



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 9, 2019**, which reads as follows:

“G.R. No. 226321 (SPOUSES VICTORINO LOBO and ANGELINA V. LOBO, *petitioners* v. COURT OF APPEALS, MINDANAO STATION, CAGAYAN DE ORO CITY, and PORFERIO DELOS CIENTOS, *respondents*). — The extraordinary writ of certiorari corrects only errors of jurisdiction, not errors of judgment. It cannot correct a court’s appreciation of evidence or its findings on factual matters in the exercise of its judgment.¹ In any event, the right to appeal is a statutory privilege that must be exercised in accordance with the law. It is not a natural right; as such, it may be lost if an appellant fails to comply with prevailing rules.²

This Court resolves a Petition for Certiorari³ filed by Spouses Victorino and Angelina Lobo (the Lobo Spouses), assailing the Court of Appeals’ Resolutions dismissing their prior appeal for failure to timely file an appellant’s brief⁴ and denying their subsequent Motion for Reconsideration.⁵

On December 17, 2013, the Regional Trial Court of Digos City, Branch 19, issued a Decision⁶ in the case of *Porferio C. Delos Cientos v. Spouses Victorino Lobo and Angelina V. Lobo*. It found the Lobo Spouses liable to pay the principal amounts of ₱209,540.83 and ₱7,960.00, each with

¹ *Microsoft Corporation v. Best Deal Computer Center Corporation*, 438 Phil. 408, 413 (2002) [Per J. Bellosillo, Second Division].

² *Spouses Ortiz v. Court of Appeals*, 360 Phil. 95 (1998) [Per J. Quisumbing, First Division].

³ *Rollo*, pp. 7–14.

⁴ Id. at 16–17. The Resolution dated September 3, 2015 was penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Romulo V. Borja and Oscar V. Badelles of the Twenty-First Division, Court of Appeals, Cagayan De Oro City.

⁵ Id. at 25–26. The Resolution dated May 13, 2016 was penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Ruben Reynaldo G. Roxas of the Special Former Twenty-First Division, Court of Appeals, Cagayan De Oro City.

⁶ Id. at 8–9. A copy of the Decision was not attached to the Petition for Certiorari.

a 12% interest per annum, moral, exemplary, and compensatory damages, and attorney's fees.⁷

Aggrieved, the Lobo Spouses, through their counsel, Atty. Rogelio M. Watin, Sr. (Atty. Watin), filed their Notice of Appeal on April 4, 2014. Accordingly, the case was elevated to the Court of Appeals, Mindanao Station, Cagayan De Oro City.⁸

On May 20, 2015, the Court of Appeals issued a Notice to File Brief to Atty. Watin, requiring him to file an appellant's brief based on Rule 44, Section 7 of the Rules of Court.⁹ Atty. Watin received the notice on May 28, 2015,¹⁰ but he failed to file the brief within the prescribed 45-day period, or by July 12, 2015.¹¹

Later, the Lobo Spouses filed an Ex-Parte Manifestation and Motion dated August 14, 2015,¹² informing the Court of Appeals that they only learned of the Notice to File Brief on July 27, 2015. They explained that they only recently learned that Atty. Watin was suspended from the practice of law, and that their follow-ups with him were unheeded as he was "out of town[.]"¹³

The Lobo Spouses also explained that they have been "mentally and emotionally disturbed"¹⁴ because Victorino Lobo (Victorino) had been ill from December 4 to 8, 2014¹⁵ and from July 17 to 21, 2015¹⁶ due to hypertension and respiratory ailments. Thus, they requested that the Court of Appeals allow them to hire a new counsel and extend the filing of the appellant's brief for 30 days.¹⁷

In a September 3, 2015 Resolution,¹⁸ the Court of Appeals declared the Lobo Spouses' appeal abandoned, reasoning that based on the CMIS report dated August 10, 2015, no appellant's brief had been filed.

Atty. Watin, representing the Lobo Spouses, filed a Motion for Reconsideration dated September 29, 2015.¹⁹ He explained that he was

⁷ Id.
⁸ Id. at 9.
⁹ Id. at 16.
¹⁰ Id. at 9.
¹¹ Id. at 16.
¹² Id. at 20-21.
¹³ Id. at 20.
¹⁴ Id.
¹⁵ Id. at 22.
¹⁶ Id. at 23.
¹⁷ Id. at 20.
¹⁸ Id. at 16-17.
¹⁹ Id. at 18-19.

suspended from practice at the time the Notice to File Brief was received. His suspension was only lifted on June 29, 2015, and he received the decision lifting his suspension only on August 20, 2015.²⁰ Atty. Watin added that the Lobo Spouses were interested to pursue their appeal, even attempting to hire another counsel, though unable to do so in time.²¹

The Court of Appeals denied the Motion for Reconsideration in a May 13, 2016 Resolution.²² It held that a party is generally bound by his or her counsel's acts, as the counsel has implied authority to do all acts necessary in pursuing the party's case in court. The exception is when the counsel was recklessly or grossly negligent such that the party is deprived of due process. However, the exception does not apply if the party is also negligent.

For the Lobo Spouses, the Court of Appeals held that they neglected their duty to monitor the status of their case. Since "the right to appeal is not a natural right or part of due process, but is merely a statutory privilege that may be exercised only in the manner prescribed by law, the right is unavoidably forfeited by the litigant who does not comply with the manner thus prescribed."²³

Thus, the Lobo Spouses filed before this Court a Petition for Certiorari,²⁴ alleging that the Court of Appeals gravely abused its discretion when it dismissed their appeal. Their counsel's absence, coinciding with Victorino's illness, made the circumstances during the period for appeal "so dire"²⁵ that they were unable to file their brief on time. Thus, they beg the indulgence of this Court to relax the procedural rules on appeal.²⁶ However, their Petition did not discuss the merits of their claims.

In a November 9, 2016 Resolution,²⁷ this Court required respondent Porferio Delos Cientos to comment on the Petition. When he failed to file his comment on time, he was required in an April 3, 2017 Resolution²⁸ to show cause why he should not be disciplined for failing to heed this Court's order.

Respondent subsequently filed his Comment²⁹ along with a Motion to Admit Belated Comment with Explanation,³⁰ stating that his counsel

²⁰ Id.

²¹ Id.

²² Id. at 25-26.

²³ Id. at 26.

²⁴ Id. at 7-14. Filed under Rule 65 of the Rules of Court.

²⁵ Id. at 10.

²⁶ Id. at 10-11.

²⁷ Id. at 28-29.

²⁸ Id. at 36-37.

²⁹ Id. at 43-47.

³⁰ Id. at 38-42.

inadvertently failed to timely file the Comment. In its July 24, 2017 Resolution,³¹ this Court granted the Motion and noted the Comment.

In his Comment,³² respondent reiterated the Court of Appeals' reasoning that the right to appeal is a statutory privilege that must be exercised in accordance with the rules. Failure to follow the rules results in the loss of the right to appeal. Respondent also contests petitioners' claims that a debilitating disease prevented them from hiring a new counsel, or from timely filing their appellant's brief. According to respondent, these claims were mere allegations without proof, contradicted by petitioners' subsequent hiring of a new counsel.³³

This Court is now tasked with resolving the issue of whether or not the Court of Appeals gravely abused its discretion amounting to lack or excess of jurisdiction when it dismissed the appeal of petitioners Victorino Lobo and Angelina V. Lobo for their failure to timely file an appellant's brief. This requires an examination of whether or not the Court of Appeals validly denied their request to relax the procedural rules on appeals.

The Petition is dismissed.

A writ of certiorari cannot correct the errors alleged in the petition. *Microsoft Corporation v. Best Deal Computer Center Corporation*³⁴ provides that the writ corrects only errors of jurisdiction, and cannot correct errors of judgment.³⁵ A Rule 65 petition, thus, "must raise *not* errors of judgment but the acts and circumstances showing grave abuse of discretion amounting to lack or excess of jurisdiction."³⁶

Further, in *First Corporation v. Former Sixth Division of the Court of Appeals*,³⁷ this Court teaches that "[i]n certiorari proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence."³⁸

Here, petitioners allege that the Court of Appeals committed grave abuse of discretion by failing to appreciate the "dire" circumstances that

³¹ Id. at 48.

³² Id. at 43-47.

³³ Id. at 44-45.

³⁴ 438 Phil. 408 (2002) [Per J. Bellosillo, Second Division].

³⁵ Id. at 413.

³⁶ *Philippine National Bank v. Gregorio*, G.R. No. 194944, September 18, 2017, 840 SCRA 37, 54 [Per J. Jardeleza, First Division].

³⁷ 553 Phil. 526 (2007) [Per J. Chico-Nazario, Third Division].

