MARISON C. BASUEL, PETITIONER, VS. FACT-FINDING AND INTELLIGENCE BUREAU (FFIB) REPRESENTED BY DIRECTOR AGAPITO B. ROSALES, RESPONDENT.

G.R. NO. 143664. June 30, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

Petitioner Marison Basuel assails in this petition for review on certiorari under Rule 45 of the Rules of Court the resolution[1] dated June 14, 2000 of the Court of Appeals (CA) in CA G.R. SP No. 56163. The resolution denied petitioner's motion for reconsideration of an earlier CA resolution dated March 16, 2000 which dismissed the petition for review filed by petitioner from the decision[2] of the Office of the Ombudsman in OMB-ADM-0-99-0409.

Petitioner, together with her husband, Leomar B. Basuel, and Roy Recoter, all employees of the Philippine Veterans Affairs Office (PVAO) assigned to the Management Information System Group,[3] were charged administratively for neglect of duty and dishonesty in connection with the unauthorized encoding and payment of pension checks. Based on the report[4] of respondent Fact-Finding and Intelligence Bureau, Leomar B. Basuel made unauthorized supplementary encoding of 31 checks in 1996 and 30 checks between January 1997 and January 1998 in the total amount of P1,141,682.90. The supplementary payment entries were not covered by any Memorandum of Payment or legal authority from the Finance Management Division or any other PVAO officer.

On the other hand, nine unauthorized payments in the total amount of P309,275 were found to have been entered between February 1997 and October 1997 in the Supplementary Table of petitioner. Similarly, Roy Recoter was found to have made four supplementary payments without proper authority between September and November 1997 amounting to P87,000.

In the counter-affidavit she submitted, petitioner denied the charges against her and blamed Leomar B. Basuel who purportedly used her computer access code without her knowledge or consent to make the unauthorized entries in her Supplementary Table.

After due proceedings, the Ombudsman ruled that the administrative liability of petitioner, Leomar B. Basuel and Roy Recoter was established by substantial evidence. With respect to petitioner, the Ombudsman made the following observation:

> x x x
>
> As regards respondent MARISON BASUEL [petitioner herein], although the records reveal that the nine (9) entries attributed to her appear to be covered with the corresponding Memorandum, and are thus, authorized, still she cannot escape liability for Neglect of Duty.
>
> It has been established that respondent MARISON BASUEL has been entrusted with a specific access code to enable her to use the PVAO computer. It was also established that said respondent divulged the access code to

> respondent LEOMAR BASUEL, enabling the latter to gain access to the computers and make the unauthorized entries. It need not be stated that an average person would have known that the computer access code has a specific purpose, which is to avoid unauthorized persons from gaining access to the PVAO computers. Respondent MARISON BASUEL is duty-bound to maintain the confidentiality of her access code. In revealing the same to her husband, she has shown such deficiency of perception or her failure to pay proper attention and due diligence in foreseeing the damage it might cause, which, in essence, amounts to Negligence. Notwithstanding her claim of good faith, respondent MARISON BASUEL's administrative liability for her remiss [sic] of duty has been sufficiently established. x x x [5]

Consequently, petitioner was found guilty of neglect of duty and meted a penalty of suspension for six months without pay. After petitioner's motion for reconsideration was denied by the Ombudsman, petitioner filed a petition for review[6] with the CA. The CA, however, denied the petition for failure of petitioner to comply with its resolution[7] dated December 16, 1999 which required petitioner to attach a certified true copy of the decision dated October 18, 1999 of the Office of the Ombudsman within five days from notice to her.[8] It appears that instead of submitting the same, petitioner, through counsel, filed a manifestation[9] stating that she did not have any extra copy of the decision as it was already attached to the original copy of the petition for review she filed on December 10, 1999.

Petitioner thereafter realized that her counsel had inadvertently attached the order dated November 19, 1999 instead of the Ombudsman's decision dated October 18, 1999 and so moved for reconsideration of the denial of her petition, attaching to such motion a certified true copy of the said decision. The motion, however, was denied by the CA in the assailed resolution[10] dated June 14, 2000.

