

**TRINIDAD GO, JOINED BY HER HUSBAND, GONZALO GO, SR.,
PETITIONERS, VS. VICENTE VELEZ CHAVES, RESPONDENT, ALICE
CHAVES, RESPONDENT-INTERVENOR, MEGA-INTEGRATED AGRO
LIVESTOCK FARMS...**

G.R. No. 182341. April 23, 2010

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182341/>

DEL CASTILLO, J.:

Equity regards substance rather than form, it abhors forfeiture.

On purely technical grounds, the Court of Appeals (CA) dismissed petitioners' appeal and denied their plea for reconsideration. Hence, petitioners come to this Court via this Petition for Review on Certiorari to assail the Resolutions dated October 10, 2007 [1] and March 11, 2008[2] of the appellate court in CA-G.R. CV No. 00257.

Factual Antecedents

On January 29, 1997, Vicente Chaves (Vicente) filed a Complaint[3] against spouses Trinidad Go and Gonzalo Go (Go spouses, herein petitioners) before the Regional Trial Court (RTC) of Cagayan de Oro City for the removal of clouds on his transfer certificates of title. The case was docketed as Civil Case No. 97-065 and was raffled to Branch 38 (later re-raffled to Branch 24) of said court. Vicente alleged that in April 1996 Paquito Francisco Yap and Evelyn Nellie Chaves-Yap (the Yap spouses), his son-in-law and daughter respectively, obtained a loan in the amount of P23.2 million from Trinidad Go (Trinidad), using his and his wife's real properties as collaterals. The Yap spouses were able to do this by presenting a forged Special Power of Attorney (SPA)[4] purporting to authorize the Yap spouses to obtain a loan using Transfer Certificates of Title (TCT) Nos. T-60898 and T-60899 registered in the names of Vicente and his wife Alice Chaves (Alice) as collaterals.[5]

Because some portions of said lots were disposed of, Vicente consolidated and subdivided the remaining lots (which included the mortgaged properties to Trinidad), bringing about three derivative titles still under the names of the Chaves spouses: TCT Nos. T-114415,[6] T-114416,[7] and T-114417.[8] The Go spouses considered this move a machination in order to prevent them from annotating their right on the collaterals. Hence, to protect their right, they got hold of the derivative titles and caused the annotation of the SPA and their mortgage rights on each certificates of title.[9]

Vicente prayed that the SPA and mortgage to petitioners be invalidated, and that the Go spouses be directed to surrender the owner's duplicate certificates of title over the subject properties.

Subsequently, the trial court allowed two parties to intervene in the case: a) Alice, who alleged that her rights to the share of the conjugal partnership are being trampled upon and who, like her husband, averred that she had never authorized the Yap spouses to mortgage the conjugal properties[10] and; b) Mega Integrated Agro-Livestock Farms, Inc. (Mega), which claimed that it had purchased from Vicente in December 1996 a portion of the property covered by TCT No. T-114415, and that it could not effect the transfer of said title in its

name because the Go spouses are in possession of the owner's copy of TCT No. T-114415.[11]

Ruling of the Regional Trial Court

After due hearing, the RTC rendered a Decision[12] dated March 19, 2004, the dispositive portion of which stated:

WHEREFORE, premises considered, judgment is hereby rendered:

1. DECLARING, as between plaintiff, intervenor Alice C. Chaves and defendants, the Special Power of Attorney (Exh. 1-Go and Exh. "A") allegedly executed by plaintiff and intervenor Alice C. Chaves as well as the second mortgage (Exh. 2-Go) as INEFFECTIVE, INVALID, AND UNENFORCEABLE as against plaintiff and intervenor ALICE CHAVES as they did not sign said special power of attorney and second mortgage. Consequently, the adverse claim, notice of lis pendens and the annotation of the second mortgage on TCT No. T-114415, TCT No. T-114416 and TCT No. T-114417 must be cancelled and or removed they being clouds to said titles. For said purpose, the Register of Deeds of the City of Cagayan de Oro is hereby ordered to cancel them;
2. DECLARING plaintiff and intervenor Alice C. Chaves as not bound by the effects of the second mortgage they having not signed the Special Power of Attorney and said second mortgage. What defendants should do is to demand the amount mentioned in the second mortgage from Paquito S. Yap and Evelyn Nellie Chaves Yap;
3. ORDERING defendant TRINIDAD GO to surrender to MEGA INTERGRATED AGRO-LIVESTOCK INDUSTRIAL FARMS, INC. the owner's copy of TCT No. T-114415 and to intervenor ALICE C. CHAVES the owner's copy of TCT No. T-114416 and T-114417;
4. Ordering MEGA INTEGRATED AGRO-LIVESTOCK INDUSTRIAL FARMS, INC. thru [sic] See Hong to pay intervenor Alice C. Chaves the balance of P15,074,000.00 as her share in the conjugal partnership but only after the land sold consisting of Lot Nos. 1 and 2 covered by TCT No. 114414 and TCT No. 114415 shall have been cleared of squatters by intervenor Alice Chaves.
5. DENYING the prayer for attorney's fees and moral damages there being no proof shown that in annotating the second mortgage on TCT No. T-114415, TCT No. T-114416, and TCT No. T-114417, all of the Registry of Deeds of Cagayan de Oro City, defendants were motivated by evident bad faith;
6. DENYING defendants' counterclaim for lack of merit it not being shown that in filing the case, plaintiff was motivated by malice and evident bad faith.[13]

The Procedural Blunders that Prodded the CA to Dismiss Petitioners' Appeal

The Go spouses appealed to the CA Cagayan de Oro. They filed their brief and furnished Vicente with a copy thereof before the June 12, 2007 deadline. However, all the other adverse parties moved before the CA to have the appeal dismissed:

- a) Mega argued in its Motion to Dismiss[14] that Go spouses failed to file their brief on time. It appears that Go spouses failed to furnish Mega with a copy of their brief. Their counsel, Atty. Kathryn Dela Serna, claimed inadvertence for the mistake.[15] Nonetheless, when Go spouses received Mega's Motion to Dismiss on June 14, 2007, they personally served Mega a copy of the brief that same day:[16]
- b) Vicente (now substituted by his children in view of his death) on the other hand, complained about the form of the appellants' brief he received, pointing to want of the following requirements under Rule 44 of the Rules of Court: 1) subject index, page references, and legal citations as required under Section 13; and 2) certified true copy of the assailed RTC Decision as required in Section 13(f) [should be (h)]. Petitioners' counsel again

professed inadvertence and good faith, reasoning that the errors cannot be considered fatal, for the body/contents of the appellants' brief have substantially complied with the provisions of Rule 44. Nevertheless, she submitted the subject index/table of contents of the brief;[17]

c) More than two months after the filing of the appellant's brief, Alice still had not received a copy of said brief. She thus joined Mega in asking the appellate court for the dismissal of Go spouses' appeal.[18] Upon learning that Alice was likewise not provided with the appellants' brief, petitioners then furnished her with a copy thereof on August 30, 2007.[19] In their Comment,[20] petitioners' counsel, Atty. Emmy Lou Lomboy (working for Atty. Dela Serna's law firm), justified the oversight by explaining that she only inherited the case from the former counsel of record, and that she merely relied on the list of parties indicated on the CA Resolutions/Notices[21] who must be furnished with copies of the appellants' brief. It appears, however, that Atty. Erlington Pimentel, is not included therein.

Ruling of the Court of Appeals

Acceding to all the appellees' objections and opining that an utter and flagrant disregard of the rules of procedure is inexcusable, the CA dismissed the appeal of the Go spouses on the following grounds: First, that Go spouses failed to serve a copy of their appellants' brief upon the intervenors on time,[22] and, second, that their appellants' brief does not contain a subject index and that no copy of the assailed Decision was appended thereto, in violation of Section 44, Section 13 (a) and (h) in relation to Rule 50, Section 1(f).[23]

It reasoned:

In the case at bench, appellants [Go spouses] even admitted that they failed to serve a copy of their brief to Mega Farms as well as to Alice Chaves on the same day they filed the brief with this Court. Belated compliance with this requirement does not suffice. Proper procedure dictates that a copy of the pleading be first furnished the opposing party so that proof of such service may be duly indicated on the original of the pleading to be filed shortly afterward in court, such indication being either a handwritten acknowledgment by the adverse party or the registry receipt of the copy mailed to the adverse party. Service precedes filing; both within the time allowed by the Rules.

