

JOANNE KRISTINE G. PIMENTEL, PETITIONER, VS. REYNALDO ADIAO, CRISTY ADIAO-NIERVES AND CHRISTIAN ADIAO, RESPONDENTS.*G.R. No. 222678. October 17, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-222678/>**CAGUIOA, J:**

This is a Petition for Review on Certiorari[1] (Petition) under Rule 45 of the Rules of Court (Rules) assailing the Decision[2] dated August 5, 2015 and Resolution[3] dated January 26, 2016 of the Court of Appeals[4] (CA) in CA-G.R. CV No. 102602. The CA Decision denied the appeal and affirmed the Order dated March 17, 2014 of the Regional Trial Court, Branch 255, Las Piñas City (RTC) in Civil Case No. LP-13-0029. The CA Resolution denied the Motion for Reconsideration filed by petitioner Joanne Kristine G. Pimentel (Joanne).

Facts and Antecedent Proceedings

On April 19, 2013, Joanne filed with the RTC a complaint for damages against respondents Reynaldo Adiao (Reynaldo), Christian Adiao (Christian) and Cristy Adiao-Nierves (Cristy). Joanne alleged that on October 6, 2011 she entered into a Construction Agreement with Reynaldo and Christian whereby Reynaldo, as contractor, agreed to undertake the renovation of Joanne's bungalow house situated at BF Resort Village, Pamplona, Las Piñas City (BF Resort) for the consideration of P1,150,000.00 with a completion period of 180 working days.[5] In the event that Reynaldo would be rendered incapable to perform his responsibilities under the contract, Christian was designated as the successor with the obligation to finish the renovation.[6] Joanna paid to Reynaldo and Christian a total amount of P1,200,000.00 with a down payment of P345,000.00 made in December 2011.[7] On April 6, 2012, Joanna paid an additional amount of P30,000.00 for the repair of her other house situated at Mataas na Kahoy.[8] Cristy allegedly conformed with the obligations of Reynaldo and Christian with respect to the renovation and repair of the two houses by signing her name in the acknowledgment receipt of the P30,000.00.[9]

The complaint further alleged that Reynaldo, in violation of their agreement, did not complete the renovation of Joanna's house and left the project unfinished.[10] Joanna wrote a demand letter to Reynaldo to complete the work but the latter refused to do so.[11] She also made verbal demands upon Cristy and Christian to comply with their obligation but they did not heed her demands.[12] Joanna took the position that their failure to complete the renovation and repair of her houses constitutes a breach of the construction agreement, and having incurred in delay, Reynaldo, Christian and Cristy are to indemnify her P1,000.00 per day.[13] She prayed for P330,000.00 representing damages for the delay in the performance of the contract; P150,000.00 representing the amount that she spent to complete the renovation; and P150,000.00 representing damages for breach of contract.[14] She attached to the complaint, among others, a list of the alleged unfinished portions of the renovation project.[15]

Reynaldo and Christian alleged that Joanna has no cause of action against them because Reynaldo was able to complete the renovation of her house at BF Resort in accordance with the construction agreement and the comparative material specification executed between him and Joanna.[16] Reynaldo also addressed each of the

unfinished items listed by Joanna and explained why they should not be considered as a breach of his obligation under the construction agreement.[17] Christian, for his part, alleged that his obligation was suspensive in nature and would arise only in the event that Reynaldo was rendered physically unfit to fulfill his obligations under the agreement.[18] It was further alleged that the contract cost of P1,150,000.00 was way below the actual cost of materials and labor used, which amounted to P1,352,256.42, and despite this, Reynaldo proceeded with the project using his own funds.[19] Thus, they prayed for the complaint's dismissal.[20]

Cristy, for her part, alleged that she is not signatory to the Construction Agreement dated October 6, 2011 and has no knowledge of its terms and conditions.[21] She signed the receipt dated April 6, 2012 because her father, Reynaldo, told her to sign the same as a witness to the fact that Reynaldo borrowed P30,000.00 from Joanna's parents in order to defray additional expenses for the project; and the loan, plus the interest of P3,000.00, was already paid by Reynaldo.[22]

On January 29, 2014, the RTC issued a Notice of Preliminary Conference[23] (Notice of PC) which set the case for preliminary conference (PC) on February 14, 2014 and required the parties to file their respective pre-trial (PT) briefs and serve the same on the adverse party in such manner as to ensure the latter's receipt thereof at least three days before the scheduled date.[24] A Notice of Pre-Trial[25] (Notice of PT) was also issued on January 30, 2014 setting the case for PT on March 17, 2014 and the directive anent the filing of the PT brief was reiterated.[26]

