

ROSA YAP PARAS AND VALENTE DY YAP, PETITIONERS, VS. JUDGE ISMAEL O. BALDADO, REGIONAL TRIAL COURT BRANCH 45, BAIS CITY AND JUSTO DE JESUS PARAS, RESPONDENTS.

G.R. No. 140713. March 08, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Petitioners seek the setting aside of two resolutions of the Court of Appeals (Fourteenth Division)[1], dated June 23, 1999 and October 13, 1999, respectively, which dismissed their petition for certiorari in CA-G.R. SP No. 53059 for failure to comply with the requirements of Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

The dismissed petition for certiorari prayed for the Court of Appeals to order the inhibition by herein respondent judge Ismael O. Baldado, presiding judge of Branch 45 of the Regional Trial Court, Bais City, in Special Civil Case No. 97-025-BY, entitled "Justo J. Paras vs. Rosa Yap Paras and Valente D. Yap". This special proceeding sought the declaration of Justo Paras as sole administrator of the conjugal properties of his marriage with petitioner Rosa Yap Paras, pending the resolution of their case for annulment of marriage.[2]

Shortly after respondent judge set the case for annual conference, petitioners filed a motion to inhibit[3] on the ground that respondent judge had been a former partner in private respondent's law firm. Petitioners also cited the decision of the Supreme Court in *Evangeline Dinapol vs. Judge Ismael Baldado*, Adm. Matter RTJ-92-898, dated August 5, 1993, to show that respondent judge had been previously found to have exhibited a bias towards relatives of former Congressman Jerome Paras, who allegedly sponsored his appointment to the judiciary. The motion to inhibit was denied in an order dated January 15, 1999; to this order a motion for reconsideration was filed, and was denied on March 9, 1999. Hence, the filing of the petition for certiorari with the Court of Appeals.

The dismissal by the Court of Appeals was set out in the questioned resolution of June 23, 1999 in this manner:

Considering that the impugned Order of the Court a quo dated January 15, 1999 which is attached to the instant petition for certiorari, prohibition and mandamus with prayer for a Temporary Restraining Order is merely a plain xerox copy (Vide Annex "H", p. 54, Rollo) and not a certified true copy thereof as required by Section 1 of Rule 65 of the 1997 Rules of Civil Procedure, and further in view of the provision of Section 3, Rule 46 of the same rules that failure to comply with any of the requirements shall be sufficient ground for dismissal, the Court RESOLVES to DISMISS the instant petition.

SO ORDERED.[4]

Petitioners moved for reconsideration, maintaining that they fully complied with Section 1, Rule 65 of the 1997 Rules of Civil Procedure, since "duplicate original copies and certified true copies of the impugned (RTC) order" were attached to their petition.[5] In their motion for reconsideration, they also attached certified true copies of the RTC orders subject of their petition for certiorari, praying that these be admitted and be deemed as compliance with Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

In the resolution of October 13, 1999, the Court of Appeals denied petitioners' motion for reconsideration on these bases:

An inquiry into the copies of the petition filed in this case shows that the copies of the impugned Order attached therein were not certified in accordance with Rule 46, Section 3 of the 1997 Rules of Civil Procedure, as amended, i.e., by the clerk of court or by his duly authorized representative, but merely by a notary public.

Furthermore, the Court cannot accept petitioners' subsequent compliance absent any compelling reason for their failure to do so in the first instance, and considering further that the submission of the certified true copies were made beyond the original sixty (60) day period within which to file the petition.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby DENIED.

SO ORDERED.[6]

Aggrieved, petitioners filed the instant petition for review on certiorari, alleging that the dismissal by the Court of Appeals of their petition for certiorari on a perceived procedural flaw violated their rights to due process and to an impartial tribunal, and would result in gross injustice.[7] Petitioners stated that the Court of Appeals had unduly deprived them of the opportunity to establish the merits of their petition, as a consequence of which Special Civil Case No. 97-025-BY would continue to be heard by respondent judge who was obviously partial to private respondent Justo Paras.

Meanwhile, private respondent contends that the Court of Appeals was justified in refusing to give the petition due course because compliance with the provisions of Section 1, Rule 65 of the 1997 Rules of Civil Procedure is mandatory and jurisdictional.[8] He further states that the petition before the Court of Appeals was patently unmeritorious and intended plainly for delay.

As such, the sole issue elevated for the consideration of this Court is whether the dismissal of the petition for certiorari by the Court of Appeals, on the ground that petitioners failed to comply with the requirement to attach duplicate original or certified true copies of the assailed order or judgment, was proper and warranted under the circumstances.

