



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CMTC INTERNATIONAL G.R. No. 170488
MARKETING CORPORATION,
Petitioner,

- versus -

Present:

BRION,*
PERALTA, J., *Acting Chairperson*,**
ABAD,
MENDOZA, and
LEONEN, JJ.

BHAGIS INTERNATIONAL
TRADING CORPORATION,
Respondent.

Promulgated:

10 December 2012

Macapiano

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DECISION

PERALTA, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Resolutions dated August 19, 2005¹ and November 15, 2005² of the Former Special Twelfth Division of the Court of Appeals in CA-G.R. CV No. 84742.

* Designated Acting Member in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 1395 dated December 6, 2012.

** Per Special Order No. 1394 dated December 6, 2012.

¹ CA rollo, p. 20.

² Penned by Associate Justice Bienvenido L. Reyes (now a member of this Court), with Associate Justices Martin S. Villarama, Jr. (also, now a member of this Court) and Lucenito N. Tagle, concurring; rollo, pp. 45-49.

The facts of the case follow.

Petitioner instituted a Complaint for Unfair Competition and/or Copyright Infringement and Claim for Damages with Prayer for Temporary Restraining Order and Writ of Preliminary Injunction against respondent before the Regional Trial Court of Makati (*trial court*).³

On February 14, 2005, the trial court rendered a Decision⁴ dismissing the complaint filed by petitioner. The *fallo* of said Decision reads:

WHEREFORE, premises considered, the Complaint for Unfair Competition and/or Copyright Infringement and Claim for Damages is hereby DISMISSED without pronouncement as to cost.

SO ORDERED.⁵

After receiving a copy of the trial court's Decision, petitioner seasonably filed a Notice of Appeal before the Court of Appeals (*appellate court*) on March 4, 2005.⁶

Thereafter, the appellate court issued a Notice to File the Appellant's Brief on May 20, 2005, which was received by the law office representing petitioner on May 30, 2005, stating as follows:

Pursuant to Rule 44, Sec. 7 of the 1997 Rules of Civil Procedure you are hereby required to file with this Court within forty-five (45) days from receipt of this notice, SEVEN (7) legibly typewritten, mimeographed or printed copies of the Appellant's Brief with legible copies of the assailed decision of the Trial Court and proof of service of two copies upon the appellee/s.⁷

However, despite said notice, petitioner failed to file its appellant's brief timely. Hence, on August 19, 2005, the appellate court issued a

³ *Id.* at 83-94.

⁴ *Id.* at 117-124.

⁵ *Id.* at 124.

⁶ *Id.* at 125-126.

⁷ CA *rollo*, p.18.

Resolution dismissing the appeal filed by petitioner. The full text of said Resolution reads:

Considering the report of the Judicial Records Division dated 17 August 2005 stating that no appellant's brief has been filed as per docket book entry, the Court RESOLVES to consider the appeal as having been ABANDONED and consequently DISMISS the same pursuant to Sec. 1(e), Rule 50 of the 1997 Rules of Civil Procedure, as amended.⁸

Upon receipt of the order of dismissal, petitioner filed its Motion for Reconsideration with Motion to Admit Appellant's Brief,⁹ which was filed forty-two (42) days late from the date of its expiration on July 15, 2005.

On November 15, 2005, the appellate court denied petitioner's Motion for Reconsideration with Motion to Admit Appellant's Brief. It ruled that one of the grounds by which the Court of Appeals may, on its own motion or that of the appellee, dismiss the appeal is the failure on the part of the appellant to serve and file the required number of copies of his brief within the time prescribed by the Rules of Court, *viz.*:

For this Court to admit the appellant's brief after such wanton disregard of the Rules would put a strain on the orderly administration of justice.

As held in the case of *St. Louis University vs. Cordero*, 434 SCRA 575, 587, citing *Don Lino Gutierrez & Sons, Inc. v. Court of Appeals*, 61 SCRA 87:

“It is necessary to impress upon litigants and their lawyers the necessity of strict compliance with the periods for performing certain acts incident to the appeal and the transgressions thereof, as a rule, would not be tolerated; otherwise, those periods could be evaded by subterfuges and manufactured excuses and would ultimately become inutile.

WHEREFORE, the foregoing premises considered, the Motion for Reconsideration with Motion to Admit Appellant's Brief is perforce DENIED.

SO ORDERED.¹⁰

⁸ *Id.* at 20.

⁹ *Id.* at 21-23.

¹⁰ *Rollo*, pp. 48-49.

Accordingly, petitioner filed a petition for review on *certiorari* before this Court questioning the August 19, 2005 and November 15, 2005 Resolutions of the appellate court. Thus, petitioner presents the following grounds to support its petition:

A.

THE COURT OF APPEALS GRIEVOUSLY COMMITTED A REVERSIBLE ERROR WHEN IT SACRIFICED SUBSTANTIVE JUSTICE IN FAVOR OF PROCEDURAL TECHNICALITIES WITH ITS DISMISSAL OF PETITIONER'S APPEAL FOR FAILURE TO FILE THE APPELLANT'S BRIEF ON TIME WITHOUT CONSIDERING AT ALL WHETHER OR NOT PETITIONER'S APPEAL DESERVED FULL CONSIDERATION ON THE MERITS.

B.

IN THE INTEREST OF SUBSTANTIVE JUSTICE, PETITIONER'S APPEAL SHOULD BE REINSTATED CONSIDERING THAT THE ERRORS OF THE TRIAL COURT IN RENDERING ITS APPEALED DECISION ARE EVIDENT ON THE FACE OF THE SAID DECISION AND MORE SO AFTER AN EXAMINATION OF THE EVIDENCE ON RECORD.

1. The trial court's ruling that petitioner should have established actual confusion in the minds of buyers is contrary to jurisprudence.
2. The trial court did not state the facts upon which it based its conclusion that petitioner's trademark is strikingly different and distinct from that of defendant's.
3. Respondent labeled its products in a manner confusingly similar to that of petitioner's.
4. The trial court erred in finding that respondent did not pass off its products as that of petitioner's.¹¹

Simply, the issue to be resolved is the propriety of the dismissal of petitioner's appeal for its failure to file the appellant's brief within the reglementary period.

Petitioner asserts that the appellate court erred in dismissing its appeal, since dismissal of appeals on purely technical grounds is frowned upon and the rules of procedure ought not to be applied in a very technical sense, for they are adopted to help secure substantial justice.

¹¹ *Id.* at 20.

For its part, respondent maintains that the appellate court did not err in dismissing petitioner's appeal for its failure to file the required appellant's brief within the reglementary period. It stresses that in the absence of persuasive reason to deviate therefrom, rules of procedure must be faithfully followed for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.

We find merit in the instant petition.

Time and again, this Court has emphasized that procedural rules should be treated with utmost respect and due regard, since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. From time to time, however, we have recognized exceptions to the Rules, but only for the most compelling reasons where stubborn obedience to the Rules would defeat rather than serve the ends of justice.¹²

In *Obut v. Court of Appeals*,¹³ this Court reiterated that it "cannot look with favor on a course of action which would place the administration of justice in a straightjacket, for then the result would be a poor kind of justice if there would be justice at all. Verily, judicial orders are issued to be obeyed, nonetheless a non-compliance is to be dealt with as the circumstances attending the case may warrant. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint of defense rather than for him to lose life, liberty, honor or property on technicalities."

The same principle was highlighted in *Philippine National Bank and Development Bank of the Philippines v. Philippine Milling Company, Incorporated, et al.*¹⁴ where the Court ruled that even if an appellant failed

¹² *Osmeña v. Commission on Audit*, G.R. No. 188818, May 31, 2011, 649 SCRA 654, 660.

¹³ G.R. No. L-40535, April 30, 1976, 70 SCRA 546, 554; 162 Phil. 731, 744 (1976).

