

## THIRD DIVISION

[ G.R. No. 193034, July 20, 2015 ]

**RODGING REYES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES  
AND SALUD M. GEGATO, RESPONDENTS.**

### DECISION

**PERALTA, J.:**

For this Court's resolution is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated August 17, 2010, of petitioner Rodging Reyes assailing the Resolution<sup>[1]</sup> dated November 23, 2009 of the Court of Appeals in CA-G.R. CR No. 00421-MIN.

The facts are the following:

Petitioner, in a complaint filed by private respondent Salud M. Gegato, was charged with Grave Threats before the Municipal Circuit Trial Court (*MCTC*) of Bayugan and Sibagat, Bayugan, Agusan del Sur, which reads as follows:

That on or about the 16<sup>th</sup> day of October 2001, at about 5:10 o'clock in the afternoon, more or less, in the premises and vicinity, particularly at Avon Store, situated at Atis Street, Poblacion, in the municipality of Bayugan, province of Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named Accused, with deliberate intent, moved by personal resentment and hatred, did then and there willfully, unlawfully and feloniously threatened the life of Mrs. Salud Gegato, speak and utter by telephone the following threatening words, to wit; "SALUD, UNDANGA ANG IMONG PAGSIGI UG TSISMIS SA AKONG ASAWA, KAY MAULAWAN ANG AKONG ASAWA. WARNINGAN TAKA AYAW PANG HILABOT SA AMONG KINABUHI KAY BASIN PATYON TAKA," meaning (Salud, stop your rumor against my wife because she will be embarrassed. I'm warning you, don't mind our lives for I might kill you), which acts cast fear and danger upon the life of the victim Salud Gegato, to the damage and prejudice consisting of actual, moral and compensatory damages.

CONTRARY TO LAW.

Bayugan, Agusan del Sur, Philippines, October 23, 2001.<sup>[2]</sup>

Before arraignment, petitioner filed a Motion to Quash based on the ground of jurisdiction and that the crime is not Grave Threats under Article 282 of the Revised Penal Code, but Other Light Threats under Article 285, paragraph 2 of the same Code.

The MCTC, in its Order dated June 3, 2002, denied the motion. Petitioner's motion for reconsideration was also denied by the same court in an Order dated July 25, 2002.

On September 13, 2002, petitioner filed a Motion to Inhibit the presiding judge on the ground that private respondent is the Court Interpreter of the same court, but it was denied in the court's Order dated September 16, 2002 based on the Order of this Court dated July 3, 2002 regarding the same motion for inhibition of the same presiding judge filed earlier by the petitioner with this Court. Based on that Order of this Court, the basis of the inhibition does not fall within the absolute disqualification rule under Section 1, Rule 137 of the Rules of Court, and neither does it appear to be a just or valid reason under paragraph 2 thereof. This Court also ordered the presiding judge to set aside the Order of Inhibition and directed the same presiding judge to hear and decide the case with dispatch applying the Rules on Summary Procedure.<sup>[3]</sup>

The MCTC, in a Decision<sup>[4]</sup> dated August 10, 2005, found petitioner guilty beyond reasonable doubt of the crime charged. The dispositive portion of the Decision reads:

In view of the foregoing, this Court finds the Accused GUILTY beyond reasonable doubt of the crime of GRAVE THREATS under Paragraph 1 (2) imposing condition, without the offender attaining his purpose, and is hereby sentenced to suffer imprisonment, considering one (1) mitigating circumstance, the medium period of arresto mayor or a period of two (2) months and one (1) day to four (4) months.

In addition, he is ordered to pay Private Complainant [the] following civil liabilities.

a. The amount of ONE HUNDRED THOUSAND (P100,000.00) Pesos as moral damages.

b. the amount of TWENTY THOUSAND (P20,000.00) Pesos for litigation expenses and for Attorney's Fees as it is clear from the trials that complainant was assisted by a Private Prosecutor for a fee.

SO ORDERED.

On appeal, the Regional Trial Court, in its Decision<sup>[5]</sup> dated April 2, 2007, denied petitioner's appeal but found petitioner guilty beyond reasonable doubt of the crime of Other Light Threats under Article 285, par. 2 of the Revised Penal Code, instead of Grave Threats as originally adjudged by the MCTC. The RTC ruled that:

WHEREFORE, accused is hereby sentenced to suffer imprisonment of 10 days of arresto menor and the moral damages of P100,000.00 be reduced to P50,000.00, attorney's fee of P20,000.00 stands.

The original decision is hereby modified.

If accused does not file an appeal within the reglementary period, let the

entire records be returned back to the Court of origin for proper disposition thereof.<sup>[6]</sup>

Petitioner filed a Motion for Reconsideration, and in its Amended Decision<sup>[7]</sup> dated May 16, 2007, the RTC denied the motion and modified its original decision reducing the amount of moral damages to P10,000.00 and the attorney's fees to P10,000.00.

Thus, petitioner filed with the Court of Appeals a Motion for Extension of Time to File a Petition for Review. However, instead of filing a petition for review within the 15-day period allowed by the CA, petitioner filed a second Motion for Extension of Time asking for another 15 days within which to file his petition for review. After which, petitioner filed his petition.

Thereafter, the CA, in its Resolution<sup>[8]</sup> dated August 2, 2007, dismissed the petition. The Resolution partly reads, as follows:

Petitioner's first Motion for Extension of Time to File Petition for Review asking for fifteen (15) days from June 6, 2007 or until June 21, 2007 is DENIED for failure to pay the full amount of the docket fees pursuant to Sec. 1, Rule 42 of the Rules of Court. His second motion for extension is likewise DENIED as no further extension may be granted except for most compelling reason.

The petition subsequently filed is, however, NOTED but DISMISSED on the following grounds:

1. Filed beyond the reglementary period;
2. Failure of petitioner to pay complete docket fees as prescribed by law. It is deficient by P3,530.00;
3. Failure of petitioner to indicate a complete statement of material dates as required under the Rules. Petitioner did not mention in the body of the petition when he received the RTC's Order dated May 16, 2007 denying his Motion for Reconsideration;
4. Failure of petitioner to attach pertinent documents material in the petition. No copy of the May 16, 2007 Order denying his Motion for Reconsideration was attached to the petition.

On August 14, 2007, petitioner filed a Motion for Reconsideration, but it was denied by the CA in its Resolution dated October 17, 2008 for failure of the petitioner to furnish copies to the Solicitor General and the private respondent.

Thus, petitioner filed a Second Motion for Reconsideration. The CA, in its Resolution dated November 23, 2009, denied the said motion, the dispositive portion of which, reads:

ACCORDINGLY, the Court RESOLVES to:

1. DISPENSE with the Offices of the Solicitor General's comment on the petitioner's second Motion for Reconsideration dated 13 November 2008;

2. GRANT the petitioner's second Motion for Reconsideration dated 13 November 2008, and RECONSIDER and SET ASIDE the Court's 17 October 2008 Resolution dismissing the petitioner's first Motion for Reconsideration dated 13 August 2007; and

3. DENY the petitioner's first Motion for Reconsideration dated 13 August 2007; and

4. DISMISS with finality the instant petition for review.

SO ORDERED.<sup>[9]</sup>

On December 28, 2009, petitioner filed a third Motion for Reconsideration, but was resolved by the CA on June 24, 2010, as follows:

The Court RESOLVES to merely NOTE WITHOUT ACTION the petitioner's third Motion for Reconsideration, in view of Our 23 November 2009 Resolution dismissing this petition with finality.<sup>[10]</sup>

Hence, the present petition.

Petitioner insists that the CA erred in favoring procedural technicalities over his constitutional right to due process.

It must be remembered that petitioner filed three (3) successive Motions for Reconsideration before the CA on August 14, 2007, November 13, 2008, and December 28, 2009.

In its Resolution dated November 23, 2009, the CA granted the petitioner's second Motion for Reconsideration setting aside its previous Resolution dated October 17, 2008 and dismissing the first Motion for Reconsideration dated August 13, 2007. The CA, in the same Resolution, discussed the other grounds for the dismissal of the petition as contained in its first Resolution dated August 2, 2007. Thus, the CA not only denied the first Motion for Reconsideration dated August 13, 2007 but also dismissed the Petition for Review filed earlier.

However, as keenly pointed out by the OSG in its Comment<sup>[11]</sup> dated January 11, 2011, instead of elevating the present case before this Court within the period provided under Rule 45 of the Rules of Court, petitioner opted to file a third motion for reconsideration, which was filed without leave of court and notwithstanding the express declaration of the CA that petitioner's first Motion for Reconsideration dated August 13, 2007 was denied and the case already dismissed with finality.<sup>[12]</sup>

At the outset, the Court emphasizes that second and subsequent motions for reconsideration are, as a general rule, prohibited. Section 2, Rule 52 of the Rules of Court provides that "no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained." The rule rests on the basic tenet of immutability of judgments. "At some point, a decision becomes final and executory and, consequently, all litigations must come to an end."<sup>[13]</sup>

The general rule, however, against second and subsequent motions for

reconsideration admits of settled exceptions. In *Neypes v. Court of Appeals*,<sup>[14]</sup> the Court declared:

In setting aside technical infirmities and thereby giving due course to tardy appeals, we have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules. In those situations where technicalities were dispensed with, our decisions were not meant to undermine the force and effectivity of the periods set by law. But we hasten to add that in those rare cases where procedural rules were not stringently applied, there always existed a clear need to prevent the commission of a grave injustice. 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.

[15]

The circumstances surrounding this case do not warrant the relaxation of the rules. Petitioner failed to present compelling justification or reason to relax the rules of procedure. The CA ruled that, "[t]he petitioner's attribution to inadvertence (as the cause) of his failure to indicate a complete statement of material dates and to attach pertinent documents material to the petition is not compelling or reasonable enough for the Court to disregard the mandate in Rule 42, Sec. 3 of the Rules, x x x."<sup>[16]</sup>

It must be noted that the CA has acted favorably upon petitioner's second motion for reconsideration. However, that does not mean that petitioner is already right in arguing that the reglementary period for the filing of the present petition before this Court should be reckoned from his receipt of the denial of his third Motion for Reconsideration. As correctly observed by the OSG, "[t]o condone such a procedurally irregular practice would lead into an absurd situation where petitioner would, in effect, be rewarded for unilaterally suspending the running of the reglementary period to appeal by filing prohibited pleadings."<sup>[17]</sup> This is in consonance with this Court's ruling in *Securities and Exchange Commission v. PICOP Resources, Inc.*,<sup>[18]</sup> thus:

The same issue was the focal point in *Obando v. Court of Appeals*.<sup>[19]</sup> In *Obando*, this Court maintained the prohibitory nature of a second motion for reconsideration and its gnawing implications in the appeal process. Said the court:

x x x [T]he Rules of Court are explicit that a second motion for reconsideration shall not be allowed. In this case, petitioners filed not only a second motion for reconsideration, but a third motion for reconsideration as well. **Since the period to appeal began to run from the denial of the first motion for reconsideration**, the notice of appeal which petitioners filed six months after the denial of their first motion for reconsideration was correctly denied for having been filed late. (Emphasis supplied)

Since the second motion for reconsideration was not allowed, this Court ruled that it did not toll the running of the period to appeal. More so, would a third motion for reconsideration.