

THIRD DIVISION

[G.R. NO. 158053, June 21, 2007]

EDWIN RAZON Y LUCEA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

AUSTRIA-MARTINEZ, J.:

Before this Court is a Petition for Review on *Certiorari* seeking the reversal of the Court of Appeals' (CA) Resolution dated January 31, 2001^[1] in CA-G.R. CR No. 22211 entitled "People of the Philippines v. Edwin Razon y Lucea" and the CA Resolution dated April 14, 2003^[2] which denied petitioner's motion for reconsideration.

The facts as found by the Regional Trial Court (RTC) are summarized as follows:

PO1 Francisco Chopchopen (Chopchopen) was walking towards Upper Pinget Baguio City, at around midnight of August 1, 1993, when a taxicab driven by Edwin Razon y Lucea (Razon) stopped beside him. Razon told Chopchopen that he was held up by three men at Dreamland Subdivision. Chopchopen then asked Razon to go with him to the place of the incident to check if the persons who held him up were still there. Razon was hesitant at first but eventually went with Chopchopen to said area about 100 meters up the road. While walking about eight meters off the road, Chopchopen noticed a person lying on the ground and partially hidden by a big stone. Upon closer look, Chopchopen saw that the person's shirt was soaked in blood and that he was hardly breathing. Lying beside the man was a wooden cane. Chopchopen asked Razon to help him bring the person to the hospital. On the way, Chopchopen asked Razon if he was the one who stabbed the victim. Razon answered no. Soon they met a police mobile patrol driven by SPO2 Samuel Bumangil (Bumangil) who followed them to Baguio General Hospital. The victim, who was later identified as Benedict Kent Gonzalo (Gonzalo), was pronounced dead on arrival.^[3] He was 23 years old and a polio victim.^[4]

Upon questioning, Razon told Bumangil that he was held up by three men, which included Gonzalo whom he stabbed in self-defense. Razon brought out a fan knife and told Bumangil that it was the knife he used to stab Gonzalo. A later search of the cab however yielded another weapon, a colonial knife with bloodstains which was found under a newspaper near the steering wheel. At the police station, Razon admitted having stabbed Gonzalo but insisted that he did so in self-defense.^[5]

An autopsy conducted on the body of the victim showed that he sustained three stab wounds, to wit: a stab wound measuring 2.5 cms. found in the front and lower quadrant of the abdomen, directed inward towards the mid-line and slightly upward entering the abdominal wall and perforating the small intestines, pancreas and the

abdominal aorta, having an approximate depth of 12 cm.; a stab wound on the left arm measuring 5 cm. with one end blunt and the other end sharp having an approximate depth of about 1 cm.; and a stab wound on the right buttock 1.3 cm. long with a depth of about 4 cm. The stab wound on the abdomen killed Gonzalo, as it penetrated the small intestines, pancreas and the abdominal aorta, causing massive hemorrhage and loss of blood. Abrasions and contusions were also found on the body of Gonzalo, located on the left ear lobe, on the chest, on the left anterolateral side, on the mid-posterior aspect and on the lumbar region of the back.^[6]

Razon for his part asserted that he acted in self-defense. He claimed that around 11:30 p.m. on August 1, 1993, three men boarded his cab from the Philippine Rabbit bus station along Magsaysay Avenue in Baguio who asked to be brought to Dreamland Subdivision in Pinget for the total sum of P90.00. Upon reaching their destination and while Razon was turning the cab around, Gonzalo, who was seated behind the driver's seat, declared a hold-up and poked a Batangas knife (*veinte nueve*) at the right side of the base of Razon's neck. The two other passengers were shocked but Gonzalo told them to get their knives, stab Razon and grab his right hand. Razon however was able to grab the knife and release his right hand from Gonzalo's two companions. Gonzalo's companions then went out of the cab and picked up stones. Gonzalo followed and Razon ran after them. Gonzalo was swinging his cane and it hit Razon on his right leg. Razon then thought of his knife inside the cab and he went to get it and confronted the

three by swinging his knife from left to right. Gonzalo's companions ran away and Razon went back to his cab and left.^[7]

Not finding credence in Razon's claim of self-defense, RTC Branch 60 of Baguio City convicted him of homicide as follows:

WHEREFORE, this Court finds the accused, Edwin Razon y Lucea, GUILTY beyond reasonable doubt of the crime of HOMICIDE. There being no mitigating or aggravating circumstance, he is hereby sentenced to an indeterminate penalty of 6 years and 1 day of prision mayor as minimum, to 14 years 8 months and 1 day of reclusion temporal as maximum.

