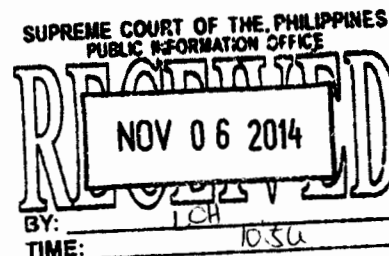




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 20, 2014**, which reads as follows:*

“G.R. No. 183620 (Spouses Richard Tan and Susana Tan v. Hon. Court of Appeals, Han Seng Construction Corporation and Engr. Fernando Lim Go, Jr.) – Petitioners spouses Richard and Susana Tan entered into an agreement with private respondents Han Seng Construction Corporation and Engr. Fernando Lim Go, as president thereof, whereby the latter undertook the construction of a two-storey building on a parcel of land owned by petitioners. Pursuant to the agreement, petitioners paid private respondents downpayment equivalent to 30% of the contract price in the amount of ₱1,290,000.00. Construction commenced on April 6, 1994, but was discontinued on June 22, 1994.¹

Petitioners alleged that private respondents unjustly abandoned the project, despite repeated demands to continue, completing only 20% thereof in a substandard manner. Consequently, they rescinded the agreement in a letter dated October 10, 1994, demanding the return of the overpayment equivalent to the remaining uncompleted works in the amount of ₱114,680.00, and payment of the estimated cost of repairs with penalties. Since petitioners did not get any response from private respondents, they filed an action for damages before the Regional Trial Court (RTC) of Pasig City. Private respondents, for its part, asserted that it was upon the order of petitioners that they stopped the construction. They claimed that when they submitted their Progress Billing dated June 15, 1994, for the payment corresponding to 26% of completed works amounting to ₱675,300.00, petitioners instructed them to cease from constructing the building without paying the amount demanded.²

After evaluating the evidence presented by both parties, the RTC, in its Decision³ dated November 14, 2000, found that while both parties were at fault, it was private respondents who should be held liable since they were the ones who committed the first violation.⁴ According to the RTC, due to private

¹ *Rollo*, p. 30.

² *Id.* at 33.

³ Penned by Judge Santiago G. Estrella; Annex “C” to Petition, *rollo*, pp. 30-37.

⁴ Article 1192 of the Civil Code provides:

respondents' substandard works and refusal to undertake repairs thereon, petitioners refused to pay their billings. Accordingly, private respondents were ordered to pay petitioners the amount of the overpayment plus interest thereon, moral and exemplary damages, as well as attorney's fees and litigation expenses.

In an Order⁵ dated February 15, 2001, the RTC approved private respondents' Notice of Appeal⁶ and ordered the transmittal of the entire records of the case to the Court of Appeals (CA). Thereafter, on October 5, 2001, private respondents filed with the RTC a Notice of Change of Address⁷ informing the lower court of their transfer to a new address located at 805 Xavierville Square, No. 38 Xavierville Avenue, Loyola Heights, Quezon City.

On May 9, 2002, the CA sent a Notice to File Appellants' Brief⁸ to private respondents' counsel at his old address requiring the filing of their Appellants' Brief. The CA also sent another Notice to File Appellants' Brief⁹ to private respondent Han Seng Construction Corporation at its given address on July 10, 2002. However, for failure to file an appellants' brief within the reglementary period, the CA dismissed private respondents' appeal in a Resolution¹⁰ dated September 30, 2002. Thereafter, on October 28, 2002, an Entry of Judgment¹¹ was issued certifying that the Resolution became final and executory.

On April 18, 2006, private respondents filed a Motion to Lift or Set Aside the Resolution dated September 30, 2002 and Entry of Judgment dated October 28, 2002,¹² praying for the re-opening of the appeal. In its Resolution¹³ dated September 5, 2007, the CA granted the Motion of private respondents and reinstated their appeal. It held that while it is a rule that the negligence of counsel is binding on the client, in the interest of justice, the instant case falls under the exception wherein the reckless or gross negligence of counsel deprives the client of due process of law resulting in an outright deprivation of the client's liberty or property. On May 20, 2008, the CA further denied petitioners' Motion for Reconsideration in the absence of substantial reason to warrant a reconsideration.¹⁴

Art. 1192. In case both of the parties have committed a breach of the obligation, the liability of the first infractor shall be equitably tempered by the courts. If it cannot be determined which of the parties first violated the contract, the same shall be deemed extinguished, and each shall bear his own damages.

⁵ Annex "E" to Petition, *rollo*, p. 40.

⁶ Annex "D" to Petition, *id.* at 38.

⁷ Annex "F" to Petition, *id.* at 41.

⁸ Annex "G" to Petition, *id.* at 43.

⁹ Annex "H" to Petition, *id.* at 44.

¹⁰ Penned by Associate Justice Edgardo P. Cruz, with Associate Justices Oswaldo D. Agcaoili and Amelita G. Tolentino, concurring; *rollo*, p. 46.

¹¹ Annex "J" to Petition, *id.* at 47.

