

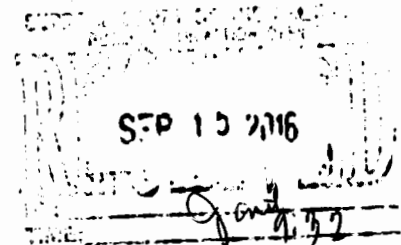


Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY
Wilfredo Lapitan
WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

SEP 14 2016

THIRD DIVISION



**PEOPLE OF THE
 PHILIPPINES,**
 Plaintiff-Appellee,

G.R. No. 219592

- versus -

Present:

VELASCO, JR., J.,
 Chairperson,
 PERALTA,
 BERSAMIN,*
 PEREZ, and
 REYES, JJ.

**ARTHUR PARCON y
 ESPINOSA,**
 Accused-Appellant.

Promulgated:

August 17, 2016

Wilfredo Lapitan

X-----X

DECISION

PEREZ, J.:

Before this Court is an appeal¹ from the Resolutions² dated 20 December 2012 and 17 November 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 01342, which dismissed the appeal of (accused-appellant) Arthur Parcon y Espinosa of the Regional Trial Court, Branch 36, Iloilo City, finding him guilty of the illegal sale and possession of *shabu* or *methamphetamine hydrochloride*, a dangerous drug, and illegal possession

* As per Raffle dated 15 February 2016, Justice Lucas P. Bersamin is designated member vice Justice Francis H. Jardeleza.

¹ Via Notice of Appeal.

² CA rollo, p. 58 and pp. 197-200.

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of equipment, instrument, apparatus and other paraphernalia for Dangerous Drugs, in violation of Section 5, 1st paragraph, Section 11, 3rd paragraph of Article 11 and Section 12 of Republic Act No. 9165 (R.A. No. 9165), otherwise known as The Comprehensive Dangerous Drugs Act of 2002.


On 6 June 2005, three (3) sets of information were filed against accused-appellant, as follows:

In Criminal Case No. 05-61023 (Violation of Section 5, R.A. No. 9165):

That, on or about the 20th day of April, 2005, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, said accused, with deliberate intent and without any justifiable motive, did, then and there wilfully, unlawfully and criminally sell, distribute and deliver to a PNP poseur buyer PO2 June Esporas one (1) small heat-sealed transparent bag containing 0.070 gram of methamphetamine hydrochloride [*shabu*], a dangerous drug, in consideration of [₱]100.00 without the authority to sell and distribute the same; that one (1) piece One Hundred peso bill with Serial Number BJ 788630, of the buy-bust money were recovered from the possession and control of the said accused, that the accused has been convicted by final judgment in Criminal Case No. 01-53439 last June 22, 2001 for Violation of Sec. 15, Art. III, R.A. 6425, then the law in effect penalizing drug related offenses.³

In Criminal Case No. 05-61024 (Violation of Section 12, R.A. No. 9165):

That, on or about the 20th day of April, 2005, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, herein accused, with deliberate intent and without any justifiable motive, did, then and there wilfully, unlawfully and feloniously have in his possession and control the following, to wit: one (1) improvised tooter, two (2) alcohol lamp, one (1) electric sealer, one (1) disposable lighter, and one (1) scissor, all paraphernalia/equipment fit and intended for administering, consuming and introducing into the body methamphetamine hydrochloride [*shabu*], a dangerous drug, without authority to possess the same, that the accused has been convicted by final judgment in Criminal Case No. 01-53439 last June 22, 2001 for Violation of Sec. 15, Art. III, R.A. 6425, then the law in effect penalizing drug related offenses.⁴



³ RTC Decision; CA *rollo*, p. 138

⁴ Id.

