

EMERITO REMULLA, PETITIONER, VS. JOSELITO DP. MANLONGAT, RESPONDENT.

G.R. No. 148189. November 11, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Rules on the perfection of appeals, particularly on the period for filing notices of appeal, must occasionally yield to the loftier ends of substantial justice and equity. In this case, the one-day delay in the filing of the Notice of Appeal was due to the senseless foot-dragging of the public prosecutor. The State must not be prejudiced or estopped by the negligence of its agents.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the November 24, 1999 Decision[2] and the May 9, 2001 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 47632. The CA disposed as follows:

“WHEREFORE, premises considered, the instant petition is hereby GRANTED. The Order dated January 8, 1998 is hereby ordered set aside. Accordingly, respondent Judge is hereby directed to give due course to the notice of appeal filed by the prosecution on December 19, 1996.”[4]

The challenged Resolution, on the other hand, denied petitioner’s Motion for Reconsideration “for the reasons that (a) [respondent] was not served a copy of said Motion; [and] (b) the page/pages subsequent to page 4 of the ‘Amended Complaint’ appended to said Motion was/were not appended thereto.”

The Facts

The CA narrated the antecedents as follows:

“[Respondent] Joselito Manlongat filed a complaint before the Office of the City Prosecutor of Makati for (1) frustrated murder against Christian Torres; (2) Ramoncito Cabreira filed a complaint against Torres for physical injuries [sic];[5] and (3) ‘other light threats’ against [petitioner Remulla, which] was later on withdrawn. Instead, a complaint for grave coercion was filed against [petitioner Remulla] by David Paras, Jeffrey Quizon and Carlos Packing, docketed as I.S. No. 94-570. x x x A separate complaint was [also] filed by [respondent] for frustrated murder against x x x Remulla as co-principal of Torres, [which complaint was] docketed as I.S. No. 94-571.

“After the preliminary investigation, Prosecutor Jaime Adoc found probable cause for frustrated murder against Torres. However, the charges for physical injuries against Torres and the charges of frustrated murder and grave coercion against x x x Remulla were dismissed. [Respondent] filed a [motion for partial] reconsideration of Prosecutor Adoc’s resolution insofar as it dismissed the complaint for frustrated murder and grave coercion against x x x Remulla. The motion was however denied. [Respondent] filed a petition for review before the Department of Justice. Meantime, the City Prosecutor filed an information for frustrated murder against Torres (Criminal Case No. 94-4264), [which case was] raffled to Branch 57, Regional Trial

Court of Makati City. Torres was arraigned and trial commenced.

“On October 4, 1995, then Secretary of Justice, Teofisto Guingona, Jr. modified Prosecutor Adoc’s resolution and instead directed to cause the indictment of x x x Remulla as co-principal of Torres in the frustrated murder case. [Petitioner] Remulla moved to reconsider the Justice Secretary’s resolution but it was denied on January 31, 1996. In consideration of the resolution of the Justice Secretary, Prosecutor Renato C. Francisco filed a motion to amend the information in Criminal Case No. 94-4264 to include x x x Remulla as Torres’ co-accused. The trial court however denied the motion to amend in its Order dated March 11, 1996. The prosecution moved to reconsider [the] order of denial but it was likewise denied on June 10, 1996.

“On August 2, 1996, the City Prosecutor’s Office of Makati filed a separate information for frustrated murder against x x x Remulla (Criminal Case No. 96-1386), which was raffled to Branch 132 of the Regional Trial Court of Makati City presided by Judge Herminio Benito. Three (3) days thereafter, or on August 5, 1996, x x x Remulla filed a Motion to Hold Issuance of Warrant of Arrest and to Dismiss/Quash [the] Information.

“On August 19, 1996, Judge Herminio Benito ordered x x x the transfer of Criminal Case No. 96-1386 to Branch 57 for consolidation with Criminal Case No. 94-4264. Accordingly, x x x Remulla re-filed his motion to Hold Issuance of Warrant of Arrest and to Dismiss/Quash [the] Information before Branch 57, to which the prosecution filed its [J]oint [O]pposition.

“On November 28, 1996, Judge Francisco X. Velez of Branch 57 ordered the dismissal of the Information against x x x Remulla on the ground of forum-shopping. The City Prosecutor’s Office of Makati received [a] copy of the order of dismissal on December 3, 1996, while [the] private prosecutors received their copy on December 5, 1996.

“On December 19, 1996, Prosecutor Andres N. Marcos filed a Notice of Appeal, impugning the aforesaid order of dismissal. On the same day, Judge Nemesio Felix, acting judge of Branch 57, in place of Judge Velez who retired, resolved to deny the Notice of Appeal on the ground that it was filed out of time. Both public and private prosecutors filed a motion to reconsider the December 19, 1996 order. x x x [Petitioner] filed his Opposition thereto.

