

NICANOR T. SANTOS, PETITIONER, VS. COURT OF APPEALS AND H.M. MONTENEGRO & ASSOCIATES, INC., RESPONDENTS.

G.R. No. 92862. July 04, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The private respondent's counsel has acted quite in character up to the end and even unto this Court. The respondent court should not have been so forbearing.

The private respondent lost in a suit for damages in the Regional Trial Court of Caloocan City. It appealed to the respondent court and on May 17, 1989, was required to file its brief within 45 days from notice. The notice was received by its counsel on May 24, 1989.

The 45-day period expired on July 8, 1989. No brief had been filed by the appellant nor had it at least moved for extension of time to do so.

On September 19, 1989, the Court of Appeals issued a resolution requiring the private respondent to show cause why its appeal should not be considered abandoned or dismissed for its failure to file the appellant's brief. This was ignored by the private respondent.[1]

On October 4, 1989, the petitioner filed a motion for the dismissal of the private respondent's appeal for failure to file the appellant's brief. No action having been taken thereon, it was reiterated on December 12, 1989. There was no reaction from the private respondent to either of the two motions.

On December 11, 1989, two hundred and one days from the start of the 45-day reglementary period and after the expiration of the 10-day period to show cause, the respondent court dismissed the private respondent's appeal pursuant to Section 1(f), Rule 50 of the Rules of Court.[2]

It was only after more than a month, on January 17, 1990, that the private respondent roused itself and filed a motion for reconsideration of the dismissal of its appeal and for the admission of the appellant's brief. Its counsel alleged that an employee of another client had taken the records of the case and had returned them only after Christmas of 1989. It also averred that it could not file the appeal brief on time because of the aborted coup d'etat in December of that year and the frequent power interruptions in the Makati area, where its office was located.

An opposition was filed by the petitioner, but the motion was granted by the respondent court on February 21, 1990.[3] The resolution read in part:

The court has no way to determine the veracity of the claim of defendant-appellant's counsel that an employee of another client took the records of the case from his office. The motion filed has no affidavit attached to the same. However, the court could take judicial notice of the electrical power interruption at Makati as well as the occurrence of the aborted coup.

PREMISES CONSIDERED, in the interest of substantial justice, the resolution dated December 11, 1989

dismissing the appeal interposed by defendant-appellant is hereby RECONSIDERED and the Brief filed is ADMITTED and appellees are given the reglementary period of forty-five (45) days within which to file appellee's brief.

The petitioner's own motion for reconsideration having been denied, it has come to this Court to fault the reinstatement of the appeal with grave abuse of discretion.

We find at the outset, considering the ground invoked, that the petitioner should have filed a special civil action for certiorari under Rule 65 of the Rules of Court rather than a petition for review on certiorari under Rule 45. We shall disregard this procedural lapse, however, to correct the obvious flaw in the challenged resolutions.

The conduct of the private respondent and its counsel reveals a careless disregard of the Rules of Court and, indeed, even a contemptuous rejection of the authority of the respondent court.

Required to show cause why the appeal should not be dismissed for failure to file the appellant's brief,[4] the private respondent and its counsel saw fit not to dignify the warning with a response. Only after the respondent court had dismissed the appeal did it occur to them to move for reconsideration, and for reasons too flimsy to be believed.

The respondent court itself noted that the motion for reconsideration carried no supporting affidavits to prove the grounds alleged. There was no showing of how the coup d'etat and the power interruptions prevented the private respondent's counsel from filing the appellant's brief on time. Notably, the period for the filing of the brief began on May 24, 1989, long before the failed November-December coup d'etat.

Other law offices similarly inconvenienced by the attempted coup d'etat and the power interruptions have not been similarly remiss as the private respondent's counsel. Some of them have pleaded for more time to meet 15-day or 30-day deadlines and have been accommodated. But it is different in the case at bar, where the private respondent's counsel had delayed for more than four months and had not even asked for an extension.

Given this inexcusable delay, the respondent court should not have been so tolerant. The appellee, no less than the appellant, was entitled to speedy justice. Whether deliberate or not, the non-filing of the appellant's brief on time had the effect of postponing action on the judgment the petitioner had already won in the trial court. In reinstating the appeal, the respondent court allowed itself to emasculate the policy of expeditious judicial action mandated by the Constitution itself.

It has to be noted that the irresponsibility of the private respondent's counsel did not stop at the respondent court but has marred even the proceedings in this Court. In our resolution dated June 20, 1990, we required the private respondent to file a Comment on the petition within ten days from notice. No such Comment was filed. The same counsel was required in the resolution dated January 23, 1991, to show cause why it should not be disciplined for failure to submit its Comment, and to comply with the Court's resolution. It has completely ignored that warning as if this Court did not deserve its attention.

We will not countenance such disrespect. All lawyers are expected to recognize the authority of the Supreme Court and obey its lawful processes and orders. For the failure of the private respondent to submit its Comment, we have dispensed with and resolved this petition on the basis of the pleadings and other available documents. Moreover, for its intransigence and as a warning to other lawyers who may be similarly disposed, the law office of Cruz, Palabyab, Llorin and Associates is hereby fined in the amount of One Thousand Pesos, to be paid to the Cashier of the Court within ten days from notice of this decision. Any further disrespect or disobedience of this Court by the said law firm shall be dealt with more severely.

The record does not show if the private respondent condoned or contributed to its counsel's negligence. If it did

not and feels it has reason to complain, it may file administrative charges against such counsel with the Integrated Bar of the Philippines.

Procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. Adjective law is important in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed, to provide for a system under which suitors may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge. The other alternative is the settlement of their conflict through the barrel of a gun.

WHEREFORE, the petition is GRANTED and the resolution of the respondent court reinstating the appeal in CA-GR CV No. 20225 is SET ASIDE, with costs against the private respondent.

SO ORDERED.

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

[1] Rollo, p. 30.

[2] Ibid., p. 34.

[3] Id., p. 36.

[4] Id., p. 30.

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