

THIRD DIVISION

[G.R. No. 107698, July 05, 1996]

GLORIA Z. GARBO, PETITIONER, VS. THE HON. COURT OF APPEALS, JUDGE ENRIQUE T. JOCSON OF THE RTC OF BACOLOD CITY, BRANCH 47, AND ANTONIO B. GRADIOLA IN HIS CAPACITY AS ADMINISTRATOR OF THE INTESTATE ESTATE OF MAGDALENA B. GARBO, RESPONDENTS.

RESOLUTION

FRANCISCO, J.:

Culled from the record are the following facts:

On March 22, 1989, the Regional Trial Court^[1] appointed petitioner Gloria Z. Garbo administratrix of the intestate estate of Manuel G. Garbo.^[2] Three months later, or on June 21, 1989, the intestate estate of Manuel G. Garbo's wife, Magdalena B. Garbo, filed a petition for the allowance of Manuel G. Garbo's Last Will and Testament which devised and bequeathed all of Manuel's properties and assets exclusively to his wife Magdalena. Petitioner filed her opposition thereto. On August 16, 1990, the court issued an Order allowing the Last Will and Testament to be probated and appointed private respondent Antonio B. Gradiola, the administrator of the estate of Magdalena B. Garbo, as administrator of the estate of Manuel G. Garbo. The letters of administration previously issued to petitioner was accordingly recalled.

On August 31, 1990, petitioner filed her notice of appeal and, subsequently, her record on appeal. Contending that pertinent pleadings were not included in the record on appeal, private respondent objected to its admission. The probate court thereafter issued an Order dated October 15, 1990, requiring petitioner "to submit an amended or corrected record on appeal x x x within ten (10) days from receipt [thereof]".^[3] Petitioner filed her compliance not by filing the amended record on appeal but by attaching the omitted pages to be annexed or inserted to the original record on appeal which private respondent stressed in his opposition to compliance^[4] dated December 11, 1990, to be improper as it failed to follow what was required by the October 15, 1990 Order. On February 5, 1991, private respondent moved for the dismissal of petitioner's appeal.^[5] Three days after or on February 8, 1991, the probate court through an Order gave petitioner five days within which to comment on the motion to dismiss appeal. However, neither the required comment nor the amended record on appeal was filed, thus the probate court dismissed the appeal in its Order dated February 15, 1991.

Meanwhile, on September 6, 1990, the probate court directed the issuance of letters of administration in favor of private respondent.^[6] Protesting that the issuance of letters of administration is unjustified in view of her pending notice of appeal and

the alleged non-finality of the August 16, 1990 Order, petitioner, on September 27, 1990, filed her motion for reconsideration. The probate court in its Order dated January 29, 1991 denied the motion.

Petitioner, thereafter, filed a petition for certiorari and mandamus before respondent Court of Appeals^[7] to set aside the probate court's Order dated February 15, 1991 dismissing her appeal, and Order dated September 6, 1990, directing the issuance of letters of administration. In a decision dated July 17, 1992, respondent court dismissed the petition, without pronouncement as to costs. Petitioner filed her motion for reconsideration but without success. Hence, petitioner initiated the instant recourse. We gave due course to the petition in our March 21, 1994 Resolution and required both parties to file their respective memoranda.

The sole issue in this petition is whether or not the probate court and respondent Court of Appeals properly dismissed petitioner's appeal.

Petitioner argues that she has substantially complied with the probate court's order to submit an amended record on appeal and that she is entitled to the liberal application of the rules. She cites *Grearte v. The London Assurance*^[8], as authority to bolster her contention. After considering the pleadings filed and arguments raised, both pro and con, we find the petitioner's contention devoid of merit.

Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances.^[9] While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.^[10] The instant case is no exception to this rule.

Petitioner offers no cogent reason and none appears on record to justify her failure to file her amended or redrafted record on appeal as directed by the probate court twice despite the vehement objection of the private respondent. Petitioner's failure, if not an obstinate refusal to comply with the probate court's orders is fatal.

In correcting a record on appeal, Rule 41, Section 7 of the Rules of Court requires the appellant, "within the time limited in the order, x x x, [to] redraft the record by including therein, in their proper chronological sequence, such additional matters as the court may have directed him to incorporate, and shall thereupon submit the redrafted record for approval, upon notice to the appellee, in like manner as the original draft." The submission of the redrafted record on appeal as well as its approval are essential to perfect an appeal in special proceedings,^[11] as in this case. Petitioner simply failed to comply with the requirements of the rule, hence the Order of August 16, 1990, consequently lapsed into finality. It is a settled rule that once an order or decision acquires finality it may not be altered or modified save in some exceptional circumstances none of which, however, is present in this case. Moreover, Rule 41, Section 13 of the Rules of Court is quite explicit: