

THIRD DIVISION

[G.R. No. 170488, December 10, 2012]

**CMTC INTERNATIONAL MARKETING CORPORATION,
PETITIONER, VS. BHAGIS INTERNATIONAL TRADING
CORPORATION, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Resolutions dated August 19, 2005^[1] and November 15, 2005^[2] of the Former Special Twelfth Division of the Court of Appeals in CA-G.R. CV No. 84742.

The facts of the case follow.

Petitioner instituted a Complaint for Unfair Competition and/or Copyright Infringement and Claim for Damages with Prayer for Temporary Restraining Order and Writ of Preliminary Injunction against respondent before the Regional Trial Court of Makati (*trial court*).^[3]

On February 14, 2005, the trial court rendered a Decision^[4] dismissing the complaint filed by petitioner. The *fallo* of said Decision reads:

WHEREFORE, premises considered, the Complaint for Unfair Competition and/or Copyright Infringement and Claim for Damages is hereby DISMISSED without pronouncement as to cost.

SO ORDERED.^[5]

After receiving a copy of the trial court's Decision, petitioner seasonably filed a Notice of Appeal before the Court of Appeals (*appellate court*) on March 4, 2005.^[6]

Thereafter, the appellate court issued a Notice to File the Appellant's Brief on May 20, 2005, which was received by the law office representing petitioner on May 30, 2005, stating as follows:

Pursuant to Rule 44, Sec. 7 of the 1997 Rules of Civil Procedure you are hereby required to file with this Court within forty-five (45) days from receipt of this notice, SEVEN (7) legibly typewritten, mimeographed or printed copies of the Appellant's Brief with legible copies of the assailed

decision of the Trial Court and proof of service of two copies upon the appellee/s.^[7]

However, despite said notice, petitioner failed to file its appellant's brief timely. Hence, on August 19, 2005, the appellate court issued a Resolution dismissing the appeal filed by petitioner. The full text of said Resolution reads:

Considering the report of the Judicial Records Division dated 17 August 2005 stating that no appellant's brief has been filed as per docket book entry, the Court RESOLVES to consider the appeal as having been ABANDONED and consequently DISMISS the same pursuant to Sec. 1(e), Rule 50 of the 1997 Rules of Civil Procedure, as amended.^[8]

Upon receipt of the order of dismissal, petitioner filed its Motion for Reconsideration with Motion to Admit Appellant's Brief,^[9] which was filed forty-two (42) days late from the date of its expiration on July 15, 2005.

On November 15, 2005, the appellate court denied petitioner's Motion for Reconsideration with Motion to Admit Appellant's Brief. It ruled that one of the grounds by which the Court of Appeals may, on its own motion or that of the appellee, dismiss the appeal is the failure on the part of the appellant to serve and file the required number of copies of his brief within the time prescribed by the Rules of Court, *viz.*:

For this Court to admit the appellant's brief after such wanton disregard of the Rules would put a strain on the orderly administration of justice.

As held in the case of *St. Louis University vs. Cordero*, 434 SCRA 575, 587, citing *Don Lino Gutierrez & Sons, Inc. v. Court of Appeals*, 61 SCRA 87:

"It is necessary to impress upon litigants and their lawyers the necessity of strict compliance with the periods for performing certain acts incident to the appeal and the transgressions thereof, as a rule, would not be tolerated; otherwise, those periods could be evaded by subterfuges and manufactured excuses and would ultimately become inutile.

WHEREFORE, the foregoing premises considered, the Motion for Reconsideration with Motion to Admit Appellant's Brief is perforce DENIED.

SO ORDERED.^[10]

Accordingly, petitioner filed a petition for review on certiorari before this Court questioning the August 19, 2005 and November 15, 2005 Resolutions of the appellate court. Thus, petitioner presents the following grounds to support its

petition:

A.

THE COURT OF APPEALS GRIEVOUSLY COMMITTED A REVERSIBLE ERROR WHEN IT SACRIFICED SUBSTANTIVE JUSTICE IN FAVOR OF PROCEDURAL TECHNICALITIES WITH ITS DISMISSAL OF PETITIONER'S APPEAL FOR FAILURE TO FILE THE APPELLANT'S BRIEF ON TIME WITHOUT CONSIDERING AT ALL WHETHER OR NOT PETITIONER'S APPEAL DESERVED FULL CONSIDERATION ON THE MERITS.

B.

IN THE INTEREST OF SUBSTANTIVE JUSTICE, PETITIONER'S APPEAL SHOULD BE REINSTATED CONSIDERING THAT THE ERRORS OF THE TRIAL COURT IN RENDERING ITS APPEALED DECISION ARE EVIDENT ON THE FACE OF THE SAID DECISION AND MORE SO AFTER AN EXAMINATION OF THE EVIDENCE ON RECORD.

1. The trial court's ruling that petitioner should have established actual confusion in the minds of buyers is contrary to jurisprudence.
2. The trial court did not state the facts upon which it based its conclusion that petitioner's trademark is strikingly different and distinct from that of defendant's.
3. Respondent labeled its products in a manner confusingly similar to that of petitioner's.
4. The trial court erred in finding that respondent did not pass off its products as that of petitioner's.^[11]

Simply, the issue to be resolved is the propriety of the dismissal of petitioner's appeal for its failure to file the appellant's brief within the reglementary period.

Petitioner asserts that the appellate court erred in dismissing its appeal, since dismissal of appeals on purely technical grounds is frowned upon and the rules of procedure ought not to be applied in a very technical sense, for they are adopted to help secure substantial justice.

For its part, respondent maintains that the appellate court did not err in dismissing petitioner's appeal for its failure to file the required appellant's brief within the reglementary period. It stresses that in the absence of persuasive reason to deviate therefrom, rules of procedure must be faithfully followed for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.

We find merit in the instant petition.

Time and again, this Court has emphasized that procedural rules should be treated