

## SECOND DIVISION

[ G.R. No. 193271, October 05, 2015 ]

**LOLITA M. SANTIAGO, PETITIONER, VS. SILVESTRE H. BELLO IV,  
RESPONDENT.**

### DECISION

**BRION, J.:\***

The petition for review on certiorari before us seeks to reverse the January 26, 2010 and August 9, 2010 resolutions<sup>[1]</sup> of the Court of Appeals (CA) in **CA-G.R. SP No. 111852**. The CA dismissed petitioner Lolita M. Santiago's (*Santiago*) petition for certiorari against the Department of Justice (*DOJ*) Chief State Prosecutor's resolution finding probable cause to prosecute her for estafa and violation of *Batas Pambansa Blg. 22* (B.P. 22).

#### The Antecedents

On January 30, 2002, Santiago issued two Metrobank checks<sup>[2]</sup> in favor of respondent Silvestre H. Bello IV (**Bello**): (1) Check No. 0120289 dated January 30, 2002, for P100,000.00; and (2) Check No. 0120290 postdated March 30, 2002, for P280,000.00.

On March 20, 2002, Bello presented the first check to Allied Bank in Fairview, Quezon City. The check was dishonored because the account was already closed. Bello also presented the second check upon its maturity; Allied Bank dishonored the check for the same reason.

On January 19, 2004, after giving a notice of dishonor and a demand for payment, Bello filed a complaint-affidavit against Santiago for estafa and for violation of B.P. 22.

On February 19, 2004, Santiago filed her counter-affidavit and claimed that the checks were issued as evidence of her preexisting loan from Bello. She claimed that the checks were not issued for value or as payment of the loan and that they had agreed beforehand that the checks would not be funded but would be retrieved or replaced with cash.

On May 18, 2004, Assistant City Prosecutor (ACP) Eduardo Ramon R. Reyes found probable cause to charge Santiago with two counts of B.P. 22 violations after concluding the preliminary investigation. ACP Reyes reasoned that the gravamen of the offense is the mere act of issuing a worthless check or a check that is dishonored upon presentment for payment.

However, ACP Reyes dismissed the complaint for estafa because the checks were issued as payment for a preexisting obligation. He explained that Bello failed to

present evidence that the issuance of the bounced checks had induced him to part with his money.

On July 12, 2004, Santiago moved for reconsideration of ACP Reyes' resolution that there was probable cause to indict her for violating B.P. 22.

On September 27, 2004, 2nd Assistant City Prosecutor Alfredo P. Agcaoili denied her motion for reconsideration because: (1) ACP Reyes had adequately and intelligently passed upon the issues; and (2) DOJ had already lost jurisdiction over the issue because an information had already been filed in court.

On October 25, 2004, Santiago elevated the issue to the Office of the Chief State Prosecutor *via* a petition for review.

On March 17, 2008, Undersecretary Ernesto L. Pineda dismissed outright the petition for review for failure to show any reversible errors in the assailed resolutions.

On April 8, 2008, Santiago moved for the reconsideration of the Undersecretary's ruling. She insisted Bello was the "actual and potential wrongdoer" who manipulated the checks to deliberately defraud her.

On October 13, 2009, Chief State Prosecutor (CSP) Jovencito R. Zuño issued the assailed resolution which reads:

This resolves the motion for reconsideration of our resolution promulgated on March 14, 2008, dismissing the petition for review of the resolution of the City Prosecutor of Quezon City in the above-captioned case finding probable cause against respondent-appellant Lolita Santiago for estafa and violation of B.P. Biz 22.

After a re-evaluation of the issues and the arguments raised in the motion for reconsideration we find no cogent reason to reconsider our resolution.

**WHEREFORE**, the motion for reconsideration is hereby DENIED with finality.

**SO ORDERED**, (emphasis supplied)

On December 14, 2009, Santiago filed a -petition for certiorari and prohibition before the CA against CSP Zuño's resolution. Santiago argued that CSP Zuño committed grave abuse of discretion in resolving that there was probable cause to indict her for estafa because: (1) he did not conduct a preliminary investigation; and (2) she only appealed the finding of probable cause to prosecute her for violating B.P. 22, not the dismissal of the estafa complaint. The petition was docketed as **CA-G.R. SP No. 111852.**

On January 26, 2010, the CA dismissed the petition because: (1) the attached orders/resolutions were not certified true copies; (2) the petitioner failed to indicate

the material dates showing the timeliness of the petition; and (3) there was no explanation why the petition was not personally served on the respondents.

On February 2, 2010, Santiago moved for reconsideration. Her then counsel, Atty. Onofre Manalad, admitted that he received the CSP resolution on November 24, 2009. He explained that he forgot to include the material dates and the explanation in good faith because he had recently suffered a "mild stroke," causing him a temporary bout of forgetfulness. He also explained that he had attached his duplicate original copy of the resolution. He further appealed to the CA to take a more liberal approach in the interest of justice.