¹² Annex "K" to Petition, *id.* at 48.

¹³ Annex "A" to Petition, *id.* at 24-27.

¹⁴ Annex "B" to Petition, *id.* at 29.

SB

Aggrieved, petitioners filed the instant Petition for *Certiorari* assailing the CA Resolutions for being issued with grave abuse of discretion. They maintained that private respondents are guilty of inexcusable negligence for their sheer failure to inquire about the status of their appeal for more than five (5) years from the filing of their Notice of Appeal dated January 29, 2001. Had they done so, they would have known that as early as March 2, 2001, the case was already docketed before the CA, and consequently, would have been able to file their appellants' brief within the reglementary period.

The petition lacks merit.

Time and again, this Court has laid down the general rule that a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique.¹⁵ This is based on the rule that any act performed by a lawyer within the scope of his general or implied authority is regarded as an act of his client.¹⁶ This Court has, however, relaxed this rule on the binding effect of counsel's negligence and allowed a litigant to present his case (1) where the reckless or gross negligence of counsel deprives the client of due process of law; (2) when application of the rule will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so require.¹⁷

In this case, We find that the negligence of private respondents' counsel was so gross that it deprived them of their chance to appeal, thus denying them due process. The records reveal that the Order of the RTC dated February 15, 2001 approving private respondents' Notice of Appeal and directing that the entire records of the case be forwarded to the CA was received by private respondents' counsel on February 21, 2001. Yet, the notice of the change of address was still filed with the RTC. Because of this negligence, the Notice to File Appellants' Brief was sent to the wrong address. To make matters worse, private respondents' counsel did not even bother to inquire on the status of the appeal. As the CA correctly observed, had private respondents' counsel responsibly done so, he would have known that as early as March 2, 2001, the same was already docketed before the CA.

Indeed, rules of procedure are tools designed to ensure the orderly administration of justice and the protection of substantive rights in judicial proceedings.¹⁸ They are treated with utmost respect and due regard, for they facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims.¹⁹ These technical rules of procedure,

¹⁵ *Producers Bank of the Philippines v. Court of Appeals*, 430 Phil. 812, 823 (2002).

¹⁶ *Suzuki v. De Guzman*, 528 Phil. 1033, 1046 (2006), citing *STI Drivers Association v. Court of Appeals*, 441 Phil. 166, 173 (2002); *Salonga v. Court of Appeals*, 336 Phil. 514, 526 (1997).

¹⁷ *The Government of the Kingdom of Belgium v. Court of Appeals*, 574 Phil. 380, 396 (2008), citing *Redena v. Court of Appeals*, 543 Phil. 358, 369-370 (2007).

¹⁸ *Limpot v. Court of Appeals*, 252 Phil. 377, 379 (1989).

¹⁹ *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, G.R. No. 170488, December 10, 2012, 687 SCRA 469, 474.

October 20, 2014


however, are not designed to frustrate the ends of justice. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.²⁰

In view of the foregoing, We find no reason to disturb the conclusions of the CA for the substantive rights of the private respondents outweigh the procedural technicalities herein. To cling to the general rule in this case is only to condone rather than rectify a serious injustice to a party whose only fault was to repose his faith and entrust his innocence to his lawyer.²¹

WHEREFORE, premises considered, the petition is **DENIED** for failure of petitioners to show any reversible error in the assailed CA decision. (*Velasco, Jr., J.*, on official leave; *Peralta, J.*, Acting Chairperson, per Special Order No. 1815 dated October 3, 2014, *Perlas-Bernabe, J.*, Acting Member, per Special Order No. 1816 dated October 3, 2014)

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
 Division Clerk of Court *10/23/14*

Atty. Alvin Agustin T. Ignacio
 IGNACIO & IGNACIO LAW FIRM
 Counsel for Petitioners
 Unit 2107, 21/F Prestige Tower
 Emerald Avenue, Ortigas Avenue
 1605 Pasig City

COURT OF APPEALS
 CA G.R. CV No. 73309
 1000 Manila

The Presiding Judge
 REGIONAL TRIAL COURT
 Branch 67, Pasig City
 (Civil Case No. 64819)

Atty. Rudolph Dilla Bayot
 Counsel for Private Respondents
 2/F, Room 216, Hollywood Terraces
 Km. 23 Sumulong Highway, Brgy. Sta. Cruz
 1870 Antipolo City

PUBLIC INFORMATION OFFICE
 LIBRARY SERVICES
 Supreme Court, Manila
 (For uploading pursuant to A.M. No. 12-7-1-SC)

Judgment Division
 JUDICIAL RECORDS OFFICE
 Supreme Court, Manila

²⁰ *Hadji-Sirad v. Civil Service Commission*, 614 Phil. 119, 134 (2009), citing *Barranco v. Commission on the Settlement of Land Problems*, 524 Phil. 533, 543 (2006), citing *Reyes v. Spouses Torres*, 429 Phil. 95, 101 (2002).

²¹ *APEX Mining Inc. et. al. v. Court of Appeals*, 377 Phil. 482, 496 (1999).