

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**TRANS INTERNATIONAL,  
*Petitioner,***

***-versus-***

**G.R. No. 128421  
January 26, 1998**

**THE COURT OF APPEALS; NATIONAL  
POWER CORPORATION; PERLA A.  
SEGOVIA and GILBERTO PASTORAL,  
*Respondents.***

X-----X

**D E C I S I O N**

**RESOLUTION dated October 12, 1998**

**MARTINEZ, J.:**

Challenged in this Petition for Review by way of *Certiorari* is the Decision<sup>[1]</sup> of the Court of Appeals which set aside the order of the trial court and directed the latter to give due course to the notice of

appeal of respondents. The motion for reconsideration filed by petitioner was likewise denied on January 31, 1997.<sup>[2]</sup>

The facts which gave rise to the instant petition are as follows:

Petitioner Trans International filed a complaint for damages against respondent National Power Corporation (NAPOCOR for brevity) and two of its principal officers arising from the rescission of a contract for the supply and delivery of woodpoles before the Regional Trial Court of Quezon City which was docketed as Civil Case No. Q-94-20960.

On May 22, 1996, the trial court rendered a decision sustaining the claim of petitioner corporation.<sup>[3]</sup> It awarded to petitioner the following amounts: \$1,325,703.65 representing the amount of profit which it could have enjoyed had the contract been observed; \$10,000.00 for expenses incurred by petitioner's local agent in the preparation and execution of the contract; P932,102.53 representing the combined premium paid by petitioner for the bidder's bond, performance bond and surety bond; and P200,000.00 as attorney's fees.

A copy of the aforesaid decision was received by respondents on June 6, 1996. On June 19, 1996, respondents filed their motion for reconsideration alleging in the main that certain facts were overlooked, ignored or wrongly appreciated by the trial court.<sup>[4]</sup> An opposition to said motion was filed by petitioner on July 11, 1996.<sup>[5]</sup> On August 2, 1996, the trial court issued an order denying the motion for reconsideration.<sup>[6]</sup> A copy of the aforesaid order was personally delivered to respondent NAPOCOR'S office on August 23, 1996 (Friday) and was received by Ronald T. Lapuz, a clerk assigned at the office of the VP-General Counsel.

Considering that it was almost 5:00 p.m., Lapuz placed the said order inside the drawer of his table. However, on August 26 and 27, 1996 (Monday and Tuesday, respectively) said clerk was unable to report for work due to an illness he suffered as a result of the extraction of his three front teeth. Said order was retrieved from his drawer only in the afternoon of the 27<sup>th</sup> and was immediately forwarded to the secretary of Atty. Wilfredo J. Collado, counsel for the respondents. At

3:10 p.m. that same day, respondents thru counsel filed their notice of appeal.<sup>[7]</sup>

On August 29, 1996, petitioner filed a motion for execution before the trial court contending that its decision dated May 22, 1996 had become final and executory since respondents failed to make a timely appeal and praying for the issuance of an order granting the writ of execution.<sup>[8]</sup> On the other hand, respondents filed an opposition thereto alleging therein that the cause of their failure to make a timely appeal was due to unforeseeable oversight and accident on the part of their employee who was unable to report for work because of illness.<sup>[9]</sup> On September 9, 1996 petitioner filed a reply to said opposition.<sup>[10]</sup> On September 11, 1996 respondents' counsel filed a supplemental opposition to the motion for execution attaching thereto the affidavit of Lapuz.<sup>[11]</sup> Finally, on September 18, 1996, respondents filed their rejoinder to said reply.<sup>[12]</sup>

On September 13, 1996, the trial court issued an order denying respondents notice of appeal and granting the motion for execution filed by petitioner, the dispositive portion of which reads, to wit:

“WHEREFORE, the foregoing circumstances having been considered, this Court is constrained to DENY defendants’ NOTICE OF APPEAL for having been filed out of time.

“Consequently, plaintiff’s motion for execution of the Court’s decision dated May 22, 1996 is hereby GRANTED, let a Writ of Execution be issued the same to be enforced by deputy sheriff Efren V. Cachero.

SO ORDERED.”<sup>[13]</sup>

On September 20, 1996, respondents filed a petition for certiorari before the Court of Appeals questioning the validity of the issuance of the aforesaid order on the ground that the denial of their notice of appeal was on the basis of a mere technicality and that the writ of execution should not have been issued since there are strong considerations which militate the strict application of the rules on procedure.<sup>[14]</sup> Petitioner corporation filed its comment to the petition dated September 25, 1996 claiming that the event which happened in

respondents' office does not amount to an honest mistake nor an unavoidable accident that would legally excuse their neglect.<sup>[15]</sup>

On October 21, 1996, the respondent Court rendered its decision, the dispositive portion of which reads, to wit:

“WHEREFORE, the petition is GRANTED DUE COURSE. The assailed order dated September 13, 1996 is ANNULLED and SET ASIDE. Respondent court is ordered to give due course to petitioners' appeal.

