

ALFREDO JACA MONTAJES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 183449. March 12, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

Assailed in this petition for review on certiorari are the Resolutions dated September 21, 2007[1] and May 19, 2008 [2] of the Court of Appeals (CA) issued in CA-G.R. CR No. 00410 which dismissed the petition for review filed by petitioner Alfredo Jaca Montajes for being filed out of time, and denied reconsideration thereof, respectively.

In an Information[3] dated June 5, 2003, petitioner was charged with the crime of Direct Assault before the Municipal Trial Court (MTC) of Buenavista, Agusan del Norte, the accusatory portion of which reads:

That on or about the 8[th] day of December, 2002, at 1:00 early morning, more or less, in Purok 10, Barangay Abilan, Buenavista, Agusan del Norte, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously attack, assault, and hack one JOSE B. RELLO, an elected Punong Barangay, while in the performance of his duties, and accused fully know that Jose B. Rellon is a Barangay Official, to the damage and prejudice of said Jose B. Rellon.

CONTRARY TO LAW: Article 148 of the revised Penal Code.[4]

When arraigned, petitioner pleaded not guilty to the charge.[5]

Thereafter, trial ensued.

The evidence of the prosecution and the defense is summarized by the MTC as follows:

To substantiate the alleged commission of the crime of direct assault by the accused, complaining witness Jose B. Rellon declared inter alia, that he has been the Barangay Captain of Barangay Abilan, Buenavista, Agusan del Norte since the year 2002. On December 8, 2002, at about 1:00 o'clock in the early morning, he was at the benefit dance sponsored by the Sangguniang Kabataan at Purok 4, Barangay Abilan, Buenavista, Agusan del Norte. He met accused Alfredo Montajes who uttered to him the words "YOU'RE A USELESS CAPTAIN." Other words of similar import were likewise uttered by the accused against him which he could no longer recall. After uttering the said words, the accused then drew his bolo locally known as "lagaraw" and approached him. He then moved backward, but the accused came near to him and struck him once with the "lagaraw." Luckily, complainant was not hit as he managed to move backward. Complainant's daughter named Vilma Dector and his wife, approached him and brought him home. Many people, including two (2) CVO (Rodelio Laureto and Victorio Trinquite), witnessed the incident.

During the mediation in the barangay hall, an investigation was conducted. The accused, according to the complainant, asked for forgiveness from him which he declined, as he was of the impression that the law must be applied and the accused should instead ask for forgiveness in court.

As proof that the accused asked for forgiveness, complainant presented a document (Exh. "B") to that effect.

Complainant had the incident blotted at the police station as evidenced by an extract thereof.

On cross-examination, complainant testified that he went to the benefit dance to stop it since it was already 1:00 o'clock in the early morning and the benefit dance was still going on when it was supposed to end at 12:00 o'clock midnight as the permit he gave was only up to 12:00 o'clock midnight. As a result of the stoppage of the benefit dance, many persons got angry, and he heard that the house of the accused was stoned which made the accused angry. In fact, he saw the accused murmuring as his house was stoned by unknown persons. When the accused came near to him, the former did not ask for assistance from him.

Prosecution witness Rodelio Laureto corroborated the declaration of the complainant that it was the accused who hacked the complainant with the use of a "lagaraw," but failed to hit him.

Accused Alfredo Montajes testified that in the evening of December 7, 2002, he was at home listening to the disco as there was a benefit dance near their house. The benefit dance started at 7 o'clock in the evening and ended at 1 o'clock in the early morning of December 8, 2002 when it was stopped by Barangay Captain Jose Rellon. It was then that trouble started because many of those who have paid but were not anymore allowed to dance complained to the Barangay Captain and requested that they be given one more music so that they could avail for what they have paid for on that benefit dance, as they were not refunded with their payments. When this protest went on, the CVO's reacted by clubbing them using their jackets. Then a stoning incident followed. One of those hit by stones was his house. This made him wild prompting him to get his "lagaraw" to look for the people responsible for stoning his house. While looking for these persons along the road, he saw Barangay Captain Jose Rellon who was then two (2) meters away from him, and he responded by telling him that he was looking for those persons responsible for the stoning of his house. The complainant wanted to get the "lagaraw" from him but he refused.

