

## SECOND DIVISION

[ G.R. No. 103028, October 10, 1997 ]

**CARLOTA DELGADO VDA. DE DELA ROSA, PETITIONER, VS. COURT OF APPEALS, HEIRS OF MACIANA RUSTIA VDA. DE DAMIAN, NAMELY: GUILLERMO R. DAMIAN & JOSE R. DAMIAN; HEIRS OF HORTENCIA RUSTIA CRUZ, NAMELY: TERESITA CRUZ-SISON. HORACIO R. CRUZ, JOSEFINA CRUZ-RODIL, AMELIA CRUZ-ENRIQUEZ AND FIDEL R. CRUZ, JR.; HEIRS OF ROMAN RUSTIA, NAMELY: JOSEFINA RUSTIA-ALABANO, VIRGINIA RUSTIA-PARAISO, ROMAN RUSTIA, JR., SERGIO RUSTIA, FRANCISCO RUSTIA, LETICIA RUSTIA-MIRANDA; GUILLERMINA R. RUSTIA AND GUILLERMA RUSTIA-ALARAS, RESPONDENTS.**

### D E C I S I O N

**TORRES, JR., J.:**

Assailed in this petition for review on *certiorari* is the Resolution of Court of Appeals' Seventh Division in CA-G.R. SP No. 23415 promulgated on November 27, 1991, granting the private respondents' upon petition for certiorari and mandamus. The appellate court had ruled for the approval of the private respondents' record on appeal, thus paving the way for the continuance of their appeal from the decision of the Regional Trial Court of Manila Branch 55 in SP Case No. 97668.

On May 8, 1975, Luisa Delgado, Vda. De Danao filed a Petition for Letters of Administration of the intestate estate of the deceased spouses Josefa Delgado, who died on September 8, 1972, and Dr. Guillermo Rustia who died on February 28, 1974. The case was docketed as SP Case No. 97668. The petition was filed by Luisa Delgado on behalf of the surviving sisters, brothers, nephews, nieces and grand-nephews and grand-nieces of Josefa Delgado. In due course, the petition was opposed by Marciana Rustia Vda. De Damian, Hortencia Rustia-Cruz, (sisters of the deceased Dr. Guillermo Rustia); Josefina Albano, Virginia Rustia-Paraiso, Roman Rustia, Jr., Sergio Rustia Francisco Rustia, Leticia Rustia Miranda, (children of the late Roman Rustia, brother of the deceased Dr. Guillermo Rustia); and Guillermina Rustia Rustia (de facto adopted daughter of Josefa Delgado and Guillermo Rustia).

With the permission of the trial court, Guillerma S. Rustia-(Alaras) was allowed to intervene in the proceedings upon her assertion of the status of an acknowledged natural child, and thus, the only surviving child and sole heir, of Dr. Guillermo J. Rustia.

On January 14, 1976, oppositor Hortencia Rustia-Cruz died and was substituted in the estate proceedings by her husband Fidel Cruz and their five children Teresita, Horacio, Josefina, Amelia and Fidel, Jr. In time, oppositor Marciana Rustia Vda. De Damian also died and was substituted by her children Guillermo and Jose.

On April 3, 1978, Luisa Delgado filed an Amended Petition for Letters of

Administration, this time alleging that the deceased Josefa Delgado and Guillermo Rustia had been living continuously as husband and wife, but without the benefit of marriage.

In the ensuing proceedings, the parties presented their respective evidence upon the following issues, as enumerated by the estate court:

1. Whether or not the deceased Josefa Delgado was legally married to Dr. Guillermo Rustia;
2. In the negative, whether or not the petitioner and the other claimants to the estate of the late Josefa Delgado are entitled to her estate, if any;
3. Whether or not the intervenor was acknowledged as a natural or illegitimate child by the deceased Dr. Guillermo Rustia in his lifetime;
4. Whether or not the oppositor Guillermo Rustia has any right or interest in the estate in controversy;
5. Whether or not the estate of Josefa Delgado was legally settled; and
6. Who is entitled to the estate's administration?<sup>[1]</sup>

On March 14, 1988, herein petitioner Carlota Delgado Vda. De Dela Rosa was substituted for her sister, the petitioner Luisa Vda. de Danao, who had died on May 18, 1987.

