



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

JOEL G. NOLASCO,
 Petitioner,

G.R. No. 252715

Present:

- versus -

CAGUIOA, * J.,
 INTING,**
Acting Chairperson,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

**PURENCE REALTY
 CORPORATION,**
 Respondent.

Promulgated:
October 12, 2022

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DECISION

GAERLAN, J.:

This is a petition for review on *certiorari*¹ filed by Joel G. Nolasco (Nolasco) assailing the Resolutions dated August 30, 2019² and June 10, 2020³ of the Court of Appeals (CA) in CA-G.R. CV No. 112755. The CA dismissed the appeal of Nolasco due to his failure to timely file an appellant’s brief.

The Antecedents

On February 2, 2017, Purence Realty Corporation (Purence) filed an action for recovery of possession and quieting of title with damages against

* On official leave.

** Designated as Acting Chairperson per Special Order No. 2918-Revised dated October 12, 2022.

¹ *Rollo*, pp. 11-28.

² *Id.* at 34-36. Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Myra V. Garcia-Fernandez and Perpetua Susana T. Atal-Paño concurring.

³ *Id.* at 38-41.

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Nolasco and Elizardo Francisco (Francisco) (collectively, defendants) in the RTC of Biñan, Laguna. The case was initially raffled to Branch 25 but was transferred to Branch 102 of the RTC of Santa Rosa, Laguna pursuant to Supreme Court Administrative Order No. 53-2017. Purence alleged that it is the absolute owner of the lots covered by Transfer Certificates of Title (TCT) Nos. 131670 and 131671 at Don Jose Zavalla Subdivision in Sta. Rosa, Laguna. Sometime in 1990, it discovered that the defendants illegally entered and occupied the properties through stealth and strategy and without its consent. In March 2004, the defendants filed a complaint against Purence before the Housing and Land Use Regulatory Board (HLURB) – Regional Field Office No. IV claiming that Nolasco acquired the properties from spouses Celso and Apolonia Dichoso (spouses Dischoso); while Francisco purchased the lot from Roberto Nolasco (Roberto). The HLURB found that the defendants do not have a cause of action against Purence for lack of privity of contract. On appeal, the HLURB Board of Commissioners affirmed the ruling. By virtue of this decision, Purence sent demand letters to the defendants for them to vacate the properties, but they refused causing the filing of the case.⁴

Only Nolasco was successfully served with summons. However, he failed to file his answer to the complaint, prompting Purence to file a motion to declare him in default. Nolasco subsequently filed his answer. He claimed that his parents, Roberto and Flaviana, bought the properties from spouses Dichoso, who in turn, purchased them from Purence. Roberto fully paid the properties with Purence as evidenced by an official receipt. A certification was also issued by Prescilla Lijauco and Pablo Cerdena stating that they have personal knowledge that Roberto had fully paid block 3, lot 14 to Purence. Purence opposed the admission of Nolasco's answer.

In its Resolution⁵ dated May 8, 2018, the RTC declared Nolasco in default after finding that it took him more or less 87 days to file his answer. While Nolasco blamed his lapses on his sickness and ignorance, the RTC noted that he neither specified the said sickness nor attached a valid medical certificate to support his claim. Hence, Nolasco's answer was stricken from the records and Purence was allowed to present its evidence *ex-parte* before the Branch Clerk of Court.⁶

The RTC's Ruling

In its Decision⁷ dated November 12, 2018, the RTC ruled in favor of Purence, the *fallo* of which reads:

⁴ Id. at 73.

⁵ Id. at 136-144.

⁶ Id. at 74.

⁷ Id. at 72-79. Penned by Presiding Judge Gil Jude F. Sta. Maria, Jr.

WHEREFORE, judgment is hereby rendered in favor of the petitioner Purence Realty Corporation and against the respondent Joel Nolasco, as follows:

- a. ordering respondent Joel Nolasco and all persons claiming rights under him to vacate the subject premises and peacefully surrender possession thereof to petitioner;
- b. ordering respondent Joel Nolasco and all persons claiming rights under him to demolish any and all structure built therein at their own cost;
- c. to pay the cost of suit.

