

**BARANGAY DASMARIÑAS THRU BARANGAY CAPTAIN MA.
ENCARNACION R. LEGASPI, PETITIONER, VS. CREATIVE PLAY
CORNER SCHOOL, DR. AMADO J. PIAMONTE, REGINA PIAMONTE
TAMBUNTING, CELINE CONC...**

G.R. No. 169942. January 24, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

"Utter disregard of [the rules of procedure] cannot justly be rationalized by harking on the policy of liberal construction."^[1]

This Petition for Review on Certiorari assails the Resolution^[2] dated July 21, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 89723 denying petitioner's Second Motion for Extension of Time to File Petition for Review and consequently dismissing the Petition for Review for having been filed beyond the period allowed by the Rules of Court. Likewise assailed is the Resolution^[3] dated September 29, 2005 denying the Motion for Reconsideration thereto.

Factual Antecedents

On June 28, 2004, petitioner Barangay Dasmariñas thru Ma. Encarnacion R. Legaspi (Legaspi) filed a Complaint-Affidavit^[4] before the Office of the Prosecutor of Makati docketed as I.S. No. 04-F-10389, charging respondent Creative Play Corner School (CPC) and its alleged owners, respondents Dr. Amado J. Piamonte (Piamonte), Regina Piamonte Tambunting (Tambunting), Celine Concepcion Lebron (Lebron) and Cecille Cuna Colina (Colina) with Falsification and Use of Falsified Documents. Petitioner alleged that respondents falsified and used the Barangay Clearance and Official Receipt purportedly issued in the name of CPC by the Office of the Barangay Captain of Dasmariñas Village, Makati City of which Legaspi was Barangay Captain.

In their Counter-Affidavit,^[5] Lebron and Colina denied having falsified the subject documents. They averred that petitioner's assertion that they were owners of CPC is a mere allegation without proof. They also pointed out that the complaint neither shows any operative act committed by any of the respondents in perpetrating the crime charged nor identified who among them actually committed it. They thus insisted that no probable cause exists to warrant their indictment for the offense charged. For their part, Tambunting and Piamonte in their respective Counter-Affidavits^[6] affirmed the arguments made by Lebron and Colina. In addition, Tambunting alleged that the subject documents were not received by any relevant office while Piamonte claimed that he had no participation whatsoever in the operation of CPC. Both of them averred that petitioner was not able to discharge its burden of presenting sufficient evidence to support the belief that they committed the crime charged.

Ruling of the Prosecutor

In a Resolution^[7] dated September 29, 2004, Assistant City Prosecutor Carolina Esguerra-Ochoa (Prosecutor Ochoa) recommended the dismissal of the case because of failure to establish probable cause. Prosecutor Ochoa

noted the absence of any finding from pertinent police laboratory tests and/or law enforcement agency confirming that the subject documents were indeed falsified, forged or tampered or if so, that respondents were the ones who falsified, forged or tampered the same. Prosecutor Ochoa concluded that petitioner failed to show any cause which would engender the belief that respondents are probably guilty of the offense charged.

City Prosecutor Feliciano Aspi approved the Resolution and released the same on November 4, 2004.

Petitioner thus brought the case before the Department of Justice (DOJ) through a Petition for Review.

Ruling of the Department of Justice

Petitioner refuted the prosecutor's finding of lack of probable cause. It claimed that since it was Legaspi's signature which was forged, she was in the best position to attest to the fact of falsification and therefore her affidavit speaks volumes. Petitioner likewise argued that the documents attached to the complaint, i.e. sample format of Barangay Clearances legitimately issued by the Office of the Barangay Captain showing Legaspi's signature and Certifications regarding the allegation of tampered official receipt, were sufficient to support a finding of probable cause. After all, a finding of probable cause does not mean conviction; it simply manifests that there is sufficient evidence to procure a conviction. It is enough that it is believed that the act complained of constitutes the offense charged. Thus, petitioner sought for the reversal and setting aside of the Resolution of the Prosecution Office and prayed for the issuance of an order directing it to cause the filing of the corresponding criminal information against respondents.

Respondents, on the other hand, basically reiterated the allegations in their respective counter-affidavits and maintained that Prosecutor Ochoa did not err in holding that no probable cause exists against them.