SO ORDERED.”

The motion for reconsideration filed by petitioner corporation was denied for lack of merit, hence, a recourse to this court on a petition for review by way of a petition for certiorari.<sup>[16]</sup>

Petitioner avers that the respondent court committed grave abuse of discretion amounting to lack or excess in jurisdiction when it gave due course to the petition of respondents considering their admission that the notice of appeal was belatedly filed before the trial court. Since the ground submitted by respondents for their late filing does not constitute excusable neglect then the respondent court allegedly grievously erred in admitting the same. Furthermore, petitioner argues that appeal is not a natural right and is merely a statutory privilege which must be exercised within and in the manner provided by law. Failure to do so is fatal and the right of appeal would be lost.

Respondents, while admitting that the appeal was filed out of time, maintain that the rules on appeal should not be construed in such a manner as to give way to its rigid application without even considering the circumstances which led to the belated filing of the notice of appeal. In fact, it is argued, this Court has on several occasions, recognized the need to relax the stringent rules on appeal on reasons of equity and substantial justice.

We find for the respondent. The general rule holds that the appellate jurisdiction of the courts is conferred by law, and must be exercised in the manner and in accordance with the provisions thereof and such jurisdiction is acquired by the appellate court over the subject matter

and parties by the perfection of the appeal.<sup>[17]</sup> 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.<sup>[18]</sup> In fact, it has been long recognized that strict compliance with the Rules of Court is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.<sup>[19]</sup>

Nonetheless, this court has on several occasions relaxed this strict requirement. In the case of Toledo, et al. vs. Intermediate Appellate Court, et al.,<sup>[20]</sup> we allowed the filing of an appeal where a stringent application of the rules would have denied it, but only when to do so would serve the demands of substantial justice and in the exercise of our equity jurisdiction. Thus, for a party to seek exception for its failure to comply strictly with the statutory requirements for perfecting its appeal, strong compelling reasons such as serving the ends of justice and preventing a grave miscarriage thereof must be shown, in order to warrant the Court's suspension of the rules.<sup>[21]</sup> Indeed, the court is confronted with the need to balance stringent application of technical rules *vis-a-vis* strong policy considerations of substantial significance to relax said rules based on equity and justice.

The case at bench squarely meets the requisites postulated by the aforequoted rule. If respondents' right to appeal would be curtailed by the mere expediency of holding that they had belatedly filed their notice of appeal, then this Court as the final arbiter of justice would be deserting its avowed objective, that is to dispense justice based on the merits of the case and not on a mere technicality. Needless to say, the peculiar circumstances attendant in this case strongly demands a review of the decision of the trial court. As aptly observed by the respondent court, to wit:

“In this case, the one-day delay in filing the notice of appeal was due to an unforeseen illness of the receiving clerk Ronald Lapuz in the office of the General Counsel of petitioner NAPOCOR. As stated in the affidavit of said clerk, which was presented to the trial court, he received a copy of the Order of respondent judge dated August 2, 1996 at 4:54 p.m., Friday, August 23, 1996; since it was already almost 5:00 p.m., he placed the said order inside the drawer of his table together with some other documents, intending to deliver it to the handling lawyer, Atty.

Collado, who had given him instructions to deliver immediately to his secretary any order on the case; he was unable to report for work the following Monday because of severe pain in the front jaw as a result of the extraction of three front teeth, and was absent for two days, August 26 and 27, when the Order was retrieved on August 27<sup>th</sup>, the notice of appeal was promptly filed in the afternoon, at 3:10 p.m., of the same day.

“The delay was properly explained and sufficiently justified; considerations of substantial justice and equity strongly argue against a rigid enforcement of the technical rules of procedure, considering not only that the delay was only for one day, and the petitioners have pleaded an unforeseeable oversight and illness on the part of the receiving clerk, as an excuse. More important, the decision sought to be appealed from awarded an enormous sum in the amount of P37,554,414.99, by way of damages arising from the rescission of the contract with private respondents, and legal and factual bases for the awards, and the 12% interest thereon, are being questioned, on the ground among others, that the amount awarded for unrealized profits (\$1,325,703.68) was bigger than the amount prayed for in the complaint (\$788,700.00) [See Motion for Reconsideration, Annex “C” of Petition], to insist that the one-day delay in filing the appeal despite the plausible reason adduced therefor is a “fatal mistake” due alone to the negligence of counsel is to insist on a rigid application of the rules, which as repeatedly enunciated by the Supreme court, should help secure, not override substantial justice.<sup>[22]</sup>

Verily, the respondent court’s pronouncement cannot be more emphatic in view of the instances wherein we allowed the filing of an appeal in certain cases where a narrow and stringent application of the rules would have denied it. Indeed, the allowance thereof would fully serve the demands of substantial justice in the exercise of the Court’s equity jurisdiction. Thus, in *Castro vs. Court of Appeals*,<sup>[23]</sup> and reiterated in the case of *Velasco vs. Gayapa, Jr.*,<sup>[24]</sup> the Court stressed the importance and objective of appeal, to wit:

“An appeal is an essential part of our judicial system. We have advised the courts to proceed with caution so as not to deprive a

party of the right to appeal (National Waterworks and Sewerage Authority vs. Municipality of Libmanan, 97 SCRA 138) and instructed that every party litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities (A-One Feeds, Inc. vs. Court of Appeals, 100 SCRA 590).

