

SESinANDO POLINTAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 161827. April 21, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition[1] for review under Rule 45 of the Rules of Court. The petition challenges the 21 October 2003 and 21 January 2004 Resolutions[2] of the Court of Appeals in CA-G.R. CR No. 26859. The Court of Appeals dismissed the appeal of Sesinando Polintan (Polintan) for failure to file appellant's brief within the time prescribed.

The Facts

Assistant City Prosecutor Ralph S. Lee filed two informations[3] dated 29 June 1993 with the Regional Trial Court (RTC), National Capital Judicial Region, Branch 224, Quezon City, charging Polintan with violation of Batas Pambansa Bilang 22. The two cases were docketed as Criminal Case Nos. Q-93-46199 and Q-93-46200. During his arraignment on 28 August 1993, Polintan pleaded not guilty to both charges.

On 14 September 1993, the RTC provisionally dismissed the two cases because Polintan agreed to settle the civil aspect of the cases. On 30 August 1994, the RTC granted the motion to revive the two cases.

On 9 November 1994, the RTC set the presentation of evidence. The prosecution presented several pieces of evidence: (1) testimonies of Dolores Cajucom and Luisito Rivera; (2) photographs of Polintan; (3) cash vouchers of David Motors and Marketing Corporation; (4) signatures of Polintan; (5) chattel mortgages; (6) promissory notes; (7) City Trust Banking Corporation Check Nos. 441615 and 618149; (8) drawn against insufficient funds notations; (9) demand letters; (10) memorandum of preliminary investigation, and (11) complaint-affidavit.

Polintan failed to appear during the presentation of evidence. The records showed that a notice of hearing was mailed to Polintan on 8 March 1995 and that the notice was not returned to the RTC. Thus, the RTC considered the two cases submitted for decision based on the evidence presented by the prosecution.

In a Decision[4] dated 17 January 1996, the RTC found Polintan guilty beyond reasonable doubt of two counts of violation of Batas Pambansa Bilang 22. The RTC held that:

[T]he case of the prosecution is air tight and conclusive to convict the accused. The inability and/or failure of the accused to appear and testify in these two (2) cases must be probably due to his belief and conviction that he could not rebut the incontrovertible testimonial and documentary evidence of the prosecution. The accused must have realized the futility of disproving prosecution evidence.

The prosecution has proved and established the guilt of the accused Sesinando Polintan beyond reasonable

doubt. The prosecution has established that the accused issued and has drawn the two (2) subject checks of City Trust Banking Corp. against insufficient funds (DAIF) which were dishonored when presented for payment and encashment at the bank as evidenced by the notation -- DAIF -- on the dorsal side of the said two (2) checks. The accused could not therefore escape from his culpability and liability to the private complainant for the issuance of the two (2) dishonored checks.[5]

Polintan filed an omnibus motion[6] for new trial and reconsideration of the 17 January 1996 Decision. In an Order[7] dated 24 May 2002, the RTC denied the omnibus motion. On 3 July 2002, Polintan filed a notice[8] of appeal. In an Order[9] dated 14 August 2002, the RTC denied the notice of appeal for being filed out of time. Polintan filed a motion[10] for reconsideration of the 14 August 2002 Order. In an Order[11] dated 18 November 2002, the RTC, "[i]n the higher interest of justice," granted the motion for reconsideration.

The Ruling of the Court of Appeals

In a Resolution[12] dated 8 August 2003, the Court of Appeals granted Polintan's three motions for extension of time to file his appellant's brief and directed Polintan to show cause why his appeal should not be dismissed. In a Resolution dated 21 October 2003, the Court of Appeals considered the appeal abandoned and dismissed it. In a very urgent ex-parte motion[13] dated 27 October 2003, Polintan prayed, "in the broader interest of justice and fair play," that his brief be admitted. Polintan filed a motion[14] for reconsideration of the 21 October 2003 Resolution. In a Resolution dated 21 January 2004, the Court of Appeals denied the motion. The Court of Appeals held that:

In his Very Urgent Ex-Parte Motion to Admit Appellant's Brief, accused-appellant's counsel stated that he instructed Mr. Perez to file said brief on June 11, 2003 before he left for Camarines Sur. However, when he reported to the law firm on October 22, 2003, he learned that Mr. Perez failed to file it.

Granting that Mr. Perez overlooked such responsibility, and, if indeed said appellant's brief was ready and about to be filed on June 11, 2003, this Court is in a quandary why the appellant's brief was only filed on October 29, 2003, a week after appellant's counsel allegedly reported back to the law firm, when said law firm is just a few meters away from this Court.

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Records show that the accused-appellant was granted by this Court a total of seventy-five (75) days extension, from March 30, 2003 or until June 13, 2003. Yet, he failed to do so, which failure can only be construed as lack of interest to pursue his appeal.[15]

Hence, the instant petition. Polintan claims that the Rules of Court, specifically Section 8 of Rule 124, should not be followed.

The Ruling of this Court

The petition is unmeritorious.

Paragraph 1, Section 8, Rule 124 of the Rules of Court states that:

The Court of Appeals may, upon motion of the appellee or motu proprio and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel de oficio. (Emphasis supplied)

Section 8 is clear -- the Court of Appeals may, motu proprio and with notice to the appellant, dismiss the appeal if the appellant fails to file his brief within the time prescribed, except where the appellant is represented by a

counsel de oficio.

In the present case, (1) the Court of Appeals, *motu proprio*, dismissed the appeal; (2) the Court of Appeals furnished Polintan with notice to show cause why his appeal should not be dismissed; (3) Polintan failed to file his brief within the time prescribed; and (4) Polintan was not represented by a counsel de oficio.

The right to appeal is not a natural right and is not part of due process. It is merely a statutory privilege and must be exercised in accordance with the law. In *Spouses Ortiz v. Court of Appeals*,^[16] the Court held that:

[T]he right to appeal is not a natural right or 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 the law. The party who seeks to avail of the same must comply with the requirements of the Rules, Failing [sic] to do so, the right to appeal is lost. Rules of Procedure are required to be followed.

The negligence and mistakes of counsel are binding on the client.^[17] The Court cannot tolerate Polintan's habitual failure to follow the Rules of Court and his flimsy excuses. First, Polintan failed to appear before the RTC during the presentation of evidence. He alleged that he was not duly notified of the hearing because he had moved from the address on record. However, when members of the Criminal Intelligence Division of Camp Crame apprehended him, he gave the same address. Second, Polintan failed to file his notice of appeal within the time prescribed. He alleged that his counsel was in Naga City. Third, Polintan failed to file his appellant's brief within the time prescribed. He alleged that his counsel was in Camarines Sur.

Strict compliance with the Rules of Court is indispensable for the orderly and speedy disposition of justice.^[18] The Rules must be followed, otherwise, they will become meaningless and useless.

WHEREFORE, the Court DENIES the petition. The Court AFFIRMS the 21 October 2003 and 21 January 2004 Resolutions of the Court of Appeals in CA-G.R. CR No. 26859.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Rollo, pp. 11-30.

[2] *Id.* at 33 and 35-37, respectively.

[3] *Id.* at 38-41.

[4] *Id.* at 42-46.

[5] *Id.* at 46.

[6] *Id.* at 47-55.

[7] *Id.* at 58.

[8] *Id.* at 59-60.

[9] *Id.* at 61-62.

[10] *Id.* at 63-66.

[11] *Id.* at 67.

[12] Id. at 68.

[13] Id. at 69-71.

[14] Id. at 87-93.

[15] Id. at 35-36.

[16] 360 Phil. 95, 100-101 (1998).

[17] Sapad v. Court of Appeals, 401 Phil. 478, 483 (2000).

[18] Trans International v. CA, 348 Phil. 830, 837 (1998).

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