

BANK OF AMERICA, NT & #038; SA, PETITIONER, VS. HON. NICOLAS A. GEROCHI, JR., JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI, BRANCH CXXXIX, ROY VILLASOR AND AURORA M. VILLASOR, RESPONDE...

G.R. No. 73210. February 10, 1994

Ponente: VITUG, J.

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VITUG, J.:

A fundamental precept in the application and interpretation of our Rules of Court is that its provisions should be so construed as to effectively assist the parties in obtaining a just, speedy, and inexpensive determination of every action and proceeding. Generally, that objective should call for a liberal construction of the rules.[1] The reglementary periods therein prescribed, however, are to be strictly observed for they are considered indispensable interdictions against needless delays and an orderly discharge of judicial business.[2] The strict compliance with such periods has more than once been held to be Imperative,[3] particularly and most significantly in respect to the perfection of appeals.[4]

Here, again, the above pronouncements take the centerstage.

This petition, styled an appeal by certiorari, seeks the reversal of the decision of 28 November 1985, as well as the amendatory order of 09 December 1985, of the respondent judge in Civil Case No. 44821 of the Regional Trial Court of Makati.

The petitioner does not dispute the factual findings of the trial court, which we here reproduce, thus:

"Plaintiffs Roy Villasor, a doctor of medicine, and wife, Aurora Villasor, both residents of Metro Manila, complained and asserted that they had opened a joint dollar checking account with the defendant Bank of America, N. A. and S. T. at its Chula Vista branch in California, USA, on January 5, 1980 under joint current account No. 0850-3-05454; that the bank statement sent to them in due course by defendant for the period November 3, 1980, to December 4, 1980 (Exh. "B") indicated the balance of \$8,753.19; that in December, 1980, Dr. Villasor issued two checks against said account: (1) Check No. 140 in the amount of \$20.00, and (2) Check No. 142 in the amount of \$5,000.00; that despite the balance of \$8,753.19 as indicated in Exh. "B", the check of \$5,000.00 issued in favor of one Mrs. Helen Y. Dee on December 9, 1980, Check No. 142 (Exh. "C") was dishonored by the defendant, thru its Chula Vista Branch, and plaintiffs learned of the said dishonor on January 10, 1981, in the manner hereunder quoted:

"SUBJECT: NOTICE OF INSUFFICIENT FUNDS

DEAR CUSTOMER:

WE RECEIVED THE CHECK(S) LISTED BELOW TODAY. THEY REQUIRED SPECIAL HANDLING BECAUSE OUR RECORDS SHOW THEY WERE WRITTEN FOR MORE THAN THE FUNDS AVAILABLE IN YOUR CHECKING ACCOUNT #0850-305454. BECAUSE OF THIS, A \$.00 INSUFFICIENT FUNDS CHARGE HAS BEEN SUBTRACTED FROM YOUR ACCOUNT. PLEASE

CHECK YOUR RECORDS FOR POSSIBLE MISTAKES.

CHECK NUMBER OR PAYEE

CHECK AMOUNT

ACTION TAKEN

142 \$5,000.00 PAID/RETURNED" (Exh. "D")

"After said notice was sent to their given address as shown in their account at Ceritos, California, a suburb of Los Angeles, USA, they proceeded on January 13, 1981, to Chula Vista, some 3 hours drive from Ceritos, California; followed by five (5) trips back and forth to the said place seeking explanation and immediate rectification of the error wherein they were initially informed by the Chula Vista branch administration manager, one Mrs. Lucille Reap, that the balance of the account at the time of presentment of the check as endorsed to the depository bank of Helen Dee was \$3,000.00 and that Lucille Reap ultimately gave the explanation and justification of the error allegedly precipitated by the hold request transmitted by the defendant's branch in Makati, Metro Manila, Philippines, covering the two checks in the amount of \$687.50 and \$5,000.00, which hold remained in the record despite its subsequent clearance, hence, the hold for a total of \$5,687.50, plus the controversial check (Exh. "E") in the amount of \$5,000.00 would easily indicate that the balance of \$8,752.10 would not be sufficient to cover the 3 checks including Check No. 142 (Exh. "C"). Those other two checks were Nos. 138 and 139 (Exh. "B") which were allegedly honored on November 28, 1980.

