

SECOND DIVISION

[G.R. No. 188051, November 22, 2010]

**ASIA UNITED BANK, PETITIONER, VS. GOODLAND COMPANY,
INC., RESPONDENT.**

DECISION

NACHURA, J.:

Petitioner assails the February 16, 2009 Decision^[1] and the May 18, 2009 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 103304, annulling the August 23, 2007^[3] and February 15, 2008^[4] Orders of the Regional Trial Court (RTC) of Makati City, Branch 150, which in turn denied due course to respondent Goodland Company, Inc.'s (GOODLAND) notice of appeal for invalid substitution of counsel.

The antecedents:

An *Ex-Parte Application/Petition for the Issuance of Writ of Possession*^[5] was filed by Asia United Bank (AUB) over a 5,801-square-meter lot located in Makati City and covered by Transfer Certificate of Title (TCT) No. 223120 of the Registry of Deeds of Makati in AUB's name. The property was previously registered in the name of GOODLAND under TCT No. 192674 (114645).

The petition alleged that, on February 20, 2000, GOODLAND executed a Third Party Real Estate Mortgage on the property in favor of AUB to secure the P202 million credit accommodation extended by the latter to Radiomarine Network (Smartnet) Inc. (Radiomarine).

When Radiomarine defaulted in the payment of its obligation, AUB instituted extrajudicial foreclosure proceedings against the real estate mortgage. At the public auction sale held on December 4, 2006, AUB was declared the highest bidder. On the same date, a Certificate of Sale was issued in its name and registered with the Registry of Deeds of Makati City.

With the expiration of the redemption period, AUB proceeded to execute an Affidavit of Consolidation of Ownership, through its First Vice-President, Florante del Mundo. AUB thereafter secured a Certificate Authorizing Registration from the Bureau of Internal Revenue to facilitate the transfer of the title.

On December 8, 2006, TCT No. 192674 (114645) was cancelled and, in lieu thereof, TCT No. 223120 was issued in the name of AUB.

GOODLAND, through its counsel, Atty. Antonio Bautista (Atty. Bautista), opposed the petition, denying that it executed the real estate mortgage. GOODLAND further averred that the signature of the notary public appearing on the deed was a forgery,

and that no technical description of the property supposedly mortgaged was indicated therein. Concluding that AUB's title was derived from the foreclosure of a fake mortgage, GOODLAND prayed for the petition's denial.^[6]

On March 1, 2007, the RTC issued the writ of possession sought by AUB. It ratiocinated that, as the purchaser of the property at the foreclosure sale and as the new title holder thereof, AUB's right of possession and enjoyment of the same had become absolute.^[7]

GOODLAND, through its counsel on record, Atty. Bautista, filed a motion for reconsideration^[8] and a supplemental motion for reconsideration,^[9] but both were denied in the Order^[10] dated April 25, 2007, which was received by Atty. Bautista on June 15, 2007.^[11]

Relentless, GOODLAND sought recourse with the CA by initially filing a Notice of Appeal^[12] with the RTC, through a certain Atty. Lito Mondragon (Atty. Mondragon) of the Mondragon & Montoya Law Offices. On August 23, 2007, the RTC issued an Order^[13] denying due course to GOODLAND's notice of appeal for being legally inutile due to Atty. Mondragon's failure to properly effect the substitution of former counsel on record, Atty. Bautista. GOODLAND moved for reconsideration, but the same was denied in the Order dated February 15, 2008.^[14]

GOODLAND elevated the incident to the CA by way of a special civil acton for *certiorari*. In its February 16, 2009 Decision, the CA granted the petition and directed the RTC to give due course to the notice of appeal, thus:

WHEREFORE, the petition is hereby GRANTED. The assailed *Orders* dated August 23, 2007 and February 15, 2008 of the Regional Trial Court, Branch 150, Makati City are ANNULLED and SET ASIDE. The trial court is DIRECTED to give due course to petitioner's Notice of Appeal.

SO ORDERED.^[15]

Aggrieved, AUB moved for reconsideration, but the CA denied the motion in its Resolution dated May 18, 2009. Hence, the present petition for review on *certiorari*,^[16] praying for the reinstatement of the RTC Order.

The petition is meritorious.