He is further ordered to pay the heirs of Benedict Kent Gonzalo, Jr. the amount of P12,770.00 by way of actual damages; P50,000.00 by way of moral damages; and P10,000.00 by way of attorney's fees.

SO ORDERED.^[8]

Razon filed a notice of appeal,^[9] and the CA required him, through his counsel Atty. Rigoberto D. Gallardo (Atty. Gallardo) to file an appellant's brief.^[10] Two motions for extension of time were filed by Atty. Gallardo.^[11] Instead of filing the brief, however, Atty. Gallardo filed a Motion to Withdraw as Counsel for the Accused-Appellant on January 7, 1999, claiming that Razon had consistently shown his disinterest in the case by not attending much needed conferences.^[12] The CA ordered Atty. Gallardo to file another motion to withdraw with Razon's conformity; thus Atty. Gallardo filed a motion dated February 1, 1999, with a signature, purportedly that of Razon's.^[13] Later, the CA received a Manifestation dated

February 17, 1999, stating that Atty. Gallardo's firm could not secure Razon's signature to signify his conformity to Atty. Gallardo's withdrawal as his counsel, Atty. Gallardo thus requested that he be relieved of his responsibilities as counsel even without Razon's conformity.^[14]

Due to the inconsistency of the manifestations of Atty. Gallardo in his motions dated February 1, 1999 and February 17, 1999, the CA issued a Resolution directing Razon to manifest the authenticity of his signature appearing on the February 1, 1999 motion to withdraw as counsel filed by Atty. Gallardo. The CA also required Razon to cause the entry of appearance of a new counsel within 5 days from notice.^[15]

On August 27, 1999, the CA granted Atty. Gallardo's motion to withdraw as counsel and directed Razon anew to cause the entry of appearance of his new counsel or manifest whether he wanted the CA to appoint a counsel *de officio* to defend him, within five days from notice with warning that failure to comply with said Resolution shall cause the dismissal of his appeal.^[16]

On February 22, 2000, the CA again issued a Resolution which noted the Judicial Records Division (JRD) report that no compliance had been filed by Razon with the resolution dated August 27, 1999; considered the right of the accused to be represented by counsel as waived; and directed the JRD, in the interest of justice, to resend the notice to file brief to Razon.^[17] On February 28, 2000, the CA issued another notice to file brief, this time addressed to and received by Razon himself.^[18] On July 12, 2000, the CA issued a Resolution requiring Razon to show cause why his appeal should not be dismissed for failure to file the required brief despite notice thereof.^[19]

With the failure of Razon to comply with the said directives, the CA on January 31, 2001, issued the herein assailed Resolution dismissing his appeal as follows:

WHEREFORE, the appeal is deemed ABANDONED and DISMISSED on authority of Section 8, Rule 124 of the Revised Rules of Criminal Procedure.^[20]

On July 25, 2001, the CA received a Motion for Reconsideration filed by Razon stating that he could not read and understand English and that Atty. Gallardo was negligent of his duties to him, as said lawyer filed his withdrawal of appearance even without his (Razon's) knowledge and conformity.^[21]

The CA denied Razon's motion for reconsideration through its Resolution dated April 14, 2003, thus:^[22]

1. Indeed the instant motion for reconsideration was filed out of time in violation of Section 16, Rule 124 of the same Rules – for the appellant admitted that on March 6, 2001 he received this Court's Resolution dated January 31, 2001 dismissing his appeal but the record shows that he filed the subject motion four months later or only on July 19, 2001 to be exact.
2. Our dismissal is warranted by Section 8 of Rule 124 and circumstances showing that it was not only his previous counsel

that was lax and negligent but the appellant as well...

x x x

3. The appellant had ignored Our directives and the option given him to have the services of a counsel *de officio*.^[23]

Petitioner now comes before this Court claiming that the CA erred in declaring his appeal as abandoned and dismissed.^[24] He claims that he is not bound by the actions of Atty. Gallardo who was negligent of his duties to him; Atty. Gallardo failed to file the required appeal brief before the CA despite the many extensions given him; worse, Atty. Gallardo filed a motion to withdraw his appearance as petitioner's counsel without petitioner's knowledge; it was only when he received the CA Resolution dated January 31, 2001 that he learned of the withdrawal of Atty. Gallardo as his counsel, and it was only then that Atty. Gallardo advised him to get another lawyer; petitioner received the records of the case from Atty. Gallardo, only on March 9, 2001; petitioner failed to comply with the CA resolutions because he could not understand the same due to his educational deficiency; and given the chance to ventilate his appeal, petitioner would be absolved of the charge against him as he truly acted in self defense.^[25]

For the State, the Office of the Solicitor General (OSG) contended that petitioner himself is guilty of negligence; the CA gave him ample opportunity to secure the services of counsel or manifest his desire to have a counsel *de officio* appointed by the court, but petitioner ignored said directives; petitioner's motion for reconsideration of the CA's Resolution dated January 31, 2001 was also filed out of time; and Sec. 8, Rule 124 of the Rules of Court provides that the appellate court may dismiss an appeal if the appellant fails to file his brief within the time prescribed by the said Rule.^[26]

Petitioner filed a Reply and both parties filed their memoranda reiterating their respective arguments.^[27]

Sifting the arguments raised, it is clear that only two questions need to be answered: (1) whether the CA erred in dismissing petitioner's appeal for failure to file appellant's brief; and (2) whether petitioner acted in self-defense in killing Gonzalo.

The Court answers both questions in the negative.

The first issue. Whether the CA erred in dismissing petitioner's appeal for failure to file appellant's brief.

While appeal is an essential part of our judicial system, a party must strictly comply with the requisites laid down by the Rules of Court on appeals, mindful of the fact that an appeal is purely a statutory right. Procedural rules are designed to facilitate the adjudication of cases. Both courts and litigants are therefore enjoined to abide strictly by the rules. While there are instances when the Court allows a relaxation in the application of the rules, such liberality is not intended to forge a bastion for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and

circumstances.^[28]

Indeed, the CA may dismiss an appeal for failure to file appellant's brief on time. It is given the discretion which must be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case.^[29]

In this case, the CA gave petitioner sufficient opportunity to file his appellant's brief. Instead of complying, however, petitioner chose to ignore the many directives of the CA and now puts the blame on his former counsel Atty. Gallardo, who was allegedly guilty of gross negligence.

Even if the Court were to admit that Atty. Gallardo was negligent, the rule is that negligence of counsel binds the client. The only exception is when the negligence of said counsel is so gross, reckless and inexcusable that the client is deprived of his day in court.^[30] No such excepting circumstance can be said to be present in this case because as properly observed by the appellate court, petitioner himself was guilty of negligence.^[31]

As borne by the records, the CA issued a Resolution on April 15, 1999 requiring petitioner to manifest within five days from receipt thereof the authenticity of his signature appearing in the motion to withdraw as counsel filed by Atty. Gallardo dated February 1, 1999, and to inform the CA of his new counsel.^[32] On August 27, 1999, the CA granted Atty. Gallardo's motion to withdraw as counsel and required petitioner anew to cause the entry of appearance of his new counsel or manifest whether he desires the CA to appoint a counsel *de officio* to defend him, with a warning that failure to comply with the said resolution shall cause the dismissal of his appeal. On February 28, 2000, the CA issued another notice to file brief, this time addressed to Razon himself.^[33] In a Resolution dated July 12, 2000, the CA required Razon to show cause why his appeal should not be dismissed for failure to file the required brief.^[34] On January 31, 2001, or almost three years after the notice of appeal was filed, the CA finally issued a resolution dismissing petitioner's appeal.^[35]

Despite the many notices given him, Razon still failed to comply with the CA's directives. He also took a long time to file his motion for reconsideration of the CA's January 31, 2001 Resolution because while he admittedly received a copy of the said resolution on March 6, 2001, he only filed his motion for reconsideration on July 19, 2001 or more than four months later.

It is thus clear that petitioner was guilty of neglect. He was aware of his conviction and of the requirement of filing an appellant's brief.^[36] Yet he had no urgency in filing the same, even with the CA's explicit orders. His excuse that his educational deficiency prevented him from complying with the CA's resolutions deserves scant consideration. He was able to secure the services of counsel to file for him a petition before this Court. Had he exerted earlier the kind of effort he put in getting a new counsel, or had he simply notified the court of his desire to have a counsel *de officio* assigned to him, then he would not have to contend with the predicament he is presently in. For the resolution of the CA dismissing his appeal on the ground of abandonment, petitioner has no one else to blame but himself.