

JAIME M. DE GUZMAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 167492. March 22, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Assailed and sought to be set aside in this petition for review under Rule 45 of the Rules of Court is the Resolution[1] dated 12 October 2004 of the Court of Appeals (CA), as reiterated in its Resolution[2] of 17 February 2005, dismissing the petitioner's appeal in CA-G.R. CR No. 28277 for failure to file his appellant's brief in connection with his appeal from an earlier decision of the Regional Trial Court (RTC) of Dagupan City, Branch 44, which found him guilty beyond reasonable doubt of the crime of Frustrated Homicide against the person of one Antonio De Vera.

Briefly, the material facts may be stated as follows:

On 6 February 2001, in the RTC of Dagupan City, an Information for Frustrated Homicide was filed against petitioner and three others identified only as John Doe, Peter Doe and Paul Doe, allegedly committed as follows:

That on or about the 27[th]day of June, 2000, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, JAIME "BINONG" DE GUZMAN, JOHN DOE, PETER DOE and PAUL DOE, being then armed with a deadly weapon, with intent to kill one ANTONIO DE VERA, confederating together, acting jointly and helping each other, did then and there, willfully, unlawfully and criminally, attack, assault and use personal violence upon the latter by stabbing and hitting him on vital parts of his body, the said accused having thus performed all the acts of execution which could have produced the crime of homicide as a consequence but which nevertheless did not produce it by reason of some causes independent of the will of the perpetrator, that is due to the timely and able medical attendance rendered to him, to the damage and prejudice of said ANTONIO DE VERA.

On arraignment, petitioner, as accused, entered a plea of "Not Guilty." Thereafter, trial ensued.

In a decision[3] dated 19 May 2003, the trial court found the petitioner guilty beyond reasonable doubt of the crime charged and accordingly sentenced him, thus:

WHEREFORE, the Court finds accused Jaime "Binong" De Guzman GUILTY beyond reasonable doubt of the crime of Frustrated Homicide and pursuant to law, hereby sentences him to suffer an indeterminate penalty of from Six (6) Years of Prision Correccional, as minimum, to Ten (10) Years of Prision Mayor in its medium period, as maximum, and to pay the costs.

The accused is ordered to pay P46,000.00 representing actual expenses incurred by the complainant.

SO ORDERED.

In time, petitioner filed a Notice of Appeal whereupon the records of the case were elevated to the CA.

In the CA, petitioner, as appellant, through the Public Attorney's Office (PAO), filed a Motion for Extension of Time To File Appellant's Brief,[4] therein praying for an extension of sixty (60) days or until 22 August 2004 within which to file his appellant's brief. The motion was granted by the appellate court in its Resolution of 2 July 2004.

Unfortunately, no appellant's brief was filed by the petitioner within the extended 60-day period. Hence, in the herein assailed Resolution[5] of 12 October 2004, the CA dismissed the appeal, thus:

Despite extension granted which expired on August 22, 2004, appellant failed to file brief.

WHEREFORE, premises considered, appeal is hereby DISMISSED pursuant to Section 8 Rule 124 of the Rules of Criminal Procedure.

SO ORDERED.

Upon receipt of the aforequoted dismissal resolution, petitioner, again through the PAO, filed a Motion for Reconsideration (With Motion to Admit Attached Brief for the Accused-Appellant[6]) therein alleging, through counsel, that it was only "upon receipt of the resolution dismissing his appeal that counsel became aware of her inadvertence in failing to file the required brief within the extended period" and that the delay in filing the required appellant's brief was without any malicious intent to delay the disposition of the case, adding that the admission of the appellant's brief attached to the motion "will not cause any prejudice to public interest, but would promote and enhance the administration of justice."

In its next assailed Resolution[7] of 17 February 2005, the CA denied the motion for reconsideration:

The Court has studied the PAO's explanations for non-filing of brief for the accused within the extended period prayed for by PAO and We find no cogent reason to revise, amend, and much less, reverse Our October 12, 2004 Resolution dismissing the appeal, for appellant's failure to file brief, pursuant to Sec. 8 Rule 124 of the Rules of Criminal Procedure.

