

THIRD DIVISION

[G.R. No. 169314, March 14, 2008]

PNB-REPUBLIC BANK (now known as Maybank Philippines, Inc.), Petitioner, vs. SPOUSES JOSE and SALVACION CORDOVA,
[1] Respondents.

D E C I S I O N

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the April 29, 2005 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 80735, and the August 12, 2005 Resolution^[3] denying the motion for reconsideration (MR) thereof.

In its February 18, 2002 Decision, the Regional Trial Court (RTC) of Manila, Branch 7, in Civil Case No. 98-89355, dismissed petitioner's complaint for rescission of a contract of lease but granted respondents' counterclaim.^[4] Discontented with the trial court's disposition, petitioner, which received a copy of the decision on March 15, 2002, timely filed a notice of appeal on March 20, 2002 [the **first** notice of appeal].

Also dissatisfied with the decision, respondents moved for its reconsideration. In an Order dated July 2, 2002, the trial court reconsidered and amended its February 18, 2002 Decision to increase the amount of damages awarded to respondents.^[5] After receiving a copy of this Order on **August 7, 2002**, petitioner this time filed a **motion for reconsideration** on August 22, 2002. On September 30, 2002, the trial court denied petitioner's motion and affirmed its earlier order. Petitioner received a copy of the denial order on **October 14, 2002**. It, subsequently, filed another Notice of Appeal on **October 23, 2002** [the **second** notice of appeal].^[6]

Respondents moved for the dismissal of the appeal. As this motion was denied by the trial court, they re-filed it with the appellate court. In their motion, respondents argued that petitioner only had one (1) day left to file the second notice when it received the order denying the MR, inasmuch as it had already consumed the 15-day reglementary period when it filed the MR on August 22, 2002. Since the February 18, 2002 Decision was vacated, revised and replaced by the July 2, 2002 Order, the first notice of appeal became ineffective and invalid.^[7]

On November 3, 2004, the CA resolved to deny the motion.^[8] Respondents moved for its reconsideration.^[9] In a volte-face, the appellate court granted respondent's motion and dismissed the appeal on April 29, 2005.^[10] Petitioner's motion for the reconsideration of the resolution of dismissal was further denied by the CA on August 12, 2005.^[11]

Petitioner, thus, filed the instant Petition for Review on *Certiorari*^[12] raising the following issues for our resolution:

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN GRANTING RESPONDENTS' MOTION TO DISMISS APPEAL AND IN DECLARING THAT MAYBANK'S FIRST NOTICE OF APPEAL HAD BECOME INEFFECTIVE AND INVALID WHILE MAYBANK'S SECOND NOTICE OF APPEAL HAD NOT BEEN PERFECTED ON TIME.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN DECLARING THAT IT HAD NO JURISDICTION TO ALTER THE FINAL JUDGMENT OF THE COURT A *QUO* AND TO ENTERTAIN MAYBANK'S APPEAL.^[13]

The Court finds merit in the petition.

Petitioner's appeal is deemed perfected "as to [it]" when it timely filed its first notice of appeal, following Section 9, Rule 41 of the Rules of Court.^[14] Incidentally, this perfected appeal is not docketed with the CA, because the trial court, which was still to resolve respondents' motion for reconsideration, had not yet transmitted the records of the case to the appellate court. Incumbent, nonetheless, on the part of the RTC is the elevation of the records after a resolution of the merits of respondents' motion.^[15]

Its appeal having been perfected, petitioner did not need to file a second notice of appeal even if the trial court granted, as it did, the other party's motion for reconsideration and modified the decision to increase the monetary award. This is in accordance with our ruling in *Pacific Life Assurance Corporation v. Sison*,^[16] thus:

We hold that petitioner did not have to file another notice of appeal, having given notice of its intention to appeal the original decision.

x x x Since the decision, as modified by the order of March 11, 1993, more than doubled petitioner's liability, there is no reason to believe that petitioner's failure to appeal therefrom in any way indicated its acceptance thereof.

x x x x

x x x [S]ince the decision as modified substantially increased petitioner's liability, the logical inference is that petitioner would all the more want to appeal from the decision as modified. To deny petitioner's appeal on the sole ground that it failed to file another notice of appeal in order to signify its objection to the modified decision would be to put a premium on technicalities at the expense of a just resolution of the case.^[17]

An essential and logical implication of the said rule is that the filing of a second notice of appeal from the modified decision is a superfluity, if not a useless ceremony. It, therefore, matters no longer whether that second notice is timely filed or not. Hence, in this case, petitioner's filing of a belated second notice of appeal does not affect or foreclose its already perfected appeal.

Respondents want the Court to depart from the aforesaid rules because, in this case, petitioner, in effect, abandoned its perfected appeal when it filed a motion for reconsideration of the order modifying the decision. The Court does not agree. Petitioner's filing of the said motion does not have the effect of a waiver of the appeal,^[18] and, like the second notice, is a pointless formality which does not prejudice the already perfected appeal.

When the appeal is perfected as to petitioner's filing of the first notice in due time, the trial court, insofar as the petitioner is concerned, loses its jurisdiction over the case except to issue orders for the protection and preservation of the rights of the parties *which do not involve any matter litigated by the appeal.*^[19] Obviously, the issue of the correctness of the decision is the subject of the perfected appeal. The trial court no longer had jurisdiction to reverse the February 18, 2002 Decision, as modified by the July 2, 2002 Order, which would have meant petitioner's *abandonment of its appeal.* In fact, to paraphrase the words of remedial law expert Justice Florenz D. Regalado, petitioner, with its appeal already perfected, cannot withdraw the same for the purpose of reviving the jurisdiction of the trial court and enabling it to take another course of action calling for the exercise of that jurisdiction. This is because by filing the notice of appeal, petitioner *insofar as it is concerned* has perfected its appeal to the CA, and it should be in that court where he may pursue any further remedy.^[20]

If at all, petitioner's motion for reconsideration of the order modifying the decision, and its second notice of appeal, more than ever, manifest its continuing desire to question the adverse decision. We emphasize, at this point, that an appeal should not be dismissed on a mere technicality—all litigants must be afforded the fullest opportunity for the adjudication of their cases on the merits.^[21]

The necessary consequence of our ruling that petitioner's perfected appeal springs from the first notice is that such first appeal should be the one docketed by the appellate court. CA-G.R. CV No. 80735, the subject of this petition, is the mistaken appeal, for it traces its origin from the superfluous second notice. Considering, however, that the records were already transmitted to the appellate court in the appeal docketed as CA-G.R. CV No. 80735, for us to have to go through the process of dismissing the said mistaken appeal, then have the perfected appeal from the first notice docketed, and finally, order the records of the case re-transmitted through that docketed appeal, would be too circuitous a procedure. Thus, for expediency, we simply reinstate the appeal without a further re-docket, and direct the appellate court to resolve the case without further delay.

WHEREFORE, premises considered, the petition for review on *certiorari* is **GRANTED**. The April 29, 2005 and the August 12, 2005 Resolutions of the Court of Appeals in CA-G.R. CV No. 80735 are **REVERSED and SET ASIDE**. Petitioner's appeal is **REINSTATED**. The appellate court is **DIRECTED** to resolve the same with dispatch.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.