

RICARDO B. GONZALES, PETITIONER, VS. COURT OF APPEALS AND THE HEIRS OF CONSOLACION C. DE GUZMAN, RESPONDENTS.

G.R. No. 129090. April 30, 2003

Ponente: CORONA, J.

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CORONA, J.:

Before us is a petition for certiorari of the resolution[1] of the Court of Appeals denying petitioner's motion for extension of time to file appellant's brief and, ultimately, dismissing petitioner's appeal from the decision[2] of the Regional Trial Court of Manila, Branch XXIV, in Civil Case No. 91-57572. Petitioner's motion for reconsideration of the assailed resolution was denied on March 31, 1997.[3]

The undisputed facts follow.

Dr. Consolacion C. de Guzman, who died while this case was pending appeal before this Court and is now substituted by respondent heirs,[4] filed a complaint for damages against petitioner Dr. Ricardo B. Gonzales based on five causes of action. The trial court enumerated the same as follows:

The first cause consists in the act of the defendant in issuing and implementing Hospital Order No. 4, Series of 1990, which allegedly removed the defendant (sic) from a position as Head of the Department of Obstetrics & Gynecology in the Fabella Hospital which was issued unwarrantedly, maliciously and in wanton disregard of plaintiff's constitutional rights, and is a forced demotion in rank, function and status, and subjected plaintiff to social humiliation and embarrassment before all doctors, and members of all hospital staff and employees of Fabella Hospital, and caused plaintiff mental anguish, anxiety and sleepless nights. The second cause of action is the allegation in the complaint that the filing by the defendant of the P6 Million libel case against the plaintiff in the Quezon City Fiscal's Office which likewise caused plaintiff to suffer damages and incur attorney's fees. The third cause of action consists in the filing by the defendant of the administrative case with the Department of Health for 'grave misconduct and conduct prejudicial to the best interest of the service.' And the fourth cause of action is the filing by the defendant of the complaint with the Philippine Obstetrics & Gynecology Society for cancellation of the plaintiff's membership as 'fellow.' And the last cause of action is the filing by the defendant of the administrative case with the Philippine Regulatory Commission, to cancel plaintiff's license to practice her profession as a Doctor of Medicine.[5]

On April 7, 1995, the trial court rendered a decision in favor of the deceased plaintiff. The dispositive portion of the said decision read:

Accordingly, the Court awards to the plaintiff and against the defendant the amount of P290,000.00 representing attorney's fees and costs of litigation, by way of actual damages and to compensate plaintiff for the pain, suffering and mental anguish she underwent by reason of the unwarranted filing of the administrative cases against her by the defendant, the Court orders defendant to pay plaintiff the amount of P1,000,000,000 (sic) as moral damages and likewise orders the defendant to pay the amount of P100,000.00 as exemplary damages. All amounts awarded to the plaintiff to bear interest at the legal rate from the date of this decision up to the time of actual payment.[6]

Petitioner appealed the said decision to the Court of Appeals. On February 21, 1996, the appellate court sent by registered mail to Atty. Ruben Almadro, petitioner's counsel, a notice requiring him to file the appellant's brief within 45 days from receipt thereof. According to the postmaster's certification, the notice was received on February 26, 1996 by a certain Vicente Mendoza at the residence of Atty. Almadro. The petitioner therefore had 45 days from February 26, 1996 or up to April 11, 1996 to file the appellant's brief.

Three months after the expiration of the 45-day period, on July 12, 1996, Atty. Almadro filed a motion for extension of time to file the appellant's brief. He alleged that it was only on July 11, 1996, while in the process of transferring his case records and files from his old office to a new one, that he found the unopened letter-envelope sent by the appellate court requiring him to file the appellant's brief within 45 days from receipt of the notice. Atty. Almadro surmised that the letter-envelope must have been received by a former househelp who failed to bring it to his attention. He also alleged that there was no indication by his househelp of the exact date of receipt of the said letter. He thus prayed that he be given another period of 30 days from July 12, 1996 or until August 11, 1996 within which to file the appellant's brief.