“On April 23, 1997, acting on [respondent’s] motion for reconsideration, respondent judge, who had taken over as presiding judge of Branch 57, resolved in the interest of substantial justice, [to] set aside the December 19, 1996 order of Judge Felix and accordingly directed the entire records of the case to be elevated to [the Court of Appeals]. x x x Remulla moved for reconsideration of this order. [Respondent] opposed the motion.

“On January 8, 1998, the x x x assailed order was issued by the [trial court] judge, reversing his prior order dated April 23, 1997 and accordingly denied prosecution’s notice of appeal.”[6]

Ruling of the Court of Appeals

The appellate court ruled that the 15-day reglementary period to file a Notice of Appeal should be reckoned from December 3, 1995, the date the public prosecutor received a copy of the November 28, 1996 Order of dismissal, not on December 5, 1996, when the private prosecutor received his own copy. Accordingly, by December 19, 1996, the period to file the Notice of Appeal had lapsed.

Nonetheless, the appellate court held that the public prosecutor’s failure to file the Notice of Appeal on time was excusable. In their desire to have their appeal taken, respondent and his private counsel consulted the Office of the Solicitor General (OSG) over the apprehensions of the public prosecutor about bringing the appeal by himself. The CA added that their efforts to conform to the rule that the prosecution of criminal cases was under the direction and control of the public prosecutor should not operate to penalize private complainant.

The CA further said it was aware of the general rule that an appeal was a mere statutory privilege that could be

availed of only in the manner prescribed by law. Nonetheless, the appellate court held that the rigid application of the rule could be relaxed in the interest of substantial justice.

Hence, this Petition.[7]Issues

In his Memorandum, petitioner raises the following issues:

“I.

Whether or not the Honorable Court of Appeals gravely erred in ordering the lower court to give due course to the prosecution’s Notice of Appeal.

“II.

Whether or not the Honorable Court of Appeals seriously erred in holding that the prosecution’s failure to file the Notice of Appeal on time was excusable.

“III.

Whether or not the Honorable Court of Appeals gravely erred in denying petitioner’s Motion for Reconsideration of its assailed Decision on the grounds that petitioner failed to furnish the respondent with a copy of the petitioner’s motion for reconsideration and for failure to attach page 4 of the Amended Complaint.”[8]

These issues boil down to two: whether the CA (1) correctly gave due course to respondent’s appeal and (2) erred in denying petitioner’s Motion for Reconsideration.

The Court’s Ruling

The Petition has no merit.

First Issue:

Due Course to Notice of Appeal

Petitioner bemoans the alleged inconsistency and flip-flop of the CA. While it admitted that respondent had filed his Notice of Appeal beyond the reglementary period, it nevertheless gave due course to the appeal. Petitioner argues that no exceptional instances merited the relaxation of the rules.

On the other hand, the CA contends that the rule governing the perfection of appeals ought not to be applied very strictly when a technical and rigid enforcement would defeat the ends of substantial justice. It adds that the belated filing of a Notice of Appeal was justified and excusable.

Generally, the right to appeal is not constitutional, natural or inherent;[9] it is a mere statutory privilege to be exercised only in accordance with the provisions of the law.[10] It has thus been held that the failure to perfect an appeal in the manner and within the period allowed by law[11] renders the questioned decision final and executory and precludes the appellate court from acquiring jurisdiction to review it.[12]

However, these rules are not iron-clad. This Court is not impervious to instances when rules of procedure must yield to the loftier demands of substantial justice and equity.[13] Procedural rules are mere tools designed to facilitate the attainment of justice; their application must be liberalized to promote public interest.[14]

In a number of cases, the Supreme Court has in fact relaxed the period for perfecting an appeal, especially on grounds of substantial justice,[15] or when there are other special and meritorious circumstances and issues.[16] Verily, this Court has the power to relax or suspend the rules or to exempt a case from their rigid operation when warranted by compelling reasons and the requirements of justice.[17]

In the present case, the late filing -- by only one day -- of the prosecution's Notice of Appeal was excusable, considering respondent's diligent efforts. The CA aptly observed:

"Nonetheless, it is our view that the failure to file the [N]otice of [A]ppeal on time, considering the attendant circumstances in this case, is excusable. It does not warrant the denial of the [N]otice of [A]ppeal. In his reply to the opposition to the [M]otion for [R]econsideration of the [O]rder denying the [N]otice of [A]ppeal, reiterated in his present petition, petitioner spelled out in detail the diligence he had exerted for the timely filing of the necessary [N]otice of [A]ppeal by the public prosecutor. His asseverations, which were never disputed by the [petitioner, were as] follows:

'4. Five (5) days after the private prosecutor received [a copy of the Decision] on December 5, 1996, they sought audience with the public prosecutor to inquire if a Notice of Appeal was already filed. The public prosecutor expressed reluctance to file the Notice of Appeal until he has acquainted himself with the records of the case. Moreover, he directed the private prosecutor to refer the matter to the Office of the Solicitor General for proper disposition, it being his considered opinion that it is the OSG which represents 'the people' on appeal.