In Criminal Case No. 05-61025 (Violation of Section 11, R.A. No. 9165):

That, on or about the 20th day of April, 2005, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, herein accused, with deliberate intent and without any justifiable motive, did then and there wilfully, unlawfully and feloniously have in his possession and control fifteen (15) plastic sachets containing a total weight of 3.339 grams of methamphetamine hydrochloride [*shabu*] without the authority to possess the same, that the accused has been convicted by final judgment in Criminal Case No. 01-53438 last June 22, 2001 for Violation of Sec. 15, Art. III, R.A. 6425, then the law in effect penalizing drug related offenses.⁵

Upon arraignment on 7 June 2005, the accused-appellant pleaded not guilty to the offenses charged.⁶

After trial on the merits ensued, the trial court held that the prosecution successfully discharged the burden of proof in three offenses charged. Convinced that the accused-appellant sold and delivered the *shabu* to the police acting as poseur-buyer, the trial court relied on the credible and positive declaration of the two police officers as against the denial and allegation of frame-up of the accused-appellant. The court found that the accused-appellant was in possession of several sachets of *shabu* and of equipment and other paraphernalia for administration and consumption of *shabu* without any authority to possess the same. Finding them guilty, the dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Finding accused Arthur Parcon y Espinosa Guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 in Criminal Case No. 05-61023 and sentencing him to suffer the penalty of life imprisonment and to pay the fine of Five Hundred Thousand (P500, 000.00) Pesos;
2. Finding accused Arthur Parcon y Espinosa Guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 in Criminal Case No. 05-61025 and sentencing him to suffer an indeterminate penalty of imprisonment ranging from Twelve (12) Years and One (1) Day, as minimum to Fourteen (14) Years, as maximum and to pay fine the fine of Three Hundred Thousand (P300, 000.00) Pesos;

⁵ Id. at 138-139.

⁶ Id. at 139.

3. Finding accused Arthur Parcon y Espinosa Guilty beyond reasonable doubt of violation of Section 12, Article II of Republic Act No. 9165 in Criminal Case No. 05-61024 and sentencing him to suffer an indeterminate penalty of imprisonment ranging from Six (6) Months and One (1) Day, as minimum to Two Years, as maximum and to pay fine of Ten Thousand (P10, 000.00) Pesos.⁷

Upon appeal, the appellate court directed the accused-appellant, through his counsel Atty. Edeljulio R. Romero (Atty. Romero), to file an appellant's brief within thirty (30) days from receipt of such notice or until 7 August 2011. However, after several motions for extension of time to file the required brief during the period from 7 August 2011 to 1 July 2012, or a total of three hundred and thirty (330) days, no appellant's brief was filed by the accused-appellant. As a result, the Court of Appeals on 20 December 2012 *motu proprio* dismissed the appeal for failure to file the required appellant's brief within the time prescribed by the Rules of Court and the additional period prayed for in his motions for extension.⁸

On 28 December 2012, the accused-appellant finally submitted his required brief which was received by the Court of Appeals on 28 January 2013. On 7 February 2013, a Motion⁹ was filed for reconsideration of the 20 December 2012 Resolution dismissing the appeal and to admit the submitted appellant's brief. On 5 November 2013, the Court of Appeals, without giving due course to the motion, required the People, through the Office of the Solicitor General (OSG), to submit a Comment.¹⁰

On 20 December 2013, the OSG, by way of compliance, submitted its Comment and argued primarily that the Court of Appeals acted in accordance with the Rules of Court since it was exercised pursuant to the provisions of Section 8, Rule 124. It further argued that a client is bound by the mistakes of his counsel even in the realm of procedural technique. Any act or omission of his counsel within this authority is considered as an act or omission of the client himself.¹¹

On 17 November 2014, the Court of Appeals through a Resolution denied the Motion for Reconsideration.¹²

⁷ Id. at 160.

⁸ Resolution dated 20 December 2012; id. at 58.

⁹ Id. at 113-115.

¹⁰ Id. at 166-167.

¹¹ Id. at 174-181.

¹² Id. at 197-200.

Elevating the case to the Supreme Court, a notice of appeal was filed by the accused-appellant on 15 December 2014.¹³ In a manifestation, the accused-appellant adopted his appellant's brief as his supplemental brief before this Court.¹⁴

From the foregoing, the issue rests on whether the appeal of the accused-appellant can still be allowed despite his failure to file his appellant's brief within the required time.

On his part, the accused-appellant insisted on his willingness to submit his Brief, but understandably, he lacks the technical knowledge to prepare the pleading, in addition to the fact that the preparation is not within his immediate control as he is presently detained in the National Bilibid Prison in Muntinlupa. On the other hand, Atty. Romero tried to justify his delay in view of the past yuletide season and preparation of pleadings in his other cases.

We dismiss the appeal.

We find that the Court of Appeals acted in accord with paragraph 1, Section 8 of Rule 124 of the Rules of Court when it dismissed the motion for reconsideration by reason of delay in the filing of the appellant's brief. The rule states that:

Section 8. *Dismissal of appeal for abandonment or failure to prosecute.* — The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de officio*.

The Court of Appeals may also, upon motion of the appellee or *motu proprio*, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal.

Clearly, it is within the appellate court's mandate to dismiss the appeal *motu proprio* if the appellant fails to file his brief within the prescribed time. The primordial policy is faithful observance of the Rules of Court, and their relaxation or suspension should only be for persuasive reasons and only in meritorious cases. A bare invocation of "the interest of

¹³ Id. at 201-202.

¹⁴ Manifestation dated 4 May 2016.

substantial justice" will not suffice to override a stringent implementation of the rules.¹⁵

The reason for the dismissal lies in the nature of the right to appeal. The right to appeal is statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well; hence, failure to perfect the same renders the judgment final and executory.¹⁶

Furthermore, in a long line of cases ruled by the Court, negligence and mistakes of counsel bind the client. A disregard of this rule would bring about never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law. The only exception would be where the lawyer's gross negligence would result in the grave injustice of depriving his client of the due process of law.¹⁷

In *Sofio, et al. v. Valenzuela, et al.*,¹⁸ the Court held that:

Although the petitioners' former counsel was blameworthy for the track their case had taken, there is no question that any act performed by the counsel within the scope of his general or implied authority is still regarded as an act of the client. In view of this, even the negligence of the former counsel should bind them as his clients. To hold otherwise would result to the untenable situation in which every defeated party, in order to salvage his cause, would simply claim neglect or mistake on the part of his counsel as a ground for reversing the adverse judgment. There would then be no end to litigation, for every shortcoming of the counsel could become the subject of challenge by his client through another counsel who, if he should also be found wanting, would similarly be disowned by the same client through yet another counsel, and so on *ad infinitum*. This chain of laying blame could render court proceedings indefinite, tentative and subject to reopening at any time by the mere replacement of the counsel.

¹⁵ *Asia United Bank v. Goodland Company Inc.* 650 Phil. 174, 185 (2010).

¹⁶ *Boardwalk Business Ventures, Inc. v. Elvira A. Villareal (deceased), et al.*, 708 Phil. 443, 456 (2013), citing *Apex Mining Co., Inc. v. Commissioner of Internal Revenue*, 510 Phil. 268, 275 (2005).

¹⁷ *Building Care Corporation / Leopard Security & Investigation Agency et al. v. Macaraeg*, 700 Phil. 749, 756 (2012).

¹⁸ 682 Phil. 51 (2012).



xxx the test herein is whether their former counsel's negligence deprived the petitioners of due process of law.¹⁹

Same ruling was arrived at in the case of *Bejarasco, Jr. v. People of the Philippines*,²⁰ that the mistake of a counsel binds the client with the exception of gross or palpable negligence of the counsel that would deprive the client of due process, provided further, that the client was free from guilt of his own negligence.

The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel within the scope of the authority is regarded, in the eyes of the law, as the act or omission of the client himself. A recognized exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law. For the exception to apply, however, the gross negligence should not be accompanied by the clients own negligence or malice, considering that the client has the duty to be vigilant in respect of his interests by keeping himself up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against him.

Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the clients duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.²¹ (Citations omitted)

In this case, the appellate court exercised utmost leniency in providing the accused-appellant several extensions of time to file the required Appellant's Brief. He was given, through his lawyer, his day in court but he failed to comply. It was only after the promulgation of the resolution dismissing the case that the Brief was submitted without even an explanation for the delay. Unfortunately for the accused-appellant, he was bound by the negligence and mistake of his lawyer that resulted in lost appeal.

WHEREFORE, the appeal is **DISMISSED** and the Resolutions of the Court of Appeals dated 20 December 2012 and 17 November 2014 in CA-G.R. CR-H.C. No. 01342 are hereby **AFFIRMED**.

¹⁹ Id. at 62-63.

²⁰ 656 Phil. 337 (2011).


²¹ Id. at 340.





SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice



DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



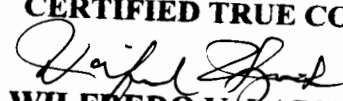
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 14 2016