On May 11, 1990, the Regional Trial Court of Manila Branch 55, in the proceedings for joint administration of estate of the late Josefa Delgado and Dr. Guillermo Rustia, rendered its decision<sup>[2]</sup> appointing herein petitioner Carlota Vda. De Dela Rosa as administrator of the estates of the two mentioned deceased. The dispositive portion of the trial court's decision reads:

"WHEREFORE, in view of all the foregoing, petitioner (Carlota Delgado Vda. De Dela Rosa) and her co-claimants to the estate of the late Josefa Delgado listed in the petition, and enumerated elsewhere in this Decision, are hereby declared as the only legal heirs of the said Josefa Delgado who died intestate in the City of Manila on September 8, 1972, and entitled to partition the same among themselves in accordance with the proportions referred to in this Decision.

"Similarly, the intervenor Guillermo S. Rustia is hereby declared as the sole and only surviving heir of the late Dr. Guillermo Rustia, and thus, entitled to the entire estate of the said decedent, to the exclusion of the oppositors and the other parties thereto.

"The Affidavit of Self-Adjudication of the estate of Josefa Delgado executed by the late Guillermo J. Rustia on June 15, 1973 is hereby SET

ASIDE, and declared of no force and effect.

"As the estates of both decedents have not as yet been settled, and their settlement are considered consolidated in this proceeding in accordance with law, a single administrator therefore is both proper and necessary, and, as the petitioner Carlota Delgado Vda. de Dela Rosa has established her right to the appointment as administratrix of the estates, the Court hereby APPOINTS her as the ADMINISTRATRIX of the intestate estate of the deceased JOSEFA DELGADO in relation to the estate of DR. GUILLERMO J. RUSTIA.

"Accordingly, let the corresponding LETTERS OF ADMINISTRATION issue to the petitioner CARLOTA DELGADO VDA. DE DELA ROSA upon her filing of the requisite bond in the sum of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

"Finally, oppositor GUILLERMINA RUSTIA RUSTIA is hereby ordered to cease and desist from her acts of administration of the subject estates, and is likewise ordered to turn over to the appointed Administratrix all her collections of the rentals and income due on the assets of the estates in question, including all documents, papers, records and titles pertaining to such estates to the petitioner and appointed Administratrix CARLOTA DELGADO VDA. DE DELA ROSA, immediately upon receipt of this Decision. The same oppositor is hereby required to render an accounting of her actual administration of the estates in controversy within a period of sixty (60) days from receipt hereof.

"SO ORDERED."

In due time, the private respondents (oppositors below) filed a notice of appeal on May 20, 1990, thereby notifying the court of their intention to appeal the decision. The Record on Appeal was filed with the trial court on June 21, 1990, thirty-one (31) days from the time counsel for private respondents' counsel received the court's decision. On September 25, 1990, the Regional Trial Court of Manila Branch 55, the Hon. Hermogenes R. Liwag, denied due course to, and dismissed the appeal on the ground that the Record on Appeal was filed a day late, pursuant to Batas Pambansa 129 and the Interim Rules.

Private respondents assailed the ruling in a petition for certiorari and mandamus, filed with the Supreme Court on October 20, 1990. However, in a Resolution dated November 5, 1990, this Court referred the petition to the Court of Appeals, the latter then having concurrent jurisdiction with the Court over the petition. The petition was docketed as CA-G.R. SP No. 23415. On March 20, 1991, the respondent appellate court ruled that the appeal was not perfected in time, and the trial court's decision had thus become final and executory. The court observed that the perfection of an appeal within the time prescribed by the rules is a jurisdictional requirement, and failure to do the same removes from the appellate court any jurisdiction over the action.

However, on motion for reconsideration by the private respondents filed on April 11,

1991, and after hearing the parties' respective oral arguments, the appellate court reversed itself, and ruled that in the light of special circumstances attending the proceedings leading to the issuance of the letters of administration, and in the interest of substantial justice, the private respondents' appeal should be given due course.<sup>[3]</sup>

In its Resolution dated November 27, 1991, the Court of Appeals held that the trial court should have proceeded with caution in considering the allowance of private respondents' appeal, as every party-litigant should be afforded ample opportunity for the proper and just determination of his cause, free from the constraints of technicalities. The court cited Supreme Court rulings furthering exceptional instances where delay in filing a record on appeal, in order to perfect an appeal, was ignored, when, on its face, the appeal appears to be impressed with merit.