'5. The private prosecutor did so, as directed by the public prosecutor. Thus, on December 12, 1996, or seven (7) days from the time the private prosecutors received a copy of the assailed Order, a letter endorsing the case for appeal was filed with the OSG.

x x x x x x x x

'6. From the time said letter-endorsement was submitted, private prosecutors have made repeated follow-ups with the OSG regarding its disposition on the matter. Subsequently, the OSG notified the private prosecutors that it has referred the matter back to the City Prosecutor of Makati x x x, [saying] that the latter still has the requisite personality to file a [Notice of Appeal].'

"It is quite evident that [respondent] fervently intended to appeal the [O]rder of [D]ismissal of the new Information against [petitioner]. His effort to conform to the rule that prosecution of criminal cases rests on the discretion and control of the public prosecutor (Section 5, Rule 110 of the Revised Rules of Civil Procedure) should not thereafter operate to penalize him." [18]

More important, we cannot countenance any deprivation of the People of the Philippines of their day in court as a result of the public prosecutor's utterly unreasonable foot-dragging in filing the Notice of Appeal.

In pushing for the strict application of the rules, petitioner cites cases [19] that do not apply to the present controversy. Those cases have been decided on the merits; hence, for the stability of judicial processes, the importance of letting the judgments attain finality must invariably be stressed.

Such a situation does not obtain here. To recall, the criminal case against petitioner had been nipped in the bud before it could even be prosecuted. Thus, to disallow the appeal on purely technical grounds would leave the prosecution with no recourse. It would be deprived of its day in court. Recall, too, that the persistence of respondent has given the Department of Justice the opportunity to find *prima facie* merit in the former's Complaint.

Time and time again, this Court has stressed that the ends of justice would be served better when cases are determined, not on mere technicality or some procedural nicety, but on the merits -- after all the parties are given full opportunity to ventilate their causes and defenses. [20] Lest it be forgotten, dismissal of appeals purely on technical grounds is frowned upon. The rules of procedure ought not to be applied in a very rigid, technical sense, for they have been adopted to help secure -- not override -- substantial justice. [21] For this reason, courts must proceed with caution so as not to deprive a party of statutory appeal; rather, they must ensure that all litigants are

granted the amplest opportunity for the proper and just ventilation of their causes, free from the constraint of technicalities.[22]Second Issue:

Denial of Motion for Reconsideration

Petitioner charges the CA with misapprehension of the facts when it denied his Motion for Reconsideration. He alleges that the grounds it relied upon were not germane to the instant case. First, he says that copies of his Motion for Reconsideration were furnished the private prosecutor and the Office of the Solicitor General, which represents the government in appeals involving criminal cases. Second, there was no attachment to the Motion and no “Amended Complaint” or “Amended Information” submitted to the trial court. What were actually filed with the lower court, he says, were a Motion to Admit Amended Information and an Amended Information, each consisting of one page.

This Court has closely examined the Motion for Reconsideration[23] of the assailed Decision and the questioned Resolution.[24] Clearly erroneous was the second ground invoked by the CA: “the page/pages subsequent to page 4 of the “Amended Complaint” appended to the said motion was/were not appended thereto.” Nowhere in the 11-page Motion for Reconsideration is there any reference, much less any appended, “Amended Complaint.” In fact, the only Annex was a “3-page letter”[25] “endorsing the case for appeal.”

Thus, it is appropriate to remind the CA to be more careful in its language. A court must strive to ascertain the facts of each case before rendering judgments or orders, lest it open itself to charges of “gross recklessness or omission tantamount to grave abuse of discretion,”[26] as in the present case.

Be that as it may, petitioner’s Motion for Reconsideration obviously lacked merit, because it merely rehashed grounds that had already been passed upon in the assailed Decision. Hence, the Motion should indeed be denied.

WHEREFORE, the Petition is hereby DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Carpio Morales, and Garcia, JJ., concur.
Corona, J., on leave.

[1] Rollo, pp. 15-46.

[2] Id., pp. 47-55. Fourth Division. Penned by Justice Mariano M. Umali, with the concurrence of Justices Quirino D. Abad Santos Jr. (Division chairman) and Romeo J. Callejo Sr. (now a member of this Court).

[3] Rollo, p. 57.

[4] CA Decision, p. 9; rollo, p. 55.

[5] Actually, only the Complaints for (1) and (3) were filed by Respondent Manlongat. It was Ramoncito Cabreira who filed the second Complaint.

