ILDEFONSO SAMALA AND BENJAMIN BABISTA, PETITIONERS, VS. THE HON. COURT OF APPEALS, THE HON. REGIONAL TRIAL COURT, BRANCH 15, NAIC, CAVITE, AND ROMULO OCAMPO, RESPONDENTS.

G.R. No. 128628. August 23, 2001

Ponente: PARDO, J.

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PARDO, J.:

What is before the Court is an appeal via certiorari from the decision of the Court of Appeals[1] that denied the petition for relief from the order granting a writ of execution.

On October 19, 1990, at about 8:00 p.m., Super Saint Bus with plate number NKJ 468 and body number 975 sideswiped a Yamaha motorcycle with plate number MCGB 5256, along Panamitan Highway, Kawit, Cavite. Romulo Ocampo was riding at the back of the motorcycle driver.

As a result of the impact, Ocampo was thrown several meters away and landed on a concrete highway causing serious physical injuries on his neck and left leg. He was confined at the Perpetual Help Hospital for three days and had several months of treatment.

After hitting the motorcycle, the bus sped away. The driver, Benjamin Babista, did not even lend assistance to the victim and left the victim on the highway.

On December 20, 1990, Romulo Ocampo filed with the Regional Trial Court, Cavite, Branch 15, Naic, a complaint[2] for damages against driver Benjamin Babista and the owner of the Super Saint Bus, Ildefonso Samala.

After due trial, on May 15, 1995, the trial court rendered a decision in favor of respondent Ocampo, the decretal portion of which reads:

> "Wherefore, the Court finds judgment in favor of plaintiff as against defendants jointly and solidarily and Orders the defendants to pay plaintiff as follows:
>
> "1. To pay jointly and severally plaintiff:
>
> a. P11,000.00 as actual damages
>
> b. P30,000.00 as consequential damages
>
> c. P78,192.00 as loss of earning
>
> d. P50,000.00 as moral damages
>
> e. P40,000.00 as exemplary damages
>
> f. P15,000.00 for attorney's fees
>
> g. P3,000.00 for litigation expenses

"2. To pay the costs of suit.

"SO ORDERED.

"Naic, Cavite, May 15, 1995.

"ENRIQUE M. ALMARIO
"Judge"[3]

On October 16, 1995, petitioners filed with the trial court a notice of appeal.

On October 17, 1995, the trial court denied the appeal. We quote:

"This refers to the Notice of Appeal received and filed on 16 October 1995. The decision sought to be appealed was received on 29 September 1995. It is clear that more than 15 days had elapsed; hence, the decision is now final.

"WHEREFORE, the Notice of Appeal cannot be given due course.

"SO ORDERED.

"Naic, Cavite, 17 October 1995.

"EMERITO M. AGCAOILI
"Assisting Judge"[4]

On November 24, 1995, petitioners filed with the trial court a petition for relief from order denying their appeal. Petitioners argued that the reason for the failure to file the notice of appeal within fifteen (15) days was the fact that the notice was entrusted to Jose Samala, Jr. but he suffered from diarrhea on October 11 to 12, 1995. He could not leave the house and nobody could attend to the filing of the notice. Thus, he filed it only on Monday, October 16, 1995, thinking that the period had not lapsed.

On February 21, 1996, the trial court denied the petition for relief for not having adduced any reason compelling enough to warrant reconsideration of the order.[5]

On March 7, 1996 petitioners filed with the trial court their notice of appeal.[6] Petitioners appealed the orders of October 17, 1995 and February 21, 1996, denying the petition for relief to the Court of Appeals.

Meanwhile, on March 20, 1996, the trial court granted respondent Ocampo's motion for writ of execution.[7]

On April 8, 1996, petitioners filed with the trial court a motion for reconsideration[8] of the order dated March 20, 1996. In their motion, petitioners prayed for denial of the writ of execution and for the records of the case to be elevated to the Court of Appeals for review.

On July 1, 1996, the trial court denied the motion for reconsideration.[9]

On July 17, 1996, petitioners filed with the Court of Appeals[10] a petition for certiorari and prohibition assailing the trial court's denial of the petition for relief from order.

On September 17, 1996 the Court of Appeals promulgated its decision denying the petition.[11]

On October 2, 1996, petitioners filed a motion for reconsideration of the denial.[12]

On March 7, 1997, the Court of Appeals denied the motion.[13]

Hence, this petition.[14]

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The issue presented is whether the Court of Appeals erred in refusing to grant petitioners' relief from order that denied their appeal from the judgment of the trial court.