"Extremely beleaguered and embarrassed, the plaintiffs again deposited \$5,000.00 with defendant bank for the purpose of immediately covering the amount of the dishonored check (Exh. "C"). After being informed that if the \$5,000.00 check (Exh. "C") was not redeposited within 3 days, then that would be an indication, according to Lucille Reap, that it was not redeposited and upon so being informed that no redeposit was made by Helen Y. Dee sometime on January 21, the following day, Dr. Villasor withdrew the \$5,000.00 from their account with the Chula Vista branch, purchased a cashier check from the amount from the Crocker National Bank (Exh. "G") sent the said check to Helen Dee's bank and evidently credited to her account.

"Meantime, contrary to their expectation derived from the information and assurance given them by defendant's Administration Manager, Lucille Reap that the check (Exh. "C") Check No. 142 could not have been redeposited after having deposited the \$5,000.00 drawn from the Crocker National Bank (Exh. "G") they came to realize that Helen Dee after all had redeposited the original \$5,000.00 check (Exh. "C"), Check No. 142 resulting in double payment and another possibility of an embarrassing situation for the balance in the Chula Vista branch would not be enough to cover the other checks issued by the plaintiff to other persons. With the timely attention given to the matter, Mrs. Villasor was able to return the \$5,000.00 later on by borrowing from friends and deposited on their behalf at the Chula Vista branch. Meantime, the \$5,000.00 over payment to Mrs. Dee was returned to the plaintiff."

Judgment was rendered by the Court, following the presentation and submission of the evidence, in favor of the private respondents (plaintiffs below), in this wise:

"WHEREFORE, in view of the foregoing, there being preponderant evidence, the Court renders judgment in favor of plaintiffs Roy and Aurora Villasor and finds defendant Bank of America, N.T. & S.A. justly liable to plaintiffs, and sentences defendant to pay plaintiffs the amount of P28,000.00 as actual damages; the sum of P1,000,000.00 as moral damages, attorney's fees of P200,000.00, or a total of P1,228,000.00, and legal interest from the time of this judgment until fully paid, and to pay the costs.

"Defendant's counterclaim is hereby dismissed for lack of basis."

On motion of the private respondents, the decision was modified in an Order also hereunder quoted:

"Before this Court is a Motion to Amend Decision filed by plaintiffs, thru counsel, on December 5, 1985, praying that the decision of this Court dated November 28, 1985, granting them actual and moral damages, and attorney's fee be amended to include interest, as they had prayed for, at least, even from the date of judgment.

"Finding the aforesaid motion to be stamped with merit, same is hereby GRANTED.

"Thus, the decision of this court dated November 28, 1985, is hereby amended, particularly its dispositive portion, to read as follows:

"WHEREFORE, in view of the foregoing, there being preponderant evidence, the Court renders judgment in favor of plaintiffs Roy and Aurora Villasor and finds defendant Bank of America, N.T. & S.A. justly liable to plaintiffs, and sentences defendant to pay plaintiffs the amount of P28,000.00 as actual damages; the sum of P1,000,000.00 as moral damages, attorney's fees of P200,000.00, or a total of P1,228,000.00, and legal interest from the time of this judgment until fully paid, and to pay the costs.

"Defendant's counterclaim is hereby dismissed for lack of basis."

In this appeal, the petitioner assigns the following errors:

"1. The respondent Judge erred in not considering the California law, particularly Section 4402 of the California Code of Commerce, as the governing law applicable to the case.

"2. The respondent Judge erred in awarding moral damages to private respondents.

"3. Assuming argumenti gratia that Private Respondents are entitled to moral damages, the Respondent Judge erred in awarding an excessive and exorbitant amount as moral damages.

"4. Respondent Judge likewise erred in awarding, excessively at that, attorney's fees.

"5. Respondent Judge acted without or in excess of his jurisdiction when he issued the Order dated December 9, 1985 granting private respondents' Motion to Amend Decision for the purpose of including interest, particularly on the amounts awarded for moral damages and attorney's fee."