[6] CA Decision, pp. 2-4; rollo, pp. 48-50. Citations omitted.

[7] The Petition was deemed submitted for decision on August 16, 2004, upon the Court’s receipt of the Manifestation signed by respondent himself, indicating that he was no longer interested in pursuing the case, whose disposition he was leaving to the sound discretion of the Court; and that for this reason, he had not filed his Memorandum as directed by the Court in a Resolution dated July 5, 2004. The Office of the Solicitor General filed on July 4, 2003, its Memorandum signed by Assistant Solicitors General Carlos N. Ortega and Nestor J.

Ballacillo and Associate Solicitor Maricar S. A. Prudon-Sison. Petitioner's Memorandum, signed by Atty. Isidoro F. Molina, was received by the Court on November 25, 2003.

[8] Petitioner's Memorandum, p. 4; rollo, p. 621. Original in upper case.

[9] Yao v. CA, 344 SCRA 202, 214, October 24, 2000; Republic v. CA, 372 Phil. 259, 265, August 31, 1999; Lacson v. The Executive Secretary, 361 Phil. 251, 276, January 20, 1999.

[10] Producers Bank of the Philippines v. CA, 430 Phil. 812, 828, April 17, 2002; Republic v. CA, 379 Phil. 92, 98, January 18, 2000; Cabellan v. CA, 363 Phil. 460, 467, March 3, 1999; Spouses Ortiz v. CA, 360 Phil. 95, 100-101, December 4, 1998.

[11] Cuevas v. Bais Steel Corporation, 391 SCRA 192, 202, October 17, 2002; Nueva Ecija I Electric Cooperative, Inc. v. NLRC, 380 Phil. 44, 54, January 24, 2000; APEX Mining, Inc. v. CA, 377 Phil. 482, 493, November 29, 1999.

[12] Yao v. CA, supra; Dayrit v. Philippine Bank of Communications, 386 SCRA 117, 125, August 1, 2002; EGV Realty Development Corporation v. CA, 369 Phil. 911, 923, July 20, 1999.

[13] Nueva Ecija I Electric Cooperative, Inc. v. NLRC, supra.

[14] Paras v. Baldado, 354 SCRA 141, 146, March 8, 2001.

[15] Yutingco v. CA, 435 Phil. 83, 91, August 1, 2002; Tan Tiac Chiong v. Cosico, 434 Phil. 753, 760, July 31, 2002; Olacao v. NLRC, 177 SCRA 38, 49, August 29, 1989.

[16] Equitable PCI Bank v. Ku, 355 SCRA 309, 316, March 26, 2001; De Guzman v. Sandiganbayan, 326 Phil. 182, 188-189, April 11, 1996; Orata v. Intermediate Appellate Court, 185 SCRA 148, 152, May 8, 1990; Olacao v. NLRC, supra; Republic v. CA, 83 SCRA 453, 475-476, May 31, 1978.

[17] Republic v. Imperial Jr., 362 Phil. 466, 477, February 11, 1999.

[18] CA Decision, pp. 6-7; rollo, pp. 52-53.

[19] Republic v. CA, 379 Phil. 92, January 18, 2000; Batara v. CA, 360 Phil. 425, December 16, 1998; Spouses Ortiz v. CA, supra; Ortega v. CA, 359 Phil. 126, November 16, 1998; Trans International v. CA, 358 Phil. 369, October 12, 1998; Tan v. CA, 356 Phil. 1058, September 22, 1998; Almeda v. CA, 354 Phil. 600, July 16, 1998; Ditching v. CA, 331 Phil. 665, October 18, 1996; Garbo v. CA, 327 Phil. 780, July 5, 1996; Pedrosa v. Spouses Hill, 327 Phil. 153, June 14, 1996; Azores v. Securities & Exchange Commission, 322 Phil. 425, January 25, 1996; Bank of America, NT & SA v. Gerochi Jr., 230 SCRA 9, February 10, 1994; Velasco v. Ortiz, 184 SCRA 303, April 16, 1990; Edra v. CA, 179 SCRA 344, November 13, 1989; Limpot v. CA, 170 SCRA 367, February 20, 1989; Municipality of Obando, Bulacan v. IAC, 154 SCRA 363, September 29, 1987.

[20] Paras v. Baldado, supra.

[21] Jaro v. CA, 427 Phil. 532, 548, February 19, 2002.

[22] Salazar v. CA, 426 Phil. 864, 876, February 6, 2002.

[23] Rollo, pp. 305-315.

[24] Dated May 9, 2001; rollo, p. 57.

[25] Denominated as Annex "U," p. 3 of Motion for Reconsideration; rollo, p. 307.

[26] Petitioner's Memorandum, p. 18; rollo, p. 635.

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