The DOJ, though, after finding that no error which would justify the reversal of the assailed resolution was committed by Prosecutor Ochoa and that the petition was filed late, dismissed the Petition for Review through a Resolution[8] dated February 21, 2005. Petitioner filed a Motion for Reconsideration[9] thereto but same was also denied in a Resolution[10] dated April 25, 2005.

Still unsatisfied, petitioner challenged this dismissal through a Petition for Review before the CA.

Ruling of the Court of Appeals

But before petitioner was able to file its petition, it first sought for an extension of time[11] of 15 days from May 13, 2005[12] or until May 28, 2005 within which to file the same due to counsel's heavy workload. The CA granted the extension in a Resolution[13] dated May 23, 2005. Subsequently, petitioner asked for another extension[14] of five days from May 28, 2005 until June 2, 2005 for the same reason given in its first motion for extension. However, petitioner filed the petition by mail only on June 7, 2005.[15] Because of these, the CA issued the following assailed Resolution of July 21, 2005:

In a Resolution dated May 23, 2005, this Court granted petitioner an additional period of fifteen (15) days from May 13, 2005 or until May 28, 2005 within which to file its petition for review. However, instead of filing its petition on May 28, 2005, petitioner filed [the] Second Motion for Extension of Time to File Petition for Review requesting for an additional period of five days from May 28, 2005 or until June 2, 2005 within which to file its petition for review.

Section 4, Rule 43 of the Rules of Court provides that we may grant an additional period of fifteen (15) days only within which to file the petition for review and no further extension shall be granted except for the most compelling reason. We do not find petitioner's reason to be compelling to grant another extension. In this second motion, petitioner gave the same reason it gave us in its first motion for extension of time to file petition for review, i.e. pressures of other equally important pleadings. The original period of fifteen days and

the extension of fifteen days granted are not unreasonable as they add up to thirty days within which petitioner can prepare, perfect and file its petition.

In addition, records of the case show that petitioner filed its petition for review on June 7, 2005 or five days late from the extension sought from us.

WHEREFORE, premises considered, we hereby DENY the 'Second Motion for Extension of Time to File Petition for Review' and DISMISS the Petition for Review for having been filed beyond the period allowed by the Revised Rules of Civil Procedure.

SO ORDERED.[16]

Petitioner filed a Motion for Reconsideration[17] explaining therein that aside from the first and second motions for extension, it also filed a Final Motion for Additional Time to File Petition for Review[18] asking for another five days from June 2, 2005 or until June 7, 2005 within which to file the petition. This new request for extension was allegedly on account of a sudden death in the family of the handling lawyer, Atty. Maria Katrina Bote-Veguillas (Atty. Bote-Veguillas). Thus, petitioner argued that when the petition was filed on June 7, 2005, it was still within the period of extension prayed for in said final motion for extension. At any rate, petitioner prayed that the CA set aside rules of technicalities as it claimed that the slight delay in the filing of the petition did not after all result to the prejudice of respondents. More importantly, it believed that the merits of the case justify the relaxation of technical rules.

After respondents filed their Comment,[19] the CA issued its September 29, 2005 Resolution[20] denying the Motion for Reconsideration. The CA ratiocinated that while Section 4, Rule 43 of the Rules of Court allows it a great leeway in the exercise of discretion in granting an additional period of 15 days for filing a petition for review, said Rules, however, limit such discretion in the grant of a second extension only to the most compelling reasons presented by the movant. And, considering that the reason given by petitioner for the extension sought in its first and second motions for extension, i.e. pressure and large volume of work of counsel, is, as held by jurisprudence, not an excuse for filing a petition out of time, the CA was constrained to deny the second motion for extension and consequently, dismiss the petition for review.

With respect to the final motion for extension, the CA gave three reasons for it to disregard the same: First, a third extension is not authorized by the Rules of Court. Second, the reason given for the extension sought was the sudden death of a relative of the handling lawyer Atty. Bote-Veguillas. However, no details as to the degree of relationship between Atty. Bote-Veguillas and the deceased was given for the court to determine whether such reason is indeed compelling. Third, the reason given is not sufficiently persuasive because petitioner's counsel of record is Dela Vega Matta Bote-Veguillas and Associates Law Offices and not Atty. Bote-Veguillas alone. This means that any member of the law firm could have prepared, perfected and filed the petition for the law firm other than Atty. Bote-Veguillas if the latter has indeed gone through a personal tragedy. The CA thus saw no reason to grant petitioner's Motion for Reconsideration.