On July 23, 1996, Dr. de Guzman moved to dismiss the appeal on the ground that the petitioner's motion for extension of time for filing the brief was filed after the lapse of the original period.

On August 12, 1996, Atty. Almadro filed a manifestation stating that, since August 11, 1996 was a Sunday, he filed thru registered mail two copies of the appellant's brief on August 10, 1996. He also manifested that he was filing seven other copies of the appellant's brief to complete a total of nine copies, together with the affidavit of service to counsel for then respondent Dr. de Guzman.

On October 10, 1996, respondent Dr. de Guzman filed another motion reiterating her previous motions to dismiss, to expunge the appeal from the records and for the issuance of an entry of judgment.

On December 13, 1996, the appellate court issued a resolution, the dispositive portion of which read:

WHEREFORE, motion for time to file appellant's brief is hereby DENIED, for lack of merit, and the appeal is DISMISSED. The appellant's brief filed out of time is ordered expunged from the record of the case.

IT IS SO ORDERED.[7]

In dismissing the appeal, the appellate court held that:

Section 15, Rule 46 of the Rules of Court states that 'Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of time sought to be extended.' Defendant-appellant may secure several extensions to file brief provided each extension is predicated on good and sufficient cause and application for extension is filed before the time sought to be extended expires (*Gregorio vs. Court of Appeals*, 172 SCRA 120-121 cited in *Moran*, Comments on the Rules of Court, Volume 2, 1979 Edition, p. 489). When defendant-appellant filed a motion for time to file appellant's brief on July 12, 1996, 92 days had elapsed since the last day to file appellant's brief. Hence, this motion cannot be allowed.

Defendant-appellant's reason for not filing his motion for extension of time to file appellant's brief seasonably is flimsy and puerile, to say the least. For one, counsel for defendant-appellant alleged in his motion that he discovered that unopened letter envelope containing the notice, only on July 11, 1996, while he was in the process of transferring his various case records and files from his present office/residence to a new office. Up to this very day, however, this Court has not received any notice of change of address from counsel. Counsel further contends that the letter envelope must have been received by one of his previous househelps who must have inadvertently failed to bring said mail matter to his attention. The court has no way of knowing whether this is true as counsel himself was merely speculating. Even granting this to be true, this negligence is simply

inexcusable. It is the duty of counsel to adopt and strictly maintain a system that efficiently takes into account all court notices sent to him and not simply allow a househelp, without counsel's diligent supervision, to receive important court notices.[8]

Hence, this petition for certiorari under Rule 65 of the Rules of Court based on the following assignments of error:

I

THE FAILURE OF PETITIONER TO FILE HIS APPELLANT'S BRIEF WITHIN THE PERIOD REQUIRED BY THE COURT OF APPEALS AND/OR TO SEEK AN EXTENSION WITHIN SAID PERIOD WAS DUE TO EXCUSABLE NEGLIGENCE;

II

THE SETTLED RULE IS THAT LITIGATIONS SHOULD, AS MUCH AS POSSIBLE, BE DECIDED ON THEIR MERITS AND NOT ON TECHNICALITIES; and

III

RULES OF PROCEDURE SHOULD NOT BE APPLIED IN A VERY RIGID, TECHNICAL SENSE ESPECIALLY WHERE, AS IN THE CASE AT BAR, THE APPEAL IS VERY MERITORIOUS.[9]

The petitioner imputes grave abuse of discretion amounting to lack of jurisdiction to the appellate court for denying his appeal purely on technical grounds. He argues that the failure of his counsel to get hold of the letter-notice of the appellate court for the filing of the brief was due to excusable neglect. Petitioner likewise contends that the appellate court gravely abused its discretion in not allowing the extension sought by the petitioner and in not admitting the appellant's brief in spite of the fact that the respondent heirs' substantial rights will not be violated by a contrary ruling. Litigations, according to the petitioner, should as much as possible be decided on their merits and not on technicalities. Rules of procedure should not be applied in a very rigid and technical manner as they are intended to promote, not to defeat, substantial justice.

