

LETICIA B. AGBAYANI, PETITIONER, VS. COURT OF APPEALS, DEPARTMENT OF JUSTICE AND LOIDA MARCELINA J. GENABE, RESPONDENTS.

G.R. No. 183623. June 25, 2012

Ponente: REYES, J.

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REYES, J.:

On petition for review under Rule 45 of the 1997 Rules of Court is the Decision[1] dated March 27, 2008 of the Court of Appeals (CA) dismissing the petition for certiorari and the Resolution[2] dated July 3, 2008 denying the motion for reconsideration thereof in CA-G.R. SP No. 99626. Petitioner Leticia B. Agbayani (Agbayani) assails the resolution of the Department of Justice (DOJ) which directed the withdrawal of her complaint for grave oral defamation filed against respondent Loida Marcelina J. Genabe (Genabe).

Antecedent Facts

Agbayani and Genabe were both employees of the Regional Trial Court (RTC), Branch 275 of Las Piñas City, working as Court Stenographer and Legal Researcher II, respectively. On December 29, 2006, Agbayani filed a criminal complaint for grave oral defamation against Genabe before the Office of the City Prosecutor of Las Piñas City, docketed as I.S. No. 07-0013, for allegedly uttering against her, in the presence of their fellow court employees and while she was going about her usual duties at work, the following statements, to wit:

“ANG GALING MO LETY, SINABI MO NA TINAPOS MO YUNG MARVILLA CASE, ANG GALING MO. FEELING LAWYER KA KASI, BAKIT DI KA MAGDUTY NA LANG, STENOGRAPHER KA MAGSTENO KA NA LANG, ANG GALING MO, FEELING LAWYER KA TALAGA. NAGBEBENTA KA NG KASO, TIRADOR KA NG JUDGE. SIGE HIGH BLOOD DIN KA, MAMATAY KA SANA SA HIGH BLOOD MO.”[3]

In a Resolution[4] rendered on February 12, 2007, the Office of the City Prosecutor of Las Piñas City[5] found probable cause for the filing of the Information for grave oral defamation against Genabe.

However, upon a petition for review filed by Genabe, the DOJ Undersecretary Ernesto L. Pineda (Pineda) found that:

After careful evaluation and consideration of the evidence on record, we find merit in the instant petition.

Contrary to the findings in the assailed resolution, we find that the subject utterances of respondent constitute only slight oral defamation.

As alleged by the [petitioner] in paragraphs 2, 3 and 4 of her complaint-affidavit, respondent uttered the remarks subject matter of the instant case in the heat of anger. This was also the tenor of the sworn statements of the witnesses for complainant. The Supreme Court, in the case of Cruz vs. Court of Appeals, G.R. Nos. L-56224-26, November 25, 1982, x x x held that although abusive remarks may ordinarily be considered as serious defamation, under the environmental circumstances of the case, there having been provocation on

complainant's part, and the utterances complained of having been made in the heat of unrestrained anger and obfuscation, such utterances constitute only the crime of slight oral defamation.

Notwithstanding the foregoing, we believe that the instant case should nonetheless be dismissed for non-compliance with the provisions of Book III, Title I, Chapter 7 (Katarungang Pambarangay), of Republic Act No. 7160 (The Local Government Code of 1991). As shown by the records, the parties herein are residents of Las Piñas City. x x x

The complaint-affidavit, however, failed to show that the instant case was previously referred to the barangay for conciliation in compliance with Sections 408 and 409, paragraph (d), of the Local Government Code, which provides:

Section 408. Subject Matter for Amicable Settlement; Exception Thereto. – The lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except: xxx

Section 409. Venue. x x x (d) Those arising at the workplace where the contending parties are employed or xxx shall be brought in the barangay where such workplace or institution is located.

The records of the case likewise show that the instant case is not one of the exceptions enumerated under Section 408 of the Local Government Code. Hence, the dismissal of the instant petition is proper.