On February 12, 2014, Cristy filed her PT brief and furnished Joanna a copy thereof by registered mail.[27] During the PC held on February 14, 2014, all the parties and their counsels appeared.[28] Reynaldo and Christian filed their PT brief and furnished Joanna a copy thereof on the said date.[29] The parties pre-marked their respective exhibits.[30]

On March 17, 2014, the PT hearing was held and attended by the parties and their respective counsels.[31] Joanna filed her PT brief, which was objected to by the counsels of the other parties for being filed late.[32] Atty. Edwin V. Patricio (Atty. Patricio), Joanna's counsel, explained that the pre-marking of exhibits was done only on February 14, 2014 and was of the belief that the pre-marking of exhibits was not yet terminated.[33] He also said that he planned to file a motion for extension of time to submit the PT brief.[34]

The RTC in its Order dated March 17, 2014 dismissed the case because Atty. Patricio violated the mandate found in Section 6, Rule 18 of the Rules in relation to Section 5 of the same Rule, and in view of the manifestations by the other counsels that they would no longer pursue the counterclaims of their clients.[35]

Joanna filed a motion for reconsideration, alleging that her counsel received on February 12, 2014 a copy of the Notice of PC and the Notice of PT and it was improbable for Joanna's counsel to submit the PT brief at least three days prior to February 14, 2014.[36] While Joanna was unable to file her PT brief on the said date, she and her counsel were present and actively participated therein with her counsel provisionally marking the photographs to be presented as evidence subject to her counsel's request to mark the originals thereof on March 17, 2014.[37] Given the circumstances, Joanna's counsel honestly believed that the pre-marking of exhibits or the PC was not yet terminated and planned to submit a motion for extension of time to file the PT brief.[38] On March 17, 2014, Joanna filed with the RTC her PT brief and furnished the other parties copies thereof.[39] Joanna claimed that given the foregoing series of events, she did not willfully commit an act that constituted an utter disregard of the Rules or orders of the RTC.[40] Joanna pleaded that the rule on the timely submission of the PT brief be interpreted liberally in her favor and that the adverse parties also violated Section 6, Rule 18 in that they failed to attach relevant documents thereto and were late in filing their PT briefs.[41]

The RTC denied Joanna's motion for reconsideration in its Order dated May 2, 2014.[42]

Joanna appealed the dismissal of the case to the CA. The CA in its Decision[43] dated August 5, 2015, denied the appeal and affirmed the RTC Order dated March 17, 2014.

Hence, the instant Petition. Respondents filed their Comment[44] dated November 7, 2016. Joanna filed a Reply[45] dated May 2, 2017.

Issues

The Petition essentially raises the following issue:

Whether the CA erred in dismissing the complaint for Joanna's failure to file her PT brief on time, given that respondents also violated Sections 5 and 6 of Rule 18.

The Court's Ruling

In fine, Joanna implores the benevolence and understanding of the Court to consider the following circumstances as justifiable grounds to relax the application of the Rules:

1. Given that Joanna's counsel received the Notice of PC only on February 12, 2014, it was improbable for her to file her PT brief at least three days prior to February 14, 2014, the date of the PC.
2. Cristy filed her PT brief on February 12, 2014 but furnished Joanna a copy thereof only on February 14, 2014. Reynaldo and Christian filed their PT brief only on February 14, 2014 during the PC. Thus, respondents likewise failed to comply with the mandate of the Notice of PC and Section 6, Rule 18.
3. Joanna and her counsel actively participated during the PC wherein Exhibits "A" to "E" were marked and photocopies of photographs were provisionally marked as Exhibits "F", "F-1" to "F-53". Her counsel requested that the original photographs (55 pieces) be marked on March 17, 2014, the PT hearing date. The counsel for Reynaldo and Christian had Exhibits "1" to "19" marked while Cristy's counsel had Exhibits "1" to "7" marked. The witnesses for each party were identified and the trial dates were fixed. Thus, most of the matters to be taken during the PT hearing were already done and accomplished.
4. Joanna's counsel was under the impression that the pre-marking of documentary exhibits had not been terminated inasmuch as the Branch Clerk of Court granted the request to mark the original photographs on March 17, 2014.
5. Joanna's PT brief was filed on March 17, 2014, the PT hearing date.
6. Joanna had been actively prosecuting her case, including her attendance in the mediation and judicial dispute resolution proceedings, and she never caused any delay in the proceedings.

