

EDGARDO P. TOLEDO, ET AL., PETITIONERS, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT AND TRADERS COMMERCIAL CREDIT CORP., RESPONDENTS.

G.R. No. 65211. July 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

THE PETITION FOR CERTIORARI IN THIS CASE IS AGAINST THE (A) RESOLUTION* DATED AUGUST 16, 1983 OF RESPONDENT INTERMEDIATE APPELLATE COURT (NOW COURT OF APPEALS) IN AC-G.R. CV NO. 00089, WHICH DENIED PETITIONERS' "URGENT MOTION FOR AN EXTENSION OF TIME TO FILE APPELLANT'S BRIEF" FILED ON JULY 16, 1983, FOR BEING FILED LATE AND ACCORDINGLY DISMISSED THE APPEAL, AND (B) RESOLUTION* DATED SEPTEMBER 12, 1983 WHICH DENIED PETITIONERS' MOTION FOR RECONSIDERATION.

IT APPEARS THAT HEREIN PETITIONER, EDGARDO TOLEDO BOUGHT FROM FABAR SALES INC. IN 1977 A CAR (TOYOTA CORONA STANDARD), FOR WHICH HE AND HIS WIFE CARMEN TOLEDO EXECUTED A PROMISSORY NOTE FOR P50,599.92 PAYABLE IN INSTALLMENTS AND A CHATTEL MORTGAGE ON THE CAR, BOTH IN FAVOR OF FABAR SALES, INC. THE CHATTEL MORTGAGE WAS ASSIGNED BY FABAR SALES INC. TO THE TRADERS COMMERCIAL BANK, HEREIN PRIVATE RESPONDENT, WITH THE CONSENT OF THE SPOUSES.

THE PETITIONERS DEFAULTED IN THE PAYMENT OF THEIR INSTALLMENTS, SO ON JUNE 28, 1979, PRIVATE RESPONDENT FILED AN ACTION AGAINST THEM FOR A SUM OF MONEY BEFORE THE COURT OF FIRST INSTANCE OF MANILA.

SUMMONS AND COPIES OF THE COMPLAINT WERE PROPERLY SERVED UPON PETITIONERS ON JULY 12, 1979. FOR THEIR FAILURE, HOWEVER, TO FILE AN ANSWER WITHIN THE REGLEMENTARY PERIOD, PRIVATE RESPONDENT AS THE THEN PLAINTIFF FILED AN "EX-PARTE URGENT MOTION TO DECLARE DEFENDANTS IN DEFAULT AND TO ALLOW PLAINTIFF TO PRESENT EVIDENCE EX-PARTE", WHICH WAS GRANTED BY THE LOWER COURT IN ITS ORDER DATED JANUARY 23, 1980.

THEREAFTER, PRIVATE RESPONDENT PRESENTED ITS EVIDENCE AND ON JUNE 30, 1980, THE LOWER COURT RENDERED ITS DECISION,** THE DECRETAL PORTION OF WHICH READS -

"WHEREFORE, FINDING THE EVIDENCE, BOTH ORAL AND DOCUMENTARY, TO HAVE SUFFICIENTLY PROVED THE ALLEGATIONS OF THE COMPLAINT, JUDGMENT IS HEREBY RENDERED ORDERING THE DEFENDANTS EDGARDO AND CARMEN H. TOLEDO TO JOINTLY AND SEVERALLY PAY THE PLAINTIFF THE FOLLOWING:

1. THE SUM OF P21,984.50 WITH ACCRUED PENALTY INTEREST THEREON AT THE RATE OF 3%

PER MONTH FROM JUNE 20, 1979 UNTIL FULLY PAID;

2. THE SUM OF P640.33, REPRESENTING ACCRUED PENALTY INTEREST;

3. THE AMOUNT OF P2,000.00 AS AND FOR ATTORNEY'S FEES; AND

4. THE COSTS OF SUIT.

SO ORDERED."

PETITIONERS FILED A MOTION TO SET ASIDE THE AFORE-SAID DECISION BUT THE SAME WAS DENIED. PETITIONERS' MOTION TO RECONSIDER WAS LIKEWISE DENIED. SO PETITIONERS FILED A NOTICE OF APPEAL, APPEAL BOND AND THE RECORD ON APPEAL WITH THE LOWER COURT.

ON MARCH 30, 1983 RESPONDENT INTERMEDIATE APPELLATE COURT ISSUED A NOTICE REQUIRING PETITIONERS TO FILE APPELLANTS' BRIEF WITHIN FORTY FIVE (45) DAYS FROM RECEIPT, COPY OF WHICH WAS RECEIVED BY COUNSEL FOR PETITIONERS ON APRIL 11, 1983. HENCE, THE 45-DAY PERIOD WOULD EXPIRE ON MAY 26, 1983.

ON MAY 21, 1983, PETITIONERS FILED A "MOTION TO LIFT THE ORDER TO FILE APPELLANTS' BRIEF WITHIN FORTY FIVE DAYS", WHICH WAS DENIED BY RESPONDENT COURT IN ITS RESOLUTION DATED JULY 5, 1983.

ON JULY 16, 1983, PETITIONERS FILED AN "URGENT MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' BRIEF" PRAYING FOR A THIRTY-DAY EXTENSION. ON AUGUST 12, 1983, PETITIONERS FILED THE REQUIRED "BRIEF FOR THE APPELLANT".

BUT, ON AUGUST 16, 1983, RESPONDENT COURT ISSUED ITS NOW ASSAILED RESOLUTION DENYING PETITIONERS' MOTION FOR EXTENSION AND DISMISSING THE APPEAL. THE SAID RESOLUTION IS QUOTED AS FOLLOWS:

"CONSIDERING APPELLANTS' 'URGENT MOTION FOR AN EXTENSION OF TIME TO FILE APPELLANTS' BRIEF' FILED ON JULY 16, 1983 AND APPELLEE'S OPPOSITION TO 'URGENT MOTION FOR EXTENSION OF TIME TO FILE BRIEF' FILED ON JULY 25, 1983, AND IT APPEARING THAT THE NOTICE TO FILE APPELLANTS' BRIEF DATED MARCH 30, 1983 WAS RECEIVED BY APPELLANTS ON APRIL 11, 1983 (P. 21, ROLLO); AND HENCE APPELLANTS' 'URGENT MOTION FOR EXTENSION OF TIME TO FILE APPELLANTS' BRIEF' WAS FILED WAY BEYOND THE REGLEMENTARY PERIOD, THE COURT RESOLVED TO DENY THE MOTION FOR EXTENSION AND TO DISMISS THE APPEAL OF DEFENDANTS-APPELLANTS (SECTION 1[F], RULE 50 OF THE REVISED RULES OF COURT)."

HENCE, THIS PETITION AFTER THEIR MOTION FOR RECONSIDERATION WAS DENIED. PETITIONERS ASSIGN THE FOLLOWING ERRORS:

1. THE RESPONDENT INTERMEDIATE APPELLATE COURT ERRED IN DISMISSING THE APPEAL CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE LAID DOWN BY THIS HON. COURT, AND
2. THE RESPONDENT INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT THE FILING OF PETITIONERS' "MOTION TO LIFT THE ORDER TO FILE APPELLANTS BRIEF", DID NOT SUSPEND THE PERIOD TO FILE APPELLANTS BRIEF.

WHICH ESSENTIALLY BOILS DOWN TO THE ISSUE OF WHETHER OR NOT THE RESPONDENT

COURT CORRECTLY DISMISSED PETITIONERS' APPEAL.

SECTION 1 OF RULE 50 OF THE REVISED RULES OF COURT 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

(F) FAILURE OF THE APPELLANT OR OF HIS PRINTER TO SERVE AND FILE THE REQUIRED NUMBER OF COPIES OF HIS BRIEF WITHIN THE TIME PROVIDED BY THESE RULES;"

AS ALLEGED BY PETITIONERS THEMSELVES, THE 45-DAY REGLEMENTARY PERIOD TO FILE THEIR APPELLANTS' BRIEF WAS TO EXPIRE IN MAY 26, 1983. CLEARLY THEN, THE BRIEF FILED ON AUGUST 12, 1983 WAS FILED OUT OF TIME. THIS, UNDER THE AFOREQUOTED RULE, WARRANTS THE DISMISSAL OF THE APPEAL.

IN SOME CASES WE HAVE ALLOWED THE FILING OF AN APPEAL WHERE A STRINGENT APPLICATION OF THE RULES WOULD HAVE DENIED IT, BUT ONLY WHEN TO DO SO WOULD SERVE THE DEMANDS OF SUBSTANTIAL JUSTICE AND IN THE EXERCISE OF OUR EQUITY JURISDICTION.