Aggrieved, petitioner filed this present petition, ascribing the following errors to the CA:

> - THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ERROR IN DISMISSING THE PETITION FOR REVIEW ON TECHNICAL GROUNDS.
>
> - THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT FINDING THAT THERE ARE PERSUASIVE REASONS TO RELAX THE RIGID APPLICATION OF THE RULES. x x x[11]

Petitioner argues that there are persuasive reasons in this case which warrant a departure from the rigid application of the rules, namely: (1) the inadvertent omission of counsel in attaching the order of the Office of the Ombudsman dated November 19, 1999 instead of the decision dated October 18, 1999, despite its correct citation in the petition for review, is not attributable to petitioner; (2) the appeal has merit; and (3) respondent is not prejudiced by the appeal.

In its comment[12] dated November 29, 2000, respondent contends that there was a valid and legal basis for dismissing the petition considering that petitioner failed to attach the certified true copy of the challenged decision of the Ombudsman in violation of the applicable rules of procedure as well as the order of the CA. In any event, respondent argues that on the merits, there was negligence on the part of petitioner in not maintaining the confidentiality of the access code resulting in her husband's gaining access to her computer and making unauthorized entries.

The petition should be denied.

At the outset, it must be emphasized that the right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.[13]

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The requirements of the rules on appeal cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. To be sure, the Court will not countenance deviations from the rules. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.[14]

In the present case, it is not disputed that petitioner failed to attach to her petition a certified true copy of the decision she was appealing from which is contrary to the requirements set forth in Section 6, Rule 43 of the Rules of Court.[15] The consequence of this failure is outlined under Sections 7 and 8 of Rule 43, to wit:

> SEC. 7. Effect of failure to comply with requirements. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.
>
> SEC. 8. Action on the petition. – The Court of Appeals may require the respondent to file a comment on the petition, not a motion to dismiss, within ten (10) days from notice, or dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.[16]

It is worthy to note that instead of dismissing the petition outright, the CA gave petitioner a chance to rectify her mistake by directing her to file a copy of the decision in the resolution dated December 16, 1999. However, instead of complying with this directive, petitioner, through counsel, asserted that she had previously submitted a copy of the decision together with her original petition. Had there even been the slightest effort exerted to review the records of the case at that time that the CA called petitioner's attention, the oversight would have been immediately discovered and remedied. It is of no moment that petitioner did not have an extra copy of the Ombudsman's decision. As correctly pointed out by the CA, petitioner could have easily secured a certified true copy of the same from the Office of the Ombudsman and attached it to her petition.

It likewise does not escape the Court's notice that petitioner subsequently admits having committed the procedural infraction but asks for the relaxation of the rules considering that the negligence of her counsel is not attributable to her.

The general rule is that the mistake and negligence of counsel are binding on the client.[17] This is based on the principle that any act performed by the lawyer within the scope of the express or implied authority is regarded as an act of the client.[18] Otherwise, there would be no end to a suit so long as a new counsel could be employed who would allege and show that the prior counsel had not been sufficiently diligent, experienced, or learned.[19]

Admittedly, there have been instances when this Court accorded relief to clients who suffered by reason of their lawyer's gross or palpable mistake or negligence.[20] However, the instant case does not fall under any of the exceptions. The reasons advanced by petitioner are not compelling enough to exempt her from the application of the general rule. Contrary to petitioner's claim, the negligence of her counsel is not of such degree as to deprive her of her property without due process of law.

While the rigid application of the rules of procedure has, in the past, been relaxed so that the ends of justice may be better served, such liberality may not be invoked if it would result in the wanton disregard of the rules, and cause needless delay. Save for the most persuasive of reasons, strict compliance with the rules is enjoined to facilitate the orderly administration of justice.[21] Under the factual circumstances of this case, the negligence of petitioner's counsel does not constitute sufficient justification for a liberal application of procedural rules in her favor. In addition, to grant petitioner's request would be to fault the CA for acting in faithful compliance with the rules of procedure which that court has been mandated to observe.[22] Viewed in this light, it cannot be said that

the CA committed an error in denying the petition for being procedurally defective.

