

FIRST DIVISION

[A.M. No. P-99-1311, August 15, 2001]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ALBERTO V. GARONG, COURT INTERPRETER III, REGIONAL
TRIAL COURT, BRANCH 40, CALAPAN CITY, ORIENTAL
MINDORO, RESPONDENT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Respondent Alberto V. Garong, Court Interpreter III of the Regional Trial Court of Calapan City, Mindoro, Branch 40, was charged with frustrated homicide before Branch 39 of the same court, in Criminal Case No. C-3406. On March 3, 1993, then Presiding Judge Marciano T. Virola rendered judgment finding respondent guilty beyond reasonable doubt of frustrated homicide and sentencing him to imprisonment of four (4) months of *Arresto Mayor*, as minimum, to four (4) years and two (2) months of *Prision Correccional*, as maximum, together with accessory penalties provided by law and to pay the costs.^[1]

The judgment of the trial court was affirmed by the Court of Appeals in a Decision promulgated on August 9, 1996,^[2] and the same became final on November 15, 1996, for which Entry of Judgment was accordingly made.^[3]

On May 24, 1999, Judge Tomas C. Leynes, Executive Judge and Presiding Judge of the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 40 wrote a letter to the Office of the Court Administrator (OCA) stating that he had issued the corresponding warrant of arrest to execute the aforesaid final Decision against respondent Garong. However, the latter remained at large, had not yet been terminated from the service and continued to receive his salaries and other fringe benefits as Court Interpreter III despite the accessory penalty imposed on him.^[4] Hence, in the interest of the service, Judge Leynes requested that respondent Garong be terminated from the service and that his position of Court Interpreter III be declared vacant.

On June 1, 1999, the OCA filed a formal Administrative Complaint against respondent praying for his dismissal from the service with forfeiture of all his retirement benefits and leave credits, and with prejudice to his re-employment in any government agency or government owned and controlled corporation.^[5]

Upon evaluation, the OCA recommended that the administrative complaint be treated as an administrative matter; that the findings of the lower court as affirmed by the appellate court be adopted in lieu of an investigation; that respondent Garong be dismissed from the service by reason of his conviction of a crime involving moral turpitude with forfeiture of all benefits and leave credits with

prejudice to his re-employment in any government agency or government-owned or controlled corporation; and that thereafter his position be declared vacant.

This Court, in a Resolution dated July 5, 1999, noted the administrative complaint and docketed the same as Administrative Matter No. P-99-1311.

On September 23, 1999, respondent filed a Manifestation With Motion To Dismiss, praying that the Court's Resolution dated July 5, 1999 be recalled and the administrative case be dismissed for lack of cause of action averring, among others, that as early as March 5, 1999, he had already been contesting the validity and due execution of the Resolution of the Court of Appeals dated February 24, 1999, which directed the Entry of Judgment in the criminal case against him, namely, CA-G.R. CR No. 14852. While this was pending, an Order of Execution of Judgment^[6] and Warrant of Arrest dated March 4, 1999^[7] were surreptitiously issued by Acting Presiding Judge Tomas C. Leynes of Branch 39, RTC of Calapan City in Criminal Case No. C-3406. To forestall the execution of the warrant, respondent alleged that he filed an Urgent Motion to Quash Warrant of Arrest.^[8]

Respondent further stated that on March 11, 1999, he filed a Motion for Inhibition^[9] of Judge Leynes from sitting in Criminal Case No. C-3406 in view of the fact that prior to the Order of Execution of Judgment dated March 4, 1999, respondent filed a letter-complaint dated October 16, 1998 and an affidavit-complaint dated November 13, 1998 against Judge Leynes with the OCA, docketed as OCA-IPi No. 98-634-RTJ, ^[10] for Falsification of Public Document and Violation of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

Simultaneous with the foregoing, respondent filed another complaint against Judge Leynes for the same offense with the Office of the Ombudsman, where it was docketed as OMB No. 1-98-2378.^[11] Likewise on even date, respondent filed a Supplemental Pleading to the Urgent Motion to Quash Warrant of Arrest.^[12]

On April 16, 1999, respondent filed with the Court of Appeals in CA-G.R. CR No. 14852 a Motion To Lift/Set Aside Entry Of Judgment and Resolve Motion For Reconsideration and to Recall Order of Execution and Warrant of Arrest.^[13]

The appellate court thereafter issued a Resolution dated March 31, 1999,^[14] directing the Office of the Solicitor General (OSG) to file its Comment on the said motion.

Pursuant to the foregoing directive, the OSG then submitted a Comment dated July 8, 1999,^[15] praying that, for reasons stated therein, the motion filed by respondent be granted "in the broader interest of justice."

On August 26, 1999, the Court Appeals issued a Resolution,^[16] granting the Urgent Motion To Quash filed by respondent; lifting the Entry of Judgment; and ordering the Presiding Judge of the Regional Trial Court of Calapan, Oriental Mindoro to recall forthwith the Order of Execution and Warrant of Arrest based on the void entry of judgment. In resolving the foregoing incidents, the appellate court found that while respondent's former counsel notified the trial court of his change of address, the copy of the judgment of conviction against respondent was sent to his old address

by registered mail, for which reason it was returned unserved. On October 30, 1996, a copy of the decision was also sent to respondent's office at Calapan, Oriental Mindoro, but respondent failed to receive it since he was at that time on official leave in Manila from October 1996 up to November 8, 1996. Upon being informed of the decision through a long distance telephone call from Calapan to Manila, respondent checked the status of the case with the Court of Appeals. It was only on November 12, 1996 that respondent learned of the appellate court's decision affirming his conviction. On November 21, 1996, respondent filed with the Court of Appeals a motion for reconsideration.

Based on the foregoing, the Court of Appeals concluded that respondent was not properly served with notice of the decision against him. Consequently, the entry of judgment was premature and, therefore, void. Respondent's period to file a motion for reconsideration should be counted from November 12, 1996, the date he actually received a copy of the decision. Hence, the Motion for Reconsideration filed on November 21, 1996 was on time. Moreover, the notice of judgment should have been sent to respondent's counsel of record's new address, and the sending of the same to counsel's old address was improper and invalid, in view of the latter's formal notice of change of address filed on January 10, 1995. For this reason, respondent's period to file motion for reconsideration from said decision could not have commenced to run.

The Court of Appeals further found that the service of a copy of the decision to respondent's officemate, a certain Gabriel Aquino, on October 30, 1996, while respondent was on leave, was not valid service in the absence of showing that Gabriel Aquino was authorized to receive a copy of the decision in question. The appellate court relied on our ruling in the case of *Gundayao v. Court of Appeals*,^[17] to the effect that service of the court's order upon any person other than the counsel of record is not legally effective and binding upon the party nor may it start the corresponding reglementary period for subsequent procedural steps that may be taken by the attorney. Likewise, the Court of Appeals held that service of notice, decision or order to a party is allowed only if the party is not represented by counsel. In other words, notice to a party, where said party is represented by counsel, as in this case, is not notice in law and is therefore void.

We find the foregoing legal dissertation of the Court of Appeals to be well taken.

Rules prescribing the time within which certain acts must be done, or certain proceedings taken, are absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. Strict compliance with such rules is mandatory and imperative.^[18] Nevertheless, procedural rules were conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter. Pursuant to this, Rule 1, Section 6,^[19] of the 1997 Rules of Civil Procedure states that:

SEC. 6. Construction. – These rules shall be **liberally construed** in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. (Emphasis ours)