Second. It is a matter of fact that the appellants' brief does not contain a subject index nor does it have as an appendix the copy of the assailed decision. x x x

The first requirement of an appellant's brief is a subject index. The index is intended to facilitate the review of appeals by providing ready reference, functioning much like a table of contents. This jurisdiction prescribes no limit on the length of appeal briefs or appeal memoranda filed before appellate courts. The downside of this liberal rule is, of course, the very real possibility that the reviewing tribunal will be swamped with voluminous documents. This occurs even though the rules consistently urge the parties to be "brief" or "concise" in the drafting of pleadings, briefs, and other papers to be filed in court. Herein lies the reason and the need for a subject index. The subject index makes readily available at one's fingertips the subject of the contents of the brief so that the need to thumb through the brief page after page to locate a party's arguments, or a particular citation, or whatever else needs to be found and considered, is obviated.

x x x x

Although appellants may have subsequently rectified those deficiencies, the belated compliance, however, is not by itself sufficient to warrant suspension of the strict requirements of the rules, absent any showing that the initial non-compliance was not in any way attributable to negligence, or that there are highly justifying equitable reasons for this Court to make an extraordinary disposition in the interest of justice.

It has long been recognized that strict compliance with the rules is indispensable for the prevention of needless

delays and for the orderly and expeditious dispatch of judicial business. Utter disregard of the rules cannot just be rationalized by harking on the policy of liberal construction. While courts should, in all cases, endeavor to do substantial justice without undue subservience to technicalities, the mere invocation by the parties of liberality and substantial justice does not automatically do away with the rules laid down for the orderly administration of justice.[24]

Issue

Stated simply, the lone issue for our consideration is whether the appellate court erred in dismissing the appeal.

Our Ruling

Facing up to all these objections and admitting the mistakes committed, the Gos beseech liberality in the application of the rules. Even if clearly their counsel committed a number of palpable mistakes which, as a general rule should bind the client, we shall grant the petition in the interest of justice.[25]

Our rules of procedure are designed to facilitate the orderly disposition of cases and permit the prompt disposition of unmeritorious cases which clog the court dockets and do little more than waste the courts' time.[26] These technical and procedural rules, however, are intended to ensure, rather than suppress, substantial justice.[27] A deviation from their rigid enforcement may thus be allowed, as petitioners should be given the fullest opportunity to establish the merits of their case, rather than lose their property on mere technicalities.[28] We held in *Ong Lim Sing, Jr. v. FEB Leasing and Finance Corporation* [29] that:

Courts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to due process. In numerous cases, this Court has allowed liberal construction of the rules when to do so would serve the demands of substantial justice and equity.

We agree that the CA had the discretion to dismiss petitioners' appeal. The discretion, however, 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.[30]

Here, we find that the failure to serve a copy of the appellant's brief to two of the adverse parties was a mere oversight, constituting excusable neglect.[31] A litigant's failure to furnish his opponent with a copy of his appeal brief does not suffice to warrant dismissal of that appeal. In such an instance, all that is needed is for the court to order the litigant to furnish his opponent with a copy of his brief.[32] Anent the failure to append a copy of the assailed judgment, instead of dismissing the appeal on that basis, it is more in keeping with equity to simply require the appellants to immediately submit a copy of the Decision of the lower court rather than punish litigants for the reckless inattention of their lawyers.

The purpose of a subject index in an appellant's/appellee's brief obviates the court to thumb through a possibly lengthy brief page after page to locate whatever else needs to be found and considered, such as arguments and citations.[33] In the case at bar, notably, the appeal brief submitted to the CA consists only of 17 pages which the appellate court may easily peruse to apprise it of what the case is all about and of the relief sought. Thus, the belated submission of the subject index may be considered excusable. Our discussion in *Philippine Coconut Authority v. Corona International, Inc.*[34] is apropos:

x x x the purpose of the brief is to present the court in coherent and concise form the point and questions in controversy, and by fair argument on the facts and law of the case, to assist the court in arriving at a just and proper conclusion. A haphazard and pellmell presentation will not do for the brief should be so prepared as to minimize the labor of the court in examination of the record upon which the appeal is heard and determined. It is certainly, 'the vehicle of counsel to convey to the court the essential facts of his client's case, a statement of

the questions of law involved, the law he should have applied, and the application he desires of it by the court'. There should be an honest compliance with the requirements regarding contents of appellant's brief, and among which is that it should contain "a subject index of the matter in the brief with a digest of the argument and page references."

We do not disagree with the appellate court's above exposition. The requirements laid down in Section 13, Rule 43 are intended to aid the appellate court in arriving at a just and proper conclusion of the case. However, we are of the opinion that despite its deficiencies petitioner's appellant's brief is sufficient in form and substance as to apprise the appellate court of the essential facts and nature of the case as well as the issues raised and the laws necessary for the disposition of the same.