Samoso vs. CA[15] elucidates that relief from judgment under Rule 38 of the Revised Rules of Court (1964 Revision) is a remedy provided to any person against whom a decision or order is entered into through fraud, accident, mistake or excusable negligence. A petition for relief from judgment is an equitable remedy that is allowed in exceptional cases when there is no other available or adequate remedy.[16]

Thus, the question now before us is whether the failure of petitioners to file the notice of appeal on time (one day late) would fall under excusable negligence.

We said that the general aim of procedural law is to facilitate the application of justice to the rival claims of contending parties, bearing in mind that procedural rules are created not to hinder or delay but to facilitate and promote the administration of justice.[17] In rendering decisions, courts must not be too dogmatic. A complete view must be taken in order to render a just and equitable judgment.[18] It is far better to dispose of a case on the merits, which is a primordial end, than on technicality that may result in injustice.[19]

The rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application especially on technical matters, which tends to frustrate rather than promote substantial justice, must be avoided. Even the Revised Rules of Court envision this liberality.[20] Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from the courts.[21]

In this case, the last day for filing the notice of appeal fell on a Friday, October 13, 1995. Petitioners entrusted the filing of the notice of appeal to Jose Samala on October 11, 1995. However, he suffered from stomach pains which lasted until the following days. Jose Samala filed the notice immediately on the next business day, Monday, October 16, 1995. He believed in good faith that he could still file it on Monday. Delay in filing the notice of appeal was actually for one (1) day. Saturday and Sunday are excluded. Considering the facts of the case, this was excusable negligence.

In United Airlines v. Uy,[22] where the respondent filed his notice of appeal two (2) days later than the prescribed period, although his counsel failed to give the reason for the delay, we gave due course to the appeal due to the unique and peculiar facts of the case and the serious question of law it poses.

The real purpose behind the limitation of the period of appeal is to forestall or avoid an unreasonable delay in the administration of justice and to put an end to controversies.[23] Where no element of intent to delay the administration of justice could be attributed to petitioners, a one-day delay does not justify their appeal's denial.

We are inclined to give the same consideration in this case in light of the rules on justice, equity and fair play. After all, the petition embodied circumstances that warrant heeding the petitioners' plea for justice. The law abhors technicalities that impede the cause of justice.[24]

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals in CA-G. R. SP No. 41281 is hereby REVERSED. The trial court is ordered to elevate the records of Civil Case No. NC-346 to the Court of Appeals for review in due course of appeal.

No costs.

SO ORDERED.

Kapunan, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J., (Chairman), see dissenting opinion.
Puno, J., I join the dissent.

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[1] In CA-G. R SP No. 41281, promulgated on September 26, 1996. Valdez, J., ponente, Gonzaga-Reyes, and Mabutas, JJ., concurring.

[2] Civil Case No. NC-346

[3] Rollo, pp. 21-23.

[4] Rollo, p. 25.

[5] Rollo, p. 34.

[6] Rollo, p. 35.

[7] In Civil Case NC-346, Rollo, p. 36.

[8] Rollo, pp. 37-40.

[9] Rollo, p. 41.

[10] Docketed as CA-G. R. SP No. 41281.

[11] Decision, Rollo, pp. 43-58.

[12] Rollo, pp. 59-70.

[13] Rollo, p. 72.

[14] Filed on March 8, 1997. On January 31, 2000, we gave due course to the petition (Rollo, pp. 106-107).

[15] 178 SCRA 654 [1989], see also Manila Electric Co. v. CA, 187 SCRA 200 [1990]; Tuason v. CA, 256 SCRA 158 (1996); Mercury Drug Corporation v. Court of Appeals, G.R. No. 138571, July 13, 2000, citing Tuason vs. Court of Appeals, 256 SCRA 158, 167 [1996].

[16] Mercury Drug Corporation v. Court of Appeals, supra, Note 15, citing Tuason v. Court of Appeals, 326 Phil. 169, 176 [1996].

[17] Maunlad Savings and Loan Association v. Court of Appeals, G. R. No. 114942, November 27, 2000, citing Armed Forces of the Philippines Mutual Benefit Association, Inc. v. Court of Appeals, 311 SCRA 143 [1999].

[18] Ibid., citing Tensorex Industrial Corporation v. Court of Appeals, 316 SCRA 471 [1999].

[19] Ibid., citing Armed Forces of the Philippines Mutual Benefit Association, Inc. v. Court of Appeals, supra, Note 17. See also Oil and Natural Gas Commission v. Court of Appeals, 315 SCRA 296 [1999]; Aguam v. Court of Appeals, 332 SCRA 784 [2000]; Tan Boon Bee & Co., Inc. v. Judge Jarencio, 163 SCRA 205, 213 [1988], citing de las Alas v. Court of Appeals, 83 SCRA 200, 216 [1978]; Nerves v. Civil Service Commission, 342 Phil. 578, 585 [1997].