Sections 5 and 6, Rule 18 on Pre-Trial of the Rules provide:

SEC. 5. Effect of failure to appear. - The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex parte and the court to render judgment on the basis thereof.

SEC. 6. Pre-trial brief. -The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

- (a) A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;

- (b) A summary of admitted facts and proposed stipulation of facts; (c) The issues to be tried or resolved;
- (d) The documents or exhibits to be presented, stating the purpose thereof;
- (e) A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners; and
- (f) The number and names of the witnesses, and the substance of their respective testimonies.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

The Court in *Bank of the Philippine Islands v. Dando*[46] (BPI), where the issue concerned the application of Section 6 in relation to Section 5 of Rule 18 regarding the effect of the failure to file the PT brief and serving on the adverse party in such manner as to ensure the latter's receipt thereof at least three days before the date of the PT, laid down the following:

It is a basic legal construction that where words of command such as "shall," "must," [and] "ought" are employed, they are generally and ordinarily regarded as mandatory. Thus, where, as in Rule 18, Sections 5 and 6 of the Rules of Court, the word "shall" is used, a mandatory duty is imposed, which the courts ought to enforce.[47]

The Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.[48]

This is not to say that adherence to the Rules could be dispensed with. However, exigencies and situations might occasionally demand flexibility in their application.[49] In not a few instances, the Court relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merit. This is in line with the time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses. Technicality and procedural imperfection should, thus, not serve as basis of decisions. In that way, the ends of justice would be better served. For, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.[50]

In *Sanchez v. Court of Appeals*,[51] the Court restated the reasons that may provide justification for a court to suspend a strict adherence to procedural rules, such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the fact that the other party will not be unjustly prejudiced thereby.[52]

The Court noted in BPI that the failure of the plaintiff bank to file its PT brief with the trial court therein and provide Domingo Dando (Dando) with a copy thereof within the prescribed period was the first and only procedural lapse committed by the bank and it did not manifest an evident pattern or scheme to delay the disposition of the case or a wanton failure to observe a mandatory requirement of the Rules. Furthermore, the bank, for the most part, exhibited diligence and reasonable dispatch in prosecuting its claim against Dando.[53]

In *Sps. Diaz v. Diaz*,[54] the Court, in taking the liberal interpretation of the Rules approach, observed:

This notwithstanding, we note that the emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Hence, in *[Ginete] v. Court of Appeals*,[55] we stressed that:

The Rules of Court were conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts, in rendering justice have always been, as they in fact ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat to substantive rights, and not the other way around. As applied to [the] instant case, in the language of Justice Makalintal, technicalities "should give way to the realities of the situation." [56]

Suits should as much as possible be decided on the merits and not on technicalities. [57] In this regard, we have often admonished courts to be liberal in setting aside orders of default as default judgments are frowned upon and not looked upon with favor for they may amount to a positive and considerable injustice to the defendant and the possibility of such serious consequences necessitates a careful examination of the grounds upon which the defendant asks that it be set aside. [58] Since rules of procedure are mere tools designed to facilitate the attainment of justice, it is well recognized that this Court is empowered to suspend its operation, or except a particular case from its operation, when the rigid application thereof tends to frustrate rather than promote the ends of justice. [59] We are not unmindful of the fact that during the pendency of the instant petition, the trial court has rendered judgment against petitioners. However, being the court of last resort, we deem it in the best interest that liberality and relaxation of the Rules be extended to petitioners by setting aside the order of default issued by the trial court and the consequent default judgment; otherwise, great injustice would result if petitioners are not afforded an opportunity to prove their claims. [60]

Section 6, Rule 1 of the Rules mandates that "[t]hese Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding." [61]

Given the realities obtaining in this case, the liberal construction of the Rules will promote and secure a just determination of the parties' causes of action against each other. As the court of the last resort, justice should be the paramount consideration when the Court is confronted with an issue on the interpretation of the Rules, subject to the petitioner's burden to convince the Court that enough reasons obtain to warrant the suspension of a strict adherence to procedural rules.

