

**ALFONSO T. YUCHENGCO, PETITIONER, VS. COURT OF APPEALS,
THE MANILA CHRONICLE PUBLISHING CORPORATION, RAUL
VALINO, NEAL CRUZ, ERNESTO TOLENTINO, NOEL CABRERA,
THELMA SAN JUAN, GE...**

G.R. NO. 165793. October 27, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This Petition for Certiorari[1] assails the July 27, 2004[2] and October 25, 2004[3] Resolutions of the Court of Appeals in CA-G.R. CV No. 76995 denying petitioner's motion to dismiss and motion for reconsideration.

In his complaint filed before the Regional Trial Court of Makati City, Branch 136, docketed as Civil Case No. 94-1114, petitioner Alfonso T. Yuchengco alleged that in the last quarter of 1994, respondents published in the Manila Chronicle a series of defamatory articles against him, to wit: (1) that he was a "Marcos crony" or a "Marcos-Romualdez crony," which term according to him is commonly understood to describe an individual who received special and undeserving favors from former President Ferdinand E. Marcos and/or his brother-in-law Benjamin "Kokoy" Romualdez, thereby allowing him to engage in illegal and dishonorable business activities; (2) that he engaged in unsound and immoral business practices by taking control of Oriental Petroleum Mineral Corporation in order to divert its resources to rescue the debt-ridden Benguet Corporation; (3) that he was an unfair and uncaring employer; (4) that he induced Rizal Commercial Banking Corporation to violate the provisions of the General Banking Act on DOSRI loans; (5) that he induced others to disobey the lawful orders of the Securities and Exchange Commission; and (6) that he was a "corporate raider," or one who seeks to profit for something he did not work for.[4]

On November 8, 2002, the trial court rendered a Decision,[5] the dispositive portion of which provides:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

- On the First Cause of Action, ordering defendants Chronicle Publishing, Neil H. Cruz, Ernesto Tolentino, Noel Cabrera, Thelma San Juan, Gerry Zaragoza, Donna Gatdula, Raul Valino and Rodney Diola to pay plaintiff Yuchengco, jointly and severally:
- the amount of Ten Million Pesos (P10,000,000.00) as moral damages; and
- the amount of Ten Million Pesos (P10,000,000.00) as exemplary damages.
- On the Second Cause of Action, ordering defendants Robert Coyiuto, Jr. and Chronicle Publishing to pay plaintiff Yuchengco, jointly and severally:
- the amount of Fifty Million Pesos (P50,000,000.00) as moral damages; and
- the amount of Thirty Million Pesos (P30,000,000.00) as exemplary damages.

- On the Third Cause of Action, ordering all defendants to pay plaintiff Yuchengco, jointly and severally, the amount of One Million Pesos (P1,000,000.00) as attorney's fees and legal costs.

SO ORDERED.[6]

After the trial court promulgated its decision, respondents appealed the same to the Court of Appeals where it was docketed as CA-G.R. CV No. 76995. Thereafter, the Court of Appeals in a notice dated October 3, 2003 required respondents to file their appellant's brief.

Respondents Cruz and Tolentino filed their appellants' brief on February 4, 2004 while respondents The Manila Chronicle Publishing Corporation, Noel Cabrera, Thelma San Juan, Gerry Zaragosa, Donna Gatdula, Rodney Viola, Raul Valino, and Robert Coyiuto filed their appellants' brief on March 3, 2004.

Thereafter, petitioner filed a Motion to Dismiss alleging that the appellants' briefs submitted by respondents were not in the prescribed size and did not have page references.

The Court of Appeals denied the motion to dismiss holding that although procedural rules are required to be followed as a general rule, they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his noncompliance with the procedure required. Petitioner's Motion for Reconsideration was denied.

Hence, this petition on the sole issue of whether or not the Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction in not ordering the dismissal of private respondents' appeal.

Petitioner alleges that respondents' appellants' briefs were not in the prescribed size and did not have page references as required by Section 13 (c) and (d) of Rule 44 of the Rules of Court which is a ground to dismiss the appeal under Section 1 (f) of Rule 50. Likewise, petitioner avers that he was not served two copies of respondents Coyiuto, et al.'s brief as required by Section 7 of Rule 44 which constitutes another ground to dismiss the appeal under Section 1 (e) of Rule 50.

Respondents aver that the Court of Appeals may have committed errors of procedures but it does not constitute grave abuse of discretion. Petitioner's claim that the appellants' briefs did not contain a "citation of authorities" is misleading because they cited authorities and made references to specific pages in the TSNs. They argue that if the appellants' briefs suffered from any infirmity, the same is inconsequential and would not justify the dismissal of their appeal, more so considering that the primordial issue at hand is whether or not giving due course to the appeal would serve substantial justice.

The petition lacks merit.

