

FIRST DIVISION

[G.R. No. 109721, March 11, 1999]

**FELIX A. SAJOT, PETITIONER, VS. COURT OF APPEALS AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

What is before the Court is a petition to set aside a resolution of the Court of Appeals,^[1] denying petitioner's "Urgent Motion for Reconsideration" of the dismissal of his appeal for having been filed out of time, and another resolution denying petitioner's "Motion for Reconsideration"^[2] for being a prohibited pleading.

On April 23, 1991, the Regional Trial Court, Branch 118, Pasay City, convicted petitioner and Antonio Tobias in Criminal Case NO. 97-12635, of estafa. The court sentenced each of them to suffer an indeterminate penalty of four (4) years of prision correctional to thirteen (13) years of prision mayor, and to reimburse Father Modesto Teston in the amount of P75,000.00, as actual damages, P50,000.00, as moral damages, P10,000.00, as attorney's fees and to pay the costs of the suit.^[3]

Antonio Tobias appealed the decision to the Court of Appeals,^[4] and, thereafter, filed an appellant's brief, which appeal is now pending therein.

On the other hand, on June 24, 1991, petitioner filed with the trial court a notice of appeal through Attorney Mariano Cervo. Subsequently, the trial court elevated the records to the Court of Appeals. Per notice dated January 14, 1992, the Court of Appeals required petitioner to file an appellant's brief within thirty (30) days from receipt of notice.^[5]

On February 21, 1992, petitioner filed with the Court of Appeals a "Petition for Extension of Time to File Brief," asking for an additional thirty-day period to file appellant's brief, which the court granted.^[6] On March 20, 1992, petitioner filed a "Petition for Second Extension of Time to File Brief", which the court likewise granted.^[7] Again, on May 14, 1992, he filed a "petition for Third Extension of Time to File Brief." The court granted the motion.^[8]

On November 27, 1992, the Court of Appeals resolved to dismiss petitioner's appeal for failure to file his brief within the third extension granted by the court. Petitioner contended that he only learned about the dismissal through a friend. When confronted, his counsel could not give any plausible explanation for his failure to file brief. On February 4, 1993, petitioner, "for and by himself,"^[9] filed with the Court of Appeals an Urgent Motion for Reconsideration. The court denied the motion.^[10]

On March 12, 1993, petitioner, by a new counsel, filed a motion for reconsideration alleging the following grounds:

"I. Substantial justice/Ends of justice can be fully served

"II. Excusable negligence on the part of the moving appellant

"III. Exercise of equity jurisdiction by this Honorable Court of Appeals"

[11]

Petitioner alleged further that his counsel, Attorney Mariano H. G. Cervo, never submitted the brief because of "utter and gross ignorance of procedure and/or negligence or omission, intentional or otherwise, in the performance of his avowed professional duty." [12]

On March 30, 1993, the Court of Appeals resolved to deny the motion for being a prohibited pleading. Petitioner received a copy of the resolution on April 12, 1993.

Hence, this petition.

The issue boils down to whether or not the Court of Appeals gravely abused its discretion in dismissing petitioner's appeal for failure to file appellant's brief.

Rule 50, Section 1 (e) of the Revised Rules of Court provides -

"Section 1. Grounds for dismissal of appeal - An Appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x

(e) Failure of appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;"

In a minute resolution, [13] we said:

"True, appeal is an essential part of our judicial system. As such, courts should proceed with caution so as not to deprive a party of the right to appeal, particularly if the appeal is meritorious. Respect for the appellant's right, however, carries with it the correspondent respect for the appellee's similar rights to fair play and justice. The appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court."

In Garbo vs. Court of Appeals, [14] we ruled that:

"Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances."