

SECOND DIVISION

[G.R. NO. 149200, July 14, 2006]

**ABRAHAM ONG, PETITIONER, VS. CIBA GEIGY (PHILS.), INC.,*
RESPONDENT.**

D E C I S I O N

CORONA, J.:

This is a petition for review on certiorari from a decision of the Court of Appeals.^[1]

This case began when respondent Ciba Geigy (Phils.), Inc. sued petitioner Abraham Ong for a sum of money before the Regional Trial Court (RTC) of Makati City, Branch 132.^[2] On July 17, 1998, the RTC rendered a decision^[3] against petitioner, ordering him to pay P564,851.01 plus interest, the cost of collection, the cost of suit and attorney's fees. On August 12, 1998, petitioner, through counsel, filed a motion for reconsideration, which was denied in an order dated December 3, 1998, a copy of which petitioner's counsel received on December 17, 1998.^[4]

On December 28, 1998, 10 days after the lapse of the reglementary period, counsel for petitioner filed a notice of appeal. Respondent moved to dismiss the appeal for having been filed out of time. On February 16, 1999, the RTC issued an order denying the notice of appeal.^[5]

On April 6, 1999, petitioner, with the assistance of new counsel, filed a petition for relief^[6] from judgment before the court *a quo*, alleging that he only learned of the December 3, 1998 order and the entry of judgment on March 1, 1999 because his counsel failed to inform him about them. On April 30, 1999, the trial court issued an order denying the petition for relief from judgment for lack of merit.^[7]

On August 24, 1999, petitioner filed with the Court of Appeals a petition for certiorari, alleging grave abuse of discretion on the part of the court *a quo*.^[8] On February 28, 2001, the Court of Appeals rendered the assailed decision and on July 10, 2001, denied reconsideration.

Hence, the instant petition.

The only issue in this case is whether or not the trial court committed grave abuse of discretion in ruling that petitioner was bound by the negligence of his former counsel, Atty. Patria Generoso-Abella, to whom he attributes the loss of both his case and his chance to appeal.

To prove his allegations of Atty. Abella's "gross and inexcusable" negligence in the defense of his cause, petitioner cited two principal omissions on her part: (1) she failed to file a notice of appeal before the lapse of the reglementary period, thereby

preventing petitioner from taking an appeal and (2) her gross negligence during the trial, which allowed incompetent evidence to be adduced in favor of the respondent and which prevented the trial court from appreciating material and relevant evidence in petitioner's favor which could have altered the outcome of the case.

Specific instances of Atty. Abella's negligence during the trial included: (1) her failure to question the competence of respondent's sole witness who, according to petitioner, was not even an employee of respondent but of a different company altogether; (2) her failure to raise petitioner's counterclaims in his answer; (3) her failure to raise defenses and to present and highlight evidence that would have proven that he had no outstanding obligation to respondent and (4) her gross carelessness in the handling of vital documentary evidence for the petitioner, which resulted in the impairment of the probative value of such evidence.

The general rule is that the client is bound by the actuation of his counsel in the conduct of the case and cannot be heard to complain that the result of the litigation might have been different had his counsel proceeded differently. In criminal cases, as well as in civil cases, it has frequently been held that the fact that blunders and mistakes may have been made in the conduct of the proceedings in the trial court as a result of the ignorance, inexperience or incompetence of counsel does not constitute a ground for new trial.^[9] The exception to this rule is when the negligence of counsel is so gross, reckless and inexcusable that the client is deprived of his day in court.^[10]

Having studied the records of this case and comparable jurisprudence, we conclude that Atty. Abella's negligence, while quite regrettable, was not so gross as to warrant a new trial. The fact that she committed most of her mistakes in the course of her presentation of petitioner's evidence instantly destroys the parallelisms which petitioner is attempting to draw between the instant case and the ones he cited.

In *De Guzman v. Sandiganbayan*,^[11] we relieved petitioner of his lawyer's incompetence on the ground that, by filing a demurrer to evidence even after the trial court had denied leave, counsel deprived petitioner of his chance to present evidence that could have exonerated him.

In *Tan v. Court of Appeals*,^[12] the issue was not even whether respondent DPG Development & Management Corporation (DPG) was entitled to relief from its lawyer's incompetence but whether the rules on proper substitution of counsel were followed. In pointing out that all the respondent had done was to secure additional counsel, we explained that DPG was entitled to an additional lawyer due to the negligence of the original one whose failure to file an answer despite two extensions had resulted in DPG being declared in default.

In *Ginete v. Court of Appeals*,^[13] counsel for petitioners therein failed to file their appellant's brief within the period given. *Ginete* is inapplicable because, in this case, the Court of Appeals never even acquired jurisdiction over the appeal on account of the failure to file a notice of appeal.

Clearly, none of the jurisprudence cited by petitioner supports his position, given the wide disparity of facts by which we justified our decisions in those cases. As grave as Atty. Abella's errors might have been, they still boiled down to incompetence