

SECOND DIVISION

[G.R. No. 177931, December 08, 2008]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. DEANG
MARKETING CORPORATION AND BERLITA DEANG,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

The Philippine National Bank (petitioner) assails the February 26, 2007 Decision^[1] and the May 16, 2007 Resolution^[2] of the Court of Appeals, which set aside the Orders of May 16, 2006 and August 9, 2006 of the Regional Trial Court (RTC) of Angeles City, Branch 57, and consequently declared petitioner in default.

Respondents Deang Marketing Corporation and Berlita Deang filed before the RTC of Angeles City a Complaint^[3] against petitioner, docketed as Civil Case No. 12686, for reformation of contract and specific performance, claiming that a *dacion en pago* arrangement in the February 21, 2005 Consolidation and Restructuring Agreement^[4] forged by them transformed respondents' outstanding loan obligations into a 7-year term loan of P36,483,699.45.

Summons was served on petitioner on April 20, 2006.^[5]

On May 15, 2006, respondents filed a Motion to Declare Defendant[-herein petitioner] in Default,^[6] which they set for hearing on May 24, 2006. On even date, the trial court received petitioner's Motion for Extension of Time [30 days up to June 11, 2006] to File Answer^[7] dated May 5, 2006.

The following day, May 16, 2006 or eight days prior to the slated hearing of respondents' Motion to Declare [Petitioner] in Default, the trial court issued an Order denying said motion and granting petitioner's Motion for Extension of Time to File Answer. To the trial court's Order respondents filed a Motion for Reconsideration.

In the meantime, petitioner filed its Answer to the Complaint on May 25, 2006.

The trial court, by Order of August 9, 2006,^[8] denied respondents' Motion for Reconsideration of its May 16, 2006 Order denying their Motion to Declare petitioner in default and granting the latter's Motion for Extension.

Respondents subsequently assailed the trial court's Orders of May 16, 2006 and August 9, 2006 via certiorari to the Court of Appeals which, by the challenged Decision of February 26, 2007, annulled the trial court's orders, disposing as follows:

WHEREFORE, premises considered, the petition is **GRANTED**. The Orders dated May 16, 2006 and August 9, 2006 issued by the Hon. Omar T. Viola are hereby **ANNULLED** and **SET ASIDE**. Accordingly, private respondent is declared **IN DEFAULT** and the Answer filed by private respondent is ordered **EXPUNGED** from the records of the case. The case is **REMANDED** to the Regional Trial Court, Branch 57, Angeles City, for further proceedings.

SO ORDERED.^[9] (Emphasis in the original, underscoring supplied)

Petitioner's Motion for Reconsideration having been denied by Resolution of May 16, 2007, it filed the present Petition for Review (with Prayer for the Issuance of Temporary Restraining Order/Preliminary Injunction) which ascribes error to the Court of Appeals in:

. . . DECLARING PNB IN DEFAULT AND ORDERING THAT THE ANSWER FILED IN THE RTC BE EXPUNGED FROM THE RECORDS OF THE CASE [AND]

. . . ANNULING AND SETTING ASIDE THE ORDERS DATED MAY 16, 2006 AND AUGUST 9, 2006 OF THE RTC.^[10]

The petition fails.

Petitioner's Motion for Extension of Time to File Answer was laden with glaring lapses.

Petitioner had, following the reglementary 15-day period after service of summons (unless a different period is fixed by the court),^[11] until **May 5, 2006** within which to file an Answer or appropriate pleading. It filed the Motion for Extension, however, via a private courier on May 14, 2006, which was received by the trial court on May 15, 2006 or ten days late.

It is a basic rule of remedial law that a motion for extension of time to file a pleading must be filed before the expiration of the period sought to be extended.^[12] The court's discretion to grant a motion for extension is conditioned upon such motion's timeliness, the passing of which renders the court powerless to entertain or grant it.^[13] Since the motion for extension was filed after the lapse of the prescribed period, there was no more period to extend.

Petitioner was not candid enough to aver in the Motion for Extension that the period had lapsed, as it still toyed with the idea that it could get away with it. The allegations therein were crafted as if the said motion was timely filed. Notably, the May 16, 2006 Order expressed no inkling that the motion was filed out of time. The trial court either was deceived by or it casually disregarded the apparent falsity foisted by petitioner. Lest this Court be similarly deceived, it is imperative to carefully examine the facts.

By petitioner's allegation in its Motion for Extension, it received the summons on April 24, 2006. This is belied by the Process Server's Return, which indicates that petitioner received the summons on April 20, 2006. Petitioner's counsel was to later clarify that it was only on April 24, 2006 that she received copies of the summons

and complaint which were faxed from petitioner's main office.

In requesting for a 30-day extension or until June 11, 2006 to file answer, petitioner apparently reckoned the date from which the extension would start on May 12, 2006, which was not the last day of the 15-day period sought to be extended, it being May 5, 2006. By computation, petitioner actually sought more than 30 days, contrary to the period of extension it purportedly requested. The counting of the period was erroneous, even if one uses the material dates alleged by petitioner.^[14] Petitioner clearly disregarded elementary rules^[15] and jurisprudence^[16] on the matter.

The flaws in petitioner's moves/representations reinforce respondents' claim that the Motion for Extension was "cunningly" dated May 5, 2006 (the last day to file a responsive pleading) to make it appear that it was timely filed, although it was transmitted only on May 14, 2006. Petitioner's allegation that the Motion it filed was the one actually prepared and signed on May 5, 2006^[17] contradicts its earlier claim in its Opposition to the Motion to Declare [It] in Default that "[s]hort of time in coming up with [herein petitioner's] Answer on April 28, 2006," its counsel caused to be prepared a Motion for Extension of Time to File Answer which was, however, misplaced, and upon discovery thereof "another motion for extension was immediately caused to be prepared and filed."^[18]

More. Petitioner served and filed the Motion for Extension through a private courier, LBC, a mode not recognized by the rules.^[19] Explanation for availing such mode was not stated in the Motion.^[20] The mode was, nonetheless, clearly unjustifiable, considering that (a) petitioner's handling counsel was based in nearby San Fernando; (b) postal registry service is, for lack of explanation to the contrary, available in Pampanga;^[21] (c) urgency is out of the equation because the official date of filing done via private messengerial service is the date of actual receipt of the court,^[22] and had the motion been personally filed the following day (May 15, 2006), it would have reached the court earlier. It thus shows that the mode was utilized to obscure any indication that the motion was filed out of time.

In denying respondents' Motion for Reconsideration of its grant of petitioner's Motion for Extension, the trial court ruled that it was inclined to reconsider or lift an order of default.^[23] By such ruling, the trial court preempted the dictates of orderly procedure by unduly anticipating and signifying a slant toward the remedies and arguments yet to be availed of and raised by petitioner.

Petitioner can not harp on *Indiana Aerospace University v. Comm. on Higher Educ.* ^[24] which it cites. In that case, the Answer had already been filed- albeit after the 15-day period, but before the defendants were declared in default. In the present case, had the hearing on the Motion to Declare Petitioner in Default pushed through on May 24, 2006, the trial court would have readily noticed that no Answer had yet been filed on said date, the Answer having been filed, as earlier stated, only on May 25, 2006.

Neither can petitioner harp on *Sps. Ampeloquio, Sr. v. Court of Appeals*,^[25] for the Court therein held that it is within the discretion of the trial court to permit the filing of an answer even beyond the reglementary period, *provided that* there is

justification for the belated action and there is no showing that the defendant intended to delay the case. Thus, in that case, the therein defendant-respondent deferred the submission of a prepared Answer as it awaited the trial court's resolution on its motion to dismiss, which resolution had, it turned out, been priorly issued, a copy of which was, however, mistakenly addressed to another counsel.

In the present case, no satisfactory reason was adduced to justify the tardiness of the Answer and no compelling reason was given to justify its admission. The intention to delay was rather obvious.

It is not amiss to mention at this juncture that the Court's attention has been drawn to the fact that petitioner's counsel even notarized the Verification of respondents' Complaint as well as the Corporate Secretary's Certificate as early as April 10, 2006. By such act, which is irregular, to say the least, petitioner's counsel was even made aware in advance of the impending filing of the case against her client-herein petitioner.

Moreover, petitioner's handling counsel belongs to its Legal Department which monitors its pending cases and oversees a network of lawyers.

On petitioner's counsel's belated and trite allegation of heavy volume of work which called for the filing of the Motion for Extension, nowhere is it therein claimed that there was heavy volume of work in other equally important cases.^[26] With the implication that petitioner had been all the while preparing an Answer, it defies comprehension how petitioner still attributes the delay to "inadvertence," "honest oversight" and "simple remission" in its having allegedly misplaced the Motion for Extension.^[27]

The Court thus finds petitioner's negligence inexcusable, as the circumstances behind and the reasons for the delay are detestable.

Rules of procedure, especially those prescribing the time within which certain acts must be done, have often been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business. The bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules.^[28]

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, that enforcement of procedural rules should never be permitted if it would result in prejudice to the substantive rights of the litigants.

Litigation is not a game of technicalities, but every case must be prosecuted in accordance with the prescribed procedure so that issues may be properly presented and justly resolved. Hence, rules of procedure must be faithfully followed except only when for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules.^[29] (Underscoring supplied)

Given the foregoing circumstances, Justice Presbitero Velasco, Jr., in his Dissenting Opinion, still finds "exceptional circumstances" that warrant this Court to suspend its rules and accord liberality to petitioner, citing Section 11, Rule 11 of the Rules of Court, which reads:

Upon motion and **on such terms as may be just**, the court may extend the time to plead provided in these Rules.

The court may also, **upon like terms**, allow an answer or other pleading to be filed after the time fixed by these Rules. (Emphasis and underscoring supplied)

From the foregoing discussion, it is unimaginable how "such terms as may be just" may be applied in petitioner's favor. Under the stated premises, to grant the petition along the lines of liberality is to countenance the context of fibs and flaws.

Obviously grasping straws in its final pitch to win the court's leniency, petitioner employed a ploy to conceal not just the lapse of time but also the serious lapses of non-compliance with basic rules. The scheme insults the intelligence of the Court. While the Court frowns upon default judgments, it does not condone gross transgressions of the rules and perceptible vestiges of bad faith.

Good faith is central to the concept of "excusable neglect" justifying failure to answer.^[30] An attempt to cover up the procedural lapses and obscure the technical imperfections negates good faith on the part of the party imploring the accommodating arm of the court.

In his Dissenting Opinion, Justice Velasco proffers that the complaint centers on the interpretation of a contract which can only be determined if the parties are heard in the course of trial.

There is no arguing that all complaints of whatever nature can only be determined if the parties are heard. There is, however, a standing rule set in place for a declaration of default, in cases where there is no justification for the belated action, and there is showing that the defendant intended to delay the case. In this case, the party lackadaisically squandered its opportunity to file a responsive pleading and, worse, made deceptive moves in an obvious attempt to redeem itself.

The Court is duty-bound to observe its rules and procedures and uphold the noble purpose behind their issuance. Rules are laid down for the benefit of all and should not be made dependent upon a suitor's sweet time and own bidding.^[31]