It is well-noted that the Supreme Court held that where the case is covered by P.D. 1508 (Katarungang Pambarangay Law), the compulsory process of arbitration required therein is a pre-condition for filing a complaint in court. Where the complaint (a) did not state that it is one of the excepted cases, or (b) it did not allege prior availment of said conciliation process, or (c) did not have a certification that no conciliation or settlement had been reached by the parties, the case should be dismissed x x x. While the foregoing doctrine is handed down in civil cases, it is submitted that the same should apply to criminal cases covered by, but filed without complying with, the provisions of P.D. 1508 x x x.[6]

Thus, in a Resolution[7] dated May 17, 2007, the DOJ disposed, to wit:

WHEREFORE, premises considered, the assailed resolution is hereby REVERSED and SET ASIDE. Accordingly, the City Prosecutor of Las Piñas City is directed to move for the withdrawal of the information for grave oral defamation filed against respondent Loida Marcelina J. Genabe, and report the action taken thereon within ten (10) days from receipt hereof.

SO ORDERED.[8]

The petitioner filed a motion for reconsideration, which was denied in a Resolution[9] dated June 25, 2007.

Consequently, Agbayani filed a petition for certiorari with the CA alleging that the DOJ committed grave abuse of discretion in setting aside the Resolution dated February 12, 2007 of the City Prosecutor of Las Piñas City in I.S. Case No. 07-0013. She averred that the respondent's petition for review filed with the DOJ did not comply with Sections 5 and 6 of DOJ Circular No. 70, or the "2000 National Prosecution Service (NPS) Rules on Appeal," and maintained that her evidence supported a finding of probable cause for grave oral defamation against respondent Genabe.

On March 27, 2008, the CA dismissed the petition after finding no grave abuse of discretion on the part of the DOJ. Citing *Punzalan v. Dela Peña*,[10] the CA stated that for grave abuse of discretion to exist, the complained act must constitute a capricious and whimsical exercise of judgment as it is equivalent to lack of jurisdiction, or when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty enjoined or to act at all in contemplation

of law. It is not sufficient that a tribunal, in the exercise of its power, abused its discretion; such abuse must be grave.

On motion for reconsideration by the petitioner, the CA denied the same in its Resolution[11] dated July 3, 2008. Hence, the instant petition.

Assignment of Errors

Maintaining her stance, Agbayani raised the following, to wit:

- RESPONDENT COURT GRAVELY ERRED IN HOLDING THAT THE RESPONDENT DOJ DID NOT ABUSE ITS DISCRETION WHEN THE LATTER REVERSED AND SET ASIDE THE RESOLUTION OF THE CITY PROSECUTOR OF LAS PIÑAS CITY.
- RESPONDENT COURT GRAVELY ERRED IN AFFIRMING RESPONDENT DOJ'S FINDING THAT WHAT PRIVATE RESPONDENT COMMITTED WAS ONLY SLIGHT ORAL DEFAMATION.
- RESPONDENT COURT GRAVELY ERRED IN AFFIRMING RESPONDENT DOJ'S DISMISSAL OF THE COMPLAINT DUE TO NON-COMPLIANCE WITH THE PROVISIONS OF THE LOCAL GOVERNMENT CODE OF 1991.
- RESPONDENT COURT GRAVELY ERRED WHEN IT HELD THAT THE REQUIREMENTS UNDER DOJ CIRCULAR NO. 70 (2000 NPS Rule on Appeal) ARE NOT MANDATORY.[12]

Ruling and Discussions

The petition is bereft of merit.

We shall first tackle Agbayani's arguments on the first two issues raised in the instant petition.

1. Petitioner Agbayani alleged that Undersecretary Pineda unfairly heeded only to the arguments interposed by respondent Genabe in her comment; and the CA, in turn, took his findings and reasoning as gospel truth. Agbayani's comment was completely disregarded and suppressed in the records of the DOJ. Agbayani discovered this when she went to the DOJ to examine the records, as soon as she received a copy of the DOJ Resolution of her motion for reconsideration.

2. Further, petitioner Agbayani maintained that respondent Genabe's Petition for Review[13] should have been dismissed outright, since it failed to state the name and address of the petitioner, nor did it show proof of service to her, pursuant to Sections 5 and 6 of DOJ Circular No. 70. Also, the petition was not accompanied with the required attachments, i.e. certified copies of the complaint, affidavits of witnesses, petitioner's reply to respondent's counter-affidavit, and documentary evidences of petitioner. Thus, a grave irregularity was committed by the DOJ in allowing the surreptitious insertion of these and many other documents in the records of the case, after the petition had been filed.

