

FIRST DIVISION

[G.R. No. 128628, August 23, 2001]

**ILDEFONSO SAMALA AND BENJAMIN BABISTA, PETITIONERS,
VS. THE HON. COURT OF APPEALS, THE HON. REGIONAL TRIAL
COURT, BRANCH 15, NAIC, CAVITE, AND ROMULO OCAMPO,
RESPONDENTS.**

D E C I S I O N

PARDO, J.:

What is before the Court is an appeal *via certiorari* from the decision of the Court of Appeals^[1] that denied the petition for relief from the order granting a writ of execution.

On October 19, 1990, at about 8:00 p.m., Super Saint Bus with plate number NKJ 468 and body number 975 sideswiped a Yamaha motorcycle with plate number MCGB 5256, along Panamitan Highway, Kawit, Cavite. Romulo Ocampo was riding at the back of the motorcycle driver.

As a result of the impact, Ocampo was thrown several meters away and landed on a concrete highway causing serious physical injuries on his neck and left leg. He was confined at the Perpetual Help Hospital for three days and had several months of treatment.

After hitting the motorcycle, the bus sped away. The driver, Benjamin Babista, did not even lend assistance to the victim and left the victim on the highway.

On December 20, 1990, Romulo Ocampo filed with the Regional Trial Court, Cavite, Branch 15, Naic, a complaint^[2] for damages against driver Benjamin Babista and the owner of the Super Saint Bus, Ildefonso Samala.

After due trial, on May 15, 1995, the trial court rendered a decision in favor of respondent Ocampo, the decretal portion of which reads:

"Wherefore, the Court finds judgment in favor of plaintiff as against defendants jointly and solidarily and Orders the defendants to pay plaintiff as follows:

"1. To pay jointly and severally plaintiff:

a. P11,000.00 as actual damages

b. P30,000.00 as consequential damages

- c. P78,192.00 as loss of earning
- d. P50,000.00 as moral damages
- e. P40,000.00 as exemplary damages
- f. P15,000.00 for attorney's fees
- g. P3,000.00 for litigation expenses

"2. To pay the costs of suit.

"SO ORDERED.

"Naic, Cavite, May 15, 1995.

"ENRIQUE M. ALMARIO

"Judge"[3]

On October 16, 1995, petitioners filed with the trial court a notice of appeal.

On October 17, 1995, the trial court denied the appeal. We quote:

"This refers to the Notice of Appeal received and filed on 16 October 1995. The decision sought to be appealed was received on 29 September 1995. It is clear that more than 15 days had elapsed; hence, the decision is now final.

"WHEREFORE, the Notice of Appeal cannot be given due course.

"SO ORDERED.

"Naic, Cavite, 17 October 1995.

"EMERITO M. AGCAOILI

"Assisting Judge"[4]

On November 24, 1995, petitioners filed with the trial court a petition for relief from order denying their appeal. Petitioners argued that the reason for the failure to file the notice of appeal within fifteen (15) days was the fact that the notice was entrusted to Jose Samala, Jr. but he suffered from diarrhea on October 11 to 12, 1995. He could not leave the house and nobody could attend to the filing of the notice. Thus, he filed it only on Monday, October 16, 1995, thinking that the period had not lapsed.

On February 21, 1996, the trial court denied the petition for relief for not having adduced any reason compelling enough to warrant reconsideration of the order.[5]

On March 7, 1996 petitioners filed with the trial court their notice of appeal.^[6] Petitioners appealed the orders of October 17, 1995 and February 21, 1996, denying the petition for relief to the Court of Appeals.

Meanwhile, on March 20, 1996, the trial court granted respondent Ocampo's motion for writ of execution.^[7]

On April 8, 1996, petitioners filed with the trial court a motion for reconsideration^[8] of the order dated March 20, 1996. In their motion, petitioners prayed for denial of the writ of execution and for the records of the case to be elevated to the Court of Appeals for review.

On July 1, 1996, the trial court denied the motion for reconsideration.^[9]

On July 17, 1996, petitioners filed with the Court of Appeals^[10] a petition for *certiorari* and prohibition assailing the trial court's denial of the petition for relief from order.

On September 17, 1996 the Court of Appeals promulgated its decision denying the petition.^[11]

On October 2, 1996, petitioners filed a motion for reconsideration of the denial.^[12]

On March 7, 1997, the Court of Appeals denied the motion.^[13]

Hence, this petition.^[14]

The issue presented is whether the Court of Appeals erred in refusing to grant petitioners' relief from order that denied their appeal from the judgment of the trial court.

Samoso vs. CA^[15] elucidates that relief from judgment under Rule 38 of the Revised Rules of Court (1964 Revision) is a remedy provided to any person against whom a decision or order is entered into through fraud, accident, mistake or excusable negligence. A petition for relief from judgment is an equitable remedy that is allowed in exceptional cases when there is no other available or adequate remedy.^[16]

Thus, the question now before us is whether the failure of petitioners to file the notice of appeal on time (one day late) would fall under excusable negligence.

We said that the general aim of procedural law is to facilitate the application of justice to the rival claims of contending parties, bearing in mind that procedural rules are created not to hinder or delay but to facilitate and promote the administration of justice.^[17] In rendering decisions, courts must not be too dogmatic. A complete view must be taken in order to render a just and equitable judgment.^[18] It is far better to dispose of a case on the merits, which is a primordial end, than on technicality that may result in injustice.^[19]

The rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application especially on technical matters, which tends to frustrate rather than promote substantial justice, must be avoided. Even the Revised Rules of Court envision this liberality.^[20] Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from the courts.^[21]

In this case, the last day for filing the notice of appeal fell on a Friday, October 13, 1995. Petitioners entrusted the filing of the notice of appeal to Jose Samala on October 11, 1995. However, he suffered from stomach pains which lasted until the following days. Jose Samala filed the notice immediately on the next business day, Monday, October 16, 1995. He believed in good faith that he could still file it on Monday. Delay in filing the notice of appeal was actually for one (1) day. Saturday and Sunday are excluded. Considering the facts of the case, this was excusable negligence.

In *United Airlines v. Uy*,^[22] where the respondent filed his notice of appeal two (2) days later than the prescribed period, although his counsel failed to give the reason for the delay, we gave due course to the appeal due to the unique and peculiar facts of the case and the serious question of law it poses.

The real purpose behind the limitation of the period of appeal is to forestall or avoid an unreasonable delay in the administration of justice and to put an end to controversies.^[23] Where no element of intent to delay the administration of justice could be attributed to petitioners, a one-day delay does not justify their appeal's denial.

We are inclined to give the same consideration in this case in light of the rules on justice, equity and fair play. After all, the petition embodied circumstances that warrant heeding the petitioners' plea for justice. The law abhors technicalities that impede the cause of justice.^[24]

WHEREFORE, the petition is **GRANTED**. The decision of the Court of Appeals in CA-G. R. SP No. 41281 is hereby **REVERSED**. The trial court is ordered to elevate the records of Civil Case No. NC-346 to the Court of Appeals for review in due course of appeal.

No costs.

SO ORDERED.

Kapunan, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J., (Chairman), see dissenting opinion.
Puno, J., I join the dissent.

^[1] In CA-G. R. SP No. 41281, promulgated on September 26, 1996. Valdez, J., *ponente*, Gonzaga-Reyes, and Mabutas, JJ., concurring.

^[2] Civil Case No. NC-346