The filing of original actions for certiorari in the Court of Appeals is governed by Section 3, Rule 46 of the 1997 Rules of Civil Procedure, which requires that the petition for certiorari "be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof xxx". The same Section provides that "the failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition."

At the same time, the Rules of Court encourage a reading of the procedural requirements in a manner that will help secure and not defeat justice. Thus:

Section 6. Construction. --- These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[9]

As expressed in *Alberto vs. Court of Appeals*,[10] "(w)hat should guide judicial action is the principle that a party-litigant is to 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. xxx (T)he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed."

This is not to state that procedural requirements are to be taken lightly. The Court has had several occasions to hold that "rules of procedure, especially those prescribing the time within which certain acts must be done, `have

oft been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business. xxx The reason for rules of this nature is because the dispatch of business by courts would be impossible, and intolerable delays would result, without rules governing practice xxx . Such rules are a necessary incident to the proper, efficient and orderly discharge of judicial functions." [11] Thus, we have held that the failure to perfect an appeal within the prescribed reglamentary period is not a mere technicality, but jurisdictional. [12]

In the instant case, the flaw consisted of the failure to attach certified true copies of the impugned RTC orders to the petition for certiorari. A "certified true copy", as used in Section 3, Rule 46 of the 1997 Rules of Civil Procedure, is one the certification on which was made by the proper clerk of court or his duly authorized representative. The Court of Appeals was, therefore, correct in disregarding the copies of the RTC orders "certified to" by a notary public as "plain xerox cop(ies)". However, the records reveal that duplicate original copies of the said RTC orders were in fact attached to one of the seven copies of the petition filed with the Court of Appeals; [13] moreover, copies of the same orders, this time accomplished by the clerk of court, were submitted by petitioners in their motion for reconsideration. Thus, the Court finds that there was substantial compliance with the requirement and the Court of Appeals should have given the petition due course.

"Cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be served better." [14]

Moreover, in Cusi-Hernandez vs. Diaz, G.R. No. 140436, July 18, 2000, we observed that the Court of Appeals in its Revised Internal Rules does provide a certain leeway for parties to submit additional documents, as it may find necessary to promote the ends of substantial justice. Thus:

When a petition does not have the complete annexes or the required number of copies, the Chief of the Judicial Records Division shall require the petitioner to complete the annexes or file the necessary number of copies of the petition before docketing the case. Pleadings improperly filed in court shall be returned to the sender by the Chief of the Judicial Records Division. [15]

The remedy for petitioners' shortcoming was warranted by the above provisions.

WHEREFORE, the resolutions of the Court of Appeals dated June 23, 1999 and October 13, 1999 are SET ASIDE. The case is REMANDED to the Court of Appeals which is DIRECTED to reinstate and give due course to the petition for certiorari in CA-G.R. No. SP-53059, and to decide the same on the merits.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Composed of Associate Justice Ramon A. Barcelona (Division Chairman and ponente), Associate Justice Demetrio G. Demetria and Associate Justice Mercedes Gozo Dadole.

[2] At the time of filing of the instant petition, the action for annulment of marriage was pending with the Court of Appeals as CA G.R. No. CV-49915.

[3] Annex "D" to Petition; Rollo, 68.

[4] CA Resolution dated June 23, 1999; Rollo, 130-131.

[5] Petitioners' Motion for Reconsideration; Rollo, 133.

[6] CA Resolution dated October 13, 1999; Rollo, 161-162.

[7] Petition; Rollo, 13-14.

[8] Comment; Rollo, 167.

[9] Sec. 6, Rule 1, Revised Rules of Court.

[10] G.R. No. 119088, June 30, 2000. Citing *Ginete vs. Court of Appeals*, 296 SCRA 38.

[11] *Lazaro vs. Court of Appeals*, G.R. No. 137761, April 6, 2000, citing *Shioji vs. Harvey*, 43 Phil. 333. See also *Almeda vs. Court of Appeals*, 292 SCRA 587.

[12] *Republic vs. Court of Appeals*, G.R. No. 129846, January 18, 2000.

[13] Annexes "H" and "J" to Petition for Certiorari to CA; Records of the Case, 54-60, 74.

[14] *Republic vs. Court of Appeals*, 292 SCRA 243.

[15] Section 3(d), Rule 3, Revised Internal Rules of the Court of Appeals.

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