In particular, petitioner Agbayani alleged that when the petition was filed on March 22, 2007, only five (5) documents were attached thereto, namely: (a) the Resolution of the City Prosecutor; (b) the respondent's Counter-affidavit; (c) Letter of the staff dated January 2, 2005; (d) her Answer; and (e) the Information filed against respondent Genabe with the Office of the City Prosecutor of Las Piñas City. However, at the time the Resolution of the DOJ was issued, a total of forty-one (41) documents[14] formed part of the records of the petition. Besides, respondent Genabe's Motion to Defer Arraignment (Document No. 40) and the court order relative to the granting of the same (Document No. 41) were both dated March 23, 2007, or a day after the petition was filed. Agbayani asserted that these thirty-six (36) documents were surreptitiously and illegally attached to the records of the case, an act constituting extrinsic fraud and grave misconduct.[15] At the very least, the DOJ

should have required respondent Genabe to formalize the “insertion” of the said documents.

Petitioner Agbayani reiterated that her version of the incident was corroborated by several witnesses (officemates of Agbayani and Genabe), while that of Genabe was not. And since the crime committed by respondent Genabe consisted of her exact utterances, the DOJ erred in downgrading the same to slight oral defamation, completely disregarding the finding by the Investigating Prosecutor of probable cause for the greater offense of grave oral defamation. She denied that she gave provocation to respondent Genabe, insisting that the latter committed the offense with malice aforethought and not in the heat of anger.

We find no merit in the above arguments.

It is well to be reminded, first of all, that the rules of procedure should be viewed as mere instruments designed to facilitate the attainment of justice. They are not to be applied with severity and rigidity when such application would clearly defeat the very rationale for their conception and existence. Even the Rules of Court reflects this principle.[16]

Anent the charge of non-compliance with the rules on appeal, Sections 5 and 6 of the aforesaid DOJ Circular provide:

SECTION 5. Contents of petition. - The petition shall contain or state: (a) the names and addresses of the parties; (b) the Investigation Slip number (I.S. No.) and criminal case number, if any, and title of the case, including the offense charged in the complaint; (c) the venue of the preliminary investigation; (d) the specific material dates showing that it was filed on time; (e) a clear and concise statement of the facts, the assignment of errors, and the reasons or arguments relied upon for the allowance of the appeal; and (f) proof of service of a copy of the petition to the adverse party and the Prosecution Office concerned.

The petition shall be accompanied by legible duplicate original or certified true copy of the resolution appealed from together with legible true copies of the complaint, affidavits/sworn statements and other evidence submitted by the parties during the preliminary investigation/ reinvestigation.

If an information has been filed in court pursuant to the appealed resolution, a copy of the motion to defer proceedings filed in court must also accompany the petition.

The investigating/reviewing/approving prosecutor shall not be impleaded as party respondent in the petition. The party taking the appeal shall be referred to in the petition as either "Complainant-Appellant" or "Respondent-Appellant."

SECTION 6. Effect of failure to comply with the requirements. – The failure of petitioner to comply WITH ANY of the foregoing requirements shall constitute sufficient ground for the dismissal of the petition.

Contrary to petitioner Agbayani's claim, there was substantial compliance with the rules. Respondent Genabe actually mentioned on page 2 of her petition for review to the DOJ the name of the petitioner as the private complainant, as well as indicated the latter's address on the last page thereof as "RTC Branch 275, Las Piñas City." The CA also noted that there was proper service of the petition as required by the rules since the petitioner was able to file her comment thereon. A copy thereof, attached as Annex "L" in the instant petition, bears a mark that the comment was duly received by the Prosecution Staff, Docket Section of the DOJ. Moreover, a computer verification requested by the petitioner showed that the prosecutor assigned to the case had received a copy of the petitioner's comment.[17]

As to the charge of extrinsic fraud, which consists of the alleged suppression of Agbayani's Comment and the unauthorized insertion of documents in the records of the case with the DOJ, we agree with the CA that this is a serious charge, especially if made against the Undersecretary of Justice; and in order for it to prosper, it must be

supported by clear and convincing evidence. However, petitioner Agbayani's only proof is her bare claim that she personally checked the records and found that her Comment was missing and 36 new documents had been inserted. This matter was readily brought to the attention of Undersecretary Pineda by petitioner Agbayani in her motion for reconsideration, who however must surely have found such contention without merit, and thus denied the motion.[18]