[20] Abrajano v. Court of Appeals, G.R. No. 120787, October 13, 2000.

[21] Aguam v. Court of Appeals, supra, Note 19, p. 789, citing Alonso v. Villamor, 16 Phil. 315 [1910]; American Express International, Inc. v. Intermediate Appellate Court, 167 SCRA 209, 221 [1988]; Canlas v. Court of Appeals, 164 SCRA 160 [1988].

[22] 318 SCRA 576 [1999].

[23] De Las Alas v. Court of Appeals, 83 SCRA 200 [1978]; Dy Chay v. Crossfield, 38 Phil. 521 [1918].

[24] Aguam v. Court of Appeals, supra, Note 19

DISSENTING OPINION

DAVIDE, JR., C.J.:

I am unable to concur with the majority opinion penned by my respected colleague Mr. Justice Bernardo P. Pardo. The decision unduly relaxes the rule prescribing the period within which to perfect an appeal; adds another easy-to concoct ground to suspend the application of the rule; and establishes a precedent which may render meaningless the rationale for the rule.

The procedural antecedents in this case, as summarized in the majority opinion, are as follows:

Petitioners received a copy of the trial court's decision on 29 September 1995. They filed a notice of appeal on 16 October 1995. In its order of 17 October 1995, the trial court denied due course to the appeal for having been filed beyond the reglementary period. Their petition for relief from the order of 17 October 1995, filed on 24 November 1995, was also denied by the trial court in its order of 21 February 1996.

On 7 March 1996 petitioners appealed from the orders of 17 October 1995 and 21 February 1996.

In the meantime, respondents filed with the trial court a motion for the execution of the judgment, which the court granted in its order of 20 March 1996. Petitioner's motion for the reconsideration of that order, which also contained a prayer for the elevation of the records of the case to the Court of Appeals for review, was denied by the trial court in its order of 1 July 1996.

As a consequence, petitioners filed with the Court of Appeals on 17 July 1996 a petition for certiorari and prohibition assailing the trial court's denial of the petition for relief from the order denying the appeal.

The Court of Appeals denied the petition on 17 September 1996. Their motion for reconsideration having been denied by the Court of Appeals in the resolution of 7 March 1997, petitioners filed the petition in this case.

The issue is quite plain and simple: Did the Court of Appeals commit any reversible error or grave abuse of discretion in denying petitioner's petition? The answer is clearly in the negative.

In the first place, it is undisputed that the notice of appeal was filed beyond the reglementary period. The trial court denied the petition for relief because it found no compelling reason to reconsider the denial of the appeal. The reason given by petitioner for their late filing of notice of appeal was too flimsy. As stated in the majority opinion, the reason was that: "the notice was entrusted to Jose Samala, Jr., but he suffered from diarrhea on October 11 to 12, 1995. He could not leave the house and nobody could attend to the filing of notice. Thus, he filed it only on Monday, October 16, 1995, thinking that the period had not lapsed." It was not explained who this "Jose Samala, Jr." is. He could not be the junior of petitioner Samala because the latter's given name is Ildefonso. Since the petitioners were duly represented by counsel, it was the duty of the latter to file the notice of appeal. Finally, the alleged sickness is obviously contrived; and even if it were true, the diarrhea lasted only until 12

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October 1995.

Second, to allow the appeal, thereby reversing the trial court's order, would mean a suspension of the Rules. It is settled that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional. (Garcia v. NLRC, 264 SCRA 261 [1996]). Only the Supreme Court may suspend the operation or application of the rule. In many cases, the Court had allowed appeals despite the tardiness of the filing of the notices of appeal. The decision in Philippine National Bank vs. Court of Appeals (246 SCRA 304 [1995]) enumerates the various cases. I respectfully submit that the instant case cannot take refuge under any of the instances where this court allowed accommodated tardy appeals.

Third, it would appear that this case has been rendered moot and academic by the execution of the judgment of the trial court. The summary of the antecedent facts in the majority opinion fails to disclose the action taken by petitioners from the denial by the trial court on 1 July 1996 of their motion to reconsider the order of 20 March 1996, which granted respondent Ocampo's motion for a writ of execution.

I may also add that the majority opinion erred in ruling that a petition for relief from judgment under Rule 38 of the Rules of Court was validly availed of by petitioners after their notice of appeal was denied by the trial court. A petition for relief for judgment is unavailable in this case because it is an alternative remedy which presupposes that the party concerned failed to avail of the remedy of appeal. In this case, petitioners did in fact avail of the remedy of appeal.

I therefore vote to DISMISS the petition.

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