

ERLINDA MAPAGAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 178984. August 19, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

In this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, petitioner Erlinda Mapagay seeks the reversal of the Decision,[2] dated 15 February 2007, and Resolution,[3] dated 12 July 2007, of the Court of Appeals in CA-G.R. CR No. 28978, which affirmed in toto the Decision[4] of the Regional Trial Court (RTC), Branch 196, Parañaque City, in Criminal Case No. 04-0494, dated 14 September 2004, and the Decision[5] of the Metropolitan Trial Court (MeTC), Branch 78, Parañaque City, in Criminal Case No. 93520, dated 26 April 2004, finding her guilty of violating Batas Pambansa Blg. 22, otherwise known as the Bouncing Checks Law.

The records of the case bear the following facts:

On 29 September 1997, an Information was filed before the MeTC charging petitioner with violating Batas Pambansa Blg. 22.[6] The accusatory portion of the information reads:

That on or about the 20[th] day of October 1996, in the Municipality of Paranaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and feloniously issue to apply on account or for value the check described below:

Check No. : 0011997
Drawn Against : PhilBank
In the Amount of : P40,000.00
Dated/Postdated : November 20, 1996
Payable to : Cash

Said accused well knowing at the time of issue did not have sufficient funds in or credit with the bank for payment in full of the amount of such check upon its presentment which check when presented for payment within ninety (90) days from the date thereto, was subsequently dishonored by the drawee bank for the reason "Account Closed" and despite receipt of notice of such dishonor, the accused failed to pay said payee the face amount of said check or to make arrangement for full payment thereof within five (5) banking days after receiving said notice.

When arraigned on 9 November 1998, petitioner, assisted by her counsel de oficio, pleaded "Not Guilty" to the charge.[7] On 30 June 1999, the MeTC provisionally dismissed the instant case on the basis of an amicable settlement between petitioner and private complainant Relindia dela Cruz.[8] On 9 August 1999, private complainant moved for the revival of the present case claiming that petitioner failed to comply with the terms of their agreement.[9] Said motion was granted by the MeTC in its Order dated 18 February 2000.[10]

On 7 June 2000, the MeTC issued an Order terminating the pre-trial conference on the instant case.[11] Trial on

the merits thereafter ensued.

The prosecution presented private complainant as its sole witness.

Private complainant testified that petitioner borrowed money from her in November 1996. Petitioner gave her a signed check for the loan and promised to replace the check with cash. Upon failure of petitioner to give her cash despite repeated demands, she presented the check to the drawee bank. The check was dishonored by the drawee bank for the reason "Account Closed." Thereafter, private complainant consulted a lawyer. Her lawyer sent a demand letter to petitioner, but the latter refused to receive it. Private complainant told petitioner to pay the loan or the former would sue her in court. Petitioner promised to pay, but failed to do so. Thus, she filed a case for violation of Batas Pambansa Blg. 22 against petitioner.[12]

On cross-examination, private complainant stated that there was a previous agreement between her and petitioner not to deposit the check; that she deposited the check despite the said agreement; that before depositing the check, she told petitioner that she would deposit the check if petitioner would not pay the loan; that petitioner refused to receive the demand letter; and that private complainant's lawyer sent the demand letter by registered mail.[13]

The prosecution adduced documentary and object evidence to buttress the aforesaid allegation, to wit: (a) three pictures of petitioner attached to her bail bond (Exhibit "A");[14] (b) PhilBank Check No. P 260 0011997, dated 20 November 1996, for the amount of P40,000.00 and the notation "Account Closed" (Exhibit "B");[15] (c) notice of dishonor dated 3 January 1997 (Exhibit "B-3");[16] (d) demand letter, dated 7 May 1997, addressed to petitioner (Exhibit "C");[17] (e) registry return receipt (Exhibit "C-1");[18] (f) return card (Exhibit "C-2");[19] and (g) envelope with the notation "RTS" or Refused to Receive (Exhibit "C-3").[20]

After the prosecution had formally offered its evidence and rested its case, the defense moved to reset its initial presentation of evidence to 2 October 2000, which was granted by the MeTC.[21] Such initial presentation of evidence was further reset to later dates, but petitioner failed to appear and present initial evidence on those dates despite being notified and subpoenaed. Thus, upon motion of the prosecution, the MeTC issued an Order on 19 June 2002 declaring the instant case submitted for decision.[22]

On 26 April 2004, the MeTC rendered a Decision finding petitioner guilty of violating Batas Pambansa Blg. 22. Petitioner was sentenced to one-year imprisonment and was ordered to pay private complainant P40,000.00. The dispositive portion of the MeTC Decision reads:

WHEREFORE, premises considered, this Court finds the accused, ERLINDA MAPAGAY, GUILTY beyond reasonable doubt of the Violation of Batas Pambansa Bilang 22 and hereby sentences her with one (1) year imprisonment and to pay private complainant the total amount of FORTY THOUSAND PESOS (P40,000.00).[23]

Petitioner filed a Notice of Appeal on 10 June 2004.[24] Pursuant thereto, the MeTC forwarded the records of the instant case to the RTC for disposition.[25]

Petitioner submitted her "Appellant's Brief" with the RTC on 2 August 2004.[26] On 14 September 2004, the RTC promulgated its Decision affirming in toto the MeTC Decision. Petitioner filed a Motion for Reconsideration[27] but this was denied by the RTC for being filed beyond the reglementary period.[28] Aggrieved, petitioner appealed to the Court of Appeals.[29]

On 15 February 2007, the Court of Appeals rendered its Decision dismissing petitioner's appeal. It sustained the RTC's ruling that petitioner's motion for reconsideration with the RTC was filed out of time. Hence, it held that the RTC Decision had become final and unalterable. Petitioner filed a Motion for Reconsideration[30] of the Court of Appeals' Decision, but this was denied.[31]

Hence, petitioner filed the instant petition maintaining that the Court of Appeals erred in denying due course to her appeal.

Under the Revised Rules of Criminal Procedure, a motion for reconsideration of the judgment of conviction may be filed within 15 days from the promulgation of the judgment or from notice of the final order appealed from.[32] Failure to file a motion for reconsideration within the reglementary period renders the subject decision final and executory.[33]

Once a judgment attains finality, it becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by this Court.[34] Decisions that have long become final and executory cannot be annulled by courts, and the appellate court is deprived of jurisdiction to alter the trial court's final judgment.[35] This doctrine is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some point in time.[36]

Evidence on record shows that petitioner's counsel of record, Atty. Antonio J. Ballena (Atty. Ballena), received on 21 September 2004 a copy of the RTC Decision dated 14 September 2004, which affirms petitioner's conviction for violation of Batas Pambansa Blg. 22.[37] Hence, petitioner may file a motion for reconsideration within 15 days from such date of receipt, which must be on or before 6 October 2004. However, petitioner filed her motion for reconsideration only on 3 November 2004, or on the 43rd day, which was obviously way beyond the 15-day reglementary period.[38] Consequently, the RTC Decision dated 14 September 2004 has become final and executory.

Petitioner alleges that she learned of the RTC Decision only on 20 October 2004 when she asked a friend to check on the status of the case and that Atty. Ballena did not inform her of the RTC Decision.

The rule is that when a party is represented by counsel, notices of all kinds, including motions, pleadings and orders, must be served on the counsel. Notice to counsel of record is binding on the client, and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment, valid and regular on its face.[39]

It is indeed settled that the omission or negligence of counsel binds the client. This is more true if the client did not make a periodic check on the progress of her case. Otherwise, there would be no end to a suit, so long as a new counsel could be employed who would allege and show that the prior counsel had not been sufficiently diligent, experienced, or learned.[40]

In the case at bar, there is no showing that petitioner had constantly followed up her case with Atty. Ballena. Petitioner did not even bother to call or personally go to the RTC to verify the progress of her case. Clearly, petitioner did not exercise diligence in pursuing her case.

Petitioner argues that the technical rules of procedure should be relaxed in the interest of substantial justice, so as to afford her opportunity to present her case.

We have invariably pronounced that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Rules of Procedure are tools designed to promote efficiency and orderliness, as well as to facilitate the attainment of justice, such that strict adherence thereto is required. Procedural rules are not to be belittled or dismissed, simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive reasons, when they may be relaxed to relieve a litigant of an injustice not

commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. Rules of Procedure, especially those prescribing the time within which certain acts must be done, are absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of justice. We have held that the rules may be relaxed only in "exceptionally meritorious cases." [41]

In the instant case, we find no persuasive or exceptionally meritorious reasons to justify the relaxation of the rules. The circumstances obtaining in the instant case show that petitioner was accorded opportunity to settle her liability to private complainant and to present her case during the proceedings. As earlier recounted, the MTC, upon motion of petitioner, provisionally dismissed the case on the basis of an amicable settlement between her and private complainant. However, the case was revived, because petitioner failed to comply with the settlement. Petitioner was given several opportunities during the trial to present evidence in her defense. Nonetheless, despite being duly notified and subpoenaed, she did not appear during the trial proper and promulgation of judgment.