Section 5 of the 2000 NPS Rules on Appeal also provides that the petition for review must be accompanied by a legible duplicate original or certified true copy of the resolution appealed from, together with legible true copies of the complaint, affidavits or sworn statements and other evidence submitted by the parties during the preliminary investigation or reinvestigation. Petitioner Agbayani does not claim that she was never furnished, during the preliminary investigation, with copies of the alleged inserted documents, or that any of these documents were fabricated. In fact, at least seven (7) of these documents were copies of her own submissions to the investigating prosecutor.[19] Presumably, the DOJ required respondent Genabe to submit additional documents produced at the preliminary investigation, along with Document Nos. 40 and 41, for a fuller consideration of her petition for review.

As for Document Nos. 40 and 41, which were dated a day after the filing of the petition, Section 5 of the 2000 NPS Rules on Appeal provides that if an Information has been filed in court pursuant to the appealed resolution, a copy of the Motion to Defer Proceedings must also accompany the petition. Section 3 of the above Rules states that an appeal to the DOJ must be taken within fifteen (15) days from receipt of the resolution or of the denial of the motion for reconsideration. While it may be presumed that the motion to defer arraignment accompanying the petition should also be filed within the appeal period, respondent Genabe can not actually be faulted if the resolution thereof was made after the lapse of the period to appeal.

In *Guy vs. Asia United Bank*,[20] a motion for reconsideration from the resolution of the Secretary of Justice, which was filed four (4) days beyond the “non-extendible period of ten (10) days”, was allowed under Section 13 of the 2000 NPS Rules on Appeal. The Supreme Court held that the authority of the Secretary of Justice to review and order the withdrawal of an Information in instances where he finds the absence of a prima facie case is not time-barred, albeit subject to the approval of the court, if its jurisdiction over the accused has meanwhile attached.[21] We further explained:

[I]t is not prudent or even permissible for a court to compel the Secretary of Justice or the fiscal, as the case may be, to prosecute a proceeding originally initiated by him on an information, if he finds that the evidence relied upon by him is insufficient for conviction. Now, then, if the Secretary of Justice possesses sufficient latitude of discretion in his determination of what constitutes probable cause and can legally order a reinvestigation even in those extreme instances where an information has already been filed in court, is it not just logical and valid to assume that he can take cognizance of and competently act on a motion for reconsideration, belatedly filed it might have been, dealing with probable cause? And is it not a grievous error on the part of the CA if it virtually orders the filing of an information, as here, despite a categorical statement from the Secretary of Justice about the lack of evidence to proceed with the prosecution of the petitioner? The answer to both posers should be in the affirmative. As we said in *Santos v. Go*:

“[C]ourts cannot interfere with the discretion of the public prosecutor in evaluating the offense charged. He may dismiss the complaint forthwith, if he finds the charge insufficient in form or substance, or without any ground. Or, he may proceed with the investigation if the complaint in his view is sufficient and in proper form. The decision whether to dismiss a complaint or not, is dependent upon the sound discretion of the prosecuting fiscal and, ultimately, that of the Secretary of Justice. Findings of the Secretary of Justice are not subject to review unless made with grave abuse of discretion.

x x x

[T]o strike down the April 20, 2006 DOJ Secretary's Resolution as absolutely void and without effect whatsoever, as the assailed CA decision did, for having been issued after the Secretary had supposedly lost jurisdiction over the motion for reconsideration subject of the resolution may be reading into the aforequoted provision a sense not intended. For, the irresistible thrust of the assailed CA decision is that the DOJ Secretary is peremptorily barred from taking a second hard look at his decision and, in appropriate cases, reverse or modify the same unless and until a motion for reconsideration is timely interposed and pursued. The Court cannot accord cogency to the posture assumed by the CA under the premises which, needless to stress, would deny the DOJ the authority to *motu proprio* undertake a review of his own decision with the end in view of protecting, in line with his oath of office, innocent persons from groundless, false or malicious prosecution. As the Court pointed out in *Torres, Jr. v. Aguinaldo*, the Secretary of Justice would be committing a serious dereliction of duty if he orders or sanctions the filing of an information based upon a complaint where he is not convinced that the evidence warrants the filing of the action in court.[22] (Citations omitted and underscoring supplied)