Indeed, Section 7 of Rule 44 requires the appellants to serve two copies of the appellants' brief to the appellee. However, the failure to serve the required number of copies does not automatically result in the dismissal of the appeal. The Court of Appeals has the discretion whether to dismiss or not to dismiss the appeal. Thus, we held in *Philippine National Bank v. Philippine Milling Co., Inc.*[7] that:

[P]ursuant to Section 1 of Rule 50 of the Rules of Court, "an appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee" upon the ground, among others, of "failure of the appellant . . . to serve and file the required number of copies of his brief," within the reglementary period. Manifestly, this provision confers a power and does not impose a duty. What is more, it is directory, not mandatory.

Contrary to petitioners' assertion that, on November 22, 1966, "it became its (Court of Appeals') ministerial duty to dismiss the appeal and remand the case for execution to the Court of origin," the Court of Appeals had, under said provision of the Rules of Court, discretion to dismiss or not to dismiss respondents' appeal. Although said discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair

play, having in mind the circumstances obtaining in each case, the presumption is that it has been so exercised. It was incumbent upon herein petitioners, as actors in the case at bar, to offset this presumption. Yet, the record before us does not satisfactorily show that the Court of Appeals has abused its discretion much less gravely. Petitioners' assertion of abuse of discretion is predicated solely upon the alleged "ministerial" duty of said Court to dismiss the appeal therein, which is devoid of legal foundation. It is inconsistent with our views in *Viuda de Ordoveza v. Raymundo* and *Alquiza v. Alquiza*. (Emphasis supplied)

Likewise, Section 13 (c) & (d) requires that the appellants' brief should contain a clear statement of the case and facts with page references to the record. The absence of page reference is a ground for dismissal of the appeal, however, the same is not mandatory but directory on the part of the Court of Appeals. Thus, we held in *De Leon v. Court of Appeals*[8] that:

The Court of Appeals rightly exercised its discretion when, in denying petitioner's motion to dismiss, it ruled that the citations contained in the appellants' brief were in substantial compliance with the rules. Where the citations found in the appellants' brief could sufficiently enable the appellate court to locate expeditiously the portions of the record referred to, there is substantial compliance with the requirements of Section 13 (c) and (d), Rule 46 of the Rules of Court. Such determination was properly within the appellate court's discretion. Nothing in the records indicate that it was exercised capriciously, whimsically, or with a view of permitting injury upon a party litigant. For the same reasons, we hold that the respondent Court of Appeals also did not err when it did not dismiss the appeal based on the allegation that appellants' brief failed to comply with the internal rules of said court. (Emphasis supplied)

In the instant case, the Appellants' Brief contained a statement of facts with references to Exhibits and TSNs and attachments. The Appellants' Brief may not have referred to the exact pages of the records, however, the same is not fatal to their cause since the references they made enabled the appellate court to expeditiously locate the portions of the record referred to. Consequently, respondents substantially complied with the requirements of Section 13 (c) and (d) of Rule 44.

Grave abuse of discretion is defined as such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[9] The Court of Appeals did not gravely abuse its discretion when it denied petitioner's motion to dismiss.

Moreover, the Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice, but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts, in rendering justice, have always been, as they in fact ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat to substantive rights, and not the other way around.[10] Circumspect leniency will give the appellant "the fullest opportunity to establish the merits of his complaint rather than to lose life, liberty, honor or property on technicalities." [11]

The rules of procedure should be viewed as mere tools designed to aid the courts in the speedy, just and inexpensive determination of the cases before them. Liberal construction of the rules and the pleadings is the controlling principle to effect substantial justice.[12]

WHEREFORE, in light of the foregoing, the petition is **DISMISSED**. The Resolutions dated July 27, 2004 and October 25, 2004 of the Court of Appeals in CA-G.R. CV No. 76995 denying petitioner's motion to dismiss and motion for reconsideration, are **AFFIRMED**.

SO ORDERED.

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

[1] Rollo, pp. 6-22.

[2] Id. at 24; penned by Associate Justice Noel G. Tijam, with Associate Justices Jose L. Sabio, Jr. and Danilo B. Pine, concurring.

[3] Id. at 26; penned by Associate Justice Noel G. Tijam, with Associate Justices Jose L. Sabio, Jr. and Eubulo G. Verzola, concurring.

[4] Id. at 27-28.

[5] Id. at 27-47. Penned by Judge Rebecca R. Mariano.

[6] Id. at 47.

[7] 136 Phil. 212, 215 (1969).

[8] 432 Phil. 775, 790 (2002).

[9] *Hegerty v. Court of Appeals*, G.R. No. 154920, August 15, 2003, 409 SCRA 285, 289, citing *D.M. Consunji, Inc. v. Esguerra*, 328 Phil. 1168, 1181 (1996).

[10] *Heirs of Spouses Eugenio Natonton and Regina Arcilla v. Spouses Eulogio and Lily Magaway*, G.R. No. 147011, March 31, 2006.

[11] *Jaro v. Court of Appeals*, 427 Phil. 532, 536 (2002).

[12] *Sanchez v. Court of Appeals*, 452 Phil. 665, 673 (2003).

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