

FREDIEROSE TAMBOA Y LADAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 248264. July 27, 2020*

Ponente: PERLAS-BERNABE, J.

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Assailed in this petition for review on certiorari[1] are the Resolutions dated February 7, 2019[2] and July 8, 2019[3] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09062 which denied the motion of petitioner Fredierose Tamboa y Laday (petitioner) to recall entry of judgment and to reinstate her appeal seeking review of the Judgment[4] dated January 24, 2017 of the Regional Trial Court of Sanchez Mira, Cagayan, Branch 12 (RTC) in Criminal Case No. 3712-S-5, finding her guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (RA) 9165,[5] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

The instant case stemmed from an Information[6] filed before the RTC charging petitioner with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. The prosecution alleged that in the morning of June 10, 2015, acting on information received from a confidential informant, members of the Philippine National Police (PNP) stationed in Claveria, Cagayan successfully conducted a buy-bust operation against petitioner at an area fronting the Iglesia ni Cristo Church in Centro Uno, Claveria, Cagayan, during which, a heat-sealed plastic sachet containing 0.137 gram of white crystalline substance was recovered from the latter's possession. The police officers then brought petitioner to the Claveria Police Station, where they marked, inventoried,[7] and photographed[8] the seized item. Thereafter, the item was forwarded to the PNP Crime Laboratory at the Regional Command 2, Camp Adduru, Tuguegarao City, Cagayan, and after examination, its contents tested positive for methamphetamine hydrochloride or shabu,[9] a dangerous drug.[10]

In defense, petitioner denied the accusations against her, claiming instead that, at the time of the alleged incident, she was riding her motorcycle near Centro Uno, Claveria, Cagayan when a tricycle with three (3) men on board hit her vehicle, causing her to fall on the ground. The men then arrested her without just cause and falsely made it appear that she was peddling illegal drugs.[11]

In a Judgment[12] dated January 24, 2017, the RTC found petitioner guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced her to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.[13] Giving credence to the testimonies of the prosecution witnesses, the RTC ruled that all the elements of the alleged crime had been sufficiently established, as it was shown that during a legitimate buy-bust operation conducted by police operatives, petitioner was caught in flagrante delicto selling a plastic sachet containing 0.137 gram of shabu to a poseur-buyer in exchange for the amount of P500.00. Meanwhile, it found petitioner's defenses of denial and frame-up untenable for lack of evidence.[14]

Aggrieved, petitioner appealed[15] to the Court of Appeals (CA).

In a Resolution[16] dated February 15, 2018, the CA dismissed the appeal for failure to file an appellant's brief

pursuant to Section 8,[17] Rule 124 of the Rules of Court (Rules). The CA found that, despite the grant of several motions for extension of time to file the said pleading, petitioner still failed to file the same.

On March 15, 2018, the RTC Decision became final and executory, and in a Resolution[18] dated August 3, 2018, the CA ordered the issuance of an Entry of Judgment.[19]

On October 25, 2018, the Public Attorney's Office - Special and Appealed Cases Service, on behalf of petitioner, filed an Entry of Appearance with Motion to Recall the Entry of Judgment and Reinstate the Accused-Appellant's Appeal.[20] Petitioner prayed for the relaxation of procedural rules and for her appeal to be reinstated and given due course, explaining that the failure to file an appellant's brief was due to the gross negligence of her previous counsel, Atty. Amelito A. Ruiz (Atty. Ruiz), who unjustifiably failed to file the said pleading despite repeatedly moving for extension of time to do so.

In a Resolution[21] dated February 7, 2019, the CA denied the motion for lack of merit, holding that there was no persuasive reason to liberally apply the procedural rules on appeal. Undaunted, petitioner moved for reconsideration,[22] which was denied in a Resolution[23] dated July 8, 2019.

Hence, the instant petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly dismissed petitioner's appeal based on procedural grounds.

The Court's Ruling

The petition is meritorious.

At the outset, it bears stressing that, as a rule, "a final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land." However, "[the] Court has relaxed this rule in order to serve substantial justice considering (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, [and] (e) a lack of any showing that the review sought is merely frivolous and dilatory x x x,"[24] all of which obtain in the instant case.

Guided by the foregoing considerations, the Court finds it proper to recall the Entry of Judgment dated March 15, 2018 and reinstate petitioner's appeal, as will be explained hereunder.

In appeals of criminal cases before the CA, the appellant's failure to timely file his or her brief is a ground for the dismissal of an appeal. This is authorized by Section 8, Rule 124 of the Rules, which states:

Section 8. Dismissal of appeal for abandonment or failure to prosecute. — The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de officio*.

x x x x (Emphases and underscoring supplied)

Similarly, Section 1, Rule 50 of the Rules provides:

Section 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

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within

the time provided by these Rules [.]

x x x x (Emphases and underscoring supplied)

Notably, the dismissal of an appeal based on the foregoing provisions is in accord with the well-settled principle that "the right to appeal is not a

natural right or a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost." [25] Compliance with procedural rules is mandatory, "since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice." [26]

Nevertheless, it should be observed that "if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction." [27] Indeed, case law instructs that "[i]t is a more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal 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 miscarriage of justice." [28] "What should guide judicial action is the principle that a party-litigant should 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 technicalities." [29] "Corollarily, the rule, which states that the mistakes of counsel bind the client, may not be strictly followed where observance of it would result in the outright deprivation of the client's liberty or property, or where the interest of justice so requires." [30]

In this case, it appears that the appeal interposed by petitioner before the CA has ostensible merit owing to the alleged lapses of the arresting officers in duly complying with the chain of custody rule. [31] While the Court cannot fault the CA for upholding procedural rules and acknowledges its adherence thereto, We cannot countenance the incarceration of an accused without the underlying conviction being thoroughly reviewed on account of the negligence of counsel. At the very least, if the CA would eventually find that petitioner's appeal should be denied and her conviction must be affirmed, it should be based on a full consideration of the merits of her appeal and not for reasons anchored on technicalities. Hence, the Court deems it proper to relax the technical rules of procedure in order to afford petitioner the fullest opportunity to establish the merits of her appeal.

