

**MINDANAO SAVINGS AND LOAN ASSOCIATION, INC., PETITIONER,  
VS. VICENTA VDA. DE FLORES, AND HEIRS OF FLORENCIO FLORES,  
SR., NAMELY, EDNA FLORES EISEIDEL, BELINDA FLORES,  
FLORENCIO ...**

*G.R. NO. 142022. September 07, 2005*

Ponente: GARCIA, J.

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**GARCIA, J.**

Under consideration is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the twin resolutions dated October 27, 1999[1] and February 15, 2002[2] of the Court of Appeals which respectively dismissed petitioner's appeal from an earlier decision of the Regional Trial Court at Malaybalay, Bukidnon for failure to file its appellant's brief on time, and denied petitioner's motion for reconsideration of the dismissal resolution.

Records reveal the essential following facts:

During his lifetime, or more specifically on December 9, 1982, Florencio Flores, Sr., husband of respondent Vicenta Vda. De Flores and predecessor-in-interest of the other respondents, entered into a Joint Venture Agreement with DS Homes, Inc. (DSHI) for the development and commercial utilization of the Flores spouses' two (2) adjoining lots located at the center of the town of Malaybalay, Bukidnon. Pursuant to the Joint Venture Agreement, Flores, Sr., as capitalist partner, secured a loan of P1.5M from petitioner Mindanao Savings and Loan Association, Inc. (MSLAI) using as collaterals therefor the two (2) aforementioned lots. Under the same agreement, DSHI, as industrial partner, shall have the full and complete authority to pursue the development project and the management thereof thereafter.

In time, out of the loan secured by Flores, Sr. from petitioner, a commercial building known as the Flores Building was constructed on the lots in question.

Business operations of the joint venture commenced in August, 1984. A portion of the first floor of the building was leased by DSHI to petitioner which used the space as office of its branch at Malaybalay, Bukidnon, while the rest of the same floor were occupied by a fastfood establishment, a drugstore and a grocery. The second floor of the building was used as a function room and the third floor as lodging inn.

In 1986, the joint venture suffered severe business reversals on account of which DSHI discontinued the management of the Flores Building, prompting respondents to take over its operations.

Meanwhile, on August 31, 1990, petitioner MSLAI, then operating under the name "Davao Savings and Loan Association", was placed by the Monetary Board of the Central Bank under receivership of the Philippine Deposit Insurance Corporation (PDIC) which was later designated by the Monetary Board as liquidator of the already insolvent MSLAI.

On November 10, 1992, respondents received from PDIC a demand letter for the payment of an outstanding obligation in the staggering amount of P23,756,477.61 as of October 31, 1992.

Unable to believe that the original loan of P1.5M obtained by their predecessor could have reached that much, respondents then filed with the Regional Trial Court at Bukidnon a complaint for Accounting and Liquidation of Joint Venture, Annulment of Loan & Mortgages and Damages thereat docketed as Civil Case No. 2138. Impleaded as defendants in the case were, among others, DSHI, petitioner MSLAI and one Francisco D. Villamor and other officers of DSHI.

Albeit not a party to the Joint Venture Agreement, petitioner MSLAI was impleaded as a party-defendant, it being respondents' allegation that petitioner and DSHI were practically one and the same, as in fact defendant Francisco Villamor was the general manager of both corporate entities and that although the two (DSHI and MSLAI) are separate and distinct corporations, they acted as one in the implementation and execution of the Joint Venture Agreement under the effective direction and control of Francisco Villamor who was the moving force in the manipulations of the loans and dissipation of the funds of the joint venture.

In its answer, petitioner maintained that it is a separate and distinct corporation from DSHI, adding that respondents have no cause of action against it as it is never a party to the Joint Venture Agreement between DSHI and respondents' predecessor-in-interest.

In a decision dated January 26, 1998,[3] the trial court, upon a finding that [T]he sum total of the foregoing evidence abundantly demonstrates further the unity of the corporate defendants and how they manipulated the loan and the funds of the joint venture, about which petitioner MSLAI failed to refute plaintiffs' extensive evidence making out a strong case of piercing the veil of corporate fiction against it and DSHI, rendered judgment for the respondents, thus:

WHEREFORE, judgment is hereby entered:

- Declaring that the accounting and/or liquidation of the Joint Venture Agreement entered into by the late Dr. Florencio Flores, Sr., and the Davao Homes, Inc., dated December 9, 1982, to be already deemed made and terminated. Accordingly, no party or parties shall receive any award of income/share.
- All income generated by the Flores building beginning 1986 shall henceforth exclusively belong to plaintiffs.
- Annuling and declaring null and void the said Joint Venture Agreement.
- Declaring the Flores building which was built under the Joint Venture agreement, aforementioned, in the exclusive ownership of plaintiffs, free from all aliens and encumbrances.
- Annuling and declaring VOID the contract of loan, together with the corresponding promissory notes (marked Exhibit "1" to "1-10"), and the real mortgage (marked Exhibits "J" to "J-3") executed by Dr. Florencio Flores and Vicenta Flores, as principal borrower, in favor of defendant Bank (Mindanao Savings and Loan Association) as creditor.
- No party is entitled to any award of damages including costs.