¹⁴ G.R. No. L-27005, January 31, 1969, 26 SCRA 712, 715; 136 Phil. 212, 215 (1969).

to file a motion for extension of time to file his brief on or before the expiration of the reglementary period, the Court of Appeals does not necessarily lose jurisdiction to hear and decide the appealed case, and that the Court of Appeals has discretion to dismiss or not to dismiss appellant's appeal, which discretion must be a sound one to be exercised in accordance with the tenets of justice and fair play having in mind the circumstances obtaining in each case.

Ergo, where strong considerations of substantive justice are manifest in the petition, the strict application of the rules of procedure may be relaxed, in the exercise of its equity jurisdiction.¹⁵ Thus, a rigid application of the rules of procedure will not be entertained if it will obstruct rather than serve the broader interests of justice in the light of the prevailing circumstances in the case under consideration.

In the instant case, it is apparent that there is a strong desire to file an appellant's brief on petitioner's part.

When petitioner filed its motion attaching therewith its appellant's brief, there was a clear intention on the part of petitioner not to abandon his appeal. As a matter of fact, were it not for its counsel's act of inadvertently misplacing the Notice to File Brief in another file, petitioner could have seasonably filed its appellant's brief as its counsel had already prepared the same even way before the receipt of the Notice to File Brief.

It bears stressing at this point then that the rule, which states that the mistakes of counsel binds the client, may not be strictly followed where observance of it would result in outright deprivation of the client's liberty or property, or where the interest of justice so requires. In rendering justice, procedural infirmities take a backseat against substantive rights of litigants.

¹⁵ *Al-Amanah Islamic Investment Bank of the Philippines v. Celebrity Travel and Tours, Incorporated*, G.R No. 155524, August 12, 2004, 436 SCRA 356, 366; 479 Phil. 1041, 1052 (2004).

Corollarily, if the strict application of the rules would tend to frustrate rather than promote justice, this Court is not without power to exercise its judicial discretion in relaxing the rules of procedure.¹⁶

Also, it must be stressed that petitioner had no participatory negligence in the dismissal of its appeal. Hence, the ensuing dismissal of its appeal was completely attributable to the gross negligence of its counsel. For said reason, the Court is not averse to suspending its own rules in the pursuit of justice. Where reckless or gross negligence of counsel deprives the client of due process of law, or when the interests of justice so require, relief is accorded to the client who suffered by reason of the lawyer's gross or palpable mistake or negligence.¹⁷

All told, petitioner should be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.

Nevertheless, considering that this Court is not a trier of facts, the appropriate action to take is to remand the case to the appellate court for further proceedings, for it to thoroughly examine the factual and legal issues that still need to be threshed out.

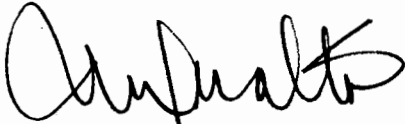
WHEREFORE, premises considered, the instant petition is hereby **GRANTED**, insofar as this case is **REMANDED** to the Court of Appeals for further proceedings, subject to the payment of the corresponding docket fees within fifteen (15) days from notice of this Decision.

Let the records and the *CA rollo* of this case be transmitted accordingly.

¹⁶ *Villanueva v. People*, G.R. No. 188630, February 23, 2011, 644 SCRA 358, 368.


¹⁷ *Id.* at 369.

SO ORDERED.


DIOSDADO M. PERALTA
 Associate Justice

WE CONCUR:


ARTURO D. BRION
 Associate Justice

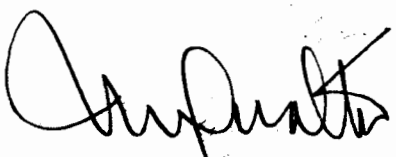

ROBERTO A. ABAD
 Associate Justice


JOSE CATRAL MENDOZA
 Associate Justice


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

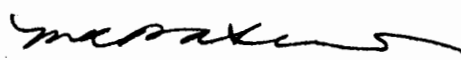
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
 Associate Justice
 Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice