

**GARCESA, PETITIONER, VS. MARIETTA E. LAGUARDIA, SILVERIO
“ERIC” LOZANA AND PEOPLE OF THE PHILIPPINES
RESPONDENTS.***G.R. No. 161234. April 27, 2007*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-161234/>**QUISUMBING, J.:**

This appeal seeks to reverse and set aside the Court of Appeals' Resolution dated July 31, 2002,[1] which dismissed petitioner's appeal; and another dated November 5, 2003,[2] which denied his motion for reconsideration, in CA-G.R. SP No. 71764. The appellate court dismissed the appeal of the petitioner on the ground of lack of compliance with Section 11,[3] Rule 13, and Section 2,[4] Rule 42 of the 1997 Revised Rules of Civil Procedure.

The case involves several complaints for violation of Sections 18,[5] 19,[6] and 20[7] of Presidential Decree No. 1519,[8] as amended, for the non-deduction and non-remittance of petitioner's contributions to the Social Security System (SSS) covering the period from January 1999 to November 2000. The complaints filed by petitioner on August 13, 2001 were docketed as Criminal Cases Nos. 7479, 7483 and 7484 in the Municipal Trial Court (MTC) of San Jose, Antique. Except for the months of July and August of 1999, in which Criminal Cases Nos. 7483 and 7484 were allegedly committed, the three informations filed against Marietta E. Laguardia and Silverio "Eric" Lozana,[9] for violations of Sections 18, 19, and 20 of P.D. No. 1519, are similarly worded as in Criminal Case No. 7479, as follows:

Criminal Case No. 7479**CRIMINAL COMPLAINT**

(Failure to deduct and remit contributions, March 1999)

The undersigned accuses MARIETTA E. LAGUARDIA and ERIC E. LOZANA alias Silverio Lozana of violation of Sections 18, 19 and [20] of Presidential Decree No. 1519 as Amended (Medicare Law) committed as follows:

That in or about March 1999 and for sometime subsequent thereto, in San Jose, Antique, the said accused general manager and managing supervisor, respectively of RJ CREDIT (BACOD) S[E]RVICES CORPORATION, being an (sic) employers of the undersigned complainant, a collector of said persons/corporation in San Jose, Antique, working seven days a week, from 8:00 AM up to 5 PM, for about two years (January 1999 to November 2000) at said accused lending business (Antique Branch) receiving a daily salary of Php170.00 accused conspiring and confederating together and mutually helping each other, did then and there willfully, unlawfully and knowingly fail and refuse to comply with Presidential Decree No. 1519 and with the rules and regulations promulgated by Philippine Medical Care Commission in deducting contribution from undersigned complainant's compensation and remitting employer and employee contributions to Social Security System for the month of March, 1999, defrauding the undersigned complainant and the government what are due them.

CONTRARY TO LAW.

San Jose, Antique, August _____, 2001

(Sgd.) REY GARCESA Complainant[10]

Upon order of the trial court, petitioner then filed several amended criminal complaints for violation of Sections 28[11] and 44[12] of Republic Act No. 7875,[13] also for the non-deduction and non-remittance of petitioner's SSS and Medicare contributions covering the period from January 1999 to November 2000. These amended complaints were likewise similarly worded except for the months these allegedly happened. The information for Criminal Case No. 7479 was amended as follows:

Criminal Case No. 7479

AMENDED CRIMINAL COMPLAINT

(Failure to remit contributions, March 1999)

The undersigned accuses MARIETTA E. LAGUARDIA of violation of Sections 28 and 44 of Republic Act No. 7875 committed as follows:

That in or about March 1999 and for sometime subsequent thereto, in San Jose, Antique, the said accused general manager of RJ CREDIT (BACOLOD) SERVICES CORPORATION, being an employer of the undersigned complainant, a collector of said corporation in San Jose, Antique, working seven days a week, from 8:00 AM up to 5 PM, for about two years (January 1999 to November 2000) at said accused (sic) lending business (Antique Branch) receiving a daily salary of Php170.00 accused, did then and there willfully, unlawfully and knowingly fails and refuses to comply with Republic Act. No. 7875 and/or with the rules and regulations promulgated by Philippine Health Insurance Corporation in remitting employer and employee contributions to the proper government agency or instrumentality in accordance with said RA 7875 for the month of March, 1999, defrauding the undersigned complainant and the government what are due them.

CONTRARY TO LAW.

San Jose, Antique, November 23, 2001.

(Sgd.) REY GARCESA Complainant[14]

Criminal Cases Nos. 7483 and 7484 concerned the offenses allegedly committed in July 1999 and August 1999.

In response to the complaints, the respondents filed a motion to dismiss[15] with the MTC. The motion alleged that six weeks after the original complaints were filed in court, the respondents paid all the premiums required by Rep. Act No. 7875. Thereafter, the MTC issued an Order[16] dismissing the cases on the ground that there was no showing in the record that the coverage by the National Health Insurance Program had been made compulsory in the Province of Antique.

Petitioner appealed to the Regional Trial Court (RTC) of San Jose, Antique, Branch 12. There, the cases were docketed as Criminal Cases Nos. 6563, 6567 and 6568. On May 2, 2002, the RTC rendered a Decision[17] affirming the Order of dismissal of the MTC. The RTC likewise denied the motion for reconsideration filed by the petitioner.[18] Petitioner filed a petition for review with the Court of Appeals. There, he raised the following issues:

I.

Whether or not in 1999 and 2000 in the Province of Antique nobody could be criminally prosecuted for non-payment of Medicare contributions[.]

II.

Whether or not the lower court on any ground could dismiss an amended complaint, which it ordered to be amended[.]

III.

Whether or not a private complainant could appeal his cases without written conformity of the prosecutor[.][19]

Two months after, the appellate court affirmed the actions taken by the RTC. The dispositive portion of the Court of Appeals' resolution reads as follows:

ACCORDINGLY, the instant petition is ordered DISMISSED.SO ORDERED.[20]

According to the Court of Appeals, petitioner did not explain fully why personal service was not effected, in contravention of Section 11, Rule 13 which mandates that a resort to modes of service other than personal must be accompanied by a written explanation why the service or filing was not done personally. It added that petitioner also failed to append the several complaints for violation of P.D. No. 1519, the several amended criminal complaints for violation of Rep. Act No. 7875, and the attachments stated in paragraph 3 of the motion to dismiss, which were all material portions of the records and relevant to the petition, in contravention of Section 2, Rule 42 which requires that the petition be accompanied by such other pleadings and material portions of the records as should support the allegations of the petition.

Likewise, on November 5, 2003, the Court of Appeals denied the motion for reconsideration.[21]On December 9, 2003, the petitioner filed a petition for review on certiorari before this Court.

Assigned by the petitioner as issues are the following:

I.

WHETHER OR NOT IN 1999 AND 2000 IN THE PROVINCE OF ANTIQUE NOBODY COULD BE CRIMINALLY PROSECUTED FOR NON-PAYMENT OF MEDICARE CONTRIBUTIONS[.]

II.

WHETHER OR NOT THE TRIAL COURT ON ANY GROUND COULD DISMISS AN AMENDED COMPLAINT, WHICH IT ORDERED TO AMEND[.]

III.

WHETHER OR NOT A PETITIONER COULD APPEAL HIS CASES WITHOUT WRITTEN CONFORMITY OF THE PROSECUTOR[.]

IV.

WHETHER OR NOT THE PETITION FILED WITH THE COURT OF APPEAL[S] CONFORM TO THE REQUIREMENTS OF THE RULES OF COURT[.][22]

The issues for our determination are: (1) Is nonpayment of medicare contribution a criminal offense in Antique in 1999 and 2000? (2) Did the Court of Appeals err in dismissing the petition for failure to submit the requirements of Section 11, Rule 13 and Section 2, Rule 42 of the 1997 Revised Rules of Civil Procedure? and (3) Is the prosecutor's conformity required for a petitioner to appeal his case?

We will tackle the procedural issues first.

On the issue of lack of explanation for non-personal service, petitioner states that the general public knows that

Manila and Bacolod City are far from Antique and the far distance between the aforesaid places was the reason why resort to substituted service was made. Petitioner's explanation reads: "Copy furnished to the above-named court/persons/counsels and filed with this court by registered mail, personal service is not practical." [23] Respondents, on the other hand, state that there was a violation of Section 11, Rule 13, which requires that resort to registered mail as a mode of service must come with an explanation why personal service was not practicable in the first place. The Court of Appeals averred that petitioner never gave the required explanation.

In *Musa v. Amor*, [24] which also involved the question of no personal service, we said:

... Considering the distance between the Court of Appeals and Donsol, Sorsogon where the petition was posted, clearly, service by registered mail would have entailed considerable time, effort and expense. A written explanation why service was not done personally might have been superfluous. In any case, as the rule is so worded with the use of "may," signifying permissiveness, a violation thereof gives the court discretion whether or not to consider that paper as not filed. While it is true that procedural rules are necessary to secure an orderly and speedy administration of justice, rigid application of Section 11, Rule 13 may be relaxed in this case in the interest of substantial justice. [25]

Conformably with the *Musa v. Amor* ruling, we hold that in the present case, there was substantial compliance. Considering the distance between the Court of Appeals and the Province of Antique where the petition was posted, a written explanation why service was not done personally might have been superfluous. In the interest of substantial justice, a rigid application of Section 11, Rule 13 could be relaxed in this case.

Moreover, Section 6, Rule 1 of the 1997 Revised Rules of Civil Procedure states the following:

SEC. 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.

Mindful of the aforesaid rule, we find the explanation of petitioner acceptable. At least it could be conceded that petitioner apparently did not ignore the rule. [26]

With regard to the issue of non-attachment of pleadings, petitioner states that the complaints mentioned, while not attached to the petition, were quoted in the text of the petition itself. Respondents, however, state that there was a violation of Section 2, Rule 42, which requires that the petition be accompanied by such other pleadings and material portions of the records as should support the allegations of the petition. The Court of Appeals said that the petition did not append the several criminal complaints for violation of Rep. Act No. 7875 and the attachments stated in paragraph 3 of the motion to dismiss.

Dismissal of appeals purely on technical grounds is frowned upon. [27] In the exercise of its equity jurisdiction, we may even stay an order of such kind of dismissal, especially in this case where petitioner's appeal appears worthy of the Court of Appeals' full consideration *prima facie* on the merits. [28] Here, the Court of Appeals could have easily required the parties to submit additional documents as might have been necessary in the interest of substantial justice. [29] In brief, under the circumstances of this case, it was wrong for the Court of Appeals to peremptorily dismiss the petition for failure to explain why registered mail was resorted to, and for failure of the petitioner to attach to the petition other pleadings and material portions of the records.

Well established is the doctrine that every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. [30]

Finally, on the issues of nonpayment of medicare contributions as a criminal offense and the need for the conformity of the prosecutor to appeal a case, we note that these two issues are raised as issues before the Court of

Appeals.[31] We shall not preempt the appellate court on these.

WHEREFORE, the challenged Resolutions dated July 31, 2002 and November 5, 2003 of the Court of Appeals in CA-G.R. SP No. 71764 are REVERSED and SET ASIDE. The Court of Appeals is DIRECTED to reinstate the petition and continue without delay the proceedings as the facts and the law would warrant.

No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio Morales, Tinga and Velasco, JJ., we concur.

[1] Rollo, pp. 17-19.[2] Id. at 20-21.[3] SEC. 11. Priorities in modes of service and filing. - Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

[4] SEC. 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall...(d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.[5] SECTION 18. Rates of Contributions for SSS and GSIS Health Insurance Funds. Contributions for the Health Insurance Funds by members of the SSS and GSIS shall be compulsory in accordance with the following schedule:

Monthly SalaryWage or Earnings

Contribution Base

Employer's Contribution

Employee's Contributio

P1.00 - P49.99

P 25.00

P 0.30

P 0.30

50.00 - 99.99

75.00

0.95

0.95

100.00 - 149.99

125.00

1.55

1.55

150.00 - 199.99

175.00

2.20

2.20

200.00 - 249.99

225.00

2.80

2.80

250.00 - 349.99

300.00

3.75

3.75

350.00 - 499.99

425.00

5.35

5.35

500.00 - Above

600.00

7.50

7.50

[6] SECTION 19. Collection of Contributions to the SSS and GSIS Health Insurance Funds. The employer shall deduct from his employee's monthly compensation the employee's contribution. The employee's contribution and the employer's counterpart thereof shall be remitted by the employer directly to the GSIS or the SSS, as the case may be, in the same manner as other SSS and GSIS contributions and shall be subject to the same penalties for late payment. The employer's counterpart contribution shall not in any manner be recovered from the employee. Failure of the employer to remit to the GSIS or the SSS the corresponding employee's and employer's contributions shall not be a reason for depriving the employee of the benefits of this Decree.

[7] SECTION 20. Effects of Separation from Employment. An employee who is no longer obliged to contribute under Section 19 hereof by separation from employment may continue to enjoy medical care benefits, subject to such rules, regulations and/or conditions as the Commission may prescribe. (Erroneously cited as "Section 28" in other parts of the records.)[8] Revising the Philippine Medical Care Act of Nineteen Hundred and Sixty Nine. Otherwise known as the "Revised Philippine Medical Care Act." (Erroneously cited as "R.A. No. 1519" in other parts of the records.)

[9] Eric Lozana alias Silverio Lozana in the criminal complaints and some parts of the records.[10] Records (Crim. Case No. 6563), p. 2.