SO ORDERED.⁸

The RTC explained that the case filed is an *accion publiciana* or an ordinary civil proceeding to determine the better right of possession of a realty independent of title. However, when the parties raise the issue of ownership, the court may pass upon the said issue albeit provisionally.⁹ The RTC found that Purence has a preferred claim of possession over Nolasco. The titles of the lots have been in the name of Purence since 1985. As the registered owner, Purence has a right to possess the properties, which is one of the attributes of ownership. Hence, it must be restored to its lawful possession pursuant to Article 539 of the New Civil Code. It has the right to eject Nolasco from the properties. As regards Francisco, no ruling can validly be made against him since he was neither served with summons nor did he voluntarily appeared and submitted himself to the authority of the court. The RTC held that it is no longer necessary to dwell on the issue of quieting of title. It also rejected Purence's prayer for attorney's fees for lack of merit.¹⁰

Nolasco filed an appeal to the CA.¹¹

The CA's Ruling

In its Resolution¹² dated August 30, 2019, the CA considered the appeal abandoned and dismissed the case for Nolasco's failure to file an appellant's brief under Section 1(e), Rule 50 of the Rules of Court. It noted that on May 8, 2019, Nolasco's counsel received a letter from the Judicial Records Division (JRD) requiring him to file an appellant's brief within 45 days from receipt thereof. Thus, Nolasco had until June 22, 2019 to file a brief or a motion for

⁸ Id. at 79.

⁹ Id. at 77.

¹⁰ Id. at 78-79.

¹¹ Id. at 147.

¹² Id. at 34-36.

extension. However, it was only on July 8, 2019 or 16 days after the lapse of the reglementary period that he filed a motion for extension of 30 days from June 22, 2016 until July 22, 2016. On August 5, 2019 or 14 days after the expiration of the first extension, Nolasco asked for an additional period of five (5) days from July 22, 2016 until July 27, 2019 to file his appellant's brief. The CA observed that instead of filing an appellant's brief, Nolasco filed two motions for extension, which were both filed beyond the prescribed period.¹³

Nolasco filed a Motion for Reconsideration (With Motion to Admit Attached Brief for the Respondent-Appellant),¹⁴ which the CA denied in its Resolution dated June 10, 2020. The CA opined that it is clear from the records that Nolasco's counsel received the letter of the JRD on May 8, 2019 as evidenced by the Registry Return Receipt. Nonetheless, he failed to file the appellant's brief within the prescribed period and his explanation for the same is not sufficiently compelling to warrant a reversal of the court's earlier Resolution.¹⁵

The CA explained that the Public Attorney's Office-Special and Appealed Cases Services (PAO-SACS) received two notices to file brief. One was on May 8, 2019 and the other was on May 22, 2019. Nolasco's counsel claimed that the May 8 notice might have been inadvertently inserted into the records of another case. The CA held that if this was the case, how about the May 22 notice? Counted from this date, Nolasco had until July 6, 2019 to file his brief. Yet as of August 30, 2019, no brief was filed. Proffered as a reason for the non-filing was the volume of pleadings for filing as well as other cases requiring urgent attention. The CA ruled that this is not compelling enough to reverse the dismissal of the case.¹⁶

Undaunted, Nolasco filed the present petition. First, he argues that the CA erred in declaring his appeal abandoned despite the excusable circumstances surrounding its belated filing. He states that the work volume in the handling counsel's office is common knowledge. The appellant's brief was finalized on August 5, 2019 and was ready to be filed in court as well as served to the opposing party. Yet, due to inadvertence, it was not filed because of the other pleadings being worked on at the office. Proof of such innocent inadvertence is that the non-filing was only discovered upon receipt of the CA's first assailed Resolution.¹⁷ Nolasco asks the Court to relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.¹⁸

¹³ Id. at 34-35.

¹⁴ Id. at 42-45.

¹⁵ Id. at 40.

¹⁶ Id.

¹⁷ Id. at 34-36.

¹⁸ Id. at 19-20.

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Second, Nolasco asserts that his appeal is meritorious. He alleges that the RTC has no jurisdiction over the case because the complaint did not specify the assessed value of the subject lots.¹⁹ Further, Purence failed to prove its better right to possess the properties since it failed to identify their metes and bounds. There is a possibility that the properties sought to be recovered by Purence are not part of its Certificates of Title.²⁰ Nolasco maintains that the CA gravely misappreciated his plight. He seeks a chance to fight for his home based on substantial justice and not on mere technicalities.²¹

In its comment, Purence claims that the petition before the Court was filed out of time. It avers that the contumacious failure of Nolasco to abide by the Rules of Court justly and legally warranted the order of default and the dismissal of the case. Hence, it prays for the dismissal of the petition for lack of merit.²²

In his reply, Nolasco contends that the petition was timely filed. He explained that a motion for extension of time to file petition was filed on July 16, 2020 praying for an extension of 30 days or until August 15, 2020 to file the petition. On August 3, 2020, in view of the imposition of the Modified Enhanced Community Quarantine (MECQ), the Supreme Court issued Administrative Circular No. 43A-2020 suspending the reglementary period for filing of petitions from August 4, 2020 to August 18, 2020. Before the imposition of the suspension, Nolasco still had 12 remaining days to file the petition. The reglementary period was merely interrupted by the suspension. Hence, Nolasco had another 12 days from August 18, 2020 to August 30, 2020 to file the petition. However, August 30 fell on a Sunday. Therefore, the petition was seasonably filed on the next working day or on September 1, 2020.²³

Issue

Whether the CA erred in dismissing Nolasco's appeal.

The Court's Ruling

The petition is partly meritorious.

¹⁹ Id. at 21 and 23.

²⁰ Id. at 25.

²¹ Id. at 26.

²² Id. at 114.

²³ Id. at 186-187.

At the outset, contrary to Purence's claim, We find that the petition was seasonably filed on September 1, 2020. Nolasco received the CA's Resolution²⁴ dated June 10, 2020 on July 1, 2020. Under Section 2, Rule 45 of the Rules of Court, he has 15 days from notice of the said resolution, that is, until July 16, 2020 to file a petition for review or to file a motion for extension to file the same. On July 16, 2020, he filed a Motion for Extension of Time To File Petition For Review On Certiorari²⁵ asking for an extension of 30 days or until August 15, 2020 within which to file the petition. We granted the motion in Our Resolution²⁶ dated August 26, 2020.

Meantime, Metro Manila, Cavite, Rizal, Bulacan, and Laguna were placed on MECQ from August 4 to 18, 2020. In response, on August 3, 2020, We issued Administrative Circular No. 43A-2020 suspending the reglementary periods for the filing of petitions, appeals, complaints, motions, pleadings, and other court submissions from August 4 to 18, 2020. The periods for court actions with prescribed periods were also suspended and resumed on August 19, 2020. When the reglementary period was suspended on August 4, 2020, Nolasco had 11 remaining days to file the petition. Thus, upon resumption on August 19, 2020, he also had 11 days or until August 30, 2020 to file the petition. August 30 fell on a Sunday, hence, the petition should be filed on the next working day, or on September 1, 2020.

We now proceed to the crux of the controversy. Pursuant to Section 1(e), Rule 50 of the Rules of Court, the CA has the discretionary authority to dismiss an appeal for non-filing of an appellant's brief, to wit:

Section 1. *Grounds for dismissal of appeal.* — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

X X X X

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules[.]

The use of the permissive "may" in the wording of the above-stated provision meant that the dismissal of the appeal by the CA is directory and not mandatory. However, the CA's discretion must be exercised soundly and in accordance with the tenets of justice and fair play having in mind the circumstances of each case.²⁷

²⁴ Id. at 38-41.

²⁵ Id. at 3-4.

²⁶ Id. at 9.

²⁷ *Sindophil, Inc. v. Republic*, 842 Phil. 929 (2018).

In *National Grid Corporation of the Philippines v. Bautista*²⁸ (*National Grid*), We used the following guidelines in determining whether to sustain the dismissal of the appeal by the CA for failure to file an appellant's brief, viz.:

In *Beatingo v. Bu Gasis*, the Court clarified the CA's discretionary power of dismissal of an appeal for failure to file Appellant's Brief in this wise:

The question of whether or not to sustain the dismissal of an appeal due to petitioner's failure to file the Appellant's Brief had been raised before this Court in a number of cases. In some of these cases, we relaxed the Rules and allowed the belated filing of the Appellant's Brief. In other cases, however, we applied the Rules strictly and considered the appeal abandoned, which thus resulted in its eventual dismissal. **In *Government of the Kingdom of Belgium v. Court of Appeals*, we revisited the cases which we previously decided and laid down the following guidelines in confronting the issue of non-filing of the Appellant's Brief:**

(1) The general rule is for the Court of Appeals to dismiss an appeal when no appellant's brief is filed within the reglementary period prescribed by the rules;

(2) The power conferred upon the Court of Appeals to dismiss an appeal is discretionary and directory and not ministerial or mandatory;

(3) The failure of an appellant to file his brief within the reglementary period does not have the effect of causing the automatic dismissal of the appeal;

(4) In case of late filing, the appellate court has the power to still allow the appeal; however, for the proper exercise of the court's leniency[,] it is imperative that:

(a) the circumstances obtaining warrant the court's liberality;

(b) that strong considerations of equity justify an exception to the procedural rule in the interest of substantial justice;

(c) no material injury has been suffered by the appellee by the delay;

(d) there is no contention that the appellee's cause was prejudiced;

²⁸ G.R. No. 232120, September 30, 2020, citing *Beatingo v. Bu Gasis*, 657 Phil. 552 (2011).

(e) at least there is no motion to dismiss filed.

