

LEONCIO BAYACA, SIMEON BAYACA AND JUDITH BAYACA, RAMOS VALDEZ, PETITIONERS, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT, PERFECTO TEBANGIN AND ROSALINA MALLARI, RESPONDENTS.

G.R. No. 74824. September 15, 1986

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

In this Petition for Certiorari and Prohibition, petitioners allege that respondent Appellate Court acted with grave abuse of discretion when it denied their "Urgent ex-parte Motion for Extension of Time to File Motion for Reconsideration" of its Decision despite the fact that at the time of the denial they had already filed their Motion for Reconsideration.

The records disclose that petitioners' former lawyer received a copy of respondent Court's Decision under date of January 31, 1986 on February 13, 1986 so that they had up to February 28, 1986 within which to file a Motion for Reconsideration. A new counsel having appeared on February 27, 1986, the latter, on the same date, prayed for an extension of fifteen (15) days from February 28, 1986, or up to March 15, 1986, within which to seek reconsideration. The Motion for Reconsideration was actually filed on March 12, 1986. Private respondents opposed both the extension of time and the reconsideration of the Appellate Court Decision, which petitioners had prayed for.

On May 26, 1986, respondent Court "Resolved to Deny the motion for extension, under the authority of the ruling set forth by the Hon. Supreme Court in the case of 'Habaluyas Enterprises Inc., et al., vs. Judge Japson, et al.,' G. R. No. 70895, promulgated on August 5, 1985."

We originally upheld respondent Appellate Court by denying this Petition for Certiorari and Prohibition for lack of merit. Petitioners now move for reconsideration.

In the original Habaluyas case (138 SCRA 46-47 [1985]), we held that:

"x x x the trial Court erred in granting the motion for new trial. The fifteen day period for appealing or for filing a motion for reconsideration cannot be extended. Even under the existing Rules of Court the thirty-day period cannot be extended (Roque vs. Gunigundo, Adm. Case No. 1664, March 30, 1978, 89 SCRA 178, 182; Gibbs vs. Court of First Instance of Manila, 80 Phil. 160, 164)."

Since then, however, or on May 30, 1986, this Court, speaking through Mr. Justice Jose Y. Feria, restated and clarified the rule on this point as follows:

"1.) Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court. Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in

its sound discretion either grant or deny the extension requested."

In other words, there is a one-month grace period from the promulgation on May 30, 1986 of the Court's Resolution in the clarificatory Habaluyas case, or up to June 30, 1986, within which the rule barring extensions of time to file Motions for new trial or reconsideration is, as yet, not strictly enforceable.

Since petitioners herein filed their Motion for Extension on February 27, 1986, it is still within the grace period, which expires on June 30, 1986, and may still be allowed.

ACCORDINGLY, petitioner's Motion for Reconsideration is hereby granted predicated on this Court's Resolution in the clarificatory Habaluyas case promulgated on May 30, 1986.

Respondent Appellate Court's Resolution of May 26, 1986 is SET ASIDE and said Court is hereby directed to grant petitioners' "Urgent ex-parte Motion for Extension of Time to File Motion for Reconsideration" filed before it on February 27, 1986, and thereafter to resolve the Motion for Reconsideration already filed.

SO ORDERED.

Yap, (Chairman), Narvasa, Cruz, and Paras, JJ., concur.

Feliciano, J., no part.

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