SO ORDERED.

On February 4, 1998, petitioner MSLAI filed with the trial court a Notice of Appeal by reason of which the records of the case were elevated to the Court of Appeals.

On February 29, 1999, the appellate court issued a notice to the parties requiring them to file their respective briefs within 45 days from receipt thereof.

On June 21, 1999, the office of the Chief Legal Counsel of the PDIC, as counsel for petitioner MSLAI, entered its appearance in the appellate court and filed a motion for a 45-day extension of time to file appellant's brief.

In its Resolution of August 11, 1999, the appellate court favorably acted on petitioner's motion and accordingly granted petitioner forty-five (45) days from June 21 or until August 5, 1999, within which to file its appellant's brief.

Come August 5, 1999, but no appellant's brief was filed by petitioner. Instead, on August 25, 1999, or way beyond the period given by the appellate court, petitioner filed a Motion to Admit, therein praying that the appellant's brief thereto attached be admitted.

In its challenged Resolution dated October 27, 1999, the appellate court denied admission of the proffered Appellant's Brief for being filed twenty (20) days late, and consequently dismissed petitioner's appeal.

Its motion for reconsideration having been denied by the appellate court in its subsequent Resolution of February 15, 2000, petitioner is now with us via the instant recourse on the following assigned errors, which perplexingly, are actually an assault against the decision of the trial court and not the challenged resolutions of the Court of Appeals. We quote the assigned errors:

THE LOWER COURT ERRED IN ANNULING AND DECLARING VOID THE CONTRACT OF LOAN AND THE REAL ESTATE MORTGAGES EXECUTED BY SPOUSES DR. FLORENCIO FLORES AND VICENTA FLORES.

THE LOWER COURT ERRED IN PIERCING THE VEIL OF CORPORATE FICTION OF MSLAI AND DSHI.

THE LOWER COURT ERRED IN ANNULING THE JOINT VENTURE AGREEMENT AND DECLARING RESPONDENTS AS THE EXCLUSIVE OWNER OF THE FLORES BUILDING FREE FROM ALL LIENS AND ENCUMBRANCES.[4]

At the outset, let it be made clear that in petitions for review on certiorari under Rule 45 of the Rules of Court, the "errors" which are reviewable by this Court are only those committed by the Court of Appeals and not directly those of the trial court.

It is thus unfortunate that the Office of the Chief Legal Counsel of the PDIC, as petitioner's counsel in this case, is evidently unaware of how appellate proceedings before this Court go.

As we see it, the sole question before us is the propriety of the appellate court's resolution dismissing petitioner's appeal on account of petitioner's failure to file its appellant's brief on time, and not the desired relaxation of procedural rules regarding reglementary periods.

We must emphasize that review is not a matter of right. Accordingly, there should be strict adherence to Rule 45 of the Rules of Court, Section 6 of which delineates the grounds for the allowance of review to avoid delays in the enforcement of final judgments and orders of lower courts, to wit:

SEC. 6. Review discretionary. - A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

(a) When the court a quo has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or

(b) When the court a quo has so far departed from the accepted and usual course of judicial proceedings, or so

far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.

Petitioner attempts to justify its tardiness by claiming that its handling counsel who resigned from PDIC on July 30, 1999 failed to turn over the subject case to another lawyer for re-assignment.

This excuse is not only flimsy but utterly lame.

It bears emphasizing that petitioner is represented by no less than the Office of the Chief Legal Counsel of the PDIC which has, at its helm and command, a battery of lawyers. As pointed out by respondents, on July 7, 1999, the handling counsel tendered his resignation from PDIC effective on July 30, 1999.[5] Petitioner, therefore, had 29 days from July 7, 1999, or until August 5, 1999, the last day for filing the subject brief. During those 29 days, petitioner had the luxury of time to file its appellant's brief, or, at the very least, ask for another extension from the appellate court. It did not.

Petitioner ought to be reminded that procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to the parties' substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons as when "transcendental matters" of life, liberty or state security are involved.

True, litigation is not a game of technicalities. It is equally true, however, that every case must be presented in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.[6]

Doubtless, and judging from the very nature of petitioner's assigned errors, the instant petition was resorted to as a substitute for the lost remedy of appeal. This cannot be allowed, more so when, as here, such loss is occasioned by petitioner's own neglect.

WHEREFORE, the instant petition is DENIED.

Costs against petitioner.

**SO ORDERED.**

Panganiban (Acting Chief Justice) (Chairman), Sandoval-Gutierrez, and Corona, JJ., Concur  
Carpio Morales J. On Official Business

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[1] Penned by then Associate Justice Eloy R. Bello, Jr. with Associate Justices Jinal D. Rasul (ret.) and Ruben T. Reyes, concurring; Rollo, pp. 99-100.

[2] Rollo, pp. 52-53.

[3] Rollo, pp. 54-56.

[4] Rollo, pp. 31-32.

[5] Rollo, p. 101.

[6] *Casolita v. Court of Appeals*, 275 SCRA 2257 [1997].

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