

TWENTIETH DIVISION

[CA-G.R. SP NO. 07027, June 09, 2014]

**ALLAN RIÑOS, PETITIONER, VS. SPOUSES ANICETO URGEL AND
REMEDIOS URGEL, RESPONDENTS.**

DECISION

QUIJANO-PADILLA, J.:

This is a Petition for Review^[1] under Rule 42 of the Rules of Court assailing the Orders dated January 10, 2012^[2] and July 16, 2012^[3] of the Regional Trial Court (RTC), Branch 10, Abuyog, Leyte in Civil Case No. 640. The assailed January 10, 2012 Order dismissed the petitioner's appeal from the July 10, 2011 Decision^[4] of the Municipal Circuit Trial Court (MCTC), MacArthur-Mayorga, Leyte for failure to file an appeal memorandum while the July 6, 2012 Order denied the petitioner's Motion for Reconsideration^[5] for lack of merit.

The Antecedents

The instant petition stemmed from a complaint^[6] for recovery of ownership and possession of fishpen, damages, with prayer for preliminary injunction and temporary restraining order filed by herein respondents Spouses Aniceto and Remedios Urgel against petitioner Allan Riños before the 13th MCTC, MacArthur-Mayorga, Leyte.^[7]

After due proceedings, the MCTC rendered its Decision^[8] on July 16, 2011, in favor of herein respondents. On September 2, 2011, a Notice of Appeal^[9] was filed by herein petitioner.^[10] On September 28, 2011, the original records of the instant case were transmitted to the RTC pursuant to the Order^[11] of the MCTC dated September 5, 2011 giving due course to the instant appeal.^[12]

On September 30, 2011, a Notice of Appealed Case^[13] was then issued by the Clerk of Court of the RTC, Atty. Isagani S. Espada, requiring the herein petitioner to submit his appeal memorandum within fifteen (15) days from receipt thereof. Copies of the said Notice were sent to both parties, through their respective counsels, on October 17, 2011 as per Registry Receipt Nos. 1642 and 1643.^[14] Despite due notice, petitioner's counsel failed to submit the required memorandum.

The Orders of the RTC

On January 10, 2012, the RTC dismissed the instant appeal for failure to file the required memorandum pursuant to Section 7(b) of Rule 40 of the Rules of Court.^[15] The *fallo*^[16] of the said Order reads:

"WHEREFORE, let the instant appeal be DISMISSED for failure on the part of Defendant-Appellant's (sic) counsel to file the required memorandum as required by the afore-cited rule.

x x x."

Apparently aggrieved, petitioner moved for reconsideration^[17] anchored on the following reasons: (a) petitioner's counsel was not aware or notified that the RTC had received the complete record or record on appeal; (b) the latter had not received the alleged notice requiring the petitioner to file a memorandum on appeal; (c) after investigation, the receiving clerk of the petitioner's counsel, Mr. Leo Gil, discovered an entry from his own logbook of the alleged notice from the RTC but revealed that he may have probably misplaced it without the same having forwarded to petitioner's counsel, hence, the latter was not aware of its existence; and (d) the excusable negligence of petitioner counsel's receiving clerk which resulted to the loss of the said Notice should not deprive the herein petitioner of his appeal to be decided on the merits.^[18]

On July 16, 2012, the RTC rendered its second assailed Order denying petitioner's motion for reconsideration. The *fallo*^[19] of the pertinent Order states:

"Le[t] the Motion For Reconsideration of the Order Dismissing The Appeal Dated January 10, 2012 be DENIED, for lack of merit. Hereby declaring the Manifestations with motion to set hearing moot and academic.

As held in the case of Ruiz S. De Los Santos 577, SCRA 29, QID-CCRA Part 1, p. 133,

'It is settled that clients are bound by the mistakes, negligence and omission of their Counsel.'

In another case, it has been held:

'No prudent party would leave the fate of his case completely to his lawyer – it is the duty of the client to be in touch with his Counsel so as to be constantly posted about the case, 2009 QID-SCRA Part 1, 133.'

x x x."

Undeterred, petitioner filed the present petition raising the following assigned errors:

I.

THE HONORABLE REGIONAL TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO WANT OR EXCESS OF JURISDICTION WHEN IT MADE FINDINGS THAT PETITIONER'S COUNSEL [is] GUILTY OF MISTAKE AND NEGLIGENCE WITHOUT HEARING.

II.

THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THAT COUNSEL FOR THE DEFENDANT/HEREIN PETITIONER IS GUILTY OF MISTAKES [sic] AND NEGLIGENCE.

III.

THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THAT DEFENDANT/HEREIN PETITIONER IS ALSO GUILTY OF MISTAKES [sic] AND NEGLIGENCE.

IV.

THE HONORABLE REGIONAL TRIAL COURT ERRED IN DISMISSING THE APPEAL [due] TO TECHNICALITY.^[20]

This Court's Ruling

The petition is bereft of merit.

The issues raised being interrelated, they shall be discussed jointly hereunder.

At the outset, 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 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. 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.^[21]

In *Asian Spirit Airlines v. Spouses Bautista*,^[22] it was clarified that procedural rules are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. While rules of procedure may be relaxed for the most persuasive reasons, however it was held in *Galang v. Court of Appeals*,^[23] that:

"Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed."

It is well-entrenched that the right to appeal is not a natural right and is not part of due process. It is merely a statutory privilege, and may be exercised only in accordance with the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.^[24]

It is necessary to impress upon litigants and their lawyers the necessity of a strict

compliance with the periods for performing certain acts incident to the appeal and the transgressions thereof, as a rule, would not be tolerated; otherwise, those periods could be evaded by subterfuges and manufactured excuses and would ultimately become inutile.^[25]

Strict compliance with the Rules of Court is indispensable for the orderly and speedy disposition of justice. The Rules must be followed, otherwise, they will become meaningless and useless.^[26]

Bearing these principles in mind, We shall now resolve the issues at hand.

Strict Application of the Rules Warranted; Filing of Memorandum on Appeal is Mandatory

The principal issue underlying the instant petition is whether or not the RTC committed a reversible error of law in dismissing petitioner's appeal for failure to file an appeal memorandum.

Petitioner faults the RTC with grave error of law when it dismissed his appeal in accordance with Section 7(b), Rule 40 of the Rules of Court. He avers that the RTC should have decided his appeal on its merits instead of dismissing the same for failure to file memorandum.

We do not agree.

Section 7, Rule 40 of the 1997 Rules of Civil Procedure provides:

"Sec. 7. Procedure in the Regional Trial Court. -

(a) Upon receipt of the complete records or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. **Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.**

(c) Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed." (Emphasis supplied)

As provided above, the filing of a memorandum is a mandatory obligation on the part of the appellant, such that, the failure to do so warrants a concomitant dismissal of the appeal. In the case of *Enriquez v. Court of Appeals*,^[27] it was held, thus: