

**RAMON ISIDRO P. LAPID AND GLADYS B. LAPID, IN BEHALF OF
THEIR MINOR CHILD CHRISTOPHER B. LAPID, PETITIONERS, VS.
HON. EMMANUEL D. LAUREA, PRESIDING JUDGE OF RTC, BR. 169,
MALABO...**

G.R. No. 139607. October 28, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In this petition for review, petitioners assail the resolution[1] dated June 1, 1999, of the Court of Appeals in CA-G.R. SP No. 52970 dismissing their special civil action for certiorari, and also its resolution dated August 4, 1999, denying their motion for reconsideration.

The factual antecedents of this petition are as follows:

Spouses Ramon Isidro P. Lapid and Gladys B. Lapid are the parents of seven-year-old Christopher B. Lapid, who was a Grade 1 pupil of the respondent school, St. Therese of the Child Jesus, a private educational institution providing preschool and elementary education at Malabon, Metro Manila. Private respondents Esperanza N. Prim, Norilyn A. Cruz, Flordeliza C. Santos and Macario B. Binondo are its directress, teacher-in-charge, guidance counselor and principal, respectively.

On May 8, 1998, petitioners filed a complaint for damages against the private respondents before the Regional Trial Court (RTC), Malabon, Metro Manila, Branch 169, docketed as Civil Case No. 2839 MN.[2]

In their complaint, the Lapid spouses averred that on November 5, 1997, Mrs. Lapid went to St. Therese and looked for Ms. Norilyn A. Cruz, Christopher's classroom teacher. The directress, Mrs. Esperanza N. Prim, prohibited her from seeing Ms. Cruz so as not to disrupt ongoing classes. Mrs. Prim advised Mrs. Lapid to return later that day. On her return, Mrs. Lapid was surprised to see that a letter prepared by Mr. Binondo, the school principal, was already waiting for her, apprising her of Christopher's suspension for five days effective the following day or on November 6, 1997.

Petitioners averred that their son was summarily dismissed from school sans notice and hearing. Petitioners denied any knowledge of the alleged letters of complaint filed by the parents whose children were allegedly offended by Christopher. As a result of the strained relations between the Lapids and the school management, Christopher was transferred to a different school immediately thereafter.

Petitioners then filed a letter-complaint with Hon. Antonio Nachura, Undersecretary of the Department of Education, Culture & Sports (DECS), assailing the respondent school's refusal to admit their son in his class. Petitioners also demanded an investigation of the circumstances leading to their son's suspension. This letter-complaint was later indorsed to the DECS Hearing Officer of Valenzuela, Metro Manila. At the hearing, petitioners demanded a written retraction and a public apology from the school officials, copy furnished the DECS. The school officials, however, refused. This compelled petitioners to file the present case for damages.

According to petitioners, the school's malicious imputation against their son tarnished their good name and reputation. Petitioners said Mr. Lapid is a Bachelor of Laws graduate, a college professor, and Branch Clerk of Court of the Metropolitan Trial Court, Branch 41, Quezon City; while Mrs. Lapid is an account analyst at the Philippine Airlines Administrative Office in Makati, and both of them belonging to good and reputable families. They prayed for moral damages in the amount of One Million Pesos (P1,000,000), exemplary damages in the amount of P100,000, and another P100,000 for actual and consequential damages.[3]

In their answer, respondent school officials stated that as early as June 1997, Ms. Cruz had been sending them letters regarding Christopher's mischief in school, as evidenced by the letters dated June 20, 1997 and June 25, 1997. According to said respondents, Christopher had committed serious infractions when he hurt not only his classmates but also his classroom teacher, Ms. Cruz, and one school employee. They added that at one time, Christopher stabbed a classmate with a pencil, and at another time, he hit a teacher with a backpack. These incidents were all recorded by Ms. Cruz and reported to the Guidance Counselor, Mrs. Flordeliza C. Santos.

Private respondents added in their answer that on several occasions, the parents of students offended by Christopher lodged complaints with the school against Christopher, urging the administration to impose appropriate disciplinary action on him. After most of these incidents, averred private respondents, Ms. Cruz had called up petitioners' house to acquaint them with these complaints. Said phone calls were received, often by Mrs. Gloria Manapat Bautista, grandmother and guardian de facto of Christopher. Private respondents lamented, however, that all their efforts to reach the Lapid spouses personally turned out to be futile.

On November 18, 1998,[4] petitioners filed a motion to declare respondent school as in default, which motion was denied by the trial court in an order dated February 9, 1999.[5] Petitioners moved for a reconsideration, but said motion was likewise denied on March 11, 1999.[6]

With the denial of their motion for reconsideration, petitioners filed a petition for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 52970.

In a resolution June 1, 1999, the appellate court dismissed the petition for failure to indicate the material date, particularly the date of filing of motion for reconsideration with the RTC, as required by Supreme Court Circular No. 39-98, amending Section 3 of Rule 46 of the 1997 Rules of Civil Procedure.[7]

In the appellate court's view, this formal requirement is needed to ascertain whether the petition was filed within the reglementary period as provided in Section 4, Rule 65 of the same rules, also as amended by SC Circular No. 39-98.[8]

Unfazed, on June 15, 1999, the petitioners filed a motion for reconsideration of the CA resolution, but still without indicating the date as to when their motion for reconsideration of the RTC order was filed. Hence, in its second assailed resolution[9] dated August 4, 1999, the appellate court denied said motion for reconsideration.

Before us, petitioners now impute error to the Court of Appeals in issuing the June 1, 1999 and August 4, 1999 resolutions, in this wise:

THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE PETITION ON GROUNDS OF PURE TECHNICALITY, FAILING TO APPRECIATE THE IMPORT OR MERIT OF THE CASE WHICH POSES THE QUESTION OF WHETHER OR NOT A CORPORATION CAN ACT WITHOUT THE EXPRESS CONCURRENCE OF ITS BOARD OF DIRECTORS.[10]

The basic issue posed before this Court is whether or not the Court of Appeals erred in dismissing the petition for certiorari filed by petitioners on the ground of formal and procedural deficiency, i.e., the petitioners' failure to

state a material date in their petition for certiorari.

Petitioners contend that it was error for the appellate court to dismiss the petition on grounds of pure technicality. This, they say, undermines the oft-repeated doctrine by this Court that the rules of procedure are used only to help secure, not override, substantial justice^[11] considering that the principal appellant is their seven-year-old son.^[12] They boldly assert that technicalities should be set aside in this case on meritorious grounds, which they have raised in the petition particularly the issue as to whether or not a corporation can act without the express concurrence of its Board of Directors.^[13]

Private respondents, for their part, staunchly maintain that petitioners' wanton disregard of the Rules of Court warrant the outright dismissal of their petition.^[14] In their memorandum, private respondents stressed that petitioners had made false statements of material dates.^[15] They add that the present petition raises factual issues that the Court cannot pass upon at the first instance.

After a careful consideration of the submissions of the parties, particularly their respective memoranda, we are constrained to agree with the ruling of the respondent appellate court which dismissed the instant petition for certiorari. We find no reversible error in the assailed resolutions of the Court of Appeals because in filing a special civil action for certiorari without indicating the requisite material date thereon, petitioners violated basic tenets of remedial law, particularly Rule 65 of the Rules of Court.

There are three material dates that must be stated in a petition for certiorari brought under Rule 65. First, the date when notice of the judgment or final order or resolution was received; second, the date when a motion for new trial or for reconsideration was filed; and third, the date when notice of the denial thereof was received. ^[16] In the case before us, the petition filed with the CA failed to indicate the second date, particularly the date of filing of their motion for reconsideration.^[17] As explicitly stated in the aforementioned Rule, failure to comply with any of the requirements shall be sufficient ground for the dismissal of the petition.

The rationale for this strict provision of the Rules of Court is not difficult to appreciate. As stated in *Santos vs. Court of Appeals*,^[18] the requirement is for purpose of determining the timeliness of the petition, thus:

The requirement of setting forth the three (3) dates in a petition for certiorari under Rule 65 is for the purpose of determining its timeliness. Such a petition is required to be filed not later than sixty (60) days from notice of the judgment, order or Resolution sought to be assailed. Therefore, that the petition for certiorari was filed forty-one (41) days from receipt of the denial of the motion for reconsideration is hardly relevant. The Court of Appeals was not in any position to determine when this period commenced to run and whether the motion for reconsideration itself was filed on time since the material dates were not stated. x x x (Italics supplied.)

Moreover, as reiterated in *Mabuhay vs. NLRC*, 288 SCRA 1, 6: "As a rule, the perfection of an appeal in the manner and within the period prescribed by law is jurisdictional and failure to perfect an appeal as required by law renders the judgment final and executory."

We are not unmindful of exceptional cases where this Court has set aside procedural defects to correct a patent injustice. However, concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to at least explain its failure to comply with the rules.^[19] In the instant case, the petition was bereft of any persuasive explanation as to why petitioners Ramon and Gladys Lapid failed to observe procedural rules properly. The record shows that through their counsel they failed not only once but twice to indicate the material date required by law. Counsel for petitioners had all the opportunity to comply with the rules, but counsel remained obstinate in her non-observance thereof even when she sought reconsideration of the ruling of the respondent court dismissing her clients' petition.^[20] Such obstinacy is inconsistent with her late plea for liberality in construing the rules on certiorari. Thus, any further delay that would inadvertently result from the

dismissal of the instant petition is one purely of petitioners' own making, considering that it is an elementary principle in law that negligence of counsel binds the client.[21]

We find unsatisfactory the explanation of petitioners, through counsel, that they have not come across said Circular No. 39-98 at the time of the filing of the petition in the CA.[22] On one hand, law practitioners and all lawyers, for that matter, should be fully conversant with the requirements for the institution of certiorari proceedings under Rule 65 of the Revised Rules of Court. On the other hand, *ignorantia legis non excusat*. [23] Ignorance in this regard encompasses not only substantive but also procedural laws.

A final note. Members of the bar are reminded that their first duty is to comply with the rules of procedure, rather than seek exceptions as loopholes. Technical rules of procedure are not designed to frustrate the ends of justice. These are provided to effect the prompt, proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets. Utter disregard of these rules cannot justly be rationalized by harking on the policy of liberal construction.[24]

All told, no reversible error can be ascribed to the Court of Appeals for dismissing the petition for certiorari and later denying the petitioners' motion for reconsideration.

WHEREFORE, the instant petition is DENIED. The assailed resolutions of the Court of Appeals dated June 1, 1999 and August 4, 1999 in CA-G.R. SP No. 52970 are AFFIRMED. Cost against petitioners.

SO ORDERED.

Bellosillo, Acting C.J., (Chairman), Mendoza, and Callejo, Sr., JJ., concur.
Austria-Martinez, J., on leave.

[1] Rollo, pp. 23-25.

[2] Id. at 9.

[3] Id. at 34-37.

[4] Id. at 53.

[5] Id. at 59.

[6] Id. at 64.

[7] SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. x x x

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x x x x x x

[8] SEC. 4. Where and when petition to be filed. -- The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court.

x x x x x x x x

If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

[9] Rollo, pp. 27-28.

[10] Id. at 13.

[11] Id. at 14.

[12] Id. at 17.

[13] Ibid.

[14] Id. at 153-154.

[15] Rollo, p. 152.

[16] Santos vs. Court of Appeals, G.R. No. 141947, July 5, 2001, p. 7.

[17] See CA Rollo, p. 4.

[18] Supra, note 15 at p. 8.

[19] Banco Filipino Savings and Mortgage Bank vs. Court of Appeals, 334 SCRA 305, 318 (2000).

[20] See CA Rollo, pp. 69-73.

[21] See Del Mar vs. Court of Appeals, G.R. No. 139008, March 13, 2002, p. 10.

[22] Rollo, p. 16.

[23] Intengan vs. Court of Appeals, G.R. No. 128996, February 15, 2002, p. 13.

[24] Santos vs. Court of Appeals, G.R. No. 141947, July 5, 2001, p. 8.

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