The Court is convinced with the explanations of Joanna for her plea to relax the application of the Rules in her case. The Court notes that, like BPI, the untimely filing of her PT brief was so far the only procedural lapse that she committed. She had been diligent in the prosecution of her cause against respondents, and had not demonstrated a proclivity to delay the proceedings. As she pointed out, several matters that would be taken up in the PT hearing had actually already been accomplished in the PC. In fact, even the trial dates had been agreed upon by the parties. In turn, as Joanna correctly observes, respondents were themselves not fully compliant with the Rules as observed by the RTC, and to the Court's mind, they will not suffer substantial prejudice if the case is litigated on the merits.

Adopting the language of BPI, accordingly, the ends of justice and fairness would be best served if the parties are given the full opportunity to thresh out the real issues and litigate their claims in a full-blown trial. Besides, respondents would not be prejudiced should the RTC proceed with the hearing on the merits, as they are not stripped of any affirmative defenses nor deprived of due process of law. [62]

WHEREFORE, the Petition is hereby GRANTED. The Court of Appeals Decision dated August 5, 2015 and Resolution dated January 26, 2016 in CA-G.R. CV No. 102602 are REVERSED and SET ASIDE. The Complaint filed by petitioner Joanne Kristine G. Pimentel against respondents Reynaldo Adiao, Cristy Adiao-Nierves and Christian Adiao is REINSTATED. The Regional Trial Court of Las Piñas City, Branch 255 is DIRECTED to continue with the hearing of Civil Case No. LP-13-0029 with utmost dispatch, until its termination. No costs.

SO ORDERED.

Carpio, Senior Associate Justice, (Chairperson), Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.

[-] Also Christy in other parts of the rollo.

[*] Designated additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 8-29, excluding Annexes.

[2] Id. at 31-44. Penned by Associate Justice Ramon R. Garcia, with Associate Justices Leoncia R. Dimagiba and Ramon Paul L. Hernando (now a Member of this Court) concurring.

[3] Id. at 46-47.

[4] Fifteenth Division and Former Fifteenth Division, respectively.

[5] Id. at 31-32.

[6] Id. at 32.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

[15] Id.

[16] Id. at 33.

[17] Id.

[18] Id.

[19] Id.

[20] Id.

[21] Id.

[22] Id.

[23] Id. at 61.

[24] Id. at 33.

[25] Id. at 62.

[26] Id. at 33-34.

[27] Id. at 34.

[28] Id.

[29] Id.

[30] Id.

[31] Id.

[32] Id.

[33] Id.

[34] Id.

[35] Id. at 34-35.

[36] Id. at 35.

[37] Id. at 35-36.

[38] Id. at 36.

[39] Id.

[40] Id.

[41] Id.

[42] Id.

[43] Id. at 31-44.

[44] Id. at 83-94.

[45] Id. at 100-102.

[46] 614 Phil. 553 (2009).

[47] Id. at 562, citing *Spouses Mirasol v. Court of Appeals*, 403 Phil. 760, 772 (2001).

[48] Id. at 562-563, citing *Barranco v. Commission on the Settlement of Land Problems*, 524 Phil. 533, 543 (2006), further citing *Reyes v. Sps. Torres*, 429 Phil. 95, 101 (2002).

[49] Id. at 563, citing *Polanco v. Cruz*, 598 Phil. 952, 960 (2009).

[50] Id., citing *Asian Spirit Airlines (Airline Employees Cooperative) v. Bautista*, 491 Phil. 476, 484 (2005).

[51] 452 Phil. 665 (2003).

[52] *Bank of the Philippine Islands v. Dando* supra note 46, at 563, citing *Sanchez v. Court of Appeals*, id. at 674; *Macasasa v. Sicad*, 524 Phil. 673, 690 (2006), further citing *Barnes v. Padilla*, 482 Phil. 903, 915 (2004); and *Barranco v. Commission on the Settlement of Land Problems*, supra note 48, at 543.

[53] Id. at 564-565.

[54] 387 Phil. 314 (2000).

[55] 357 Phil. 36 (1998).

[56] Sps. Diaz v. Diaz, supra note 54, at 335-336, citing Ginete v. Court of Appeals, id. at 52.

[57] Id. at 336, citing Gerales v. Court of Appeals, 291-A Phil. 674, 682 (1993).

[58] Id., citing Montinola, Jr. v. Republic Planters Bank, 244 Phil. 49, 59 (1988).

[59] Id., citing Ramos v. Court of Appeals, 336 Phil. 33, 48 (1997).

[60] Id. at 336-337.

[61] Emphasis and underscoring supplied.

[62] See Bank of the Philippine Islands v. Dando supra note 46, at 565, citing Polanco v. Cruz, supra note 49, at 960.

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