The appeal is vehemently opposed by the respondents on the ground that it has been filed out of time.

Conformably with Section 39, BP Blg. 129, prescribing a 15-day appeal period, the last day for the perfection of an appeal by the petitioner admittedly fell on 28 December 1985. A copy of the 9th December 1985 order of the trial court, amending its 28th November 1985 decision, was received by the petitioner on 13 December 1985. It was, however, only on 02 January 1985 when the appeal was actually filed.

The petitioner concedes that since it has received, on 13 December 1985, the order of the trial court, amending the decision of 28 November 1985, it only has had until 28 December 1985, a Saturday, within which to file its appeal. It avers, however, that, in the afternoon of 28 December 1985, its counsel has come to this Court to personally file its appeal but did not find anyone to receive the petition. It also contends that since 28 December 1985 has fallen on a Saturday, the appeal could still be filed the next working day, or on 02 January 1985 (29 December 1985 being a Sunday, 30 December 1985 and 01 January 1986, being public holidays, and 31 December 1985 having been declared a special non-working holiday), applying Section 28 of the Administrative Code:

SEC. 28. Pretermission of Holiday. - Where the day, or the last day, for doing any act required or permitted by law falls on a regular holiday or special day, the act may be done on the next succeeding business day.

Unfortunately for the petitioner, the Saturday of 28 December 1985 was a business day for the courts. The prevailing rule even then was that if the last day to appeal fell on a Saturday, the act was still due on that day and not on the next succeeding business day (*SM Agri and General Machineries vs. NLRC*, 169 SCRA 20). Hence, when the petitioner finally filed its appeal on 02 January 1986, it was late by five (5) days. The petition itself, significantly, was dated and verified on the same day of 02 January 1986. Parenthetically, the Docket & Receiving Section and the Cashier Section, of this Court were open on 28 December 1985, and it was only on 20 January 1993 when this Court's offices were ordered closed on Saturdays.

The perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but jurisdictional, and the failure to perfect that appeal renders the judgment of the court final and executory (*Alto Sales Corp. vs. IAC*, 197 SCRA 618; *Filcon Mfg. Corp. vs. NLRC*, 199 SCRA 814; *Kabushi Kaisha Isetan vs. IAC*, 203 SCRA 583).

True, in few highly exceptional instances, we have allowed the relaxing of the rules on the application of the reglementary periods of appeal. We cite a few typical examples: In *Ramos vs. Bagasao*, 96 SCRA 395, we excused the delay of four days in the filing of a notice of appeal because the questioned decision of the trial court was served upon appellant Ramos at a time when her counsel of record was already dead. Her new counsel could only file the appeal four days after the prescribed reglementary period was over. In *Republic vs. Court of Appeals*, 83 SCRA 453, we allowed the perfection of an appeal by the Republic despite the delay of six days to prevent a gross miscarriage of justice since the Republic stood to lose hundreds of hectares of land already titled in its name and had since then been devoted for educational purposes. In *Olacao vs. National Labor Relations Commission*, 177 SCRA 38, 41, we accepted a tardy appeal considering that the subject matter in issue had theretofore been judicially settled, with finality, in another case. The dismissal of the appeal would have had the effect of the appellant being ordered twice to make the same reparation to the appellee.

The case at bench, given its own settings, cannot come close to those extraordinary circumstances that have indeed justified a deviation from an otherwise stringent rule. Let it not be overlooked that the timeliness of an appeal is a jurisdictional caveat that not even this Court can trifle with.

Having reached this conclusion, we see no further need to discuss the other issues raised in the petition.

WHEREFORE, the instant petition for review is DENIED.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Sec. 2, Rule 1, Rules of Court.

[2] *Valdez vs. Ocumen*, 106 Phil. 929; *Mangali vs. Court of Appeals*, 99 SCRA 236.

[3] *FJR Garments Industries vs. Court of Appeals*, 130 SCRA 216.

[4] *Gutierrez vs. Court of Appeals*, 26 SCRA 32.

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