The accused explained, when confronted with a document (Exh. "B") wherein it was stated that he asked for apology from the Barangay Captain during the barangay level conciliation, that it was for the sole purpose of not elevating this case and that they would settle amicably.

The accused also vehemently denied the accusation that he attacked the barangay captain.

Defense witness Luis A. Cajales, Jr., a Barangay Kagawad of Barangay Abilan, Buenavista, Agusan del Norte, testified that at about 1:00 o'clock in the early dawn of December 8, 2002, he heard of stoning and shouting, in fact the window grill of his house was hit and he heard the people in panic. As a barangay kagawad assigned to the Peace and Order Committee, he went out immediately from his house and went to the road across the basketball court where the stoning was. He then saw accused Alfredo Montajes holding a bolo. The accused was shouting that he was looking for the persons who stoned his house. He also witnessed that the barangay captain asked the accused why he was bringing a bolo and the accused replied that he was looking for the persons who stoned his house. He did not know what else happened because he tried to drive the teenagers to their homes, because it was already very late in the evening.

On cross-examination, he declared that the accused asked for forgiveness during the confrontation at the Barangay because of the disturbance he made to the barangay captain and to the community because some people were in panic as he was bringing a bolo, and not for attacking the Barangay Captain.

Anatolio Lozada Bangahon, another defense witness, testified that he saw the accused coming out from his house carrying a bolo, and when he asked him why he was bringing a bolo, the accused replied that he was going to look for the persons who stoned his house. The accused was roaming around to look for the persons who stoned his house, but he was not looking after the Barangay Captain.[6]

On December 29, 2005, the MTC issued its Judgment[7] finding petitioner guilty of the crime of direct assault. The dispositive portion of the judgment reads:

WHEREFORE, the Court finds accused ALFREDO MONTAJES y JACA guilty beyond reasonable doubt of the crime of Direct Assault as defined and penalized under Art. 148 of the Revised Penal Code and hereby sentences him to suffer an indefinite prison term of FOUR (4) MONTHS AND ONE DAY of arresto mayor in its maximum period, as minimum, to FOUR (4) YEARS, NINE MONTHS AND TEN DAYS of prision correccional in its medium period, as maximum, there being no mitigating or aggravating circumstance attending the commission of the offense charged. The accused is likewise ordered to pay a fine of ONE THOUSAND PESOS (P1,000.00) Philippine Currency, without subsidiary imprisonment in case of insolvency.[8]

On appeal, the Regional Trial Court (RTC), Branch 3, Butuan City, rendered its Decision[9] dated January 23, 2007 affirming in toto the judgment of the MTC.

Petitioner filed a motion for reconsideration which the RTC denied in an Order[10] dated May 4, 2007.

Petitioner filed with the CA a petition (should be motion) for extension of time to file petition for review under Rule 42 of the Rules of Court praying for an extended period of 15 days from May 21, 2007, or until June 5, 2007, within which to file his petition. Petitioner subsequently filed his petition for review on June 5, 2007.

On September 21, 2007, the CA issued its assailed Resolution dismissing the petition outright for being filed out of time. In so ruling, the CA said:

As borne by the records, the petitioner received the copy of the resolution denying his motion for reconsideration on May 4, 2007. Thus, the 15-day reglementary period within which to file a petition for review expired on May 21, 2007 (Monday) considering that the last day fell on a Saturday, May 19, 2007. It appears that petitioner reckoned the extension from May 21, 2007 (Monday) and not from May 19, 2007 (Saturday). Petitioner should have reckoned the 15-day extension from May 19, 2007 and not from May 21, 2007. It is well settled that when the day of the period falls on a Saturday, Sunday, or a legal holiday, and a party is granted an extension of time, the extension should be counted from the last day which is a Saturday, Sunday or legal holiday.[11]

Petitioner's motion for reconsideration was denied in a Resolution dated May 19, 2008.

