the case to the lower court, however, this Court forthwith decided the case on the merits and modified the trial court's decision by setting aside, for lack of basis, the award of P100,000.00 compensatory damages and by reducing the awards of P50,000.00 moral damages to P10,000.00 and the P25,000.00 exemplary damages to P5,000.00.

In *Pacific Asia Overseas Shipping Corporation vs. NLRC*,[20] this Court held that, in view of the factual circumstances and legal merits of the case, the respondent Commission should have accepted the appeal from the decision of the Philippine Overseas Employment Administration (POEA), albeit filed a day after the reglementary period for filing appeals. After a deliberation on the merits of the case, this Court found that the POEA had no jurisdiction indeed to entertain the action for the enforcement of a foreign judgment, the said action being cognizable by the regular courts.

In *Cortes vs. Court of Appeals*,[21] the counsel of record of a party failed to withdraw his appearance as such

when he was appointed as Judge of the RTC of Dumaguete City. Thus, the copy of the adverse decision was still served at his address of record in Cebu City on 28 February 1983. He was at the time in Dumaguete City and learned of the decision only on 8 March 1983 when he came home to Cebu City. He right away informed his client through a telegram, which reached the latter's office in Zamboanga City at a time when he was out on official business and which came to his knowledge only a few days later. It was only on 22 March 1983 that a notice of appeal was filed by his new lawyer. This Court held that the seven-day delay is excusable, and that the appeal, being ostensibly meritorious, deserves to be given due course.

Likewise, in *Olacao vs. NLRC*,^[22] this Court sustained the respondent Commission in entertaining a tardy appeal "to forestall the grant of separation pay twice" in favor of the 170 petitioners, since the issue of separation pay had been judicially settled with finality in another case.

In *Legasto vs. Court of Appeals*,^[23] the respondent Court initially dismissed an appeal for being filed two days after the 15-day reglementary period but, on a motion for reconsideration, decided to give it due course considering the counsel's explanation that the preparation of the petition was continually interrupted by brownouts. This Court agreed and allowed the appeal which "raised an important legal question affecting many tenants and landlords similarly situated all over the country."

Just recently, this Court, in the case of *City Fair Corporation vs. NLRC*,^[24] upheld the respondent Commission in taking cognizance of a tardy appeal, and affirmed the Commission's decision which, among others, deleted the award of damages in the amount of P820,000.00 representing the alleged losses incurred by the petitioner company as a result of the respondent sales employees' strike that paralyzed the petitioner's business operation for two months. In upholding the Commission, this Court said:

The facts and circumstances of the case warrant liberality considering the amount and the issue involved.

x x x

Considering that the private respondents in the instant case are mere salesgirls who were trying to obtain better working benefits for themselves, we find no grave abuse of discretion on the part of NLRC when it entertained their appeal from the award of an enormous sum in damages to their employer by the Labor Arbiter.

Similarly, this Court shall, in the higher interest of justice, allow the appeal of the petitioners which was filed three days late. For, to bar the appeal would be inequitable and unjust when viewed in the light of the trial court's decision (1) ordering the petitioners to pay the private respondents the sum of P19,985,848.00 as actual damages, plus interest thereon at the rate of six percent from the date of the judgment until it is fully paid; P1 million as exemplary damages; and P0.5 million as attorney's fees; and (2) declaring that the private respondents' secured loans of P490,000.00 and P796,000.00 obtained from the Development Bank of the Philippines (DBP) in 1960 and 1961, respectively, and later assigned to the PNB are deemed fully paid by reason of set-off with the award of damages and attorney's fees.

The petitioners' detailed demonstration of the merits of the appeal convinces us that they deserve the amplest opportunity for the proper and just determination of the controversy and that the ends of justice would best be served if the appeal be given due course.

WHEREFORE, the Motion for Reconsideration is GRANTED and the decision of 3 March 1994 is hereby RECONSIDERED, and another is hereby rendered ORDERING the Regional Trial Court, Branch 89, Quezon City, to GIVE DUE COURSE to the appeal of the petitioners from its decision of 20 January 1992 in Civil Case No. RQ-18176 entitled "Clara Reyes Pastor, et al. vs. Philippine National Bank, et al." and, forthwith, to transmit the records to the Court of Appeals pursuant to the Rules of Court.

No costs.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Romero, Quiason, Vitug, and Francisco, JJ., concur.

Puno and Kapunan, JJ., join J. Melo in his dissenting opinion.

Mendoza, J., no part.

Bellosillo, J., on official leave.

[1] 230 SCRA 674 [1994].

[2] Rollo, 27.

[3] Id., 84. Per Judge Rodolfo A. Ortiz.

[4] Order of 11 June 1992, 3-5; Rollo, 97-99.

[5] Order of 11 June 1992, 3; Rollo, 97.

[6] Rollo, 119.

[7] Rollo, 123-124.

[8] TSN, 17 March 1992 (morning), 9-10; Rollo, 147-148.

[9] *Palad vs. Cui*, 28 Phil. 44 [1914]; *Notor vs. Daza*, 76 Phil. 850 [1946]; *Mata vs. Legarda, Inc.*, 7 SCRA 227 [1963]; *Vecino vs. Court of Appeals*, 76 SCRA 98 [1977]; *Tuazon vs. Molina*, 103 SCRA 365 [1981].

[10] *Notor vs. Daza*, supra note 9; *Jalover vs. Ytoriaga*, 80 SCRA 100 [1977]; *Phil. Long Distance Telephone Co. vs. NLRC*, 128 SCRA 402 [1984]; *BPI-Family Savings Bank, Inc. vs. Court of Appeals*, 196 SCRA 242 [1991].