“The rules of procedure are not to be applied in a very rigid and technical sense. The rules of procedure are used only to help secure, not override substantial justice. (Gregorio vs. Court of Appeals, 72 SCRA 120) Therefore, we ruled in Republic vs. Court of Appeals (83 SCRA 453) that a six-day delay in the perfection of appeal does not warrant a dismissal. And again in Ramos vs. Bagasao, (96 SCRA 395), this Court held that the delay of four (4) days in filing the notice of appeal and a motion for extension of time to file a record on appeal can be excused on the basis of equity.”

The emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.<sup>[25]</sup>

Time and again, we have consistently held that rules must not be applied rigidly so as not to override substantial justice.<sup>[26]</sup> In *Segunda Santiago and Valerio Flores vs. Pablo Valenzuela and Moises Pardo*,<sup>[27]</sup> the court ruled that:

“The court may extend the time or allow the perfection of the appeal beyond the prescribed period if it be satisfactorily shown that there is justifiable reason, such as fraud, accident, mistake or excusable negligence, or similar supervening casualty, without fault of the appellant, which the court may deem sufficient reason for relieving him from the consequences of his failure to comply strictly with the law. In such case the appeal is deemed taken and perfected on time, and the appellate court acquires appellate jurisdiction.”

In essence, the court is convinced that the test for substantial justice and equity considerations have been adequately met by respondents

to overcome the one day delay in the perfection of their appeal. Considering the factual and legal milieu obtaining in the case at bench, the petition must be denied.

**WHEREFORE, IN VIEW OF THE FOREGOING**, finding no reversible error in the decision of the Court of Appeals, the petition is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**Regalado, Puno and Mendoza, JJ., concur.**

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- [1] Penned by the Honorable Associate Justice Minerva Santiago-Reyes, Chairman, Eleventh Division, Court of Appeals and concurred by Honorable Justices Ramon U. Mabutas, Jr., and Santiago J. Valdez, Jr.
- [2] Order, pp. 40-42, Rollo.
- [3] Decision, pp. 43-71, *ibid.*
- [4] Annex “D”, pp. 72-82, *ibid.*
- [5] Annex “E”, pp. 83-86, *ibid.*
- [6] Order, pp. 87-88, *ibid.*
- [7] p. 126, Rollo.
- [8] pp. 89-90, *ibid.*
- [9] pp. 90-94, *ibid.*
- [10] pp. 100-103, *ibid.*
- [11] pp. 95-99, *ibid.*
- [12] pp. 104-107, *ibid.*
- [13] Order, pp. 108-110, *ibid.*
- [14] Petition, pp. 111-127, *ibid.*
- [15] Comment, pp. 126-132, *ibid.*
- [16] Petition, pp. 3-27, rollo.
- [17] *Santiago and Flores vs. Valenzuela and Pardo*, L-670, April 30, 1947, 78 Phil 397, *University of the Philippines vs. CSC*, G.R. No. 108740 December 1, 1993, 228 SCRA 537.
- [18] *Villanueva vs. Court of Appeals*, G.R. No. 99357, January 27, 1992, 205 SCRA 537.
- [19] *Alvero vs. De la Rosa, etc., et al.*, 76 Phil. 428 (1946).
- [20] L-65211, July 31, 1987, 152 SCRA 579.
- [21] *Ronquillo vs. Marasigan*, L-11621, May 31, 1962, 5 SCRA 304; *Workmen’s Insurance Co., Inc. vs. Augusto, et al.*, L-31060, July 29, 1971, 40 SCRA 123.
- [22] Decision of the Court of Appeals, *supra*.
- [23] No. L-474101, July 29, 1983, 123 SCRA 782.
- [24] No. L-58651, July 30, 1987, 152 SCRA 440.

- [25] Rodrigues vs. Court of Appeals, No. 37522, November 28, 1975, 68 SCRA 262.
- [26] A-One Feeds, Inc. vs. Court of Appeals, No. L-35560, October 30, 1980, 100 SCRA 590; Gregorio vs. Court of Appeals, No. L-43511, July 28, 1976, 72 SCRA 120.
- [27] Supra.

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