

**HEIRS OF VICTORIANA VILLAGRACIA REPRESENTED BY
GREGORIO, EXEQUIEL AND CLARA, ALL SURNAMED RAMIREZ;
NATIVIDAD G. LAZARO, JULIA G. FADRI, ESTELA G. GAVIOLA, LUZ G.
LEGASPI, NORBER...**

G.R. No. 136972. March 28, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

There are times when strict adherence to the rules of procedure must yield to the search for truth and the demands of substantial justice. One such moment is here and now.

Before us is a petition for review on certiorari assailing the Court of Appeals (CA) Resolution dated September 17, 1998, which dismissed the appeal of petitioners (plaintiffs-appellants therein) for failure to file the appellants' brief within the extended period, and the Resolution dated December 18, 1998 denying petitioners' motion for reconsideration in CA-G.R. CV-No. 32535.

The controversy arose when petitioners filed with Branch 7 of the Regional Trial Court (RTC) of Leyte a complaint for recovery of ownership and possession, with damages and annulment of affidavit, over four (4) parcels of land situated in Tacloban City.

It is uncontested that the parcels of land were originally owned by petitioners' parents, spouses Victoriana Villagracia (Victoriana) and Francisco Contillo. However, the properties are now registered in different names: Lots 2954 and 2883 are titled in the name of respondent V G Better Homes Subdivision Inc. and mortgaged with the respondent GSIS;

Lot 1203 is in the name of Marlita Go and mortgaged with respondent Equitable PCI Bank; and Lot 2078 is in the name of Oscar and Erlinda Codilla and mortgaged with the Philippine Veterans Bank.

In their complaint, petitioners challenge the validity of the transfer of these lots, claiming that the same was fraudulent. They aver that the Deeds of Absolute Sale of these parcels of land were actually executed twelve (12) years after the death of Victoriana, and the signature appearing above her name in the said deeds was a forgery. On August 30, 1989, the RTC rendered a Decision[1] denying the petition. It ruled that the petitioners failed to prove that the banks were mortgagees in bad faith. Similarly, they failed to prove that a forgery was committed in the signature of Villagracia in the Escritura de Venta of Lot 2954.[2]On appeal before the CA, the petition was denied thrice because of the failure of petitioners to file the appellants' brief. The first denial was in a Resolution[3] dated January 8, 1998. However, the denial was recalled and set aside in a Resolution[4]dated March 31, 1998 because the failure of the petitioners to file the appellants' brief was due to the inadvertence of the Division Clerks of Court and of the Judicial Records Division of the CA in sending court processes to Atty. Ruben Zara, the former counsel of petitioners, despite his formal withdrawal as counsel as early as August 16,

1993.[5] Petitioners were given a fresh period of forty-five (45) days to file their brief and at the same time required the new counsel of petitioners to file his formal entry of appearance.

Petitioners, through one of the granddaughters of Victoriana, Mrs. Natividad Gaviola Lazaro, filed a letter request with the CA for an extension of forty-five (45) days to submit the formal entry of appearance of counsel because they were having a hard time securing the signatures of the heirs, because they lived in different places.[6]The CA granted the request in a Resolution[7] dated July 1, 1998. On July 27, 1998, petitioners through counsel, filed a Motion before the CA for an additional period of time to file appellants' brief, viz.:

- While the Brief for the Plaintiffs-Appellants is still on the drafting stage, it is feared that the same may not be filed on the requested deadline in view of the volume of work presently being encountered by the undersigned counsel which consist, among other things, the preparation of equally important pleadings, almost daily court appearances and other commitments;
- In view thereof, undersigned is requesting that he be given an additional period of thirty [30] days from July 15, 1998 or until August 15, 1998 within which to file the Brief for the Plaintiffs-Appellants;
- This motion is not intended to delay but solely for reasons aforecited.

WHEREFORE, foregoing considered, plaintiffs-appellants pray before this Honorable Court that they be given an additional period of THIRTY [30] DAYS from July 15, 1998 or until August 15, 1998 within which to file their Brief.[8]

On August 17, 1998, petitioners posted a Motion[9] for last extension of time to file appellants' brief, alleging that:

- In their Motion for Extension of Time to file Appellants' Brief dated July 8, 1998, herein plaintiffs-appellants prayed until August 15, 1998 within which to file the same;
- While the Appellants' Brief has been finalized, the same has to undergo editing and revisions, hence, the said Brief may not be filed on the last day considering that the undersigned counsel is likewise attending to other important commitments which are of equal nature to this case;
- In view of this, it is requested that a last period of thirty [30] days from August 15, 1998 or until September 14, 1998 be granted to herein plaintiffs-appellants to file their Brief;
- This motion is not intended to delay.

WHEREFORE, foregoing considered, it is most respectfully prayed of this Honorable Court that plaintiffs-appellants be given a period of thirty [30] days from August 15, 1998 or until September 14, 1998 within which to file their Brief.

Other measures of relief, just and equitable, under the premises are likewise being prayed for.

Manila, 17 August 1998.[10]

On September 17, 1998, the CA issued a Resolution[11] denying the motion, viz.:

For consideration is Plaintiffs-Appellants' Motion for Last Extension of Time to File Appellants' Brief, praying for an extension of thirty (30) days from August 15, 1998 or until September 14, 1998 within which to file the required brief.

The Rollo of this case shows that on July 15, 1998, plaintiffs-appellants filed a Motion for Extension of Time to File Appellants' Brief, praying for an extension of thirty (30) days from July 15, 1998 or until August 15,

1998 within which to file their brief. By Resolution dated August 7, 1998, plaintiffs-appellants were granted an extension of thirty (30) days from July 15, 1998 or until August 14, 1998 within which to file their brief.

