

SECOND DIVISION

[G.R. No. 142937, November 15, 2005]

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION,
PETITIONER, VS. MARITA A. ANGARA AND BEATRIZ T. LA
VICTORIA, RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Resolution^[1] of the Court of Appeals (CA) dated January 31, 2000 in CA-G.R. SP No. 56375, which dismissed petitioner's petition for review for late filing; and the Resolution dated April 7, 2000, which denied petitioner's motion for reconsideration.

The factual background of the case is as follows:

Respondents Beatriz T. La Victoria (La Victoria) and Marita A. Angara (Angara) were Slot Machine Roving Token Attendants (SMRTAs)^[2] of petitioner Philippine Amusement and Gaming Corporation (PAGCOR) assigned at its casino in Davao City.

In a letter dated July 23, 1997, the PAGCOR Board of Directors dismissed them from service, effective June 28, 1997, for loss of trust and confidence.^[3] It appears that respondent La Victoria was dismissed for alleged short selling of tokens while respondent Angara was dismissed for alleged token passing and condoning or actively assisting La Victoria in covering up her shortage. On August 12, 1997, respondents filed a motion for reconsideration^[4] but their motion was denied.^[5]

On October 17, 1997, respondents filed their appeal memorandum with the Civil Service Commission (CSC).^[6] In a resolution dated October 21, 1997, the CSC directed PAGCOR Chairman Alicia Ll. Reyes to submit her comment on the said appeal together with the records of the case within ten days from receipt of the resolution.^[7] Instead of filing a comment, petitioner filed a motion to dismiss, on November 24, 1997, on the ground that the appeal was filed out of time.^[8]

On May 27, 1999, the CSC issued Resolution No. 991110. It treated petitioner's motion to dismiss as its comment and, on the basis of respondents' appeal memorandum, ruled in the latter's favor. It reversed the respondents' dismissal and ordered their reinstatement.^[9]

Petitioner filed a motion for reconsideration^[10] but was denied by the CSC in its Resolution No. 992571 dated November 19, 1999.^[11]

On December 22, 1999, petitioner filed a motion for a twenty-day extension of time from December 23, 1999 or until January 11, 2000 within which to file its petition for review with the CA.^[12]

On January 10, 2000, petitioner filed its petition for review with the CA.^[13]

On January 13, 2000, the CA granted petitioner's motion for extension but only for fifteen days from December 23, 1999 or until January 7, 2000.^[14]

On January 31, 2000, the CA issued the first assailed Resolution denying due course to the petition for review for having been filed three days past the extended period granted by the court.^[15]

On February 22, 2000, petitioner filed a motion for reconsideration, contending that the petition was filed within the twenty-day extension it had asked for and thus should have been given due course. It further invoked liberal interpretation of the Rules for consideration of equity and substantial justice.^[16]

On April 7, 2000, the CA rendered the second assailed Resolution denying for lack of merit petitioner's motion for reconsideration.^[17]

The CA held that: Section 3,^[18] Rule 43 of the 1997 Rules of Civil Procedure expressly provides that only one extension of fifteen (15) days may be granted to a petitioner within which to file a petition for review; petitioner took the risk when it asked for a twenty-day extension, evidently assuming that the court will grant the extension prayed for; even if the petition was timely filed, it will still have to be denied for the following formal defects: (a) the petition lacks an affidavit of service as mandated under Section 13^[19] of Rule 13; (b) the signatory to the certification against forum shopping was not shown to have been validly and legally authorized by the petitioner to sign the same; and (c) the written explanation required under Section 11,^[20] Rule 13 shows that the respondents were furnished, not with copies of the petition for review, but with copies of the "Motion for Extension of Time to File Verified Petition for Review."

Hence, the present petition for review on *certiorari* anchored on the following assigned errors:

I

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN DISMISSING PETITIONER'S VERIFIED PETITION FOR REVIEW.

II

THE CIVIL SERVICE COMMISSION (CSC) ERRED IN DECLARING PRIVATE RESPONDENTS DISMISSAL WITHOUT CAUSE AND WITHOUT DUE PROCESS EVEN WITHOUT AWAITING THE COMMENT OF THE PETITIONER AND THE COMPLETE RECORDS OF THE CASE, WHERE THE MERIT OF THE CASE SHOULD HAVE BEEN FAIRLY AND IMPARTIALLY ASSESSED.

III

THE ACTS OF RTAs LA VICTORIA AND ANGARA CONSTITUTE DISHONESTY, A VIOLATION OF PAGCOR'S RULES ON EMPLOYEES DISCIPLINE REGARDED AS LOSS OF TRUST AND CONFIDENCE.

IV

RTA's LA VICTORIA AND ANGARA HOLD CONFIDENTIAL POSITIONS WHOSE REMOVAL FROM THE SERVICE CAN BE JUSTIFIED THROUGH LOSS OF TRUST AND CONFIDENCE.

V

THE APPEAL FILED BY THE RESPONDENTS BEFORE THE CSC WAS NOT WITHIN THE REGLEMENTARY PERIOD TO FILE AN APPEAL, AND THEREFORE, THE CSC COULD NOT VALIDLY ACT ON IT.^[21]

Petitioner submits that technicalities should be set aside in the interest of substantial justice. It avers that the dismissal of the petition filed three days past the granted period is unwarranted because the delay is excusable. It points out that: the case was originally handled by PAGCOR and referred to the Office of the Government Corporate Counsel for proper handling on December 10, 1999; the case was assigned to the present counsel for preparation of the petition only on December 13, 1999, or ten days before December 23, 1999, the expiry date for appeal; counsel had to coordinate with the former handling counsel of PAGCOR in order to be apprised of the factual background of the case and collate the documents and exhibits necessary for the preparation of the petition.

On the failure to attach an affidavit of service, petitioner contends that the CA did not require it to attach the same. Besides, the CA had notice that the petition was duly furnished all the parties, as manifested by the annotation of the registry receipt numbers, place and date of filing opposite the names of the parties, located at the last page of the petition, such that there was substantial compliance with the requirements of the Rules.

As to the verification and certification of non-forum shopping, petitioner maintains that the same was signed by the Managing Head for Corporate and Legal Services Department, Atty. Carlos R. Bautista, the officer of the petitioner who has personal knowledge of all the cases, perhaps, more knowledgeable than the head of the office.

With regard to the written explanation in the petition which states that respondents were furnished with copies of the "Motion for Extension of Time to File Verified Petition for Review," petitioner submits that it should be considered a mere typographical error.

Moreover, petitioner submits that its case is meritorious. It insists that it was denied due process when the CSC treated petitioner's motion to dismiss as its comment and decided the case forthwith, without allowing petitioner to submit its comment or the whole record of the case be elevated to it. Besides, petitioner maintains that the records show that respondents committed acts of dishonesty which are

punishable with dismissal, even on the first offense.

Furthermore, petitioner submits that since respondents are confidential employees, pursuant to Section 16^[22] of Presidential Decree No. 1869^[23] (the PAGCOR Charter), they did not have fixed term of office; their tenure of employment was dependent on the continued confidence of their superiors; such confidence was lost because it was proven that they committed dishonest acts in the performance of their duties.

Lastly, petitioner submits that since the CSC admitted that the appeal of the respondents was filed out of time, it should not have entertained the same. Therefore, petitioner's decision dismissing respondents from service, being final and executory, should stand.

Respondents, on the other hand, submit that the instant petition should have been dismissed outright since the verification and certification of non-forum shopping was signed by Atty. Bautista, the Managing Head for Corporate and Legal Services Department, and no board resolution was attached to show that he is petitioner's duly authorized representative. They further submit that there is no proof of service.