This notwithstanding, petitioner still firmly believes that the case should have been resolved on the merits and hence, it is now before this Court via this Petition for Review on Certiorari.

Issues

Petitioner advances the following grounds:

The Honorable Court of Appeals gravely erred in dismissing the Petition For Review on a mere technicality, without considering the substantive grounds on which the Petition For Review was based.

The Honorable Court of Appeals gravely erred in not considering that respondents' rights had not been

prejudiced in any way by the short delay of ten days on account of the requests for extension of time to file Petition for Review.

The Honorable Court of Appeals gravely erred when it dismissed the Petition for Review despite the clear and categorical existence of probable cause that would justify the filing of criminal cases against the respondents.[21]

Petitioner's Arguments

Petitioner harps on the policy of liberal construction embodied in Section 6, Rule 1 of the Rules of Court which provides that the rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action. It cites several jurisprudence[22] where this Court set aside technical rules to give way to the merits of the case. Petitioner notes that the CA in dismissing the petition merely focused on the technical infirmity and did not even bother to take a look at its substance. Petitioner believes that if only the CA examined the records of the case, it would find that the substantial merits of the case are enough to override technical deficiencies. It likewise argues that *Cosmo Entertainment Management, Inc. v. La Ville Commercial Corporation*[23] relied upon by respondents does not apply because although the Court dismissed the appeal in said case for having been filed beyond the reglementary period and did not find "pressure of work on equally important cases" as compelling reason to grant an extension of time to file the same, still the merits of the case were nevertheless examined and considered.

Moreover, petitioner avers that even if the petition was filed 10 days beyond the extended period, respondents have not been prejudiced in any way by such delay as they were free and not detained. Petitioner also posits that since it received the CA's resolution denying its Second Motion for Extension on July 27, 2005 or after it has filed the Petition for Review and paid the corresponding docket fees, such belated filing of the petition has already become moot and the more equitable action of the CA should have been to admit the petition.

Lastly, petitioner believes that there is probable cause for the charge of falsification and use of falsified documents against respondents and that it was able to discharge its burden of establishing the same.

Respondents' Arguments

Respondents find no error on the part of the CA in denying petitioner's Second Motion for Extension and in dismissing the petition. They cited *Cosmo Entertainment Management, Inc. v. La Ville Commercial Corporation*[24] wherein this Court held that "pressure of work on equally important cases" is not a compelling reason to merit an extension of time. Besides, even assuming that petitioner's Second Motion for Extension was granted, respondents point out that the petition was nevertheless filed beyond the period requested. With respect to petitioner's Final Motion for Extension, the CA has already adequately explained the reasons why it cannot consider the same.

Moreover, respondents call this Court's attention to petitioner's repeated transgression of technical rules: first, before the DOJ where it belatedly filed thereat its petition for review and again, before the CA. To respondents, petitioner's utter disregard of the rules should not be countenanced and hence the Court must not excuse it from complying therewith.

Respondents also put forward the principle that the determination of probable cause is an executive function and that as a matter of sound judicial policy, courts should refrain from interfering in the conduct of investigation. It is precisely because of this principle that the DOJ has a wide latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause. This means that petitioner can assail the decision of the prosecuting arm of the government only if the same is tainted with grave abuse of discretion. In this case,

however, it is clear that there is no grave abuse of discretion. As petitioner was not able to point out any operative act committed by any of the respondents in perpetrating the crime charged or when and who among them perpetrated it, the CA, therefore, was correct in dismissing the petition. Finally, respondents argue that the issues raised are factual and hence cannot be passed upon by this Court in this Petition for Review on Certiorari. In sum, respondents pray that the present petition be dismissed and the assailed CA resolutions affirmed.

Our Ruling

We deny the petition.

Section 4, Rule 43 of the Rules of Court provides:

Section 4. Period of appeal. The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (Emphasis supplied.)

From the above, it is clear that the CA, after it has already allowed petitioner an extension of 15 days within which to file a petition for review, may only grant a further extension when presented with the most compelling reason but same is limited only to a period of 15 days. Thus, when the CA denied petitioner's Second Motion for Extension of five days, it was merely following the abovementioned provision of the rules after it found the reason for the second extension as not compelling. And, considering that the CA has already sufficiently explained how it was able to arrive at the conclusion that there is no compelling reason for such second extension, we deem it unnecessary to repeat the same especially since we are in total agreement with the ratiocination of the CA.

