

THIRD DIVISION

[G.R. No. 148189, November 11, 2004]

**EMERITO REMULLA, PETITIONER, VS. JOSELITO DP.
MANLONGAT, RESPONDENT.**

DECISION

PANGANIBAN, J.:

Rules on the perfection of appeals, particularly on the period for filing notices of appeal, must occasionally yield to the loftier ends of substantial justice and equity. In this case, the one-day delay in the filing of the Notice of Appeal was due to the senseless foot-dragging of the public prosecutor. The State must not be prejudiced or estopped by the negligence of its agents.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, assailing the November 24, 1999 Decision^[2] and the May 9, 2001 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 47632. The CA disposed as follows:

"WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. The Order dated January 8, 1998 is hereby ordered set aside. Accordingly, respondent Judge is hereby directed to give due course to the notice of appeal filed by the prosecution on December 19, 1996."^[4]

The challenged Resolution, on the other hand, denied petitioner's Motion for Reconsideration "for the reasons that (a) [respondent] was not served a copy of said Motion; [and] (b) the page/pages subsequent to page 4 of the 'Amended Complaint' appended to said Motion was/were not appended thereto."

The Facts

The CA narrated the antecedents as follows:

"[Respondent] Joselito Manlongat filed a complaint before the Office of the City Prosecutor of Makati for (1) frustrated murder against Christian Torres; (2) Ramoncito Cabreira filed a complaint against Torres for physical injuries [sic];^[5] and (3) 'other light threats' against [petitioner Remulla, which] was later on withdrawn. Instead, a complaint for grave coercion was filed against [petitioner Remulla] by David Paras, Jeffrey Quizon and Carlos Packing, docketed as I.S. No. 94-570. x x x A separate complaint was [also] filed by [respondent] for frustrated murder against x x x Remulla as co-principal of Torres, [which complaint was] docketed as I.S. No. 94-571.

"After the preliminary investigation, Prosecutor Jaime Adoc found probable cause for frustrated murder against Torres. However, the charges for physical injuries against Torres and the charges of frustrated murder and grave coercion against x x x Remulla were dismissed. [Respondent] filed a [motion for partial] reconsideration of Prosecutor Adoc's resolution insofar as it dismissed the complaint for frustrated murder and grave coercion against x x x Remulla. The motion was however denied. [Respondent] filed a petition for review before the Department of Justice. Meantime, the City Prosecutor filed an information for frustrated murder against Torres (Criminal Case No. 94-4264), [which case was] raffled to Branch 57, Regional Trial Court of Makati City. Torres was arraigned and trial commenced.

"On October 4, 1995, then Secretary of Justice, Teofisto Guingona, Jr. modified Prosecutor Adoc's resolution and instead directed to cause the indictment of x x x Remulla as co-principal of Torres in the frustrated murder case. [Petitioner] Remulla moved to reconsider the Justice Secretary's resolution but it was denied on January 31, 1996. In consideration of the resolution of the Justice Secretary, Prosecutor Renato C. Francisco filed a motion to amend the information in Criminal Case No. 94-4264 to include x x x Remulla as Torres' co-accused. The trial court however denied the motion to amend in its Order dated March 11, 1996. The prosecution moved to reconsider [the] order of denial but it was likewise denied on June 10, 1996.

"On August 2, 1996, the City Prosecutor's Office of Makati filed a separate information for frustrated murder against x x x Remulla (Criminal Case No. 96-1386), which was raffled to Branch 132 of the Regional Trial Court of Makati City presided by Judge Herminio Benito. Three (3) days thereafter, or on August 5, 1996, x x x Remulla filed a Motion to Hold Issuance of Warrant of Arrest and to Dismiss/Quash [the] Information.

"On August 19, 1996, Judge Herminio Benito ordered x x x the transfer of Criminal Case No. 96-1386 to Branch 57 for consolidation with Criminal Case No. 94-4264. Accordingly, x x x Remulla re-filed his motion to Hold Issuance of Warrant of Arrest and to Dismiss/Quash [the] Information before Branch 57, to which the prosecution filed its [J]oint [O]pposition.

"On November 28, 1996, Judge Francisco X. Velez of Branch 57 ordered the dismissal of the Information against x x x Remulla on the ground of forum-shopping. The City Prosecutor's Office of Makati received [a] copy of the order of dismissal on December 3, 1996, while [the] private prosecutors received their copy on December 5, 1996.

"On December 19, 1996, Prosecutor Andres N. Marcos filed a Notice of Appeal, impugning the aforesaid order of dismissal. On the same day, Judge Nemesio Felix, acting judge of Branch 57, in place of Judge Velez who retired, resolved to deny the Notice of Appeal on the ground that it was filed out of time. Both public and private prosecutors filed a motion

to reconsider the December 19, 1996 order. x x x [Petitioner] filed his Opposition thereto.

"On April 23, 1997, acting on [respondent's] motion for reconsideration, respondent judge, who had taken over as presiding judge of Branch 57, resolved in the interest of substantial justice, [to] set aside the December 19, 1996 order of Judge Felix and accordingly directed the entire records of the case to be elevated to [the Court of Appeals]. x x x Remulla moved for reconsideration of this order. [Respondent] opposed the motion.

"On January 8, 1998, the x x x assailed order was issued by the [trial court] judge, reversing his prior order dated April 23, 1997 and accordingly denied prosecution's notice of appeal."^[6]

Ruling of the Court of Appeals

The appellate court ruled that the 15-day reglementary period to file a Notice of Appeal should be reckoned from December 3, 1995, the date the public prosecutor received a copy of the November 28, 1996 Order of dismissal, not on December 5, 1996, when the private prosecutor received his own copy. Accordingly, by December 19, 1996, the period to file the Notice of Appeal had lapsed.

Nonetheless, the appellate court held that the public prosecutor's failure to file the Notice of Appeal on time was excusable. In their desire to have their appeal taken, respondent and his private counsel consulted the Office of the Solicitor General (OSG) over the apprehensions of the public prosecutor about bringing the appeal by himself. The CA added that their efforts to conform to the rule that the prosecution of criminal cases was under the direction and control of the public prosecutor should not operate to penalize private complainant.

The CA further said it was aware of the general rule that an appeal was a mere statutory privilege that could be availed of only in the manner prescribed by law. Nonetheless, the appellate court held that the rigid application of the rule could be relaxed in the interest of substantial justice.

Hence, this Petition.^[7]

Issues

In his Memorandum, petitioner raises the following issues:

"I.

Whether or not the Honorable Court of Appeals gravely erred in ordering the lower court to give due course to the prosecution's Notice of Appeal.

"II.

Whether or not the Honorable Court of Appeals seriously erred in holding that the prosecution's failure to file the Notice of Appeal on time was excusable.

"III.

Whether or not the Honorable Court of Appeals gravely erred in denying petitioner's Motion for Reconsideration of its assailed Decision on the grounds that petitioner failed to furnish the respondent with a copy of the petitioner's motion for reconsideration and for failure to attach page 4 of the Amended Complaint."^[8]

These issues boil down to two: whether the CA (1) correctly gave due course to respondent's appeal and (2) erred in denying petitioner's Motion for Reconsideration.

The Court's Ruling

The Petition has no merit.

First Issue:

Due Course to Notice of Appeal

Petitioner bemoans the alleged inconsistency and flip-flop of the CA. While it admitted that respondent had filed his Notice of Appeal beyond the reglementary period, it nevertheless gave due course to the appeal. Petitioner argues that no exceptional instances merited the relaxation of the rules.

On the other hand, the CA contends that the rule governing the perfection of appeals ought not to be applied very strictly when a technical and rigid enforcement would defeat the ends of substantial justice. It adds that the belated filing of a Notice of Appeal was justified and excusable.

Generally, the right to appeal is not constitutional, natural or inherent;^[9] it is a mere statutory privilege to be exercised only in accordance with the provisions of the law.^[10] It has thus been held that the failure to perfect an appeal in the manner and within the period allowed by law^[11] renders the questioned decision final and executory and precludes the appellate court from acquiring jurisdiction to review it.^[12]

However, these rules are not iron-clad. This Court is not impervious to instances when rules of procedure must yield to the loftier demands of substantial justice and equity.^[13] Procedural rules are mere tools designed to facilitate the attainment of justice; their application must be liberalized to promote public interest.^[14]

In a number of cases, the Supreme Court has in fact relaxed the period for perfecting an appeal, especially on grounds of substantial justice,^[15] or when there are other special and meritorious circumstances and issues.^[16] Verily, this Court has the power to relax or suspend the rules or to exempt a case from their rigid operation when warranted by compelling reasons and the requirements of justice.^[17]

In the present case, the late filing -- by only one day -- of the prosecution's Notice