



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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SECOND DIVISION

JOEL F. LATOGAN,  
*Petitioner,*

G.R. No. 238298

Present:

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
REYES, A., JR.,\*  
REYES, J., JR.,\*\*  
INTING, and  
DELOS SANTOS, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,  
*Respondent.*

Promulgated:

22 JAN 2020

X-----X

DECISION

INTING, J.:

*The Court is fully aware that procedural rules are not to be simply disregarded as they insure an orderly and speedy administration of justice. Nonetheless, it is equally true that courts are not enslaved by technicalities. They have the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to an opportunity to be heard. Cases should be decided only after giving all parties the chance to argue their causes and defenses. Technicality and procedural imperfection should, as a rule, not serve as bases of decisions. In that way, the ends of justice would be served.<sup>1</sup>*

\* On official leave.

\*\* Designated additional member per Raffle dated August 27, 2019 vice Associate Justice Ramon Paul L. Hernando who concurred in the assailed Resolution.

<sup>1</sup> *Tomas v. Santos*, 639 Phil. 656,660-661 (2010), citing *Bank of the Philippine Islands v. Dando*, G.R. No. 177456, September 4, 2009, 598 SCRA 378, 386-387.

This Petition for Review on *Certiorari*<sup>2</sup> under Rule 45 of the Rules of Court seeks to reverse the Resolution<sup>3</sup> dated February 6, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 142093, which denied Joel F. Latogan's (petitioner) Omnibus Motion for Reconsideration and affirmed its previous Resolution<sup>4</sup> dated September 29, 2015, which denied due course and accordingly dismissed his petition for *certiorari* for various procedural infirmities.

*The antecedents*

In an Information<sup>5</sup> dated February 4, 2010, petitioner was indicted for the crime of Murder, allegedly committed as follows:

That on or about the 8th day of November, 2009, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, with intent to kill, and with treachery, did then and there willfully, unlawfully and feloniously strike a piece of wood on the back of the head of the victim MARY GRACE CABBIGAT and thereafter grab the head of the victim and twisted and grabbed her again and boxed her right eye, thereby inflicting upon the latter – lacerated wound, occipital region, measuring 4x3 cm. bisected by the posterior midline, hematoma, right upper eyelid, measuring 5x3.5 cm. 4 cm. from the anterior midline, scalp hematoma, which injuries resulted to the death of said MARY GRACE CABBIGAT.

That the killing was attended by the qualifying circumstance of treachery considering that the accused suddenly attacked the victim who did not have any means to defend herself and did not have the least expectation to be hit and that the aggravating circumstance of disregard of sex also attended the killing considering that the victim is a woman.

CONTRARY TO LAW.<sup>6</sup>

During petitioner's arraignment, he entered a plea of not guilty to the charge.

<sup>2</sup> *Rollo*, pp. 3-14.

<sup>3</sup> *Id.* at 17-19; penned by Associate Justice Edwin D. Sorongon with Associate Justices Ricardo R. Rosario and Ramon Paul L. Hernando (now a Member of the Court), concurring.

<sup>4</sup> *Id.* at 139-140.

<sup>5</sup> *Id.* at 40.

<sup>6</sup> *Id.*

In the Decision<sup>7</sup> dated June 5, 2015, Branch 5, Regional Trial Court (RTC), Baguio City, convicted petitioner for Murder in Criminal Case No. 30393-R on the basis of circumstantial evidence.

The RTC ruled that the evidence of the prosecution established the following: (1) at about midnight of November 8, 2009, the deceased Mary Grace Cabbigat (Mary Grace) went out with petitioner; (2) at 1:45 a.m. of the following day, petitioner brought Mary Grace to the Baguio General Hospital with severe head injuries that led to her death; and (3) petitioner and Mary Grace were together from the time they left the bar up to the time she was brought to the hospital.<sup>8</sup>

The RTC concluded that petitioner, as the victim's last companion, inflicted the fatal injuries upon her; that Mary Grace and petitioner were romantically involved with each other; and that they could have quarreled before the incident. To justify the conviction of the petitioner, the RTC further ruled that abuse of superior strength qualified the killing to Murder:<sup>9</sup>

WHEREFORE, premises considered, the Court finds Joel Latogan y Fias-ayen GUILTY beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is further directed to pay the heirs of Mary Grace Cabbigat P50,000.00 as civil indemnity, another P50,000.00 as moral damages, and P37,900.00 as actual damages. These amounts shall earn interest at the rate of 6% per annum from the finality of this Decision until fully paid.

SO ORDERED.<sup>10</sup>

Aggrieved, petitioner moved for a reconsideration<sup>11</sup> of the RTC Decision, but the motion was denied due to the lack of notice of hearing as required by the Rules of Court.<sup>12</sup>

On July 24, 2015, petitioner filed a Manifestation<sup>13</sup> stating that the RTC should not have denied the motion on a mere technicality considering the gravity of the errors ascribed to it. On the same date, he

<sup>7</sup> *Id.* at 69-78. Penned by Presiding Judge Maria Ligaya V. Itliong-Rivera.

<sup>8</sup> *Id.* at 77.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 78.

<sup>11</sup> *Id.* at 79-89.

<sup>12</sup> See Order dated July 13, 2015 of Branch 5, Regional Trial Court, Baguio City, *id.* at 90.

<sup>13</sup> *Id.* at 91-93.

filed a Notice of Appeal.<sup>14</sup> On July 27, 2015, Private Prosecutor Jennifer N. Asuncion filed a Comment and/or Opposition<sup>15</sup> to the Manifestation and Notice of Appeal of petitioner, and contended that the *pro forma* motion for reconsideration did not toll the running of the period to appeal. Hence, the assailed RTC Decision had become final and executory 15 days from its promulgation on June 30, 2015. Petitioner filed his Reply to Comment and/or Opposition to Accused's Manifestation and Notice of Appeal<sup>16</sup> thereafter.

In an Order<sup>17</sup> dated August 19, 2015, the RTC denied petitioner's appeal explaining:

The requirement of notice of hearing in all litigated motions has been part of the Rules for a long time. The alleged gravity of the errors ascribed to the Court or even the gravity of the conviction is not an excuse for disregarding the notice requirement. On the contrary, this should have urged accused to be more careful in adhering to the Rules so that his cause may not be dismissed on mere technicality.

Accused did not ask for a reconsideration of the July 13, 2015 Order. Instead, he filed a Notice of Appeal which was obviously filed beyond the 15-day reglementary period. As the Decision has lapsed into finality, the Court cannot give due course to the appeal.

SO ORDERED.<sup>18</sup>

Dismayed, petitioner initiated a special civil action for *certiorari* under Rule 65 of the Rules of Court before the CA.<sup>19</sup> In a Resolution<sup>20</sup> dated September 29, 2015, the CA dismissed the petition based on the following procedural flaws, *viz.*:

1. The records show that no motion for reconsideration from the Order of the public respondent dated August 19, 2015 denying the petitioner's Notice of Appeal was filed with the court *a quo* before the instant petition was resorted to;
2. The People of the Philippines was not impleaded as respondent in the petition; and the Office of the Solicitor General was not furnished with copy of the petition;

<sup>14</sup> *Id.* at 94-95.

<sup>15</sup> *Id.* at 96-98.

<sup>16</sup> *Id.* at 99-110.

<sup>17</sup> *Id.* at 111-112.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 20-39.

<sup>20</sup> *Id.* at 139-140.

3. There is no proof of service of the petition on the respondents and no affidavit of service as to whether the petition was served by personal service or by registered mail.<sup>21</sup>

After almost five months from receipt of the Resolution dated September 29, 2015, petitioner filed an Omnibus Motion for Reconsideration on March 14, 2016. He claimed that he stands to serve *reclusion perpetua* for a heinous crime he purportedly committed; and that his petition was meant to correct the order of the RTC judge denying his appeal. Considering the judge's blatant and grave error in convicting him of Murder instead of Homicide, and in the interest of justice, technicalities should be set aside and his petition, as well as the notice of appeal, should be given due course.<sup>22</sup>

In the meantime, the CA in the Resolution dated February 26, 2016 denied due course to petitioner's Notice of Appeal for being erroneous and belatedly filed remedy.

On February 6, 2018, the CA rendered the assailed Resolution<sup>23</sup> denying petitioner's Omnibus Motion:

After a careful assessment of the allegations raised in petitioner's Omnibus Motion for Reconsideration, we found no merit in the arguments that have been presented therein. Petitioner did not even bother to explain the procedural lapses of his petition and considerably, he even failed to correct said lapses. Petitioner ought to be reminded that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel courts to suspend procedural rules. 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. For while it is true that litigation is not a game of technicalities and that the rules of procedure should not be strictly followed in the interest of substantial justice, it does not mean that the Rules of Court may be ignored at will.

WHEREFORE, petitioner's Omnibus Motion for Reconsideration is DENIED.

SO ORDERED.<sup>24</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 18.

<sup>23</sup> *Id.* at 17-19.

<sup>24</sup> *Id.* at 18-19.

Undeterred, petitioner filed the present petition arguing that the CA gravely erred in denying his Omnibus Motion for Reconsideration and Notice of Appeal.<sup>25</sup> Essentially, he points out to the Court that his conviction carries a prison term of *reclusion perpetua* which, standing alone, is a circumstance exceptional enough to allow him the opportunity to challenge the RTC's Decision for reasons of equity and substantial justice.

We grant the petition.