The Court further stated in *Guy* that when the DOJ Secretary took cognizance of the petitioner's motion for reconsideration, he “effectively excepted such motion from the operation of the aforequoted Section 13 of DOJ Circular No. 70, s. 2000. This show of liberality is, to us, within the competence of the DOJ Secretary to make. The Court is not inclined to disturb the same absent compelling proof, that he acted out of whim and that petitioner was out to delay the proceedings to the prejudice of respondent in filing the motion for reconsideration.”[23]

The case of *First Women's Credit Corporation v. Perez*,[24] succinctly summarizes the general rules relative to criminal prosecution: that criminal prosecution may not be restrained or stayed by injunction, preliminary or final, albeit in extreme cases, exceptional circumstances have been recognized; that courts follow the policy of non-interference in the conduct of preliminary investigations by the DOJ, and of leaving to the investigating prosecutor sufficient latitude of discretion in the determination of what constitutes sufficient evidence as will establish probable cause for the filing of an information against a supposed offender; and, that the court's duty in an appropriate case is confined to a determination of whether the assailed executive or judicial determination of probable cause was done without or in excess of jurisdiction or with grave abuse of discretion amounting to want of jurisdiction.

But while prosecutors are given sufficient latitude of discretion in the determination of probable cause, their findings are still subject to review by the Secretary of Justice. Surely, this power of the Secretary of Justice to review includes the discretion to accept additional evidence from the investigating prosecutor or from herein respondent Genabe, evidence which nonetheless appears to have already been submitted to the investigating prosecutor but inadvertently omitted by her when she filed her petition.

3. Coming now to the DOJ's finding that the complaint fails to state a cause of action, the CA held that the DOJ committed no grave abuse of discretion in causing the dismissal thereof on the ground of non-compliance with the provisions of the Local Government Code of 1991, on the Katarungang Pambarangay conciliation procedure.

Undeniably, both petitioner Agbayani and respondent Genabe are residents of Las Piñas City and both work at the RTC, and the incident which is the subject matter of the case happened in their workplace.[25] Agbayani's complaint should have undergone the mandatory barangay conciliation for possible amicable settlement with respondent Genabe, pursuant to Sections 408 and 409 of Republic Act No. 7160 or the Local Government Code of 1991 which provide:

Sec. 408. Subject Matter for Amicable Settlement; Exception thereto. – The lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes, except: x x x

Sec. 409. Venue. x x x (d) Those arising at the workplace where the contending parties are employed or x x x shall be brought in the barangay where such workplace or institution is located.

Administrative Circular No. 14-93,[26] issued by the Supreme Court on July 15, 1993 states that:

x x x

I. All disputes are subject to Barangay conciliation pursuant to the Revised Katarungang Pambarangay Law [formerly P.D. 1508, repealed and now replaced by Secs. 399-422, Chapter VII, Title I, Book III, and Sec. 515, Title I, Book IV, R.A. 7160, otherwise known as the Local Government Code of 1991], and prior recourse thereto is a pre-condition before filing a complaint in court or any government offices, except in the following disputes:

[1] Where one party is the government, or any subdivision or instrumentality thereof;

[2] Where one party is a public officer or employee and the dispute relates to the performance of his official functions;

[3] Where the dispute involves real properties located in different cities and municipalities, unless the parties thereto agree to submit their difference to amicable settlement by an appropriate Lupon;

[4] Any complaint by or against corporations, partnerships or juridical entities, since only individuals shall be parties to Barangay conciliation proceedings either as complainants or respondents [Sec. 1, Rule VI, Katarungang Pambarangay Rules];

[5] Disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangay units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate Lupon;

[6] Offenses for which the law prescribes a maximum penalty of imprisonment exceeding one [1] year or a fine of over five thousand pesos ([P]5,000.00);

[7] Offenses where there is no private offended party;

[8] Disputes where urgent legal action is necessary to prevent injustice from being committed or further continued, specifically the following:

[a] Criminal cases where accused is under police custody or detention [See Sec. 412(b)(1), Revised Katarungang Pambarangay Law];

[b] Petitions for habeas corpus by a person illegally deprived of his rightful custody over another or a person illegally deprived of or on acting in his behalf;

[c] Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support during the pendency of the action; and

[d] Actions which may be barred by the Statute of Limitations.

