

MUNICIPALITY OF OBANDO, PROVINCE OF BULACAN AND ROMUALDO C. SUNGA, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, HON. ANTONIA CORPUS MACANDOG, THE CITY SHERIFF OF CALOOCAN CITY...

G.R. No. 73558. September 29, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

From an adverse decision of the former Intermediate Appellate Court which affirmed the order of the Regional Trial Court, the petitioners come to us in this petition for review on certiorari. The only issue in the petition is whether or not the court should approve a notice of appeal which was filed out of time due to a fortuitous event.

The facts as found by the appellate court are as follows:

"In a complaint for sum of money filed before the Regional Trial Court, Caloocan City, Branch CXX, judgment was rendered in favor of private respondent Ernesto R. Cruz, doing business under the name and style of "EMD Trading Center", ordering defendant Municipality of Obando, Bulacan, to pay the plaintiff P71,147.15, representing the value of unpaid merchandise it purchased from him with interest at the legal rate from the filing of the complaint; P20,000.00 by way of moral damages; P10,000.00 by way of exemplary damages; P10,000.00 as and for attorney's fees; and costs of suit.

"Petitioner municipality, defendant in the court below, admitted that it received copy of the decision on June 13, 1985 (not June 30, 1985 as erroneously typewritten) and that the period to file an appeal would expire on June 28, 1985 (par. 5, petition). No motion for reconsideration of the decision was filed.

"It is contended that petitioners had prepared its Notice of Appeal on June 27, 1985 and were ready to file the same by registered mail on June 28, 1985, but because of a strong typhoon, "Daling", on June 28, 1985, public offices throughout Bulacan and most parts of Metro Manila and Central Luzon were closed. It was further alleged that strong winds and heavy rains including flood waters prevailed on June 28, 29, and 30, 1985 which prevented the filing of a notice of appeal. Petitioner filed the notice of appeal by registered mail on July 3, 1985.

"On motion of private respondent, the court, in an order dated July 22, 1985 dismissed the appeal for being untimely filed and granted the motion for execution." (Rollo, pp. 14-15)

Thereafter, the petitioners went to the Intermediate Appellate Court on petition for mandamus with preliminary injunction.

On December 23, 1985, the appellate court dismissed the petition. It ruled that an "[A]ppeal is a purely statutory remedy" and its perfection within the period provided by law "is not only mandatory but jurisdictional." Citing the pronouncement of this Court in the case of *Habaluyas Enterprises, Inc. v. Maximo N. Japzon*, (G.R. No. 70895, August 5, 1985, 138 SCRA 46), it held that "the fifteen-day period for appeal or for filing a motion for reconsideration cannot be extended," and the "[F]ailure to comply has the effect of rendering the questioned

judgment final and executory."

The petition now before us assails the lower courts' rulings. It alleges that the intervention of a strong and devastating typhoon, which is "an act of God or an act of nature," should excuse the petitioners' failure to file the notice of appeal on time. The petition further cites cases, i.e. *Ernesto v. Court of Appeals* (131 SCRA 347) and *Director of Lands v. Romamban* (131 SCRA 431), presenting the liberal view of this Court regarding appeals filed out of time but which are impressed with merit. The petitioners aver that a review of the trial court's decision is warranted because the respondent admitted in paragraph 15 of his complaint that his transaction with the petitioners did not adhere to the prescribed legal procedure in PD 1445, otherwise known as the Government Auditing Code of the Philippines.

We do not find merit in the petition.

The Judiciary Reorganization Act, Batas Pambansa Blg. 129, was designed to avoid the procedural delays that plagued the administration of justice under the existing rules which were originally intended to assist the parties in obtaining a just, speedy and inexpensive administration of justice. That is why (with some exceptions) the record on appeal was dispensed with and the thirty-day period was reduced to fifteen days. Only a notice of appeal is required and a record on appeal is no longer necessary except in appeals in special proceedings under Rule 109 of the Rules of Court and in other cases wherein multiple appeals are allowed (*Habaluyas Enterprises, Inc. v. Japzon*, Resolution, 142 SCRA 208).

In the subsequent case of *Lacsamana v. Second Special Cases Division of the Intermediate Appellate Court* (143 SCRA 643, 648), this Court, clarifying the new procedure in filing appeals and petitions for review; held that:

"1) ORDINARY APPEALS BY MERE NOTICE OF APPEAL.

"In an ordinary appeal from the final judgment or order of a metropolitan or municipal trial court to the regional trial court, and from the regional trial court to the Court of Appeals in actions or proceedings originally filed in the regional trial court, the fifteen-day period for appeal provided by Section 39 of BP No. 129 and Section 19(a) of the Interim Rules is interrupted or suspended by a motion for new trial or reconsideration, unless such motion fails to satisfy the requirements of Rule 37 (Section 3 of Rule 41). If the motion for new trial or reconsideration is denied, the moving party has only the remaining period from notice of denial within which to file a notice of appeal, which is the only requirement for taking an appeal under the present rules. Obviously, no extension of time to file such a notice of appeal is needed, much less allowed."

It is clear that in ordinary appeals, the fifteen-day period to appeal may not be extended. Such an extension is unnecessary because under the new rule, only a notice of appeal is required and the time consuming submission of the record on appeal has been discarded.

In this case we find no compelling reason to depart from the prescribed rule. On the contrary, we find negligence on the part of the petitioners. We cannot understand why, when no motion for reconsideration had been filed, the petitioners should wait until the last day for filing a mere notice of appeal. There is nothing difficult, time-consuming, or perplexing in filing a notice of appeal. Petitioners' counsel were familiar with every aspect and detail of their case.

Even assuming that they had been prevented from doing so by a strong typhoon which lasted for several days, we note that their last day for filing the notice, which was June 28, 1985 fell on a Friday. They could, therefore, have filed the same on the next working day, which was on July 1, 1985. The petitioners, however, filed the notice on July 3, 1985 with the lame excuse that the Fiscal's Office was in a mess brought about by the typhoon so that the failure to file the same was not discovered at once. It was not the typhoon which caused the delay in filing the notice of appeal. It was the dilly-dallying, negligence, and lack of attention of the petitioners' counsel.

WHEREFORE, in view of the foregoing, the petition is DISMISSED. The assailed decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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