WE HAVE REVIEWED THE RECORDS OF THIS CASE IN OUR DESIRE TO RELAX THE RULES BECAUSE ANYWAY PETITIONERS, BEFORE THE ISSUANCE OF THE ASSAILED RESOLUTION DISMISSING THEIR APPEAL, HAD ALREADY FILED THEIR APPELLANTS' BRIEF. BUT WE FIND THE CASE OF PETITIONERS PATENTLY UNMERITORIOUS. IN THEIR ATTEMPT TO ESCAPE LIABILITY, PETITIONER EDGARDO TOLEDO DENIES HAVING RECEIVED THE CAR IN QUESTION, HE ALSO DENIES HIS SIGNATURE ON THE PROMISSORY NOTE AND IN THE CHATTEL MORTGAGE.

THIS, HOWEVER, IS CONTRADICTED BY THE FINDINGS OF THE CITY FISCAL OF QUEZON CITY THROUGH ASSISTANT FISCAL FELIX M. CARIÑO, IN AN ESTABA CASE UNDER ART. 319, PAR. 2 OF THE REVISED PENAL CODE, THE PERTINENT PORTION OF WHICH READS -

"THE RESPONDENT DENIES HAVING RECEIVED THE CAR IN QUESTION; HE ALSO DENIED HIS SIGNATURE ON THE PROMISSORY NOTE AND IN THE CHATTEL MORTGAGE SUBMITTED BY THE COMPLAINANT.

THE DENIAL OF THE RESPONDENT OF RECEIPT OF THE CAR IS OVERCOME BY FABAR SALES, INC. INVOICE NO. 4371, AND HIS DENIAL OF HIS ALLEGED SIGNATURES ON THE PROMISSORY NOTE AND CHATTEL MORTGAGE ARE DEFENSES WHICH HE MUST PROVE WITH COMPETENT EVIDENCE ASIDE FROM HIS DENIAL AS THE SAID DOCUMENTS APPEAR ON THEIR FACE TO HAVE BEEN REGULARLY EXECUTED. FURTHERMORE, HIS SIGNATURE IN THE DEED OF SALE OF THE CAR TO EMILIO BALANGUE DATED OCTOBER 30, 1978, WHICH HE DOES NOT QUESTION, ARE VERY SIMILAR TO THE SIGNATURES IN THE PROMISSORY NOTE AND IN THE CHATTEL MORTGAGE.

FINDING NO MERIT TO THE DEFENSES OF RESPONDENT AND FINDING THAT THE ESSENTIAL ELEMENTS OF THE OFFENSE HAVE BEEN ESTABLISHED BY COMPLAINANT, THE UNDERSIGNED INVESTIGATING FISCAL HEREBY RECOMMENDS THE FILING OF AN INFORMATION IN THE CITY COURT OF QUEZON CITY AGAINST MSSR. EDGARDO TOLEDO FOR VIOLATION OF PARAGRAPH 2 OF ARTICLE 319 OF THE REVISED PENAL CODE.

BAIL RECOMMENDED FOR HIS PROVISIONAL LIBERTY IS FIXED AT P1,000.00.

QUEZON CITY, PHILIPPINES, MAY 22, 1981.

S/ ILLEGIBLE

T/ FELIX M. CARIÑO

ASSISTANT CITY FISCAL "

(PP. 117-118, ROLLO)

IN THE CASE OF VDA. DE CRISOLOGO VS. COURT OF APPEALS (137 SCRA 238) WE RULED:

"ON CERTAIN OCCASIONS, THIS COURT HAS ALLOWED THE FILING OF AN APPEAL OUTSIDE THE PERIOD PRESCRIBED BY LAW IN THE INTEREST OF JUSTICE. EMPHATIC IN THE DECISIONS CITED BY THE PETITIONER ARE STRONG CONSIDERATIONS OF SUBSTANTIAL JUSTICE. THE PRESENT CASE DOES NOT WARRANT SUCH LIBERALLY BECAUSE THE DECISION OF THE LOWER COURT IS SATISFACTORILY SUPPORTED BY THE RECORDS."

WHEREFORE, THE PETITION IS DENIED. COSTS AGAINST PETITIONERS.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

* PENNED BY JUSTICE RAMON G. GAVIOLA, JR. WITH JUSTICES EDUARDO P. CAGUIOA AND MA. ROSARIO QUETULIO-LOSA, CONCURRING.

**** PENNED BY JUDGE JOSE P. ALEJANDRO.**

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