

SECOND DIVISION

[G.R. No. 214794, July 23, 2018]

**NARCISO VICTORIANO, PETITIONER, V. JUNIPER DOMINGUEZ,
RESPONDENT.**

D E C I S I O N

REYES, JR., J:

The Court's ultimate task is to render and dispense justice. To achieve this end, the Court may excuse certain procedural lapses, if the strict application of the rules will only serve to unjustly deprive a litigant of the chance to present his/her case on the merits.

This treats of the Petition for Review on *Certiorari*^[1] under Rule 45 of the Revised Rules of Court seeking the reversal of the Resolutions dated November 29, 2013,^[2] and October 3, 2014,^[3] issued by the Court of Appeals (CA) in CA-G.R. SP No. 132581, which dismissed outright the Petition for Review filed by herein petitioner Narciso Victoriano (Victoriano) on technical grounds.

The Antecedents

On January 29, 2003, the Spouses Narciso and Josephine Victoriano (Spouses Victoriano) purchased a house and lot located at Nakagang, Sabangan, Mountain Province from the Philippine National Bank (PNB), Bontoc, Mountain Province. Victoriano was an employee of the Bureau of Fire Protection at Nakagang, Sabangan, Mountain Province. The sale was processed by Benedicto Vasquez (Vasquez), Branch Manager of the PNB in Bontoc, Mountain Province.^[4] On even date, the parties signed a Deed of Sale (January Deed of Sale), which indicated a purchase price of Php 150,000.00.^[5]

Barely a month after, on February 12, 2003, the parties again executed another Deed of Sale (February Deed of Sale) involving the same property, but this time changing the purchase price to reflect the higher amount of Php 850,000.00. Both Deeds of Sale included a proviso stating that the payment of taxes shall be shouldered by the buyer.^[6] The Spouses Victoriano submitted the January Deed of Sale to the Bureau of Internal Revenue (BIR) for taxation purposes.

On December 4, 2006, respondent Juniper Dominguez (Dominguez) filed criminal and administrative complaints before the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (OMB MOLEO) against the Spouses Victoriano and Vasquez.^[7] In his Complaint, Dominguez charged the Spouses Victoriano as vendees, and Vasquez as vendor, with Falsification of Public Documents Defrauding the Government of Taxes Due. According to Dominguez, the parties deliberately executed two separate deeds of sale covering the same subject property

to evade the payment of correct taxes, which should have been based on the true selling price of Php 850,000.00.^[8]

On May 19, 2011, the OMB MOLEO issued a Joint Resolution^[9] dismissing the Complaint. The OMB MOLEO noted that the Spouses Victoriano submitted the February Deed of Sale (which bore the higher purchase price of Php 850,000.00) to the BIR. This conclusion was based on its observation that the February Deed of Sale bore a BIR stamp.^[10]

The dispositive portion of the OMB MOLEO Joint Resolution reads:

WHEREFORE, premises considered, the instant criminal and administrative cases against **[SPOUSES VICTORIANO], and [VASQUEZ]** be **DISMISSED**.

SO ORDERED.^[11]

Dissatisfied with the ruling, Dominguez filed a Motion for Reconsideration.

Joint Order of the OMB

On November 14, 2011, the OMB MOLEO issued a Joint Order^[12] reconsidering its earlier ruling. In reversing its earlier Joint Resolution, the OMB MOLEO found that Victoriano tried to evade the payment of correct taxes by executing two deeds of sale, each bearing a different purchase price. Interestingly, Victoriano did not deny this fact. The OMB MOLEO held that this was clear proof that one of the Deeds of Sale was falsified, and the execution of the same was deliberately done to evade the payment of correct taxes. Accordingly, the OMB MOLEO found Victoriano guilty of Dishonesty, and thus ordered his dismissal from the government service.^[13]

Moreover, the OMB MOLEO ordered the filing of a criminal Information for Falsification under Article 172 of the Revised Penal Code against the Spouses Victoriano and Vasquez.^[14]

The dispositive portion of the Joint Order reads:

WHEREFORE, premises considered, [Dominguez's] Motion for Reconsideration is hereby GRANTED. Accordingly, this Office's Joint Resolution dated May 19, 2011, recommending the dismissal of the criminal and administrative cases against respondents [the Spouses Victoriano] and [Vasquez] is hereby REVERSED and SET ASIDE.