The notice in the motion for reconsideration filed by petitioner before the RTC reads as follows:

NOTICE:

The CLERK OF COURT  
Regional Trial Court  
Br. 6, Justice Hall,  
Baguio City

Sir:

Upon receipt hereof, please submit the same for hearing for the kind consideration of the Honorable Court. Further, please schedule the same for oral arguments as soon as the Prosecution files its comment thereto.

Thank you very much.<sup>26</sup>

The notification prays for the submission of the motion for reconsideration for hearing but without stating the time, date, and place of the hearing of the motion. This is not the notice of hearing contemplated under Sections 4 and 5, Rule 15<sup>27</sup> of the Rules of Court. The rules are explicit and clear. The notice of hearing shall state the time

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<sup>25</sup> *Id.* at 5.

<sup>26</sup> *Id.* at 88-89.

<sup>27</sup> Section 4 and 5, Rule 15 of the Rules of Court provides:

Sec. 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Sec. 5. *Notice of hearing.* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion. (Emphasis supplied.)

and place of hearing and shall be served upon all the parties concerned at least three days in advance. The reason is obvious: unless the movant sets the time and place of hearing, the court would have no way to determine whether the other party agrees to or objects to the motion, and if he objects, to hear him on his objection, since the Rules themselves do not fix any period within which he may file his reply or opposition.<sup>28</sup>

The Court is well aware of the judicial mandate that rules prescribing the time 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. With respect to notices of hearing of motions, in particular, the Court has consistently warned that a notice of hearing which does not comply with the requirements of the Rules of Court is a worthless piece of paper and would not merit any consideration from the Court.<sup>29</sup>

However, procedural rules were precisely 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. Section 6, Rule 1 of the Rules of Court enjoins the liberal construction of the Rules of Court in order to promote its objective to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding.<sup>30</sup> As to be discussed below, given the realities obtaining in this case, the liberal construction of the rules will better promote and secure a just determination of petitioner's culpability.

The CA likewise pointed out several procedural infirmities in petitioner's petition for *certiorari*, such as: (1) the lack of motion for reconsideration from the trial court's order denying petitioner's notice of appeal; (2) failure to implead the respondent People of the Philippines in the petition and furnish the Office of the Solicitor General with a copy of the petition; (3) lack of proof of service and affidavit of service as to whether the petition was served by personal service or by registered mail; and (4) failure to prove that the petition was timely filed. Records show as well that petitioner's Omnibus Motion for Reconsideration of the CA's September 29, 2015 Resolution was filed beyond the 15-day

<sup>28</sup> *Resurreccion, et al. v. People*, 738 Phil. 704, 722 (2014) citing *Manila Surety and Fidelity Co., Inc. v. Batu Const. and Co., et al.*, 121 Phil. 1221, 1224 (1965).

<sup>29</sup> *Basco v. Court of Appeals*, 383 Phil. 671, 685-686 (2000).

<sup>30</sup> *Id.* at 687.

reglementary period and, as a consequence, it already attained finality which bars any review. On this ground alone, his petition was properly dismissed outright.

Withal, as in the liberal construction of the rules on notice of hearing, the Court has enumerated the factors that justify the relaxation of the rule on immutability of final judgments to serve the ends of justice, including: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the other party will not be unjustly prejudiced thereby.<sup>31</sup>

In one case, the CA dismissed petitioner's appeal for failure to timely file a motion for reconsideration of the RTC's Decision. According to the CA, the RTC decision could no longer be assailed pursuant to the doctrine of finality and immutability of judgments. Upon petition for review, though, the Court relaxed the application of the doctrine and held that the doctrine must yield to practicality, logic, fairness, and substantial justice.<sup>32</sup>

After a thorough review of the records, the Court finds that compelling circumstances are extant in this case to justify the relaxation of the rules. Primarily, petitioner's life and liberty are at stake. The trial court has sentenced him to suffer the penalty of *reclusion perpetua* and this conviction attained finality on the basis of a mere technicality, not entirely through his fault or own doing. It is but proper, under the circumstances, that petitioner be given the opportunity to defend himself and pursue his appeal. To do otherwise would be tantamount to grave injustice. Both petitioner's motion for reconsideration before the RTC and his subsequent petition for *certiorari* in the CA also appear to stand on meritorious grounds. In addition, there is lack of any showing that the review sought is merely frivolous and dilatory.

In setting aside the aforementioned technicalities, infirmities, and thereby giving due course to tardy appeals and defective petitions, it must be emphasized that the Court is mindful of the extraordinary situations that merit liberal application of the Rules. In this case where

<sup>31</sup> *Heirs of Juan M. Dinglasan v. Ayala Corporation, et al.*, G.R. No. 204378, August 5, 2019.