The crucial issue for consideration is whether the negligence of petitioner's counsel was inexcusable, thus rendering his plea for equity unmeritorious.

Section 12, Rule 44 of the 1997 Rules of Civil Procedure provides that:

Sec. 12. Extension of time for filing briefs. Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended. (underscoring supplied)

Clearly, petitioner's counsel was negligent in not filing the motion for extension of time to file the appellant's brief within the 45-day period from the date of receipt of notice as required by Section 7, Rule 44 of the 1997 Rules of Civil Procedure. Petitioner's counsel, however, blames his househelp who allegedly forgot to give him the said notice or to call his attention to it. Said counsel allegedly discovered the same only when he was arranging his files after transferring to his new office.

We hold that an attorney owes it to himself and to his clients to adopt an efficient and orderly system of receiving and attending promptly to all judicial notices. He and his client must suffer the consequences of his failure to do so particularly where such negligence is not excusable as in the case at bar.[10] A lawyer can adopt an efficient way of handling court mail matters even if his residence also serves as his office. If petitioner's counsel was not informed by his house-help of the notice which eventually got misplaced in his office files, said counsel has only himself to blame for entrusting the matter to an incompetent or irresponsible person.

Aside from his failure to adopt an organized and efficient system of managing his files and court notices, we also note that petitioner's counsel, Atty. Almadro, allowed one year to lapse before he again acted on the appeal of his

client. The trial court rendered the decision against the petitioner on April 7, 1995. Petitioner must have appealed the same either in June or July of the same year. Subsequently, the notice to file the appellant's brief was received by the househelp of Atty. Almadro, petitioner's counsel, on February 21, 1996. It was only on July 11, 1996 that Atty. Almadro claims to have discovered the notice. From the time he must have filed his appeal sometime in June or July of 1995 up to the time of the alleged discovery on July 11, 1996, Atty. Almadro apparently never bothered to check why he had not received any notice for the filing of his client's (appellant's) brief.

The legal profession demands of a lawyer that degree of vigilance and attention expected of a good father of a family and should adopt the norm of practice expected of men of good intentions. In other words, a lawyer must always be protective of the interests of his clients as a good father would be protective of his own family.^[11] Atty. Almadro's actuation evidently shows his lack of interest in protecting and fighting for his client's interests.

WHEREFORE, premises considered, the petition for certiorari of the resolutions of the Court of Appeals is hereby DISMISSED. With costs against the petitioner.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio Morales, JJ., concur.

[1] Penned by Associate Justice Jaime Lantin and concurred in by Associate Justices Corona Ibay-Somera and Salvador Valdez of the 8th Division; Rollo, pp. 57-58.

[2] Penned by Judge Sergio D. Mabunay, Rollo, pp. 61-75.

[3] Rollo, p. 60.

[4] Respondents Adelaida de Guzman-Santos, Florentina de Guzman-Frogoso, Ricardo Cruz de Guzman, and Zenaida de Guzman-Caluag; Rollo, pp. 250-251.

[5] Rollo, pp. 123-124.

[6] Id., pp. 74-75.

[7] Rollo, p. 58.

[8] Ibid.

[9] Rollo, p. 33.

[10] Javier vs. Madamba, Jr., 174 SCRA 495, 499-500 [1989]; Enriquez vs. Bautista, 79 Phil, 220, 222 [1949].

[11] E. Pineda, Legal and Judicial Ethics, 201 (Central Professional Books, Inc., 1995) citing PBC vs. Aruego, CA-G.R. # 28274, June 18, 1965 and Blaza vs. Court of Appeals, 162 SCRA 461 (1988).

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