

**FRANCISCO LIM TUPAS AND IGNACIO LIM TUPAS, PETITIONERS, VS.
HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.***G.R. No. 89571. February 06, 1991*

Ponente: CRUZ, J.

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In its resolution dated October 12, 1989, the Court denied the petition for certiorari under Rule 45 of the Rules of Court for failure to show that the respondent court committed reversible error in its resolution dated May 31, 1989.[1] The petitioner filed a motion for reconsideration on November 23, 1989, to which we required a Comment, which was followed by a Reply and later a rejoinder.

After considering the issues and the arguments of the parties in their respective pleadings, we affirm that the respondent court was, indeed, correct when it held that the appeal had been tardily made. The record shows that the petitioners received a copy of the decision of the Regional Trial Court of Pasay City on April 3, 1989, and that the motion for reconsideration thereof was filed on April 17, 1989, or fourteen days later. The order of May 3, 1989, denying the motion was received by the petitioners' counsel on May 9, 1989. Instead of filing the petition for review with the Court of Appeals within the remainder of the 15-day reglementary period, that is, on May 10, 1989, the petitioner did so only on May 23, 1989, or 14 days later. The petition was therefore clearly tardy.

In *Lacsamana v. Court of Appeals*,[2] which was promulgated on August 26, 1986, before the case at bar arose, we held:

APPEALS BY PETITION FOR REVIEW TO THE COURT OF APPEALS.

The final judgment or order of a regional trial court in an appeal from the final judgment or order of a metropolitan trial court, municipal trial court and municipal circuit trial court may be appealed to the Court of Appeals through a petition for review in accordance with Section 22 of BP No. 129 and Section 22(b) of the Interim Rules, or to this Court through a petition for review on certiorari in accordance with Rule 45 of the Rules. The reason for extending the period or the filing of a record on appeal is also applicable to the filing of a petition for review with the Court of Appeals. If a motion for reconsideration is filed with and denied by a regional trial Court, the movant has only the remaining period within which to file a petition for review. Hence, it may be necessary to file a motion with the Court of Appeals for extension of time to file such petition for review. (emphasis supplied.)

The petitioners' counsel did not file the petition for review within the remaining period, which he should have known was only one day. Neither did he move for an extension that would have been granted as a matter of course. The petition for review being indisputably late, he could not thereafter ask that it be treated as a petition for certiorari under Rule 65 of the Rules of Court, which can be filed within a reasonable time. This remedy cannot be employed as a substitute for a lost appeal.[3] It follows that for having themselves forfeited the right to appeal, the petitioners cannot now plaintively claim that they have been denied due process.

Rules of procedure are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial and extrajudicial proceedings. It is a mistake to suppose that substantive law and adjective law are contradictory to each other or, as has often been suggested, that enforcement of procedural rules should never be permitted if it will result in prejudice to the substantive rights of the litigants. This is not exactly true; the concept is much misunderstood. As a matter of fact, the policy of the courts is to give effect to both kinds of law, as complementing each other, in the just and speedy resolution of the dispute between the parties. Observance of both substantive and procedural rights is equally guaranteed by due process, whatever the source of such rights, be it the Constitution itself or only a statute or a rule of court:[4]

The petitioners' argument that they should not be prejudiced by the mistakes of their counsel because they are laymen and not familiar with the intricacies of the law is not acceptable. If clients could disauthorize their counsel on this ground, the administration of justice could be hopelessly encumbered. The petitioners have not shown that their counsel was exceptionally inept or motivated by bad faith or excusably misled by the facts. There is no reason why we should not apply the rule that clients should be bound, by the acts of their counsel, including his mistakes.[5]

The petitioners' submission that their counsel's failure to appeal on time should be regarded as excusable neglect or honest error is not compatible with his impressive credentials. He is a prestigious member of the bar and his conduct at the trial demonstrated his experience and skill as a trial lawyer. The petitioners themselves describe him as "a graduate of one of the top law schools in the country, a bar examiner in Remedial Law a law professor in Remedial Law and other law subjects, a former National Officer of the Integrated Bar of the Philippines and a seasoned practitioner for more than 30 years." [6] The procedural mistake might have been understandable in an ordinary lawyer but not in the case of the petitioners' former counsel.

Now petitioner wants us to nullify all of the antecedent proceedings and recognize his earlier claims to the disputed property on the justification that his counsel was grossly inept. Such a reason is hardly plausible as the petitioner's new counsel should know. Otherwise, all a defeated party would have to do to salvage his case is claim neglect or mistake on the part of his counsel as a ground for reversing the adverse judgment. There would be no end to litigation if this were allowed as every shortcoming of counsel could be the subject of challenge by his client through another counsel who, if he is also found wanting, would likewise be disowned by the same client through another counsel, and so on ad infinitum. This, would render court proceedings indefinite, tentative and subject to reopening at any time by the mere subterfuge of replacing counsel.[7]

It has not escaped the attention of the Court that the motion for reconsideration of the decision of the trial court was filed on the fourteenth day of the reglementary period and that the petition for review was filed, presumably under the belief that a new 15-day period had begun, fourteen days after the petitioners' counsel was notified of the denial of the motion. This smacks of a dilatory tactic. It would seem to the Court that if the petitioners felt so strongly that the said decision was erroneous they, would have demonstrated more spirit and promptitude in assailing it. Instead, they waited to move for reconsideration until the last hour and, ultimately, when the motion was denied, filed the petition for review only when it was already too late. Under these circumstances, equity cannot be extended to them to soften the rigor of the law they have not chosen to observe.

For all its conceded merits, equity is available only in the absence of law and not as its replacement. Equity is described as justice outside legality, which simply means that it cannot supplant although it may, as often happens, supplement the law. We said in an earlier case, and we repeat it now, that all abstract arguments based only on equity should yield to positive rules, which pre-empt and prevail over such persuasions. Emotional appeals for justice, while they may wring the heart of the Court, cannot justify disregard of the mandate of the law as long as it remains in force. The applicable maxim, which goes back to the ancient days of the Roman jurists - and is now still reverently observed is "aequetas nunquam contravenit legis." [8]

It is clear that the respondent court did not commit any reversible error in dismissing the petitioners' appeal on the ground of tardiness. On the contrary, the challenged resolution is conformable to the applicable law and jurisprudence that, despite the confusion of the petitioners' former counsel, carried no esoteric meaning not available to the ordinary practitioner.

WHEREFORE, the motion for reconsideration is DENIED with finality. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Benipayo, J., ponente; Melo and Pronove, JJ., concurring.

[2] 143 SCRA 643.

[3] Pan Realty Corp. vs. CA, 167 SCRA 564; Del Pozo vs. Penaco, Ibid., p. 577.

[4] Limpot vs. CA, 170 SCRA 369.

[5] Aguila vs. CA, 160 SCRA 357-358.

[6] Rollo, p. 16.

[7] Aguila vs. CA, 160 SCRA 359.

[8] Aguila vs. CA, supra.

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