WHEREFORE, premises considered, appellant's November 9, 2004 Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Hence, petitioner's present recourse, contending in the main that the CA should have admitted his appellant's brief since the failure to file the same within the extended period was due to his counsel's inadvertence. He adds that the admission of his brief will not prejudice any party.

We GRANT the petition.

Undoubtedly, this Court has invariably ruled that the right to appeal is neither a natural right nor 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 to do so, the right to appeal is lost. [8]

Nonetheless, we find cogent reason to relax the rule in this case.

Section 8, Rule 124 of the Rules on Criminal Procedure states that the CA 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 period prescribed by the rules, except where appellant is represented by a counsel de oficio.

Clearly, if the appellant is represented by a counsel de parte and he fails to file his brief on time, the appeal may be dismissed on motion of the appellee or by the CA with notice to the appellant. However, the rule takes

exception when the appellant is represented by a counsel de oficio as in this case.

For sure, in *Foralan v. CA*,^[9] which is akin to this case, the Court allowed the admission of an appellant's brief even if filed out of time because the appellant therein was represented by a counsel de oficio, and ruled that it was error on the part of the appellate court to dismiss the appeal motu proprio instead of first giving to appellant a notice to show cause why his appeal should not be dismissed.

In several cases, the Court had set aside technicalities in the Rules in order to give way to justice and equity. The Court can overlook the short delay in the filing of pleading if strict compliance with the Rules would mean sacrificing justice to technicality. The imminence of a person being deprived unjustly of his liberty due to a procedural lapse of counsel is a strong and compelling reason to warrant suspension of the Rules.^[10] A healthy respect for petitioner's rights should caution courts against motu proprio dismissals of appeals, especially in criminal cases where the liberty of the accused is at stake. The rules allowing motu proprio dismissals of appeals merely confer a power and do not impose a duty; and the same are not mandatory but merely directory which thus require a great deal of circumspection, considering all the attendant circumstances.^[11] Courts are not exactly impotent to enforce their orders, including those requiring the filing of appellant's brief. This is precisely the *raison d'être* for the courts' inherent contempt power.^[12] Motu proprio dismissals of appeals are thus not always called for. Although the right to appeal is a statutory, not a natural, right, it is an essential part of the judicial system and courts should proceed with caution so as not to deprive a party of this prerogative, but instead, afford every party-litigant the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities.^[13] More so must this be in criminal cases where, as here, the appellant is an indigent who could ill-afford the services of a counsel de parte.

IN VIEW WHEREOF, the petition is GRANTED and the assailed resolutions of the CA are SET ASIDE. The appellate court is ordered to REINSTATE petitioner's appeal in CA-G.R. CR No. 28277, entitled *People of the Philippines v. Jaime "Binong" M. De Guzman*, and to accept his appellant's brief thereon.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Vicente Q. Roxas with Associate Justices Salvador J. Valdez, Jr. (ret.) and Juan Q. Enriquez, Jr., concurring; Rollo, p. 40.

[2] *Id.* at 77.

[3] *Id.* at 28-36.

[4] *Id.* at 37.

[5] *Id.* at 40.

[6] *Id.* at 41-43.

[7] *Id.* at 77.

[8] *Prospero Balgami v. Court of Appeals and Francisco Aplomina*, G.R. No. 131287, December 9, 2004, 445 SCRA 591.

[9] G.R. No. 109832, February 7, 1995, 241 SCRA 176.

[10] Alonzo v. Villamor, et al., 16 Phil. 315 (1910).

[11] Reyes v. Court of Appeals, G.R. No. L-41680, October 28, 1977, 80 SCRA 144.

[12] Paredes-Garcia v. Court of Appeals, G.R. No. 120654, September 11, 1996, 261 SCRA 693.

[13] Moslares v. Court of Appeals, G.R. No. 129744, June 26, 1998, 291 SCRA 440.

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