It should be noted that private complainant has not been fully or partially paid the amount stated in the check. The time-honored principle is "Justice is for all. Litigants have equal footing in a court of law. Rules are laid down for the benefit of all and should not be made dependent upon a suitor's sweet time and own bidding." [42]

Given the foregoing, we find no error in the Decision and Resolution of the Court of Appeals denying petitioner's appeal.

WHEREFORE, the instant Petition is hereby DENIED. The Decision, dated 15 February 2007 and Resolution dated 12 July 2007, of the Court of Appeals in CA-G.R. CR No. 28978, are hereby AFFIRMED in toto.

SO ORDERED.

Carpio Morales,[*] Velasco, Jr., Nachura, and Peralta, JJ., concur.

[*] Per Special Order No. 679 dated 3 August 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Conchita Carpio Morales to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[**] Per Special Order No. 681 dated 3 August 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Minita V. Chico-Nazario as Acting Chairperson to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[1] Rollo, pp. 10-16 and 57.

[2] Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Regalado E. Maambong and Rosalinda Asuncion-Vicente, concurring; CA rollo, pp. 159-172.

[3] CA rollo, pp. 205-206.

[4] Records, pp. 168-173.

[5] Id. at 139-143.

[6] Id. at 1.

[7] Id. at 33.

[8] Id. at 41.

[9] Id. at 42.

[10] Id. at 54.

[11] Id. at 61.

[12] Id. at 65-78.

[13] Id. at 78-84.

[14] Id. at 16.

[15] Id. at 3.

[16] Id. at 63.

[17] Id.

[18] Id.

[19] Id.

[20] Id.

[21] Id. at 64.

[22] Id. at 136.

[23] Id. at 143.

[24] Id. at 148.

[25] Id. at 150.

[26] Id. at 152-158.

[27] Id. at 174-179.

[28] Id. at 193.

[29] CA rollo, pp. 2-16.

[30] CA rollo, pp. 173-182.

[31] Id.

[32] Rule 121, Section 1: At any time before a judgment of conviction becomes final, the court may, on motion of the accused or at its own instance but with consent of the accused, grant a new trial or reconsideration; Rule 122, Section 6: An appeal must be taken within 15 days from promulgation of judgment or from notice of the final order appealed from.

[33] *Universal Robina Corporation v. Catapang*, G.R. No. 164736, 14 October 2005, 473 SCRA 189, 201-202.

[34] *Sacdalán v. Court of Appeals*, G.R. No. 128967, 20 May 2004, 428 SCRA 586, 599.

[35] *Cayana v. Court of Appeals*, G.R. No. 125607, 18 March 2004, 426 SCRA 10, 22.

[36] *Cervantes v. Court of Appeals*, G.R. No. 166755, 18 November 2005, 475 SCRA 562, 571.

[37] Records, p. 173.

[38] Id. at 186.

[39] GCP-Manny Transport Services, Inc. v. Principe, G.R. No. 141484, 11 November 2005, 474 SCRA 555, 565.

[40] Air Philippines Corporation v. International Business Aviation Services Phils., Inc., G.R. No. 151963, 9 September 2004, 438 SCRA 51, 69.

[41] Lazaro v. Court of Appeals, 386 Phil. 412, 417-418 (2000); Lustaña v. Jimena-Lazo, G.R. No. 143558, 19 August 2005, 467 SCRA 429, 432; Far Corporation v. Magdaluyo, G.R. No. 148739, 19 November 2004, 443 SCRA 218, 229-230; Villamor v. Heirs of Sebastian Tolang, G.R. No. 144689, 9 June 2005, 460 SCRA 26, 35; Bacarra v. National Labor Relations Commission, G.R. No. 162445, 20 October 2005, 473 SCRA 581, 586.

[42] Far Corporation v. Magdaluyo, *supra* note 41 at 230.

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