Besides, on the merits, petitioner primarily challenges the finding of the Ombudsman that she disclosed her access code to Leomar B. Basuel, which is a factual issue. Factual issues are not cognizable by this Court in a petition for review under Rule 45. In order to resolve this issue, the Court would necessarily have to look into the probative value of the evidence presented in the proceedings below. It is not the function of the Court to reexamine or reevaluate the evidence all over again.[23] This Court is not a trier of facts, its jurisdiction in these cases being limited to reviewing only errors of law that may have been committed by the lower courts.[24]

In any event, a careful perusal of the records shows that there is substantial evidence to support the Ombudsman's finding that petitioner is guilty of the offense charged against her. Incidentally, it should be emphasized that findings made by an administrative body which has acquired expertise are accorded not only respect but even finality by the Court.[25] In administrative proceedings, the quantum of evidence required is only substantial. The gauge of substantial evidence is satisfied where there is reasonable ground to believe that the petitioner is guilty of misconduct, even if the evidence might not be overwhelming.[26] Thus, absent a clear showing of grave abuse of discretion, the findings of the Ombudsman, when supported by substantial evidence, are conclusive[27] and shall not be disturbed by the Court.[28]

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Puno, Acting C.J., (Chairperson), Corona, and Garcia, JJ., concur.
Sandoval-Gutierrez, J., on official business.

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[1] CA Rollo, pp. 49-50.

[2] Records, pp. 0153-0161.

[3] The MISG is a unit of the PVAO primarily tasked to encode and print pension checks.

[4] Records, pp. 0003-0009.

[5] Records, pp. 44-45.

[6] CA Rollo, pp. 2-15.

[7] Id. at 17.

[8] Id. at 32-33.

[9] Id. at 18-19.

[10] Id. at 49-51.

[11] Rollo, p. 17.

[12] Id. at 62-79.

[13] Neypes v. CA, G.R. No. 141524, September 14, 2005, 469 SCRA 633.

[14] Baniqued v. Ramos, G.R. No. 158615, March 4, 2005, 452 SCRA 813.

[15] RULES OF COURT, Rule 43, Section 6. Contents of the petition- The petition for review shall (a) state the

full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (Emphasis supplied.)

[16] RULES OF COURT.

[17] Macondray & Co., Inc. v. Provident Insurance Corporation, G.R. No. 154305, December 9, 2004, 445 SCRA 644.

[18] Zarate v. Maybank Philippines, Inc., G.R. No. 160976, June 8, 2005, 459 SCRA 785.

[19] Saint Louis University v. Cordero, G.R. No. 144118, July 21, 2004, 434 SCRA 575.

[20] R. Transport Corporation v. Philippine Hawk Transport Corporation, G.R. No. 155737, October 19, 2005, 473 SCRA 342; APEX Mining, Inc. v. Court of Appeals, 377 Phil. 482 (1999).

[21] Cruz v. Court of Appeals, G.R. No. 156894, December 2, 2005, 476 SCRA 581.

[22] Casim v. Flordeliza, G.R. No. 139511, January 23, 2002, 374 SCRA 386.

[23] Kwok v. Philippine Carpet Manufacturing Corp., G.R. No. 149252, April 28, 2005, 457 SCRA 465.

[24] Basmayor v. Atencio, G.R. No. 160573, October 19, 2005, 473 SCRA 382; Donato C. Cruz Trading Corp. v. Court of Appeals, G.R. No. 129189, December 5, 2000, 347 SCRA 13.

[25] Advincula v. Dicen, G.R. No. 162403, May 16, 2005, 458 SCRA 696.

[26] Civil Service Commission v. Cayobit, G.R. No. 145737, September 3, 2003, 410 SCRA 357.

[27] Republic Act No. 6770, Section 27.

[28] Espinoza v. Office of the Ombudsman, G.R. No. 135775, 19 October 2000, 343 SCRA 744.

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