Under Rule 138, Section 26 of the Rules of Court, for a substitution of attorney to be effectual, the following essential requisites must concur: (1) there must be a written application for substitution; (2) it must be filed with the written consent of the client; (3) it must be with the written consent of the attorney substituted; and (4) in case the consent of the attorney to be substituted cannot be obtained, there must at least be proof of notice that the motion for substitution was served on him in the manner prescribed by the Rules of Court. ^[17]

The courts *a quo* were uniform and correct in finding that Atty. Mondragon failed to

observe the prescribed procedure and, thus, no valid substitution of counsel was actualized. However, they took divergent postures as to the repercussion of such non-compliance, thereby igniting the herein controversy.

The RTC strictly imposed the rule on substitution of counsel and held that the notice of appeal filed by Atty. Mondragon was a mere scrap of paper.

However, relying on our pronouncement in *Land Bank of the Philippines v. Pamintuan Development Co.*,^[18] the CA brushed aside the procedural lapse and took a liberal stance on considerations of substantial justice, viz.:

It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice. Thus, substantial justice would be better served by giving due course to petitioner's notice of appeal.^[19]

AUB argues that the liberality applied by the Court in *Land Bank* is incompatible with the herein controversy, and that *Pioneer Insurance and Surety Corporation v. De Dios Transportation Co., Inc.*,^[20] which espouses the same view adopted by the RTC, is more appropriate.

GOODLAND, on the other hand, insists that the CA committed no reversible error in ordering that the notice of appeal be allowed in order not to frustrate the ends of substantial justice.

We agree with AUB. A revisit of our pronouncements in *Land Bank* and *Pioneer* is in order.

In *Land Bank*, we held that the Department of Agrarian Reform Adjudication Board gravely abused its discretion when it denied due course to the Notice of Appeal and Notice of Entry of Appearance filed by petitioner's new counsel for failure to effect a valid substitution of the former counsel on record.

We clarified that the new counsel never intended to replace the counsel of record because, although not so specified in the notice, they entered their appearance as collaborating counsel. Absent a formal notice of substitution, all lawyers who appear before the court or file pleadings in behalf of a client are considered counsel of the latter. We pursued a liberal application of the rule in order not to frustrate the just, speedy, and inexpensive determination of the controversy.

In *Pioneer*, we adopted a strict posture and declared the notice of withdrawal of appeal filed by appellant's new counsel as a mere scrap of paper for his failure to file beforehand a motion for the substitution of the counsel on record.

Provoking such department was the absence of a special power of attorney authorizing the withdrawal of the appeal in addition to the lack of a proper substitution of counsel. More importantly, we found that the withdrawal of the

appeal was calculated to frustrate the satisfaction of the judgment debt rendered against appellant, thereby necessitating a rigid application of the rules in order to deter appellant from benefiting from its own deleterious manipulation thereof.

The emerging trend of jurisprudence is more inclined to the liberal and flexible application of the Rules of Court. However, we have not been remiss in reminding the bench and the bar that zealous compliance with the rules is still the general course of action. Rules of procedure are in place to ensure the orderly, just, and speedy dispensation of cases;^[21] to this end, inflexibility or liberality must be weighed. The relaxation or suspension of procedural rules or the exemption of a case from their operation is warranted only by compelling reasons or when the purpose of justice requires it.^[22]

As early as 1998, in *Hon. Fortich v. Hon. Corona*,^[23] we expounded on these guiding principles:

Procedural rules, we must stress, should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. The requirement is in pursuance to the bill of rights inscribed in the Constitution which guarantees that "all persons shall have a right to the speedy disposition of their cases before all judicial, quasi-judicial and *administrative bodies*." The adjudicatory bodies and the parties to a case are thus enjoined to abide strictly by the rules. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. There have been some instances wherein this Court allowed a relaxation in the application of the rules, but this flexibility was "never intended to forge a bastion for erring litigants to violate the rules with impunity." A liberal interpretation and application of the rules of procedure can be resorted to only in proper cases and under justifiable causes and circumstances.

In *Sebastian v. Hon. Morales*,^[24] we straightened out the misconception that the enforcement of procedural rules should never be permitted if it would prejudice the substantive rights of litigants:

Under Rule 1, Section 6 of the 1997 Rules of Civil Procedure, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that procedural rules are to be ignored or disdained at will to suit the convenience of a party. Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes. Hence, it is a mistake to suppose that substantive law and procedural law are contradictory to each other, or as often suggested,