On August 9, 2010, the CA denied reconsideration. Citing *Limpot v. Court of Appeals*,<sup>[3]</sup> it emphasized: (1) that claims for substantial justice will not automatically result in an exemption from technical rules; and (2) that rules of procedure are intended to ensure the orderly administration of justice and the protection of substantial rights.

On August 27, 2010, Santiago filed the present petition for review on certiorari.

### **The Petition**

The petitioner argues: (1) that the dismissal of the complaint for estafa had already attained finality because it was not appealed to the Secretary of Justice; (2) that CSP Zuño had acted without authority and with grave abuse of discretion when he reopened the dismissed complaint for estafa and reversed the unappealed resolution of the City Prosecutor; and (3) that the CA had violated her right to the equal protection of law when it dismissed her petition for certiorari.

In his Comment dated February 10, 2012, the respondent maintains that: (1) the CA has the power to deny and dismiss a petition for non-compliance with the rules; and (2) Atty. Manalad's excuse of "mild stroke" is unsubstantiated. However, he believes that CSP Zuño inadvertently committed a glaring error in the August 9, 2010 resolution because the only subject of the petition for review was the finding of probable cause for violating B.P. 22.

### **Our Ruling**

This Court is confronted with the following issues: (1) whether or not the CA erred when it dismissed the petition for certiorari for noncompliance with procedural requirements; and (2) whether or not CSP Zuño committed grave abuse of discretion in his October 13, 2009 resolution.

We have ruled time and again that litigants should have the amplest opportunity for a proper and just disposition of their cause; they should be free, as much as possible, from the constraints of procedural technicalities.<sup>[4]</sup> However, it is an equally settled rule that, save for the most persuasive of reasons, strict compliance with procedural rules is required to facilitate the orderly administration of justice.<sup>[5]</sup>

Procedural rules are not to be belittled simply because their strict application would prejudice a party's substantive rights. Like all rules, they must be observed. They can only be relaxed for the most persuasive of reasons where a litigant's degree of

noncompliance with the rules is severely disproportionate to the injustice he is bound to suffer as a consequence.<sup>[6]</sup>

In the present case, the CA dismissed Santiago's petition for *certiorari* because: (1) the attached orders/resolutions were not certified true copies; (2) she failed to indicate the material dates showing the timeliness of her petition; and (3) there was no explanation on why the petition was not personally served.

On the first ground, Atty. Manalad explained that he did not secure a certified true copy of the order because he had attached his duplicate original copy of the resolution. Sections 1, 2, and 3 of Rule 65 require the petitioner to attach a certified true copy of the assailed judgment, order, or resolution subject of the petition for certiorari, prohibition, or mandamus; however, this must be read together with Rule 46. Under Rule 4.6, Section 3, the petitioner may attach either a *clearly legible duplicate original* or a certified true copy of the subject judgment, order, or resolution subject of the action.<sup>[7]</sup> Hence, the CA erred in including this as a ground to dismiss the petition.

Santiago's failure to indicate the material dates and to include an explanation of service are fatal errors. Under Rule 13, Section 11, failure to include a written explanation is cause to consider the pleading or paper as not filed;<sup>[8]</sup> the absence of material dates is a ground for the outright dismissal of the petition.<sup>[9]</sup> The CA, therefore, did not commit any reversible errors in dismissing the petition.

Nevertheless, this Court may relax procedural rules for the most persuasive of reasons. Atty. Onofre Manalad explained that he suffered a "mild stroke" in late 2009, which caused his temporary bout of forgetfulness during the period when he filed the petition before the CA. Shortly after filing the present petition for review on certiorari, Atty. Manalad died from cardiac arrest on December 17, 2009, at the age of 70.

Considering Atty. Manalad's advanced age and persisting health problems at the time he filed the petition for *certiorari* with the CA, this Court is inclined to set aside technicalities for equitable and humanitarian reasons. We will, therefore, dispense substantial justice and resolve this case on its merits.

The DOJ is not a quasi-judicial agency and it does not exercise a quasi-judicial function when it reviews the public prosecutor's findings regarding the presence of probable cause.<sup>[10]</sup> However, we believe that the general principles of judicial construction are applicable and that proper construction of CSP Zuño's resolution will easily resolve the present matter.

The body of CSP Zuño's resolution erroneously mentioned that the City Prosecutor of Quezon City found probable cause against Lolita Santiago for estafa and violation of B.P. 22. This is evidently wrong because ACP Reyes dismissed the complaint for estafa and only found probable cause for violations of B.P. 22. This finding was affirmed by ACP Agcaoili on September 27, 2004, and by Undersecretary Pineda on March 17, 2008.

Nevertheless, the dispositive portion of CSP Zuño's assailed resolution only says: