

THIRD DIVISION

[G.R. No. 167403, August 06, 2008]

MAKATI INSURANCE CO., INC., PETITIONER, VS. HON. WILFREDO D. REYES, AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 36, RUBILLS INTERNATIONAL, INC., TONG WOON SHIPPING PTE LTD, AND ASIAN TERMINALS, INC., RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Assailed in this Petition for Review under Rule 45^[1] of the Revised Rules of Court are (1) the Decision^[2] dated 12 August 2004 of the Court of Appeals dismissing the petition filed in CA-G.R. SP No. 74220 by herein petitioner Makati Insurance Co., Inc., and affirming the Order^[3] dated 2 October 2002 of the Regional Trial Court (RTC) of Manila, Branch 36, in Civil Case No. 97-84952, which dismissed petitioner's Notice of Appeal for having been filed three days beyond the reglementary period; and (2) the Resolution^[4] dated 17 February 2005 of the Court of Appeals in the same case denying petitioner's Motion for Reconsideration of its earlier Decision.

The generative facts of the present Petition are as follows.

Petitioner filed before the RTC a Complaint^[5] against private respondents Rubills International, Inc., Tong Woon Shipping PTE., LTD., and Asian Terminals, Inc. for damages arising from breach of contract of carriage. In its Complaint, petitioner alleged that:

3.1 [Herein private respondents] Rubills International, Inc. and Tong Woon Shipping Pte. Ltd. [Rubills for brevity], were and are the owners, operators, charterers, bailees, representatives, or agents of several ocean going vessels, engaged in ocean carriage to and from Philippine ports in foreign trade, one of which is the vessel M/V "Cherry" a common carrier, bound to observe extraordinary diligence in the care and custody of goods while in its protective custody.

3.2 [Herein private respondent] Asian Terminals, Inc. [ATI] was and is the arrastre operator at the port of Manila and as such was charged and obligated with the duty of receiving cargoes discharged from the vessels docking at the port of Manila, of safekeeping and taking good care of the same while in its protective custody, and thereafter delivering the same to the respective consignees and/or consignee's representatives.

4.0 On or about August 11, 1996, the [private respondents] Rubills and Tong Woon vessel M/V "CHERRY" arrived in Manila and docked at Pier 15 South Harbor, Manila, and therein completely unloaded on September 9,

1996 a shipment of 120MT Red Beans and 153.00MT Cattle Meat Colloid covered by Bill of Lading dated August 01, 1996, a photocopy of which is herewith attached as Annex "A" and made an integral part hereof;

5.0 It was found out after the inspection of the subject shipment that eighty four (84) ton bags of the shipment were in apparent damaged condition, partly to badly wet and loose/torn on sides and/or ends with spillages/wettages to contents apparent. x x x.

x x x x

6.0 The aforesaid losses and damages sustained by the subject shipment were directly caused and brought about by the wanton fault, gross negligence, malevolent mishandling and culpable disregard, recreance and/or breach of contractual obligations of all or either of the [private respondents] as common carrier and arrastre operator respectively, and as a result of which the owner/assured/consignee Silver Allies Trading International sustained damages and losses in the total sum of Four Hundred Twelve Thousand Two Hundred Fifty Three & 91/100 Pesos (P412,253.91) for which [herein petitioner]-insurer paid the consignee-assured. Thus, [petitioner] was subrogated into the rights and interests of the consignee-assured relative to the said losses and damages sustained by the subject shipment;

7.0 Demands were lodged against the [private respondents] for compensation of the amount paid by the [petitioner] to the consignee-assured, but the [private respondents] failed, ignored and refused to heed the same to the damage and prejudice of the [petitioner];

8.0 [Private respondents] are guilty of wanton fault, gross negligence, malevolent mishandling and culpable disregard of their contractual obligations in bringing about and contumaciously causing the losses and damages to the said shipment x x x.^[6]

Petitioner prayed in its Complaint that:

[J]udgment be rendered ordering the [herein private respondents], jointly and severally or whichever may be found liable, to pay [herein petitioner]:

- a. Actual damages in the amount of P412,253.91 with legal interest from the date of the filing of the complaint until fully paid;
- b. Exemplary damages in the sum of at least P20,000.00 or as may be found proper by this Honorable Court;
- c. Attorney's fees in the sum equivalent to twenty five percent (25%) of the principal claim of P103,063.47; and
- d. Litigation expenses in the sum of at least P10,000.00 or as may be proven, plus costs of suit.^[7]

After the issues were joined, the case was set for pre-trial conference. For the failure of petitioner's counsel to appear at the scheduled pre-trial conference on 19 November 2001, RTC Presiding Judge Wilfredo D. Reyes (Judge Reyes) dismissed the case without prejudice. His Order of even date reads:

On third call of this case at 10:40 o'clock this morning, only counsels for [herein private respondents] Rubills International, Inc. and Asian Terminals, Inc. appeared. There was no appearance for [herein petitioner] despite due notice.

Respective counsels of [private respondents] moved for the dismissal of the case on the following grounds:

1. For failure of [petitioner] to properly appear for pre-trial conference on September 5, 2001 considering that its counsel and/or representative did not have the requisite authority.
2. For failure of [petitioner] to appear at the pre-trial conference at the proper time set on October 16, 2001 although [petitioner]'s counsel came in after [private respondents]' counsel had left the court room and the case re-set for continuation of pre-trial on November 19, 2001, and
3. For failure of [petitioner]'s counsel to appear at today's pre-trial.

It appearing that [petitioner]'s counsel has been given ample opportunity to appear in the pre-trial conference of this case with the requisite authority for its counsel and/or representative and that [petitioner]'s counsel has failed to so appear for pre-trial conference, and upon motion of [private respondents]' counsel, this case is dismissed without prejudice.

WHEREFORE, the case at bar is dismissed without prejudice. No costs.^[8]

On 29 November 2001, petitioner received the Order dated 19 November 2001 dismissing its case. On 4 December 2001, petitioner filed its Verified Motion for Reconsideration^[9] alleging that sickness prevented its counsel from attending the pre-trial conference. On 3 July 2002, petitioner received Judge Reyes's Order dated 17 June 2002 denying its Verified Motion for Reconsideration.^[10]

According to the 17 June 2002 RTC Order:

After a careful review of the grounds relied upon by [herein petitioner]'s counsel in his verified motion for reconsideration dated December 1, 2001, the Court has no other recourse but to deny the same as the grounds of said motion for reconsideration are not impressive so as to convince the Court to reverse its Order of November 19, 2001,

WHEREFORE, [petitioner]'s motion for reconsideration is DENIED.^[11]

Petitioner received notice of the afore-mentioned Order on 3 July 2002.

On 17 July 2002, petitioner filed a Notice of Appeal,^[12] which was promptly opposed by private respondents for having been filed out of time.^[13] Petitioner countered that its failure to file the Notice of Appeal on time was due to its counsel's inadvertence in computing the appeal period. The inadvertence was allegedly due to the fact that its Verified Motion for Reconsideration was filed by registered mail, and the messenger who mailed it failed to attach to the records of the case the postal receipt showing the date the said motion was mailed.^[14] Petitioner's counsel, therefore, was unable to determine correctly when petitioner's period to appeal was interrupted by the filing of its Verified Motion for Reconsideration and how many more days were left in said period when its Motion was denied.

On 23 September 2002, petitioner filed a Motion to Admit Notice of Appeal,^[15] alleging it had no intention to delay the resolution of the case; it had a meritorious case; and its Notice of Appeal should be granted pursuant to the *dictum* that "courts should not place undue importance on technicalities, when by so doing, substantial justice is sacrificed."

On 2 October 2002, Judge Reyes issued his Order^[16] dismissing petitioner's Notice of Appeal for being filed three days beyond the 15-day reglementary period. In so ruling, Judge Reyes held that pursuant to Section 3, Rule 41 *vis-à-vis* Section 2, Rule 22 of the Revised Rules of Court, the period to appeal is interrupted by a timely motion for reconsideration. Petitioner filed its Verified Motion for Reconsideration five days after receiving the Order dismissing the case without prejudice. Excluding the day the said motion was filed, petitioner had only 11 days left to file a notice of appeal. Petitioner received the Order of 17 June 2002 denying its Verified Motion for Reconsideration on 3 July 2002. Accordingly, it had only until 14 July 2002 to file a Notice of Appeal. Petitioner, however, filed its Notice of Appeal on 17 July 2002.^[17] Judge Reyes, therefore, held:

WHEREFORE, plaintiff's notice of appeal is ordered dismissed as it was filed three (3) days beyond the reglementary period.^[18]

Petitioner then filed with the Court of Appeals a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court questioning the 2 October 2002 RTC Order dismissing its Notice of Appeal. The Petition, however, was denied by the Court of Appeals based on the following reasons:

[F]rom an order dismissing an action without prejudice, the remedy of the aggrieved party is to file a petition for certiorari under Rule 65, or to re-file the case. On this score, therefore, petitioner's Notice of Appeal is clearly dismissible.

Even assuming *arguendo* that appeal is petitioner's proper remedy, it should still be denied for having been filed out of time. x x x.^[19]

The Court of Appeals held:

WHEREFORE, the instant petition is hereby DISMISSED, and the assailed Order dated October 2, 2002 AFFIRMED.^[20]

The Motion for Reconsideration filed by the petitioner was denied by the Court of Appeals in a Resolution dated 17 February 2005.

In the Petition at bar, petitioner insists that:

EXTRAORDINARY CIRCUMSTANCES ATTENDANT TO THE CASE AT BAR
WARRANT THE LIBERAL APPLICATION OF THE RULES.^[21]

We first hew our attention to the main issue for our resolution: whether the Notice of Appeal filed by petitioner was filed out of time.

Rule 41, Section 3 of the 1997 Rules of Civil Procedure states:

SEC. 3. *Period of ordinary appeal.* The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.

Based on the foregoing, an appeal should be taken within 15 days from the notice of judgment or final order appealed from.^[22] A final judgment or order is one that finally disposes of a case, leaving nothing more for the court to do with respect to it. It is an adjudication on the merits which, considering the evidence presented at the trial, declares categorically what the rights and obligations of the parties are; or it may be an order or judgment that dismisses an action.^[23]

Propitious to petitioner is *Neypes v. Court of Appeals*,^[24] promulgated on 14 September 2005 while the present Petition was already pending before us. In *Neypes*, we pronounced that:

To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a **fresh period of 15 days within which to file the notice of appeal** in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.

Henceforth, this "**fresh period rule**" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; **Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals**; Rule 43 on appeals from quasi-judicial agencies to the Court of Appeals and Rule 45 governing appeals by certiorari to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution. (Emphasis ours.)

Rules of Procedure are mere tools designed to facilitate the attainment of justice; their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice must always be eschewed.^[25]