This case involves voluminous records meriting a review on the merits by the CA. Otherwise, the efforts of the petitioners to protect their collateral in their judicial battle will lead to naught once they lose their remedy of an appeal just because of procedural niceties. Adherence to legal technicalities allows individual error to be suffered in order that justice in the maximum may be preserved. Nonetheless, "we should indeed welcome," as Judge Learned Hand once wrote, "any efforts that help disentangle us from the archaisms that still impede our pursuit of truth".^[35] Our ruling in *Aguam v. Court of Appeals* ^[36] also bears recalling:

Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.

WHEREFORE, the petition is GRANTED. The Resolutions dated October 10, 2007 and March 11, 2008 of the Court of Appeals in CA-G.R. CV No. 00257 are SET ASIDE; petitioners' appeal is reinstated; and the instant case is REMANDED to the Court of Appeals for further proceedings.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[*] Substituted by Ronaldo Chaves, Lino Chaves, Carlos Chaves and Tessie C. Aldana, per Order dated January 18, 2000 of the Regional Trial Court of Cagayan de Oro City, Branch 24, records, p. 563.

[1] Rollo, pp. 204-209, penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Jane Aurora C. Lantion and Elihu A. Ybañez.

[2] Id. at 226-228.

[3] Id. at 62-75.

[4] Id. at 112.

[5] Id. at 113-114. The mortgage to Trinidad Go is a 2nd mortgage by the Yaps over the subject properties, the first one being with Metrobank, which was subsequently released. Vicente is only assailing this mortgage with Trinidad Go.

[6] Id. at 115-116.

[7] Id. at 117-118.

[8] Id. at 119-120.

[9] Id. at 116, 118 and 120.

[10] Id. at 296-298.

[11] Id. at 100-105.

[12] Id. at 129-143; penned by Presiding Judge Leonardo N. Demecillo.

[13] Id. at 142-143.

[14] Id. at 164-167.

[15] Id. at 168-171.

[16] Id. at 172.

[17] Id. at 178-188.

[18] CA rollo, pp. 112-113.

[19] Id. at 118.

[20] Id. at 114-117.

[21] Id. at 119-122; dated February 28, 2006, June 20, 2006, March 7, 2007, and March 16, 2007.

[22] Rule 44, Sec. 7. Appellant's brief. - It shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee.

[23] Rule 44, Sec. 13. Contents of appellant's brief. - The appellant's brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

x x x x

(h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from.

Rule 50, Sec. 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44;

[24] CA rollo, pp. 206-208.

[25] Friend v. Unionbank, G.R. No. 165767, November 29, 2005, 476 SCRA 453, 457-458.

- [26] Sps. Del Rosario v. Court of Appeals, 311 Phil. 630, 636 (1995).
- [27] Bigornia v. Court of Appeals, G.R. No. 173017, March 17, 2009.
- [28] Sangalang v. Barangay Maguihan, G.R. No. 159792, December 23, 2009; Acme Shoe, Rubber & Plastic Corp. v. Court of Appeals, 329 Phi. 531, 538 (1996).
- [29] G.R. No. 168115, June 8, 2007, 524 SCRA 333, 343.
- [30] Aguam v. Court of Appeals, 388 Phil. 587, 593 (2000).
- [31] Sunrise Manning Agency, Inc. v. National Labor Relations Commission, 485 Phil. 426, 430-431 (2004); Carnation Philippines Employees Labor Union-FFW v. National Labor Relations Commission, 210 Phil. 30, 31 (1983).
- [32] Perez v. Court of Appeals, 374 Phil. 388, 408 (1999), citing Precision Electronics Corporation v. National Labor Relations Commission, G.R. No. 86657, October 23, 1989, 178 SCRA 667, 670.
- [33] De Liano v. Court of Appeals, 421 Phil. 1033, 1042 (2001).
- [34] 395 Phil. 742, 750 (2000). Citations omitted.
- [35] United States v. Allied Stevedoring Corp., 241 F.2d 925, 934 (2 Cir.), cert. denied, 353 U.S. 984, 77 S.Ct. 1282, 1 L.Ed.2d 1143 (1957).
- [36] 388 Phil. 587, 594 (2000). See also American Express International, Inc. v. Intermediate Appellate Court, G.R. No. L-70766, November 9, 1988, 167 SCRA 209, 221; Tan Boon Bee & Co., Inc. v. Judge Jarencio, G.R. No. L-413337, June 30, 1988, 163 SCRA 205, 213; De las Alas v. Court of Appeals, 172 Phil. 559, 575 (1978); Nerves v. Civil Service Commission, 342 Phil. 578, 585 (1997).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.