With respect to OMB-P-C-10-0015-A, let an Information for Falsification under Article 172 of the Revised Penal Code be FILED against respondents [the SPOUSES VICTORIANO] and [VASQUEZ] before the proper court.

With respect to OMB-P-A-10-0019-A, [VICTORIANO] is hereby found GUILTY of Dishonesty and is meted the penalty of DISMISSAL from the service, together with its accessory penalties. If the penalty of dismissal from the service can no longer be served by reason of retirement or resignation of respondent, the alternative penalty of FINE in the amount equivalent to respondent's salary for ONE YEAR is hereby imposed.

Let a copy of this *Joint Order* be furnished the Secretary of the Department of Interior and Local Government, and the Chief, Bureau of Fire and Protection, for immediate implementation.

SO ORDERED.^[15]

The Joint Order dated November 14, 2011 was approved on February 21, 2012.^[16]

Aggrieved, Victoriano filed a Motion for Reconsideration and Reinvestigation.^[17] In Victoriano's Motion, he claimed that new evidence, which consisted of the original copy of the Deed of Sale dated February 12, 2003, has surfaced.^[18]

The Motion for Reconsideration was denied in the Order^[19] dated April 27, 2012.

Undeterred, Victoriano filed a second Motion for Reconsideration. The same was denied in the Order^[20] dated December 26, 2012.

Dissatisfied, Victoriano filed a Petition for Review with the CA.

Ruling of the CA

On November 29, 2013, the CA Eleventh Division^[21] issued a Resolution^[22] dismissing the Petition for Review outright, due to the following fatal infirmities found therein, *viz.*:

- i. the statement of material dates is incomplete;
- ii. there is no explanation as to why the preferred mode of personal service was not resorted to, per Rule 13, Sec. 11, Rules of Court;
- iii. the Verification does not state that the allegations in the petition are true and correct of the affiant's personal knowledge and based on authentic records, pursuant to Rule 7, Sec. 4, Rules of Court;
- iv. the Certification on non-forum shopping does not state that to the best knowledge of the affiant, no such other action is pending;
- v. the notarization of the Verification/Certification and the Affidavit of Service failed to comply with Sees. 6 and 12, Rule II of the 2004 Rules on Notarial Practice, as amended by A.M. No. 02-8-13-SC dated February 19, 2008, there being no properly accomplished jurat showing that the affiants exhibited before the notary public competent evidence (at least one current identification document issued by an official agency bearing the photograph and signature of the affiant) of their identity; and
- vi. the petitioner's counsel's 'IBP NO. 792254', with no date of issuance indicated, does not appear to be updated.^[23] (Citations omitted)

Victoriano filed a Motion for Reconsideration, which was denied by the CA in its Resolution^[24] dated October 3, 2014. In the said resolution, the CA affirmed the outright dismissal of the petition, due to the absence of a complete statement of the specific material dates showing that the said petition was filed on time.^[25]

Aggrieved, Victoriano filed the instant Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court.

The Issue

The main issue raised for the Court's resolution pertains to whether or not the CA erred in dismissing the petition outright due to technical grounds.

Victoriano bewails the outright dismissal of his Petition based on mere technicality. Seeking the Court's liberality, he prays that his mistakes be excused on the ground of his substantial compliance with Rules of Court. He explains that for his statement of material dates, he sufficiently alleged the date when he received the OMB MOLEO's assailed ruling, and showed that his petition was actually filed within the reglementary period. As for the other infirmities in his petition, he urges that an examination of his petition will show that he substantially complied with the rules. [26] Finally, Victoriano prays that he be given a chance to argue his case on the merits.

On the other hand, Dominguez maintains in his Manifestation/Comment, [27] that the instant Petition must be denied, considering that the OMB correctly dismissed Victoriano from the service. He asserts that Victoriano knowingly and willfully submitted a fraudulent deed of sale to the BIR to escape the payment of the correct amount of taxes due. [28]

Ruling of the Court

The instant petition is impressed with merit.