[11] SEC. 28. Contributions.- All members of the Program shall contribute to the Fund, in accordance with a reasonable, equitable and progressive contribution schedule to be determined by the Corporation on the basis of applicable actuarial studies and in accordance with the following guidelines:

- a) Formal sector employees and current medicare members and their employers shall continue paying the same monthly contributions as provided for by law until such time that the Corporation shall have determined the contribution schedule mentioned herein: Provided, That their monthly contribution shall not exceed three percent (3%) of their respective monthly salaries.
- b) Contributions from self-employed members shall be based primarily on household earnings and assets; their total contributions for one year shall not, however, exceed three percent (3%) of their estimated actual net income for the preceding year.
- c) Contributions made in behalf of indigent members shall not exceed the minimum contributions set for employed members.

[12] SEC. 44. Penal Provisions. - Any violation of the provisions of this Act, after due notice and hearing, shall suffer the following penalties:

A fine of not less than Ten [t]housand pesos (P10,000) nor more than Fifty thousand pesos (P50,000) in case the violation is committed by the hospital management or provider. In addition, its accreditation shall be suspended or revoked from three (3) months to the whole term of accreditation: Provided, however, That recidivists may not anymore be accredited as a participant of the Program;

A fine of not less than Five hundred pesos (P500) nor more than Five thousand pesos (P5,000) and imprisonment of not less than six (6) months nor more than one (1) year in case the violation is committed by the member.

Where the violations consist of failure or refusal to deduct contributions from the employee's compensation or to remit the same to the Corporation, the penalty shall be a fine of not less than Five hundred pesos (P500) but not more than One thousand pesos (P1,000) multiplied by the total number of employees employed by the firm and imprisonment of not less than six (6) months but not more than one (1) year: Provided, further, That in the case of self-employed members, failure to remit one's own contribution shall be penalized with a fine of not less than Five hundred pesos (P500) but not more than One thousand pesos (P1,000).

Any employer or any officer authorized to collect contributions under this Act who, after collecting or deducting the monthly contributions from his employees' compensation, fails to remit the said contributions to the Corporation within thirty (30) days from the date they become due shall be presumed to have misappropriated such contributions and shall suffer the penalties provided for in Article 315 of the Revised Penal Code.

Any employer who shall deduct directly or indirectly from the compensation of the covered employees or otherwise recover from them his own contribution on behalf of such employees shall be punished by a fine not exceeding One thousand pesos (P1,000) multiplied by the total number of employees employed by the firm, or imprisonment not exceeding one (1) year, or both fine and imprisonment, at the discretion of the Court.

If the act or omission penalized by this Act be committed by an association, partnership, corporation or any other institution, its managing directors or partners or president or general manager, or other persons responsible for the commission of the said act shall be liable for the penalties provided for in this Act and other laws for the offense.

Any employee of the Corporation who receives or keeps funds or property belonging, payable or deliverable to the Corporation, and who shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence shall permit any other person to take such property or funds wholly or partially, shall likewise be liable for misappropriation of funds or property and shall suffer imprisonment of not less than six (6) years and not more than twelve (12) years and a fine of not less than Ten thousand pesos (P10,000.00) nor more than Twenty thousand pesos (P20,000). Any shortage of the funds or loss of the property upon audit shall be deemed prima facie evidence of the offense.

All other violations, involving funds of the Corporation shall be governed by the applicable provisions of the

Revised Penal Code or other laws, taking into consideration the rules on collection, remittances, and investment of funds as may be promulgated by the Corporation.

[13] An Act Instituting a National Health Insurance Program for All Filipinos and Establishing the Philippine Health Insurance Corporation for the Purpose. Otherwise known as the "National Health Insurance Act of 1995."

[14] Records (Crim. Case No. 6563), p. 23.[15] Rollo, pp. 22-23.

[16] Id. at 24-25.

[17] Id. at 26-28.

[18] Id. at 32-32-A.[19] CA rollo, p. 6.[20] Rollo, p. 19.[21] Id. at 20-21.

[22] Id. at 97.[23] CA rollo, p. 13.

[24] G.R. No. 141396, April 9, 2002, 380 SCRA 347.[25] Id. at 354-355.[26] See Public Estates Authority v. Caoibes, Jr., G.R. No. 132426, August 19, 1999, 312 SCRA 767, 770.

[27] Pacific Life Assurance Corporation v. Sison, G.R. No. 122839, November 20, 1998, 299 SCRA 16, 22.

[28] See Parañaque Kings Enterprises, Inc. v. Court of Appeals, G.R. No. 111538, February 26, 1997, 268 SCRA 727, 738.[29] 1994 Revised Internal Rules of the Court of Appeals, Rule 3, Section 3 (d).

SEC. 3. Mode of Filing. - Pleadings, motions and other papers shall be filed with the Receiving Section of the Court and not directly with the Justices or Division Clerk of Court.

x x x x

d. 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.

[30] See Development Bank of the Philippines v. Court of Appeals, G.R. No. 139034, June 6, 2001, 358 SCRA 501, 515-516.

[31] CA rollo, p. 6.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.