[11] MANUEL V. MORAN, *Comments on the Rules of Court*, vol. 1, 1979 ed., 429.

[12] 150 SCRA 380 [1987].

[13] At 388-389.

[14] Rollo, 504.

[15] *Bank of America, NT & SA vs. Gerochi*, 230 SCRA 9 [1994], citing *Alto Sales Corp. vs. Intermediate Appellate Court*, 197 SCRA 618 [1991]; *Filcon Mfg. Corp. vs. NLRC*, 199 SCRA 814 [1991]; and *Isetan vs. Intermediate Appellate Court*, 203 SCRA 583 [1991].

[16] *Vda. de Ordoveza vs. Raymundo*, 63 Phil. 275, 278 [1936], citing *U.S. vs. Breitling*, 20 How. 252; 15 Law. ed., 900, 902. See also *Ronquillo vs. Marasigan*, 5 SCRA 304, 312-313 [1962].

[17] *Workmen's Insurance Co. vs. Augusto*, 40 SCRA 123, 127 [1971]; *Sison vs. Gatchalian*, 51 SCRA 262 [1973].

[18] 83 SCRA 453 [1978].

[19] 137 SCRA 570 [1985].

[20] 161 SCRA 122 [1988].

[21] 161 SCRA 444 [1988].

[22] 177 SCRA 38 [1989].

[23] 172 SCRA 722 [1989].

[24] G.R. No. 95711, 21 April 1995.

DISSENTING OPINION

MELO, J.:

This Court, in a litany of cases too numerous to cite, has invariably held that the period to appeal is mandatory, nay, jurisdictional, the lapse of which would inevitably result in the judgment becoming final, with the prevailing party being entitled, as a matter of pure right, to its execution. There have been, of course, occasions when a more liberal view was adopted, excusing a particular case from the rule, so to speak, for what was perceived to be highly justified reasons.

Mr. Justice Davide's ponencia echoes the second view borne of the conviction that this Court has the inherent power to suspend the Rules of Court. With the highest respect, I believe that this discretion can not extend to the reglementary period for appealing which must be strictly applied as it is "deemed indispensable to the prevention of needless delays and necessary to the orderly and speedy discharge of judicial business" (Alvero vs. de la Rosa, et al., 42 O.G. 316; 1 Regalado, Remedial Law Compendium, 1988 ed., p. 41). In plain and simple terms, the rule was crafted precisely to exact compliance, and to provide the corresponding sanction in the event of breach thereof. And for us to say that this rule on the observance of the period to appeal can be suspended from time to time, absent any compelling reason on the face of the ponencia in regard to the sluggishness of petitioners' counsel, is to defeat the very purpose for which it was made.

Corollary to this observation is Article 5 of the New Civil Code which provides that "acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity". And in default of a saving clause under Section 39 of Batas Pambansa Bilang 129, the law governing the period to appeal, we have no option but to apply the full force of the rule in the case at hand. It is not difficult to think of the possible insurmountable causes or situations which could justify momentary deviation from the rigid application of the reglementary period to pursue an appeal, such as the sudden demise of counsel before expiration of the period to appeal, caso fortuito, or when the issues raised are of transcendental importance. But none obtains in the case at bench, as indeed, the lapse arose from simple inattention. Withal, no vested right can emanate from acts or omissions which are against the law (Article 2254, New Civil Code). If our laws and statutes have deemed it fit to deny a vested right to an individual for the concomitant transgression of the law, then, this Court can not properly take the cudgels for the said person through the process of "suspending" the rule, thereby negating the explicit intention of the law. Not to be ignored too is the basic axiom in adjective law that appeal is not a matter of right, and is purely statutory, the requirements of which must be strictly followed (Municipal Government of Coron, Palawan vs. Carino, 154 SCRA 216 [1987]; Quiason, Philippine Courts and their Jurisdictions, 1993 ed., p. 20).

The majority opinion, with due respect, would suspend the rule — actually the law — for what it says are

"petitioners' detailed demonstration of the merits of the appeal", without, however, delving on such so-called "merits". The simple merit of one's case, lost through neglect, to my mind, should not automatically call for the suspension of applicable rules, laws, or jurisprudence. At the very least, before this may be done, transcendental matters, surely, life, liberty, or the security of the State, should be at risk, but obviously, not simple matters which can be reduced to pesos and centavos.

The point I am trying to drive at, is that one must not be too eager to make exceptions (granted that exceptions may be made) for as Justice Cardozo said in his monumental work, *The Nature of Judicial Process*:

We must not sacrifice the general to the particular. We must not throw to the winds the advantages of uniformity to do justice in the instance.

xxx xxx xxx

... One of the most fundamental social interests is that law shall be uniform and impartial. There must be nothing in its action that savors of prejudice or favor or even arbitrary whim or fitfulness. Therefore in the main those shall be adherence to precedent. (Selected Writings of Benjamin Jonathan Cardozo, pp. 150; 153.)

If the rule on the mandatory observance of the period to appeal does not sit well with some, then amend the law, but injudicious, perhaps even foolhardy, would it be to make artificial exceptions and distinctions which may later prove to be the rule. In any event, the instant case, is not important enough to call for the extraordinary and expedient devise — without legal support to mind — of suspending not a simple court-adopted rule of procedure but the mandatory provisions of the law itself on the period for appealing.

I, therefore, vote to deny the motion for reconsideration.

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