³⁸ Id. at 541 *citing Garcia v. National Labor Relations Commission*, 491 Phil. 136 (2005) [Per J. Callejo, Sr., Second Division].

supposedly made it impossible for them to find a new counsel, or to timely file an appellant's brief. Thus, they assail its appreciation of factual matters in relation to the legal standards for relaxing the procedural requirements of appeal.

What petitioners raise are matters of judgment, not jurisdiction. The issues raised are, therefore, improper objects of a petition for certiorari.

In any event, the Court of Appeals did not commit grave abuse of discretion by dismissing petitioners' appeal for failure to timely file their appellant's brief.

Microsoft provides the standard for grave abuse of discretion as an abuse that is "so patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or act in contemplation of law."³⁹ In this case, the Court of Appeals dismissed the appeal because an appeal is a statutory privilege that may be lost by failure to comply with the relevant procedural rules.⁴⁰ While courts may relax the rules in exceptional circumstances, petitioners failed to forward any valid grounds for invoking these exceptions. In *Malixi v. Baltazar*,⁴¹ this Court discussed the grounds for relaxing procedural rules:

Circumstances that may merit the relaxation of procedural rules are enumerated in *Barnes v. Hon. Quijano Padilla*, citing *Sanchez v. Court of Appeals*:

In the *Sanchez* case, the Court restated the range of reasons which may provide justification for a court to resist a strict adherence to procedure, enumerating the elements for an appeal to be given due course by a suspension of procedural rules, such as: (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.⁴² (Citations omitted)

Petitioners neither invoked these grounds nor discussed the merits of their case so as to warrant their claim of being denied substantial justice.

³⁹ *Microsoft Corporation v. Best Deal Computer Center Corporation*, 438 Phil. 408, 414 (2002) [Per J. Bellosillo, Second Division] citing *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, 389 Phil. 644 (2000) [Per J. De Leon, Jr., Second Division].

⁴⁰ *Rollo*, p. 16.

⁴¹ G.R. No. 208224, November 22, 2017, 846 SCRA 244 [Per J. Leonen, Third Division].

⁴² *Id.* at 272.

Likewise, the medical certificates they earlier submitted show that the dates when petitioner Victorino supposedly suffered from debilitating illnesses did not even coincide with the period for filing the appellant's brief. Petitioners received the Notice to File Brief on May 28, 2015 and had until July 12, 2015 to comply. However, petitioner Victorino was admitted to the Medical Center of Digos Cooperative only on July 17, 2015, five (5) days after their deadline had lapsed.

Further, the Petition does not indicate when petitioners found out about Atty. Watin's suspension, or when the suspension actually started. These dates would have been relevant to the Court of Appeals' determination of whether petitioners had enough time to look for another counsel, or to inform the Court of Appeals of their counsel's suspension.

Petitioners' reasons are, therefore, unmeritorious in view of this Court's pronouncement in *Moneytrend Lending Corporation v. Court of Appeals*:⁴³

It may be that mere lapse of the period to file an appellant's brief does not automatically result in the dismissal of the appeal and loss of jurisdiction by the appellate court. It ought to be stressed, however, *the relaxation of the rules on pleadings and practice to relieve a party-litigant of an injustice must be for most persuasive reasons*. And in case of delay, the lapse must be for a reasonable period.⁴⁴ (Emphasis supplied, citations omitted)

This Court discussed the nature of an appeal as a procedural remedy in *Spouses Ortiz v. Court of Appeals*:⁴⁵

Consequently, the [petitioners] should bear in mind that the right to appeal is not a natural right or a part of due process; it is merely a statutory priv[i]lege, and may be exercised only in the manner and in accordance with the provisions of 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.⁴⁶ (Citations omitted)

WHEREFORE, the Petition for Certiorari is **DISMISSED**, there being no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Court of Appeals. The Court of Appeals' September 3, 2015 Resolution declaring petitioners Victorino Lobo and Angelina Lobo's appeal abandoned is **AFFIRMED**. The Court of Appeals'

⁴³ 518 Phil. 134 (2006) [Per J. Garcia, Second Division].

⁴⁴ Id. at 143.

⁴⁵ 360 Phil. 95 (1998) [Per J. Quisumbing, First Division].

⁴⁶ Id. at 100-101.

May 13, 2016 Resolution denying their Motion for Reconsideration is likewise **AFFIRMED**.

SO ORDERED." (Inting, J., on official leave.)

Very truly yours,

Misael DC Batt
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Deputy Division Clerk of Court *for 10/17/20*

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