[9] Any class of disputes which the President may determine in the interest of justice or upon the recommendation of the Secretary of Justice;

[10] Where the dispute arises from the Comprehensive Agrarian Reform Law (CARL) [Secs. 46 & 47, R. A. 6657];

[11] Labor disputes or controversies arising from employer-employee relations [Montoya vs. Escayo, 171 SCRA 442; Art. 226, Labor Code, as amended, which grants original and exclusive jurisdiction over conciliation and mediation of disputes, grievances or problems to certain offices of the Department of Labor

and Employment];

[12] Actions to annul judgment upon a compromise which may be filed directly in court [See *Sanchez vs. [Judge] Tupaz*, 158 SCRA 459].”

x x x

The compulsory process of arbitration is a pre-condition for the filing of the complaint in court. Where the complaint (a) did not state that it is one of excepted cases, or (b) it did not allege prior availment of said conciliation process, or (c) did not have a certification that no conciliation had been reached by the parties, the case should be dismissed.[27]

Here, petitioner Agbayani failed to show that the instant case is not one of the exceptions enumerated above. Neither has she shown that the oral defamation caused on her was so grave as to merit a penalty of more than one year. Oral defamation under Article 358 of the Revised Penal Code, as amended, is penalized as follows:

“Article 358. Slander. – Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise, the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.”

Apparently, the DOJ found probable cause only for slight oral defamation. As defined in *Villanueva v. People*,[28] oral defamation or slander is the speaking of base and defamatory words which tend to prejudice another in his reputation, office, trade, business or means of livelihood. It is grave slander when it is of a serious and insulting nature. The gravity depends upon: (1) the expressions used; (2) the personal relations of the accused and the offended party; and (3) the special circumstances of the case, the antecedents or relationship between the offended party and the offender, which may tend to prove the intention of the offender at the time. In particular, it is a rule that uttering defamatory words in the heat of anger, with some provocation on the part of the offended party constitutes only a light felony.[29]

We recall that in the morning of December 27, 2006 when the alleged utterances were made, Genabe was about to punch in her time in her card when she was informed that she had been suspended for failing to meet her deadline in a case, and that it was Agbayani who informed the presiding judge that she had missed her deadline when she left to attend a convention in Baguio City, leaving Agbayani to finish the task herself. According to Undersecretary Pineda, the confluence of these circumstances was the immediate cause of respondent Genabe's emotional and psychological distress. We rule that his determination that the defamation was uttered while the respondent was in extreme excitement or in a state of passion and obfuscation, rendering her offense of lesser gravity than if it had been made with cold and calculating deliberation, is beyond the ambit of our review.[30] The CA concurred that the complained utterances constituted only slight oral defamation, having been said in the heat of anger and with perceived provocation from Agbayani. Respondent Genabe was of a highly volatile personality prone to throw fits (sumpongs), who thus shared a hostile working environment with her co-employees, particularly with her superiors, Agbayani and Hon. Bonifacio Sanz Maceda, the Presiding Judge of Branch 275, whom she claimed had committed against her “grievous acts that outrage moral and social conduct.” That there had been a long-standing animosity between Agbayani and Genabe is not denied.

4. Lastly, petitioner Agbayani insists that the DOJ should have dismissed respondent Genabe's petition for review outright pursuant to Sections 5 and 6 of DOJ Circular No. 70. It is true that the general rule in statutory construction is that the words “shall,” “must,” “ought,” or “should” are words of mandatory character in common parlance and in their ordinary signification,[31] yet, it is also well-recognized in law and equity as a not absolute and inflexible criterion.[32] Moreover, it is well to be reminded that DOJ Circular No. 70 is a mere tool designed to facilitate, not obstruct, the attainment of justice through appeals taken with the National

Prosecution Service. Thus, technical rules of procedure like those under Sections 5 and 6 thereof should be interpreted in such a way to promote, not frustrate, justice.