As to the issues presented by petitioner, respondents contend that the appeal before the CSC was not filed beyond the reglementary period because respondents were not furnished with petitioner's resolution dismissing them from service for loss of trust and confidence. Respondent La Victoria claims that she secured a copy through her own efforts while respondent Angara alleges that she was never furnished with a decision dismissing her from service. Besides, they submit that there is no rule before the CSC which provides that whenever a motion for reconsideration is denied, the moving party has only the remaining period from notice of denial within which to file notice of appeal. In any event, they aver that the CSC did not err in admitting the appeal because it is within its power to relax the rules to attain substantial justice.

They further contend that the CSC did not err in issuing Resolution No. 991110 despite the absence of the records since petitioner was deemed to have waived such right to file its comment when it chose to file a motion to dismiss. Moreover, the CSC did not err in ruling that respondents were not dismissed for cause and after due process since loss of trust and confidence is not one among the grounds for disciplinary action and there was no formal investigation conducted but a summary proceeding.

On one hand, the Court finds that petitioner has offered no justifiable reasons in filing the petition for review three days past the period granted since the Rules allow only a 15-day extension and petitioner's counsel cannot assume that his request for a 20-day extension will be granted. The reasons proffered by petitioner's counsel that he "needs sufficient time to collate and review the records of the case which are still in the possession of PAGCOR in order to come up with a well studied and appropriate Verified Petition for Review"^[24] and "since assigned counsel is saddled with the preparation of equally important pleadings coupled with almost daily appearances in court"^[25] are not exceptionally meritorious or most compelling reasons to allow petitioner additional three days or up to January 10, 2000, after

the lapse of the fifteen-day period on January 7, 2000.

On the other hand, the Court notes that the last day for filing the petition for review, that is, January 7, 2000, fell on a Friday. Petitioner filed its petition for review on January 10, 2000, Monday, which was the next working day. Therefore, the delay in filing the motion for extension was actually for one day only.

It has been held that a one-day delay does not justify the appeal's denial where no element of intent to delay the administration of justice could be attributed to the petitioner.^[26] Needless to stress, the real purpose behind the limitation of the period of appeal is to forestall or avoid an **unreasonable** delay in the administration of justice and to put an end to controversies.^[27]

In this case, the Court is inclined to excuse the one-day delay, in order to fully settle the merits of the case. After all, the policy of our judicial system is to encourage full adjudication of the merits of an appeal.

With respect to the non-attachment of the affidavit of service, such is not fatal to the petition since the registry receipts attached to the petition clearly show that respondents were served copies of the petition.^[28] The demands of substantial justice were satisfied by the actual receipt of the petition. In fact, respondents filed their comment thereon.^[29]

With respect to the verification and certification signed by Atty. Bautista, petitioner's Managing Head for Corporate and Legal Services Department, it is but logical that he be the party affixing his signature therein, considering that the person who is in the best position to ascertain the truthfulness and the correctness of the allegations in the petition is its legal officer, who necessarily knows the status of any suit involving the company.^[30]

As to the written explanation stating that respondents were furnished with copies of the "Motion for Extension of Time to File Verified Petition for Review,"^[31] it should be considered as a typographical or clerical error since what was actually furnished, as shown by the heading of the pleading, is a "Verified Petition for Review."^[32]

While it is true that rules of procedure are intended to promote rather than frustrate the ends of justice, and the swift unclogging of court dockets is a laudable objective, it nevertheless must not be met at the expense of substantial justice.^[33] Time and again, this Court has reiterated the doctrine that the rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. A strict and rigid application of the rules must always be eschewed when it would subvert the primary objective of the rules, that is, to enhance fair trials and expedite justice. Technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.^[34] Thus, the CA should have refrained from hastily dismissing the petition on procedural flaws.

In similar cases,^[35] the Court ordinarily remands the case to the CA for proper disposition on the merits. However, in the present case, considering the issues