Petitioner is now before us on the issue of whether the CA erred in denying due course to his petition for review for being filed out of time.

Petitioner argues that he filed the motion for extension of time to file a petition for review with the CA pursuant to Section 1, Rule 22 of the Rules of Court; that based on such provision, if the last day to file a petition falls on a Saturday, the time shall not run until the next working day. Here, the last day of the reglementary period within which to file the said petition for review with the CA fell on a Saturday, thus, the last day to file the petition was moved to the next working day which was May 21, 2007, Monday. Hence, he was not wrong in asking the CA to give him 15 days from May 21, 2007 to file the petition and not from May 19, 2007, Saturday. Nonetheless, petitioner asks for liberality in the interest of justice taking into consideration the merit of his petition claiming that his conviction was not supported by the evidence on record. Moreover, he claims that his petition for review was filed with the CA on June 5, 2007, which was long before the CA dismissed the same on September 21, 2007 for being filed out of time. He prays that the CA resolutions be reversed and set aside and the CA be directed to give due course to his petition and to resolve the case on the merits.

We grant the petition.

Section 1, Rule 22 of the Rules of Court relied upon by petitioner provides:

Section 1. How to compute time. – In computing any period of time prescribed or allowed by these Rules, or

by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

We then clarified the above-quoted provision when we issued A.M. No. 00-2-14-SC dated February 29, 2000 (Re: Computation of Time When the Last Day Falls on a Saturday, Sunday or a Legal Holiday and a Motion for Extension on Next Working Day is Granted) which reads:

x x x x

Whereas, the aforecited provision [Section 1, Rule 22 of the Rules of Court] applies in the matter of filing of pleadings in courts when the due date falls on a Saturday, Sunday or legal holiday, in which case, the filing of the said pleading on the next working day is deemed on time;

Whereas, the question has been raised if the period is extended ipso jure to the next working day immediately following where the last day of the period is a Saturday, Sunday or a legal holiday, so that when a motion for extension of time is filed, the period of extension is to be reckoned from the next working day and not from the original expiration of the period.

NOW THEREFORE, the Court Resolves, for the guidance of the Bench and the Bar, to declare that Section 1, Rule 22 speaks only of "the last day of the period" so that when a party seeks an extension and the same is granted, the due date ceases to be the last day and hence, the provision no longer applies. Any extension of time to file the required pleading should therefore be counted from the expiration of the period regardless of the fact that said due date is a Saturday, Sunday or legal holiday.

In *De la Cruz v. Maersk Filipinas Crewing, Inc.*,^[12] we said:

Section 1, Rule 22, as clarified by the circular, is clear. Should a party desire to file any pleading, even a motion for extension of time to file a pleading, and the last day falls on a Saturday, Sunday or a legal holiday, he may do so on the next working day. This is what petitioner did in the case at bar.

However, according to the same circular, the petition for review on certiorari was indeed filed out of time. The provision states that in case a motion for extension is granted, the due date for the extended period shall be counted from the original due date, not from the next working day on which the motion for extension was filed. In *Luz v. National Amnesty Commission*, we had occasion to expound on the matter. In that case, we held that the extension granted by the court should be tacked to the original period and commences immediately after the expiration of such period.

In the case at bar, although petitioner's filing of the motion for extension was within the period provided by law, the filing of the petition itself was not on time. Petitioner was granted an additional period of 30 days within which to file the petition. Reckoned from the original period, he should have filed it on May 8, 2006. Instead, he did so only on May 11, 2006, that is, 3 days late.^[13]

Based on Section 1, Rule 22 of the Rules of Court, where the last day of the period for doing any act required by law falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. In this case, the original period for filing the petition for review with the CA was on May 19, 2007, a Saturday. Petitioner's filing of his motion for extension of time to file a petition for review on May 21, 2007, the next working day which followed the last day for filing which fell on a Saturday, was therefore on time. However, petitioner prayed in his motion for extension that he be granted 15 days from May 21, 2007 or up to June 5, 2007 within which to file his petition. He then filed his petition for review on June 5, 2007. The CA did not act on the motion for extension, but instead issued a Resolution dated September 21, 2007 dismissing the petition for review for being filed out of time.

We find that the CA correctly ruled that the petition for review was filed out of time based on our clarification in A.M. No. 00-2-14-SC that the 15-day extension period prayed for should be tacked to the original period and commences immediately after the expiration of such period.[14] Thus, counting 15 days from the expiration of the period which was on May 19, 2007, the petition filed on June 5, 2007 was already two days late. However, we find the circumstances obtaining in this case to merit the liberal application of the rule in the interest of justice and fair play.

Notably, the petition for review was already filed on June 5, 2007, which was long before the CA issued its Resolution dated September 21, 2007 dismissing the petition for review for being filed out of time. There was no showing that respondent suffered any material injury or his cause was prejudiced by reason of such delay. Moreover, the RTC decision which was sought to be reversed in the petition for review filed in the CA had affirmed the MTC judgment convicting petitioner of direct assault, hence, the petition involved no less than petitioner's liberty.[15] We do not find anything on record that shows petitioner's deliberate intent to delay the final disposition of the case as he had filed the petition for review within the extended period sought, although erroneously computed. These circumstances should have been taken into consideration for the CA not to dismiss the petition outright.

We have ruled that being a few days late in the filing of the petition for review does not automatically warrant the dismissal thereof.[16] And even assuming that a petition for review is filed a few days late, where strong considerations of substantial justice are manifest in the petition, we may relax the stringent application of technical rules in the exercise of our equity jurisdiction.[17]

Courts should not be so strict about procedural lapses that do not really impair the proper administration of justice.[18] After all, the higher objective of procedural rule is to insure that the substantive rights of the parties are protected.[19] Litigations should, as much as possible, be decided on the merits and not on technicalities. Every party-litigant must be afforded ample opportunity for the proper and just determination of his case, free from the unacceptable plea of technicalities.[20]

WHEREFORE, the petition is granted. The assailed Resolutions of the Court of Appeals are SET ASIDE. The Court of Appeals is ORDERED to reinstate the Petition for Review filed by petitioner in CA-G.R. CR No. 00410.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Teresita Dy-Liacco Flores and Michael P. Elbinias, concurring; rollo, pp. 36-37.

[2] Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Mario V. Lopez and Michael P. Elbinias, concurring; id. at 39-40.

[3] Records, p. 1.

[4] Id.

[5] Id. at 32.

[6] Rollo, pp. 73-75.

[7] Docketed as Criminal Case No. 3626; per Judge Edgar G. Manilag; id. at 73-76.

[8] Id. at 76.

[9] Docketed as Criminal Case No. 11870; per Judge Francisco F. Maclang; id. at 69-72.

[10] Id. at 77.

[11] Id. at 36-37.

[12] G.R. No. 172038, April 14, 2008, 551 SCRA 284.

[13] Id. at 293-294. (Citation omitted.)

[14] Luz v. National Amnesty Commission, G.R. No. 159708, September 24, 2004, 439 SCRA 111, 115.

[15] Fabrigar v. People, G.R. No. 150122, February 6, 2004, 422 SCRA 395, 402.

[16] De la Cruz v. Maersk Filipinas Crewing, Inc., supra note 12, at 294, citing Orata v. Intermediate Appellate Court, G.R. No. 73471, May 8, 1990, 185 SCRA 148, 152, citing Serrano v. Court of Appeals, G.R. No. L-46357, October 9, 1985, 139 SCRA 179. In Ramos v. Bagasao, No. L-51552, February 28, 1980, 96 SCRA 395, we held that the delay of four (4) days in filing a notice of appeal and a motion for an extension of time to file a record on appeal can be excused on the basis of equity with the additional consideration that said record was then already with respondent judge; citing Serrano v. CA, supra, at 186.

[17] Orata v. Intermediate Appellate Court, supra.

[18] Fabrigar v. People, supra note 15, at 402, citing Ligon v. Court of Appeals, G.R. No. 107751, June 1, 1995, 244 SCRA 693.

[19] Id.

[20] Id.

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