

SECOND DIVISION

[G.R. NO. 143664, June 30, 2006]

**MARISON C. BASUEL, PETITIONER, VS. FACT-FINDING AND
INTELLIGENCE BUREAU (FFIB) REPRESENTED BY DIRECTOR
AGAPITO B. ROSALES, RESPONDENT.**

DECISION

AZCUNA, J.:

Petitioner Marison Basuel assails in this petition for review on *certiorari* under Rule 45 of the Rules of Court the resolution^[1] dated June 14, 2000 of the Court of Appeals (CA) in CA G.R. SP No. 56163. The resolution denied petitioner's motion for reconsideration of an earlier CA resolution dated March 16, 2000 which dismissed the petition for review filed by petitioner from the decision^[2] of the Office of the Ombudsman in OMB-ADM-0-99-0409.

Petitioner, together with her husband, Leomar B. Basuel, and Roy Recoter, all employees of the Philippine Veterans Affairs Office (PVAO) assigned to the Management Information System Group,^[3] were charged administratively for neglect of duty and dishonesty in connection with the unauthorized encoding and payment of pension checks. Based on the report^[4] of respondent Fact-Finding and Intelligence Bureau, Leomar B. Basuel made unauthorized supplementary encoding of 31 checks in 1996 and 30 checks between January 1997 and January 1998 in the total amount of P1,141,682.90. The supplementary payment entries were not covered by any Memorandum of Payment or legal authority from the Finance Management Division or any other PVAO officer.

On the other hand, nine unauthorized payments in the total amount of P309,275 were found to have been entered between February 1997 and October 1997 in the Supplementary Table of petitioner. Similarly, Roy Recoter was found to have made four supplementary payments without proper authority between September and November 1997 amounting to P87,000.

In the counter-affidavit she submitted, petitioner denied the charges against her and blamed Leomar B. Basuel who purportedly used her computer access code without her knowledge or consent to make the unauthorized entries in her Supplementary Table.

After due proceedings, the Ombudsman ruled that the administrative liability of petitioner, Leomar B. Basuel and Roy Recoter was established by substantial evidence. With respect to petitioner, the Ombudsman made the following observation:

x x x

As regards respondent MARISON BASUEL [petitioner herein], although the records reveal that the nine (9) entries attributed to her appear to be covered with the corresponding Memorandum, and are thus, authorized, still she cannot escape liability for Neglect of Duty.

It has been established that respondent MARISON BASUEL has been entrusted with a specific access code to enable her to use the PVAO computer. It was also established that said respondent divulged the access code to respondent LEOMAR BASUEL, enabling the latter to gain access to the computers and make the unauthorized entries. It need not be stated that an average person would have known that the computer access code has a specific purpose, which is to avoid unauthorized persons from gaining access to the PVAO computers. Respondent MARISON BASUEL is duty-bound to maintain the confidentiality of her access code. In revealing the same to her husband, she has shown such deficiency of perception or her failure to pay proper attention and due diligence in foreseeing the damage it might cause, which, in essence, amounts to Negligence. Notwithstanding her claim of good faith, respondent MARISON BASUEL's administrative liability for her remiss [sic] of duty has been sufficiently established. x x x [5]

Consequently, petitioner was found guilty of neglect of duty and meted a penalty of suspension for six months without pay. After petitioner's motion for reconsideration was denied by the Ombudsman, petitioner filed a petition for review^[6] with the CA. The CA, however, denied the petition for failure of petitioner to comply with its resolution^[7] dated December 16, 1999 which required petitioner to attach a certified true copy of the decision dated October 18, 1999 of the Office of the Ombudsman within five days from notice to her.^[8] It appears that instead of submitting the same, petitioner, through counsel, filed a manifestation^[9] stating that she did not have any extra copy of the decision as it was already attached to the original copy of the petition for review she filed on December 10, 1999.

Petitioner thereafter realized that her counsel had inadvertently attached the order dated November 19, 1999 instead of the Ombudsman's decision dated October 18, 1999 and so moved for reconsideration of the denial of her petition, attaching to such motion a certified true copy of the said decision. The motion, however, was denied by the CA in the assailed resolution^[10] dated June 14, 2000.

Aggrieved, petitioner filed this present petition, ascribing the following errors to the CA:

1. THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ERROR IN DISMISSING THE PETITION FOR REVIEW ON TECHNICAL GROUNDS.
2. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT FINDING THAT THERE ARE PERSUASIVE REASONS TO RELAX THE RIGID APPLICATION OF THE RULES. x x x^[11]

Petitioner argues that there are persuasive reasons in this case which warrant a departure from the rigid application of the rules, namely: (1) the inadvertent omission of counsel in attaching the order of the Office of the Ombudsman dated November 19, 1999 instead of the decision dated October 18, 1999, despite its correct citation in the petition for review, is not attributable to petitioner; (2) the appeal has merit; and (3) respondent is not prejudiced by the appeal.

In its comment^[12] dated November 29, 2000, respondent contends that there was a valid and legal basis for dismissing the petition considering that petitioner failed to attach the certified true copy of the challenged decision of the Ombudsman in violation of the applicable rules of procedure as well as the order of the CA. In any event, respondent argues that on the merits, there was negligence on the part of petitioner in not maintaining the confidentiality of the access code resulting in her husband's gaining access to her computer and making unauthorized entries.

The petition should be denied.

At the outset, it must be emphasized that the right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.^[13]

The requirements of the rules on appeal cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. To be sure, the Court will not countenance deviations from the rules. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.^[14]

In the present case, it is not disputed that petitioner failed to attach to her petition a certified true copy of the decision she was appealing from which is contrary to the requirements set forth in Section 6, Rule 43 of the Rules of Court.^[15] The consequence of this failure is outlined under Sections 7 and 8 of Rule 43, to wit:

SEC. 7. Effect of failure to comply with requirements. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

SEC. 8. Action on the petition. – The Court of Appeals may require the respondent to file a comment on the petition, not a motion to dismiss, within ten (10) days from notice, or dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.^[16]

It is worthy to note that instead of dismissing the petition outright, the CA gave petitioner a chance to rectify her mistake by directing her to file a copy of the decision in the resolution dated December 16, 1999. However, instead of complying