"WHEREFORE, the decision dated March 21, 1991 is hereby RECONSIDERED the petition for certiorari and mandamus is GRANTED, the Order of respondent Court dated September 25, 1990 is ANNULLED and SET ASIDE and another one is rendered APPROVING the Record on Appeal and GIVING DUE COURSE to the appeal interposed by oppositors-appellants-petitioners from the decision of respondent court rendered on May 11, 1990 in SP-97668.

"SO ORDERED."

Petitioner Carlota Delgado Vda. de Dela Rosa is now before us, insisting on the final and executory nature of the trial court's May 11, 1990 decision naming her as administrator of the subject estates. She argues that the Court of Appeals erred in setting aside the trial court's decision dismissing the private respondents' appeal, as the taking of an appeal and the filing of the record on appeal within the reglementary period is mandatory and jurisdictional in nature, and the private respondents' failure to comply with such requirement renders their appeal nugatory.

"A. It is clear and patent error for the Court of Appeals to have granted the petition for certiorari and mandamus of respondents Guillerma R. Rustia and the heirs of Marciana Vda. de Damian, although Hermogenes R. Liwag acted within his jurisdiction and in accordance with the law when he dismissed the appeal of Guillerma R. Rustia et. al. since they filed their record on appeal beyond the reglementary period of thirty (30) days.

"B. The Court of appeals committed grave abuse of discretion in setting aside the order of September 25, 1990 of Judge Hermogenes R. Liwag, which dismissed the appeal of respondents Guillerma R. Rustia et. al. contrary to law and settled jurisprudence that the taking of an appeal including the filing of the record on appeal within the reglementary period is mandatory and jurisdictional.

"C. The Court of Appeals acted without jurisdiction and with grave abuse

of discretion in approving the record on appeal of Guillerma R. Rustia et. al. although it was filed beyond the thirty (30) day reglementary period.

"D. The Court of Appeals acted without jurisdiction and committed grave abuse and reversible error in giving due course to the appeal of Guillermina R. Rustia et. al. although their record on appeal was filed out of time.

1. Judge Hermogenes R. Liwag did not commit grave abuse of discretion nor acted without or in excess of jurisdiction in issuing the order of September 25, 1990 which, denied due course to the appeal of respondents heirs of Marciana Vda. de Damian and accordingly dismissed the appeal.

2. Mandamus cannot and should not be granted to set aside the order of September 25, 1990 to compel Judge Hermogenes R. Liwag to give due course to the appeal of respondent heirs of Marciana Vda. de Damian."

The general rule still holds, that the right to appeal is not a natural right, but statutory. The appellate jurisdiction of the courts is conferred by law, and must be exercised in the manner and in accordance with the provisions thereof and such jurisdiction is acquired by the appellate court over the subject matter and parties by the perfection of the appeal.<sup>[4]</sup> However, dismissal of appeals based on purely technical grounds is frowned upon by the courts as it is their policy to encourage hearings of appeals on the merits.<sup>[5]</sup>

As a rule, periods prescribed to do certain acts must be followed. However, under exceptional circumstances, a delay in the filing of an appeal may be excused on grounds of substantial justice.<sup>[6]</sup>

Even assuming that the private respondents' record on appeal was filed a day late, strong consideration of substantial significance are manifest, as attested to by the appellate court's findings, which urge this Court to relax the stringent application of technical rules in the exercise of our equity jurisdiction, in spite of the apparent negligence of counsel. The appellate court's discussion is hereby reproduced:

"A look at oppositors' Record on Appeal which was also forwarded with the case records, shows that it consists of 361 pages. It was dated 'Quezon City, for Manila, Philippines, 20 June 1990'. On its page 360, counsel for oppositors-appellants submitted that the Record on Appeal together with the evidence be certified to this Court. Counsel also submitted that the Record on Appeal and the Notice of Appeal be heard and approved 'on Friday, June 29, 1991.' Page 361 of the Record on Appeal shows that a copy thereof was sent by registered mail to counsel for private respondents. The record on Appeal, therefore, can speak for itself, that it was already prepared, completed, finished and signed by counsel for oppositors on June 20, 1990, or within the 30-day reglementary period from counsel's receipt of the decision sought to be appealed. Though the Record on Appeal should have been presented on or before June 20, 1990, but was submitted on the following day, June