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FIRST DIVISION

[G.R. No. 142649, September 13, 2001]

ANTONIO C. SAN LUIS, PETITIONER, VS. COURT OF APPEALS, HON. NELSON BAYOT, AS PRESIDING JUDGE, RTC, PASAY CITY, BRANCH 118, AND T.N. LAL & CO., LTD., RESPONDENTS.

D E C I S I O N

DAVIDE, JR., C.J.:

Challenged in the petition for review in this case is the Resolution[1] of 24 January 2000 of the Court of Appeals in CA G.R. SP No. 56549, which dismissed petitioner's special civil action for *certiorari* for having been filed out of time, as well as its Resolution of 13 March 2000, denying the motion for reconsideration of the former.

The record discloses that private respondent T.N. Lal & Co., Ltd. filed a petition for indirect contempt against herein petitioner, Antonio C. San Luis, Administrator of the Light Rail Transit Authority (LRTA), before the Regional Trial Court of Pasay City. The petition was docketed as Civil Case No. 99-0480 and raffled to Branch 118 of said court. The action arose from the alleged failure or refusal of petitioner to comply with the order of 7 April 1999 of Hon. Ernesto A. Reyes, presiding judge of Branch 111 of said court in Civil Case No. 97-0423. The order directed the LRTA to immediately restore the power supply of private respondent's sound system in all places, sites and locations in its area of responsibility within 24 hours from receipt of the same.[2]

Petitioner filed a motion to dismiss the petition for indirect contempt on the ground that it states no cause of action and private respondent, as petitioner therein, was guilty of forum-shopping.[3]

On 15 July 1999, public respondent Hon. Nelson Bayot, presiding judge of Branch 118, issued an order, a copy of which was received by petitioner on 9 August 1999, directing that the petition for indirect contempt, Civil Case No. 99-0480, be transferred to Branch 111 for disposition and appropriate action, since it was that branch which issued the order of 7 April 1999 and against which the contemptuous act was committed; hence, Branch 111 was in a better position to determine whether or not the order of 7 April 1999 had been violated.[4]

On 18 August 1999, petitioner moved to reconsider the 15 July 1999 order of Judge Bayot. The latter issued an order on 22 October 1999, stating that the records of the case had already been transferred to Branch 111 and that he believed the assailed order was correct and proper. Accordingly, he would not act anymore on the motion for reconsideration.[5] A copy of said order was received by petitioner on 8 November 1999.

On 7 January 2000, petitioner filed with the Court of Appeals a petition for *certiorari* and *mandamus* under Rule 65 of the Rules of Court. In the petition, which was docketed as CA-G.R. SP No. 56549, petitioner sought to annul Judge Bayot's orders of 15 July 1999 and 22 October 1999 on the ground that the latter acted without or in excess of jurisdiction and/or with grave abuse of discretion when he did not act on petitioner's motion to dismiss and motion for reconsideration and, instead, transferred the case to Branch 111 of the court below.[6]

In its Resolution of 24 January 2000, the Court of Appeals dismissed the petition for having been filed out of time.[7] Forthwith, petitioner filed a "Motion for Reconsideration" as well as a "Motion to Admit Petition for *Certiorari* and *Mandamus* and to Relax Strict Rules on Procedure," both of which the Court of Appeals denied in its Resolution of 13 March 2000.[8]

Petitioner is now before us, asking for a liberal application of the procedural rules. He raises the following issues for resolution:

> 1. WHETHER OR NOT THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DENYING PETITIONER'S PETITION FOR CERTIORARI AND MANDAMUS AND CONSEQUENTLY DISMISSED THE SAME FOR ITS FAILURE TO FILE THE SAID PETITION ON TIME, OVERLOOKING THE FACT THAT THE FAILURE TO FILE THE SAME WAS DUE TO AN HONEST MISTAKE AND HUMAN ERROR IN COMPUTING THE PERIOD FOR FILING THE INSTANT PETITION BY HANDLING COUNSEL.
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> 2. WHETHER OR NOT THE INSTANT CASE IS WARRANTED SO THAT PETITIONER'S PETITION FOR CERTIORARI AND MANDAMUS WITH THE COURT OF APPEALS COULD BE REINSTATED AND PROCEED IN DUE COURSE IN ORDER NOT TO DEPRIVE PETITIONER OF ITS [SIC] RIGHT TO PROSECUTE HIS CASE BEFORE THE COURT OF APPEALS SO THAT IT CAN BE DECIDED ON THE MERITS AND NOT ON ITS TECHNICALITY ASPECT.[9]

On the procedural aspect, we rule in favor of petitioner.

In finding that the petition for *certiorari* and *mandamus* was filed out of time, the Court of Appeals applied Section 4, Rule 65 of the 1997 Rules of Civil Procedure, as amended by the Resolution of 21 July 1998, which reads:

> Sec. 4. *Where petition filed*. — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise

> provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.
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> If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case exceeding fifteen (15) days.

The Court of Appeals reckoned the counting of the 60-day period from petitioner's receipt on 9 August 1999 of a copy of the assailed 15 July 1999 order, considered the interruption of the running of the period by the filing on 18 August 1999 of the "Motion for Reconsideration," and held that the remaining period resumed to run on 8 November 1999, the date petitioner received the 22 October 1999 order. Accordingly, petitioner should have filed the petition on or before 29 December 1999. He filed the petition only on 7 January 2000, or nine days after the expiration of the period.

It must be pointed out, however, that Section 4, Rule 65 of the 1997 Rules of Civil Procedure was subsequently amended in the Court's Resolution in A.M. No. 00-2-03-SC, which took effect on 1 September 2000. As amended, said section reads as follows:

> Sec. 4. *When and where petition filed*. — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.
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> The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.
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> No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.

Under this amendment, the 60-day period within which to file the petition starts to run from receipt of notice of the denial of the motion for reconsideration, if one is filed. In our decision in *Systems Factors Corporation and Modesto Dean vs. NLRC, et al.*,[10] reiterated in *Unity Fishing Development Corp. and/or Antonio Dee vs. Court of Appeals, et al.*,"[11] the new period was made applicable to pending cases,