<sup>32</sup> *Dr. Malixi, et al. v. Dr. Baltazar*, G.R. No. 208224, November 22, 2017, citing *Republic v. Dagondon*, G.R. No. 210540, April 19, 2016, 790 SCRA 414.



technicalities were dispensed with, the Court's decisions were not meant to undermine the force and effectivity of the periods set by the law. On the contrary, in those rare instances, there always existed a clear need to prevent the commission of a grave injustice as in this case. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause.<sup>33</sup>

Finally, it is evident that the case has been marked by gross negligence and incompetence of the petitioner's counsel. The Court notes once again that petitioner's counsel filed a flawed motion for reconsideration before the RTC. Later, the CA denied due course to petitioner's petition for *certiorari*, as well as his subsequent notice of appeal, due to egregious errors of his counsel. The present action was almost dismissed as it is likewise laden with defects at the beginning, to wit: (a) it was filed out of time and the docket fees were paid late; (b) it lacked a verified statement of material dates; (c) no copy of the assailed September 29, 2015, CA Resolution was attached thereto; (d) the verification was defective; and (e) the affiant in the affidavit of service lacks competent proof of identity. Truth be told, these defects are plainly avoidable with the application of the relevant guidelines existing in our Rules of Court.

At this point, it is worth emphasizing that the rule which states that the mistakes of counsel bind the client may not be strictly followed where observance of it would result in outright deprivation of the client's liberty or property, or where the interests of justice so require.<sup>34</sup> In rendering justice, procedural infirmities take a backseat against substantive rights of litigants.<sup>35</sup> Corollarily, if the strict application of the rules would tend to frustrate rather than promote justice, the Court is not without power to exercise its judicial discretion in relaxing the rules of procedure.<sup>36</sup> In *Aguilar v. CA*<sup>37</sup> the Court held:

x x x Losing liberty by default of an insensitive lawyer should be frowned upon despite the fiction that a client is bound by the mistakes of his lawyer. The established jurisprudence holds:

x x x x

<sup>33</sup> *Heirs of Juan M. Dinglasan v. Ayala Corporation, et al.*, *supra* note 31, citing *Neypes v. Court of Appeals*, 506 Phil. 613, 626 (2005).

<sup>34</sup> *Villanueva v. People*, 659 Phil. 418, 429 (2011).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*, citing *Rutaquio v. Court of Appeals*, G.R. No. 143786, October 17, 2008, 569 SCRA 312, 320.

<sup>37</sup> 320 Phil. 456 (1995).

“The function of the rule that negligence or mistake of counsel in procedure is imputed to and binding upon the client, as any other procedural rule, is to serve as an instrument to advance the ends of justice. When in the circumstances of each case the rule desert its proper office as an aid to justice and becomes its great hindrance and chief enemy, its rigors must be relaxed to admit exceptions thereto and to prevent a manifest miscarriage of justice.

x x x x


The court has the power to except a particular case from the operation of the rule whenever the purposes of justice require it.”<sup>38</sup>

Without doubt, petitioner is entitled to competent legal representation from his counsel. The counsel’s mere failure to observe a modicum of care and vigilance in the protection of the interests of the petitioner as the client, as manifested in the multiple procedural infirmities and shortcomings herein, is gross negligence. If the incompetence of counsel was so serious that the client was prejudiced by a denial of his day in court, the latter must be given another chance to present his case and assail his conviction. The legitimate interest of petitioner, specifically his right to have his conviction reviewed by the CA as a superior tribunal, should not be sacrificed in the altar of technicalities.<sup>39</sup>

**WHEREFORE**, the petition is **GRANTED**. The Resolutions dated September 29, 2015 and February 6, 2018 of the Court of Appeals in CA-G.R. SP No. 142093 are **REVERSED** and **SET ASIDE**. The Notice of Appeal filed by petitioner Joel F. Latogan before Branch 5, Regional Trial Court, Baguio City is hereby given **DUE COURSE**.

Let this case be remanded to Branch 5, Regional Trial Court, Baguio City for the latter to act with dispatch on petitioner’s Notice of Appeal.

**SO ORDERED.**


  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

<sup>38</sup> *Id.* at 461-462.

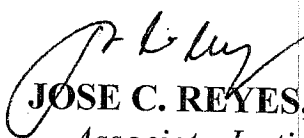
<sup>39</sup> *Sanico v. People, et al.*, 757 Phil. 179, 189 (2015).



WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*


(On official leave)  
**ANDRES B. REYES, JR.**  
*Associate Justice*

  
**JOSE C. REYES, JR.**  
*Associate Justice*

  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

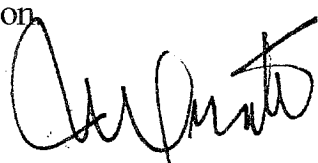
**ATTESTATION**

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.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify 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.

  
**DIOSDADO M. PERALTA**  
*Chief Justice*