It must be noted at the outset that a party aggrieved by the decision of the OMB in an administrative case, may appeal the adverse ruling by filing a petition for review under Rule 43 with the CA. The Petition must be filed within 15 days from the receipt of the assailed ruling. [29]

Parenthetically, Section 6, Rule 43 of the Rules of Court ordains that the petition for review must: (i) state the full names of the parties to the case; (ii) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (iii) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; (iv) contain a sworn certification against forum shopping; and (v) state the specific material dates showing that the petition was filed on time. [30] Failure to comply with the above-mentioned rules shall be a sufficient ground for the dismissal of the petition. [31]

In the instant case, the CA dismissed Victoriano's petition for review outright, due to the following six infirmities attendant in his Petition, namely, (i) an incomplete statement of material dates; (ii) absence of an explanation on why personal service was not resorted to; (iii) absence of a statement in his Verification that the allegations in his petition are true and correct based on his personal knowledge and based on authentic records; (iv) failure to state in his Certification on non-forum shopping that to the best of his knowledge, no such other action is pending; (v) violation of the notarial rules which ordain the presentation of competent evidence of one's identity before the notary public; and (vi) failure to indicate the date of issuance of his counsel's Integrated Bar of the Philippines (IBP) number, which was also not updated. [32]

In his defense, Victoriano claims that he had substantially complied with all the purported defects pointed out by the CA. He likewise beseeches the Court's liberality

in giving due course to his petition, considering the gravity of his case, where the OMB meted upon him the supreme penalty of dismissal from the service.

Analyzing the procedural errors committed in the petition, *vis-à-vis* the substance and gravity of the case, **the Court rejects the strict application of the technical rules of procedure, in order to give way to a just resolution of the case on the merits.** This stems from the oft-repeated rule that the dismissal of an appeal purely on technical grounds is frowned upon. Significantly, rules of procedure ought not to be applied in a very rigid, technical sense, but must be used to help secure, and not override substantial justice. After all, the court's primary duty is to render or dispense justice.^[33]

In fact, in *Hadji-Sirad v. Civil Service Commission*,^[34] the Court enumerated the reasons that may provide a justification for the suspension of a strict adherence to procedural rules. These include (i) "matters of life, liberty, honor or property; (ii) the existence of special or compelling circumstances; (iii) the merits of the case; (iv) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (v) a lack of any showing that the review sought is merely frivolous and dilatory; and (vi) a showing that the other party will not be unjustly prejudiced thereby.^[35]

Verily, the merits of case, involving as it does the imposition of the supreme penalty of dismissal on a government employee, thereby depriving him of his very livelihood, warrant a departure from a strict and rigid application of the rules of court. Besides, as will be shown, the perceived errors pointed out by the CA, may be excused on the basis of substantial compliance with the rules.

The Failure to Include a Complete Statement of Material Dates May Be Excused, insofar as The Date of the Receipt of the Assailed Ruling is Specified, and the Petition was Actually Filed on Time

Significantly, Section 6 of Rule 43 of the Revised Rules of Court mandates that the petitioner must state the specific material dates showing that his/her petition was filed within the period fixed. Remarkably, the inclusion of a complete statement of material dates in a petition for review is essential to allow the Court to determine whether the petition was indeed filed within the period fixed in the rules.^[36] The absence of such a statement will leave the Court at a quandary on whether the petition was in fact filed on time.

However, in *Capin-Cadiz v. Brent Hospital and Colleges, Inc.*,^[37] the Court excused therein petitioner's failure to indicate the date when the assailed decision was received. The Court ruled that the said error is not fatal, since the important date that must be alleged in the petition is the date when the petitioner received the resolution denying his/her motion for reconsideration.^[38] Over the years, the Court extended the same modicum of leniency, as shown in a long line of cases, ranging from *Great Southern Maritime Services Corporation v. Acuña*;^[39] *Acaylar, Jr. v. Harayo*;^[40] *Barra v. Civil Service Commission*;^[41] and *Sara Lee Philippines, Inc. v. Macatlang, et al.*^[42] In these cases, the Court emphasized that the "material date"