RONALDO GESMUNDO, REYNALDO GESMUNDO, HEIRS OF RODOLFO GESMUNDO (DECEASED) NAMELY: ZENAIDA DEL ROSARIO GESMUNDO (WIFE), HERMINIGILDA, BELINDA, JAYSON, ARNULFO AND JOAN, ALL SURNA...

G.R. NO. 147881. June 27, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the petition for review on certiorari seeking the reversal of the Resolution[1] of the Court of Appeals (CA) dated November 21, 2000 dismissing petitioners' appeal for failure to file the appellants' brief; and the CA Resolution dated March 1, 2001 denying petitioners' motion for reconsideration thereof.

This case was commenced in the Regional Trial Court of San Pablo City, Branch 32 (RTC), upon petitioners' filing of a complaint for Recovery of Property and Partition with Preliminary Mandatory Injunction against herein respondents. Petitioners alleged that respondents deprived them of their rightful shares in the estate of their deceased predecessor, Felix Gesmundo. After trial, the RTC rendered its Decision,[2] the dispositive portion of which reads as follows:

> WHEREFORE, decision is hereby rendered adjudging the validity of the following:
>
> a) the deeds of sale dated August 11, 1947 and January 30, 1954 the former executed by Federico Gesmundo before notary public in favor of her (sic) stepmother Salome Sahagun;
>
> b) the two (2) Deeds of Partition with sale dated February 1, 1952 and January 9, 1957 executed by all the heirs of Felix Gesmundo, Sr. before a notary public;
>
> Declaring that plaintiffs [herein petitioners] have no cause of action whatsoever against herein defendants [herein respondents] as to the properties of the deceased Felix Gesmundo, Sr. as their forbears Federico Gesmundo and Manuel Gesmundo during their lifetime had ceded, transferred and conveyed all their rights, ownership and participation in the properties of Felix Gesmundo, Sr., subjects of this suit.
>
> Ordering defendants to deliver two-sixths (2/6) or one-third (1/3) portion of the parcel of land situated at Barangay Sta. Catalina under Tax Declaration No. 40-609 to the heirs of Federico Gesmundo namely Ronaldo Gesmundo, Reynaldo Gesmundo and the heirs of Rodolfo Gesmundo, namely, his wife Zenaida del Rosario Gesmundo and children Herminigilda, Belinda, Jayson, Arnulfo and Joan all surnamed Gesmundo and represented by Belinda Gesmundo as attorney-in-fact; and to the heirs of Manuel Gesmundo now Manuel Gesmundo, Sr. namely his wife Resurreccion Evangelista Gesmundo and children Melanie, Mario and Manuel, Jr., all surnamed Gesmundo represented by Manuel, Jr. as attorney-in-fact.
>
> Ordering the parties named above to conduct a subdivision of said lot covered by Tax Declaration No. 40-609 in order to determine the metes and bounds of the portions respectively belonging to them.

> All expenses to be incurred in the accomplishment of this division shall be borne proportionately by the parties.
>
> For insufficiency of evidence, claims and counterclaims of damages are ordered dismissed.
>
> Without pronouncement as to costs.
>
> SO ORDERED. [3] (Emphasis ours)

On July 12, 1999, petitioners filed a Notice of Appeal which was given due course per Order dated July 15, 1999.

However, for failure of petitioners to file their appellants' brief, the CA issued a Resolution on November 21, 2000 dismissing the appeal. Upon petitioners' motion for reconsideration, the CA then issued a Resolution dated March 1, 2001, pertinent portions of which are reproduced hereunder:

> True, appellants have dispatched their motion for reconsideration as well as their appellants' brief on December 29, 2000, which is the last day allowed by law within which to file their motion for reconsideration. It must be noted however that the carrier of the motion was the Airfreight 2100, Inc., which is admittedly a private messengerial delivery service.
>
> Section 4 of Rule 3 of the Revised Internal Rules of this Court provides:"Section 4. Other Modes of Filing. – Pleadings, motions and other papers sent by ordinary mail, by private messengerial services, or by any mode other than personal delivery or registered mail, shall be deemed filed only on the date and time they are actually received by the Court. The date and time of actual receipt shall be stamped and signed by the receiving clerk." (Underline Ours).

The subject omnibus motion for reconsideration was received by this Court on January 3, 2001 at 10:59 a.m. This means that the said pleading was filed only on January 3, 2001, and not on December 29, 2000 which is the date of its dispatch. Stated otherwise, the omnibus motion was filed five (5) days late.

WHEREFORE, for having been filed out of time, the omnibus motion for reconsideration is DENIED and the appellants' brief thereto attached is DENIED ADMISSION. Our dismissal resolution of November 21, 2000 is thus REITERATED. Said resolution having become final and executory, the Division Clerk of Court is hereby ordered to make the corresponding entry of judgment.

SO ORDERED.[4]

Hence, this petition for review on certiorari on the ground that the CA erred in dismissing the appeal and denying petitioners' omnibus motion for reconsideration.

Petitioners' first argument is that the CA failed to consider the reason advanced by the petitioners for the delay in filing the appellants' brief, i.e., that the law firm's regular secretary suffered a stroke and a new one had to be hired to take over the tasks of the regular secretary, hence, there was some delay in submitting the appellants' brief. Secondly, petitioners contend that the CA should have considered the fact that December 29, 2000 was a Friday and the last working day of the month, December 30, 2000, Saturday was Rizal Day, a holiday, December 31, 2000 was a Sunday, January 1, 2001 was New Year's Day, and January 2, 2001 was also declared a holiday. Considering the long holiday season, petitioners argue that the CA should not have considered the filing of the motion for reconsideration as five (5) days late and should have liberally applied the rules in the interest of substantial justice.