Accordingly, the Entry of Judgment made in this case should be recalled and the case be remanded to the CA for resolution of the appeal on its merits. Petitioner is given a non-extendible period of thirty (30) days upon receipt of this Decision to file her appellant's brief with the CA. [32]

Finally, the Court cannot turn a blind eye to the apparent negligence of Atty. Ruiz, who, as narrated earlier, failed to file the required appellant's brief despite repeatedly moving for extension of time to do so. Such unjustified omission led to petitioner's conviction becoming final and executory without appellate review and must be dealt with accordingly. Therefore, in accordance with Section 13, [33] Rule 139-B of the Rules, the Court finds it proper to furnish the Office of the Bar Confidant a copy of this Decision for the initiation of appropriate disciplinary proceedings against Atty. Ruiz.

WHEREFORE, the petition is GRANTED. The Resolutions dated February 7, 2019 and July 8, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09062 are hereby REVERSED and SET ASIDE, and the Entry of Judgment dated March 15, 2018 is RECALLED. The case is REMANDED to the CA for resolution of the appeal

on its merits. Petitioner is DIRECTED to file her appellant's brief therewith within a non-extendible period of thirty (30) days from receipt of this Decision.

Let a copy of this Decision be furnished the Office of the Bar Confidant for the initiation of appropriate disciplinary proceedings against Atty. Amelito A. Ruiz.

SO ORDERED.

Hernando, Inting, Delos Santos, and Gaerlan,[*] JJ., concur.

[*] Designated Additional Member per Special Order No. 2780 dated May 11, 2020.

[1] Dated August 23, 2019. Rollo, pp. 13-25.

[2] Id. at 29-31. Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Mario V. Lopez (now a member of this Court) and Ronaldo Roberto B. Martin, concurring.

[3] Id. at 34-35.

[4] Id. at 94-103. Penned by Executive Judge Gemma P. Bucayu-Madrid.

[5] Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," APPROVED ON JUNE 7, 2002.

[6] See records, pp. 1-2.

[7] See Receipt/Inventory of Property/ies Seized dated June 11, 2015; id. at 12.

[8] See id. at 9.

[9] See Chemistry Report No. D-68-2015 dated June 11, 2015; id. at 11.

[10] See rollo, pp. 94-97.

[11] See id. at 97-99.

[12] Id. at 94-103.

[13] Id. at 103.

[14] See id. at 99-103.

[15] See Notice of Appeal dated January 26, 2017; CA rollo, pp. 11-12.

[16] Rollo, pp. 56-58.

[17] Section 8. Dismissal of appeal for abandonment or failure to prosecute. - The Court of Appeals may, upon motion of the appellee or motu proprio and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel de oficio.

x x x x (Emphasis supplied)

[18] See Notice of Resolution dated August 3, 2018; rollo, p. 66.

[19] Id. at 67.

[20] Id. at 68-73.

[21] Id. at 29-31.

[22] See motion for reconsideration dated March 7, 2019; id. at 82-88.

[23] Id. at 34-35.

[24] *Barnes v. Padilla*, 482 Phil. 903, 915 (2004).

[25] *Manila Mining Corporation v. Amor*, 758 Phil. 268, (2015), citing *Philux v. NLRC*, 586 Phil. 19, 26 (2008).

[26] *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, 700 Phil. 575, 581 (2012).

[27] *Curammeng v. People*, 799 Phil. 575, 581 (2016), citing *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, id. at 582.

[28] *Heirs of Zaulda v. Zaulda*, 729 Phil. 639, 651 (2014), citing *Aguam v. CA*, 388 Phil. 587, 594 (2000).

[29] Id. at 582.

[30] *Curammeng v. People*, supra note 27, at 582-583, citing *City of Dagupan v. Maramba*, 738 Phil. 71, 87 (2014).

[31] See Petition, rollo, p. 21.

[32] In accordance with Section 3, Rule 124 of the Rules of Court which reads:

Section 3. When brief for appellant to be filed. - Within thirty (30) days from receipt by the appellant or his counsel of the notice from the clerk of court of the Court of Appeals that the evidence, oral and documentary, is already attached to the record, the appellant shall file seven (7) copies of his brief with the clerk of court which shall be accompanied by proof of service of two (2) copies thereof upon the appellee. (Emphasis and underscoring supplied)

[30] In accordance with Section 13 of Rule 139-B of the Rules of Court which reads:

Section 13. Investigation of Complaints. In proceedings initiated by the Supreme Court, or in other proceedings when the interest of justice so requires, the Supreme Court may refer the case for investigation to the Office of the Bar Confidant, or to any officer of the Supreme Court or judge of a lower court, in which case the investigation shall proceed in the same manner provided in sections 6 to 11 hereof, save that the review of the report of investigation shall be conducted directly by the Supreme Court. The complaint may also be referred to the IBP for investigation, report, and recommendation. (As amended by Bar Matter No. 1645, approved on October 13, 2015) (Emphasis and underscoring supplied)

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