

## FIRST DIVISION

[ G.R. No. 197832, October 02, 2013 ]

**ANITA RAMIREZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### RESOLUTION

**REYES, J.:**

In this petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, petitioner Anita Ramirez (petitioner) seeks the reversal of the Court of Appeals (CA) Resolutions dated January 31, 2011<sup>[2]</sup> and June 30, 2011<sup>[3]</sup> in CA-G.R. CR No. 33099, denying her "Most Deferential Omnibus Motion to Admit Notice of Appeal and Post Bond on Appeal".

#### The Facts

On January 5, 2009, the Regional Trial Court (RTC) of Quezon City, Branch 97 convicted the petitioner and one Josephine Barangan (Barangan) of the crime of Estafa in Criminal Case No. Q-01-100212. After several re-settings, the judgment was finally promulgated on March 25, 2009 and warrants of arrests were accordingly issued. According to the petitioner, she failed to attend the promulgation of judgment as she had to attend to the wake of her father.<sup>[4]</sup>

Three (3) months after, or on June 6, 2009, the petitioner filed an Urgent Ex-parte Motion to Lift Warrant of Arrest and to Reinstate Bail Bond, which was denied by the RTC in its Order dated October 7, 2009.<sup>[5]</sup>

Aggrieved, the petitioner filed the motion to admit notice of appeal and to post bond with the CA, asking for the reversal of the RTC Order dated October 7, 2009. She subsequently filed her notice of appeal on November 17, 2010.<sup>[6]</sup> The OSG, for its part, did not oppose the petitioner's belated filing of the notice of appeal but objected to her application for the posting of a bond pending appeal.<sup>[7]</sup>

In Resolution<sup>[8]</sup> dated January 31, 2011, the CA denied the omnibus motion. The petitioner filed a motion for reconsideration, which was denied by the CA in Resolution<sup>[9]</sup> dated June 30, 2011. In denying the omnibus motion, the CA ruled that the petitioner failed to file the notice of appeal within the 15-day reglementary period prescribed by the Rules, reckoned from the date of notice of the RTC's judgment of conviction, as she filed her notice of appeal with the CA only on November 17, 2010. The CA opined that as early as June 10, 2009, the petitioner was already aware of the RTC judgment; however, she opted to file a motion to lift the warrant of arrest. As such, the judgment of conviction against her has attained finality. The CA also opined that since the petitioner knew she could not attend the promulgation of judgment on March 25, 2009, she should have exerted earnest

efforts to confer with her counsel to request for its re-setting. Failing to do so, the CA considered her absence without justifiable cause a blatant disrespect of the judicial process.<sup>[10]</sup> Thus, the CA denied her application for provisional liberty in view of the finality of the judgment of conviction against her.

Hence, this petition.

The petitioner wants the Court to take note of the fact that the OSG did not object to the belated filing of her notice of appeal with the CA. The petitioner also attributes such lapse to her counsel whom she expected to take care of her legal concerns. She claims that her counsel did not apprise her of the status of the case and that it would have been unforgivable for her not to pay her last respects to her deceased father. She also maintains that since the CA would also be reviewing Barangan's appeal, it would serve the interest of substantial justice if the CA were to admit the petitioner's appeal. She also seeks the application of the exceptional cases where the Court admitted a belated appeal.<sup>[11]</sup>

In its Comment,<sup>[12]</sup> the OSG contends that the petitioner is bound by the negligence of her counsel. It also manifests that while it did not object to her appeal being heard by the CA, it is now withdrawing such position given the petitioner's continued refusal to submit to the jurisdiction of the RTC despite the CA's denial of her omnibus motion.

The petition is devoid of merit.

Section 6, Rule 122 of the Revised Rules of Criminal Procedure provides for the period when an appeal from a judgment or final order in a criminal case should be taken, viz:

*Sec. 6. When appeal to be taken.* – An appeal must be taken **within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from**. This period for perfecting an appeal shall be suspended from the time a motion for new trial or reconsideration is filed until notice of the order overruling the motions has been served upon the accused or his counsel at which time the balance of the period begins to run.

In this case, the judgment convicting the petitioner of the crime of Estafa was promulgated on March 25, 2009. Instead of filing a notice of appeal within fifteen (15) days from the promulgation or notice of judgment, the petitioner filed with the RTC a motion to lift warrant of arrest and to reinstate bail bond three (3) months later. It was only in November 2010 or more than a year later since the RTC denied her motion that the petitioner filed with the CA her motion to admit notice of appeal. At that point, her judgment of conviction has already attained finality and cannot be modified or set aside anymore in accordance with Section 7, Rule 120 of the Revised Rules of Criminal Procedure.<sup>[13]</sup> Thus, the CA did not commit any reversible error in denying the petitioner's motion inasmuch as by the time the petitioner filed the same, the appellate court was already bereft of any jurisdiction to entertain the motion. The Court has already stressed that "the right to appeal is not a natural right and is not part of due process. It is merely a statutory privilege, and may be exercised only in accordance with 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