On August 17, 1998, or 3 days after the lapse of the extension granted by this Court, plaintiffs-appellants filed the instant Motion for last extension, praying for another extension of thirty (30) days from August 15, 1998 or until September 14, 1998 within which to file their brief.

We cannot grant the motion for extension.

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

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. (15, R46)

It is clear from the aforequoted Section that the Motion for Extension of Time must be filed before the expiration of the period sought to be extended.

In this case, the present motion for last extension was filed three (3) days after the expiration of the period sought to be extended. Hence, there is no longer [a] period to extend.

WHEREFORE, foregoing considered, the Motion for Last Extension of Time to File Appellants' Brief is DENIED. Consequently, for failure of plaintiffs-appellants to file Brief within the reglementary period as well as the extension granted by this Court, the appeal is hereby DISMISSED pursuant to Section 1(e), Rule 50 of the 1997 Rules of Civil Procedure.

Let a copy of this Resolution be likewise served in (sic) plaintiffs-appellants themselves.

SO ORDERED.[12]

Petitioners filed a Motion for Reconsideration of the CA Resolution. However, the same was denied in a subsequent Resolution[13]dated December 18, 1998.

On February 2, 1999, petitioners filed a petition for review on certiorari[14]before this Court, alleging that the CA erred in dismissing their appeal on purely technical grounds.

We resolve to grant the petition.

We are aware of the procedural violations of petitioners, specifically: (1) failure to file the appellants' brief within the reglementary period in violation of Section 1(e), Rule 50; (2) failure to file the motion for extension before the expiration of the time sought to be extended, contrary to Section 12 of Rule 44; and (3) failure to follow the rule on pretermission of holidays by stubbornly insisting that the motion for extension was only one day late, when in truth and in fact, it was three days late, under Section 1 of Rule 22 of the Rules of Court.

However, in the instant case, we are of the view that the ends of justice will be better served if it is determined on the merits, after full opportunity is given to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections.[15] It is far better to dispose of the case on the merits, which is a primordial end, rather than on a technicality that may result in injustice.[16]While it is desirable that the Rules of Court be faithfully observed, courts should not be too strict with procedural lapses that do not really impair the proper administration of justice. The rules are intended to ensure the proper and orderly conduct of litigation because of the higher objective they seek, which is the attainment of justice and the protection of substantive rights of the parties.[17]In Republic v. Imperial,[18] the Court, through Mr. Chief Justice Hilario G. Davide, Jr., stressed that the filing of the appellant's brief in appeals is not a jurisdictional requirement. But an appeal may be

dismissed by the CA on grounds enumerated under Rule 50 of the Rules of Court. The Court has the power to relax or suspend the rules or to except a case from their operation when compelling reasons so warrant, or when the purpose of justice requires it. What constitutes good and sufficient cause that will merit suspension of the rules is discretionary upon the court.[19]

In the case at bench, without touching on the merits of the case, there appears a good and efficient cause to warrant the suspension of the rules. Petitioners' failure to file the appeal brief within the extended period may have been rendered excusable by force of circumstances. Petitioners had to change their counsel because he was appointed judge of the Municipal Circuit Trial Court. Their new counsel had to go over the six (6) volumes of the records of the case to be able to file an intelligent brief. Thus, a few days of delay in the filing of the motion for extension may be justified. In addition, no material injury was suffered by the appellees by reason of the delay in the filing of the brief.

Dismissal of appeals on purely technical grounds is not encouraged. The rules of procedure ought not to be applied in a very rigid and technical sense, for they have been adopted to help secure, not override, substantial justice.[20] Judicial action must be guided by the principle that a party-litigant should be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities.[21] When a rigid application of the rules tends to frustrate rather than promote substantial justice, this Court is empowered to suspend their operation.[22]

WHEREFORE, the instant petition is hereby GRANTED; the Resolutions of September 17, 1998 and December 18, 1998 of the Court of Appeals are SET ASIDE; petitioners' appeal is REINSTATED; and the instant case is REMANDED to the Court of Appeals for further proceedings.

SO ORDERED.

Austria-Martinez (Acting Chairperson), Azcuna, Tinga, and Chico-Nazario., JJ concur.

* Additional Member pursuant to Administrative Circular No. 84-2007.

** In lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 497, dated March 14, 2008.

[1] Penned by Judge Pedro S. Espina; rollo, pp. 295-303.

[2] Id. at 302-303.

[3] CA rollo, pp. 266-267.

[4] Penned by Associate Justice Quirino D. Abad Santos, Jr., with Associate Justices Ruben T. Reyes and Hilarion L. Aquino, concurring; CA rollo, pp. 282-283.

[5] Id.; the CA granted the motion of Atty. Ruben Zara for withdrawal as counsel for the petitioners in a Resolution dated September 14, 1993. (CA rollo, p. 153)

[6] CA rollo, p. 288.

[7] Id. at 298.

[8] Id. at 295.

[9] Id. at 301.

[10] Id.

[11] Penned by Associate Justice Quirino D. Abad Santos, Jr., with Associate Justices Omar U. Amin and Candido V. Rivera, concurring; rollo, pp. 30-31.

[12] Id.

[13] Supra note 4.

[14] RULES OF COURT, Rule 45.

[15] *Serrano v. Gallant Maritime Services, Inc.*, 455 Phil. 992, 998 (2003).

[16] Id.

[17] *Vette Industrial Sales Co, Inc. v. Cheng*, G.R. Nos. 170232 and 170301, December 5, 2006, 509 SCRA 532, 543.

[18] 362 Phil. 466 (1999).

[19] Id. at 476-477.

[20] *Remulla v. Manlongat*, G.R. No. 148189, November 11, 2004, 422 SCRA 226, 236.

[21] Supra note 15.

[22] Supra note 17.

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