As to petitioner's invocation of liberal application of the rules, we cannot heed the same. "It is true that litigation is not a game of technicalities and that the rules of procedure should not be strictly followed in the interest of substantial justice. However, it does not mean that the Rules of Court may be ignored at will. It bears emphasizing that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons." [25]

While petitioner cites several jurisprudence wherein this Court set aside procedural rules, an imperative existed in those cases that warranted a liberal application of the rules. We have examined the records of this case, however, and we are convinced that the present case is not attended by such an imperative that justifies relaxation of the rules. Moreover, as pointed out by respondents, petitioner had not only once transgressed procedural rules. This Court has previously held that "[t]echnical rules may be relaxed only for the furtherance of justice and to benefit the deserving." [26] Petitioner's low regard of procedural rules only shows that it is undeserving of their relaxation.

Also, we cannot subscribe to petitioner's argument that considering that no prejudice was caused to respondents by the belated filing of the petition as the latter were free and not detained hence, the CA should have just disregarded such belated filing. Likewise, the filing of the petition and payment of the corresponding docket fees prior to petitioner's receipt of the CA's resolution denying its Second Motion for Extension does not, contrary to petitioner's position, render such belated filing moot. If such would be the case, the delay in the delivery of court resolutions caused by the limitations of postal service would serve as a convenient cover up for a pleading or a

motion's belated filing. This would be contrary to the aim of procedural rules which is to secure an effective and expeditious administration of justice.

Besides, even if the CA ignores the petition's belated filing, the same would have been dismissed for being an improper remedy. It has been held that "[t]he remedy of a party desiring to elevate to the appellate court an adverse resolution of the Secretary of Justice is a petition for certiorari under Rule 65. A Rule 43 petition for review is a wrong mode of appeal." [27]

With the foregoing, it is clear that the present petition is unworthy of this Court's attention and should be denied.

WHEREFORE, the Petition for Review on Certiorari is DENIED. The assailed Resolutions dated July 21, 2005 and September 29, 2005 of the Court of Appeals in CA-G.R. SP No. 89723 are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] Lapid v. Judge Laurea, 439 Phil. 887, 897 (2002).

[2] CA rollo, pp. 137-139; penned by now Supreme Court Associate Justice Arturo D. Brion and concurred in by Associate Justices Eugenio S. Labitoria and Eliezer R. De Los Santos.

[3] Id. at 177-182.

[4] Id. at 57-59.

[5] Id. at 72-74.

[6] Id. 81-84.

[7] Id. at 102-105.

[8] Id. at 39-40.

[9] Id. at 41-53.

[10] Id. at 54-55.

[11] Id. at 3-6.

[12] Petitioner's last day for filing its Petition for Review which is fifteen (15) days from April 28, 2005, the date of receipt of the April 25, 2005 DOJ Resolution denying its Motion for Reconsideration.

[13] CA rollo, p. 7.

[14] Id. at 8-11.

[15] Id. at dorsal side of p. 13.

[16] Id. at 137-139.

[17] Id. at 140-163.

[18] Attached as Annex "A" to petitioner's Motion for Reconsideration, id. at 157-159.

[19] Id. at 165-175.

[20] Id. at 177-182.

[21] Rollo, p. 18.

[22] Siguenza v. Court of Appeals, 222 Phil 94 (1985); Alonso v. Villamor, 16 Phil 315 (1910); Toribio v. Bidin, G.R. No. L-57821, January 17, 1985, 134 SCRA 162; Public Estates Authority v. Yujuico, 404 Phil 91 (2001); Fajardo v. Court of Appeals, 407 Phil 241 (2001); Fr. Martinez v. Court of Appeals, 410 Phil 241 (2001).

[23] 480 Phil. 575, 583 (2004).

[24] Id.

[25] Ramos v. People of the Philippines, G.R. No. 171565, July 13, 2010.

[26] Fundialan v. Sps. Andres, G.R. No. 166236, July 29, 2010.

[27] Levi Strauss (Phils.), Inc. v. Lim, G.R. No. 162311, December 4, 2008, 573 SCRA 25, 28.

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