Besides, Sections 7 and 10 of DOJ Circular No. 70 clearly give the Secretary of Justice, or the Undersecretary in his place, wide latitude of discretion whether or not to dismiss a petition. Section 6 of DOJ Circular No. 70, invoked by petitioner Agbayani, is clearly encompassed within this authority, as shown by a cursory reading of Sections 7 and 10, to wit:

SECTION 7. Action on the petition. The Secretary of Justice may dismiss the petition outright if he finds the same to be patently without merit or manifestly intended for delay, or when the issues raised therein are too unsubstantial to require consideration.

SECTION 12. Disposition of the appeal. The Secretary may reverse, affirm or modify the appealed resolution. He may, *motu proprio* or upon motion, dismiss the petition for review on any of the following grounds:

- That the petition was filed beyond the period prescribed in Section 3 hereof;
- That the procedure or any of the requirements herein provided has not been complied with;
- That there is no showing of any reversible error;
- That the appealed resolution is interlocutory in nature, except when it suspends the proceedings based on the alleged existence of a prejudicial question;
- That the accused had already been arraigned when the appeal was taken;
- That the offense has already prescribed; and
- That other legal or factual grounds exist to warrant a dismissal.

We reiterate what we have stated in *Yao v. Court of Appeals*[33] that:

In the interest of substantial justice, procedural rules of the most mandatory character in terms of compliance, may be relaxed. In other words, if strict adherence to the letter of the law would result in absurdity and manifest injustice, or where the merit of a party's cause is apparent and outweighs consideration of non-compliance with certain formal requirements, procedural rules should definitely be liberally construed. A party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on mere technicalities.[34] (Citations omitted)

All told, we find that the CA did not commit reversible error in upholding the Resolution dated May 17, 2007 of the DOJ as we, likewise, find the same to be in accordance with law and jurisprudence.

WHEREFORE, premises considered, the petition for review is hereby DENIED. Accordingly, the Decision dated March 27, 2008 and the Resolution dated July 3, 2008 of the Court of Appeals in CA-G.R. SP No. 99626 are AFFIRMED in toto.

SO ORDERED.

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

[1] Penned by Associate Justice Rodrigo V. Cosico, with Associate Justices Hakim S. Abdulwahid and Mariflor Punzalan Castillo, concurring; rollo, pp. 28-45.

[2] *Id.* at 46-50.

- [3] Id. at 29-30.
- [4] Id. at 69-71.
- [5] Through Prosecution Attorney II Carlo DL. Monzon.
- [6] Rollo, pp. 91-93.
- [7] Id. at 90-93.
- [8] Id. at 93.
- [9] Id. at 109-110.
- [10] 478 Phil. 771 (2004).
- [11] Supra note 2.
- [12] Rollo, p. 13.
- [13] Id. at 72-81.
- [14] Id. at 97-99.
- [15] Judge Almario v. Atty. Resus, 376 Phil. 857 (1999).
- [16] Ginete v. CA, 357 Phil. 36, 51 (1998).
- [17] Rollo, p. 37.
- [18] Id.
- [19] Doc Nos. 12, 13, 25, 27, 36, 37, 38, per petitioner Agbayani's Motion for Reconsideration from the Department of Justice Resolution; id. at 97-99.
- [20] G.R. No. 174874, October 4, 2007, 534 SCRA 703.
- [21] Crespo v. Judge Mogul, 235 Phil. 465 (1987).
- [22] Supra note 20, at 712-714.
- [23] Id. at 714.
- [24] G.R. No. 169026, June 15, 2006, 490 SCRA 774.
- [25] Rollo, p. 92.
- [26] Guidelines on the Katarungang Pambarangay Conciliation Procedure to Prevent Circumvention of the Revised Katarungang Pambarangay Law [Sections 399-442, Chapter VII, Title I, Book III, R.A. No. 7160, otherwise known as the Local Government Code of 1991].
- [27] Morato v. Go, et al., 210 Phil. 367 (1983).
- [28] 521 Phil. 191 (2006).
- [29] Id. at 204, citing the Revised Penal Code.
- [30] Buan vs. Matugas, G.R. No. 161179, August 7, 2007, 529 SCRA 263.
- [31] Agpalo, Statutory Construction, 1990 Edition, at 238.

[32] Id. at 239-240.

[33] 398 Phil. 86 (2000).

[34] Id. at 107-108.

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