(5) In case of delay, the lapse must be for a reasonable period; and

(6) Inadvertence of counsel cannot be considered as an adequate excuse as to call for the appellate court's indulgence except:

(a) where the reckless or gross negligence of counsel deprives the client of due process of law;

(b) when application of the rule will result in outright deprivation of the client's liberty or property; or

(c) where the interests of justice so require.²⁹ (Emphasis supplied; citations omitted)

Consequently, the appellate court has the power to allow the appeal notwithstanding the delay in the filing of the appellant's brief. If such delay was due to the inadvertence of the appellant's counsel, any of the following circumstances must be shown to exist to warrant the appellate court's liberality: (a) the recklessness or gross negligence of the counsel deprives the client due process of law; (b) the application of the rule will result in outright deprivation of property; or (c) the interests of justice so require. The second and third exceptions obtain in this case.

Nolasco was the possessor of the properties in question. With his appeal before the CA considered abandoned due to his failure to timely file an appellant's brief, he is set to lose his home on a mere technicality. While We do not condone non-compliance with the reglementary periods under the Rules, the more pressing concern of substantial justice impels Us to set aside the CA's dismissal of the appeal. The issue of whether Roberto, Nolasco's predecessor, had fully paid the property to Purence is crucial to the just determination of the case. Nolasco was not able to present his defense of payment and ownership in the RTC because he was declared in default, and in the CA because his appeal was dismissed. If there was indeed payment, it would be the height of injustice for Nolasco to be evicted from his own properties.

*In Pongasi v. Court of Appeals,*³⁰ We reinstated the appeal of therein petitioners and ordered the CA to admit the appellants' brief, noting that the

²⁹ Id.

³⁰ 163 Phil. 638, 644 (1976).

case is one for partition and the conflicting assertions of the parties over property rights must be passed upon if only to ensure that the properties are awarded to those who rightfully deserve them.

Similarly, in *Gregorio v. Court of Appeals*,³¹ We reinstated the appeal on the ground, *inter alia*, that the question of forgery in the supposed conveyance of property requires the examination of the record of the case. Hence, the late filing of the appellant's brief may be forgone.

Time and again, We rule that technical rules must not suppress substantial justice. After all, dispensation of justice is the core reason for the existence of courts.³² Our disquisition in *Bigornia v. Court of Appeals*³³ is enlightening, to wit:

The circulars of this Court prescribing technical and other procedural requirements are meant to promptly dispose of unmeritorious petitions that clog the docket and waste the time of the courts. These technical and procedural rules, however, are intended to ensure, not suppress, substantial justice. **A deviation from their rigid enforcement may thus be allowed to attain their prime objective for, after all, the dispensation of justice is the core reason for the existence of courts.** Thus, in a considerable number of cases, the Court has deemed it fit to suspend its own rules or to exempt a particular case from its strict operation where the appellant failed to perfect his appeal within the reglementary period, resulting in the appellate court's failure to obtain jurisdiction over the case. **With more reason, there should be wider latitude in exempting a case from the strictures of procedural rules when the appellate court has already obtained jurisdiction over the appealed case and, as in this case, petitioners failed to file the appellants' brief on time.**³⁴ (Emphasis supplied; citations omitted)

In fine, We deem it appropriate to reinstate the appeal of Nolasco and afford him the fullest opportunity to establish the merits of his appeal, rather than to deprive him of his properties outright.³⁵

WHEREFORE, the petition is **PARTLY GRANTED**. The Resolutions dated August 30, 2019 and June 10, 2020 of the Court of Appeals in CA-G.R. CV No. 112755 are **REVERSED and SET ASIDE**. Petitioner's appeal is **REINSTATED**. The case is **REMANDED** to the Court of Appeals for proper resolution of the case on its merits.

³¹ 164 Phil. 129, 136 (1976).


³² *Bigornia v. Court of Appeals*, 600 Phil. 693, 698 (2009).

³³ *Id.*

³⁴ *Id.* at 698-699.


³⁵ See *B.E. San Diego, Inc. v. Bernardo*, 844 Phil. 980 (2018).

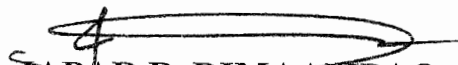
SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

(On official leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

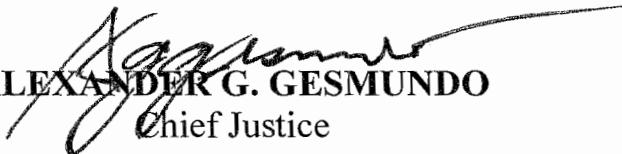
I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.


HENRI JEAN PAUL B. INTING
Associate Justice
Acting Chairperson

(Per Special Order No. 2918-Revised dated October 12, 2022)

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

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