On the other hand, respondents point out that the CA had been magnanimous to petitioners by granting the latter two extensions of time totaling 75 days[5] in addition to the original 45 days given within which to file their

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appellants' brief. Despite such liberality, petitioners still failed to file said brief. Thus, respondents emphasize that petitioners' appeal was dismissed not on purely technical grounds but for blatant violation of procedural laws.

The Court finds the petition absolutely devoid of merit.

Petitioners do not deny that they dispatched their motion for reconsideration through a private messengerial service on December 29, 2000, the last day for filing of said motion, and the same was received by the CA only on January 3, 2001. Definitely, no error was committed by the CA in ruling that pursuant to Section 4 of Rule 3 of the Revised Internal Rules of the CA, the motion was deemed filed only on the date of receipt of the CA on January 3, 2001, which was already beyond the fifteen-day reglementary period. Petitioners, however, insist that the CA should have been lenient in applying the foregoing rule in the interest of substantial justice.

Petitioners' asseveration deserves scant consideration. Pelayo v. Perez[6] is closely analogous to the present case. Petitioners in Pelayo also sent their motion for reconsideration of the decision of the CA through a private messengerial service, hence, said motion was deemed filed on the date of actual receipt thereof. The CA ruled that the motion was filed beyond the reglementary period. In said case, this Court ruled thus:

> Petitioners never denied the CA finding that their motion for reconsideration was filed beyond the fifteen-day reglementary period. On that point alone, the CA is correct in denying due course to said motion. The motion having been belatedly filed, the CA Decision had then attained finality. Thus, in Abalos vs. Philex Mining Corporation, we held that:x x x Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.[7] (Emphasis ours)

The foregoing ruling finds exact application in the present case.

First of all, petitioners were given a total of one hundred twenty (120) days within which to file their appellants' brief. Despite the lapse of that period of time, petitioners were not able to file said brief, hence, the CA rightly dismissed their appeal in a Resolution dated November 21, 2000. Subsequently, in their Omnibus Motion praying for the reconsideration of the resolution of dismissal and the admittance of their appellants' brief, counsel for petitioners explained that they were not able to file their appellants' brief on time due to the fact that they had to hire a new secretary to replace the regular secretary who suffered a stroke. That flimsy reason is totally unacceptable and is hardly sufficient justification for petitioners' counsel's inability to finish and submit the required brief within the lengthy period of time granted by the CA.

There is likewise no cogent reason for the CA to relax the application of the rules regarding the timely filing of a motion for reconsideration. Nothing in the petition shows that, indeed, substantial justice would be served thereby.

The hornbook principle is stated in Paramount Vinyl Products Corp. v. NLRC,[8] thus:

> x x x Failure to interpose a timely appeal (or motion for reconsideration) renders the assailed decision, order or award final and executory that deprives the appellate body of any jurisdiction to alter the final judgment. x x x This rule "is applicable indiscriminately to one and all since the rule is grounded on fundamental consideration of public policy and sound practice that at the risk of occasional error, the judgment of courts and award of quasi-judicial agencies must become final at some definite date fixed by law." x x x Although, in a few instances, the Court has disregarded procedural lapses so as to give due course to appeals filed beyond the reglementary period, x x x the Court did so on the basis of strong and compelling reasons, such as serving the ends of justice and preventing a grave miscarriage thereof.

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In the present petition, no convincing argument was presented to show that the trial court erred in finding that petitioners' predecessors-in-interest had validly disposed of their shares in the estate of Felix Gesmundo, Sr. by executing a Deed of Sale dated August 11, 1947 and two deeds of partition dated February 1, 1952 and January 9, 1957, respectively, hence, petitioners only have inheritance rights over the conjugal share of the deceased first wife of Felix Gesmundo, Sr.. Verily, the instant case is not meritorious enough to deserve relaxation of the rules regarding timeliness of the filing of a motion for reconsideration.

To rule otherwise would be an injustice against respondents because as held in Apex Mining Co., Inc. v. Commissioner of Internal Revenue,[9] "just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party has the correlative right to enjoy the finality of a decision in his favor."[10]

IN VIEW OF THE FOREGOING, the petition is DENIED and the Resolution of the Court of Appeals dated November 21, 2000 and its Resolution dated March 1, 2001 are AFFIRMED.

Costs against petitioners.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Cancio C. Garcia (now Associate Justice of the Supreme Court) and concurred in by Associate Justices Romeo A. Brawner (now retired) and Andres B. Reyes, Jr.

[2] CA rollo, pp. 84-100.

[3] Id. at 99-100.

[4] Rollo, pp. 26-27.

[5] See Resolutions dated June 21, 2000 and August 2, 2000, CA rollo, pp. 25 and 29.

[6] G.R. No. 141323, June 8, 2005, 459 SCRA 475.

[7] Id. at 490.

[8] G.R. No. 81200, October 17, 1990, 190 SCRA 525.

[9] G.R. No. 122472, October 20, 2005, 473 SCRA 490, 497.

[10] Id. at 533-534.

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