

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

HECTOR HERNANDEZ,
Petitioner,

G.R. No. 194122

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
PEREZ,* and
MENDOZA, JJ.

- versus -

SUSAN SAN PEDRO AGONCILLO,
Respondent.

Promulgated:

11 October 2012

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X

DECISION

PERALTA, J.:

Assailed in the present petition for review on *certiorari* under Rule 45 of the Rules of Court are the April 29, 2010 Decision¹ and October 12, 2010 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 108801.

The instant petition arose from a Complaint for Damages filed with the Metropolitan Trial Court (MeTC) of Parañaque City against herein petitioner and one Freddie Apawan Verwin by herein respondent, alleging as follows:

* Designated Acting Member, per Special Order No. 1299 dated August 28, 2012.

¹ Penned by Associate Justice Franchito N. Diamante, with Associate Justices Josefina Guevara-Salonga and Mariflor P. Punzalan Castillo, concurring; *rollo*, pp. 22-33.

² *Id.* at 35-36.

x x x x

2. x x x Defendant Hector Hernandez is x x x the owner of the delivery van which is the subject matter of the above-entitled case. He is doing business under the name of Cargo Solution Innovation and is the employer of Defendant Freddie Apawan Verwin;
3. That on October 5, 2006 at around 12:15 in the afternoon, Defendant Freddie Apawan Verwin was driving a delivery van belonging to a certain Hector Hernandez, bearing plate number RBB-510, along Buendia Avenue Flyover, South Super-Highway (Osmeña Avenue), and negligently backed against a Honda City model with plate number XMF-496, owned and driven by the Plaintiff at the time of the incident;
4. That at the time of the incident, the traffic condition at the Buendia Avenue Flyover was bumper-to-bumper and that Plaintiff's and Defendant's vehicles were in an ascending position;
5. That Defendant driver alighted from his van and so did the Plaintiff to assess the damage done. Plaintiff observed that the pedestal of the van totally engaged and hooked the front bumper of her Honda car;
6. That after a brief discussion of the incident, Defendant driver went back to his van and stepped on the gas which caused the van to move abruptly forward and resulted to the disengagement of the bumper of Plaintiff's car and damage to the car radiator, and as a consequence, the Plaintiff's car was towed. Plaintiff paid ₱1,700 as towing fee. x x x
7. Right after the incident, Plaintiff made various demands from Defendants, thru the secretary of the Cargo Solution Innovation or C.S.I., the company which the driver of the van was working for, to pay the actual damages sustained, but to Plaintiff's dismay her demands were unheeded;
8. That defendant Hector Hernandez never talked [n]or appeared to the Plaintiff despite several requests made by the latter. Instead, he made a person appear having the name of Mr. De Ocampo before the Plaintiff in her clinic at Medical Center Manila, sometime on October 11, 2006 and acted in representation of Hector Hernandez and made a number of inquiries regarding the accident that transpired;
9. That sometime after, Plaintiff contacted Mr. De Ocampo for feedback regarding Defendant's position about the incident, and Mr. De Ocampo spoke that the Defendants are still waiting for the police report and ever since that conversation, no communication transpired between the parties regarding any agreement or settlement about the accident;
10. That as a direct consequence of the foregoing, Plaintiff's vehicle sustained heavy damage and the repair of which amounted to ₱130,602.53. A copy of the official receipt given by Honda Makati is hereby attached as Annex "D";
11. Plaintiff was unable to use her vehicle in going to work for five (5) weeks and led her to commute by means of a taxi every time her duty

called her in Medical Center Manila in United Nations Avenue, Manila costing her ₱500-1000/day;

12. Considering the character of Defendant driver's negligence, together with the malicious refusal to pay actual damages of both Defendants and Plaintiff's experience of sleepless nights and anxiety because of the incident, Defendants should be held liable for moral damages in an amount of not less than ₱50,000.00;
13. Forced to litigate, Plaintiff engaged the services of a lawyer and have agreed to pay attorney's fees in the amount of ₱30,000.00 plus ₱2,500.00 per appearance.³

On May 31, 2007, the MeTC issued a Summons Under Summary Procedure⁴ which was served upon and received by petitioner on June 18, 2007. However, the summons was not served on the other defendant. The case then proceeded only against petitioner.

On July 6, 2007, petitioner filed an *Ex Parte* Motion for Extension of Time to File His Answer claiming that he just engaged the services of his counsel. He prayed that he be granted an additional period of fifteen (15) days or until July 21, 2007 within which to file his responsive pleading.⁵

On July 18, 2007, the MeTC issued an Order⁶ denying petitioner's *Ex Parte* Motion for Extension of Time holding that the said Motion was filed beyond the reglementary period provided for by the Revised Rules on Summary Procedure and that it is likewise a prohibited pleading under the said Rule.

Petitioner filed a Motion for Reconsideration⁷ on August 17, 2007. Meanwhile, petitioner, nonetheless, filed his Answer with Affirmative and Negative Defenses and Compulsory Counterclaims⁸ on July 26, 2007.

³ Annex "C" to Petition, *rollo*, pp. 37-38.

⁴ Annex "D" to Petition, *id.* at 47.

⁵ Annex "E" to Petition, *id.* at 48-49.

⁶ Annex "G" to Petition, *id.* at 54.

⁷ Annex "I" to Petition, *id.* at 56-59.

⁸ Annex "F" to Petition, *id.* at 50-53.

Respondent opposed petitioner's Motion for Reconsideration.⁹ In the meantime, she filed a Motion to Render Judgment¹⁰ on August 24, 2007, on the ground that petitioner failed to file his answer within the time prescribed by the Revised Rules on Summary Procedure.

On September 7, 2007, the MeTC issued an Order¹¹ ruling that in view of the fact that the amount being claimed by respondent exceeds ₱200,000.00, the case shall be governed by the “Rules on Regular Procedure.” In the same Order, the MeTC denied petitioner's Motion for Reconsideration and directed him to file his Comment/Opposition to respondent's Motion to Render Judgment.

Petitioner filed his Opposition¹² on September 14, 2007.

On October 23, 2007, the MeTC issued an Order¹³ denying respondent's Motion to Render Judgment reiterating its ruling that the case does not fall under the Revised Rules on Summary Procedure.

On November 14, 2007, respondent filed a Motion to Declare Defendant (herein petitioner) Hector Hernandez in Default and to Render Judgment.¹⁴

Petitioner opposed contending that he has already filed his Answer prior to respondent's Motion to declare him in default and that he had actively participated in the case by filing various pleadings.¹⁵

⁹ Annex “J” to Petition, *id.* at 60-61.

¹⁰ Annex “K” to Petition, *id.* at 62-63.

¹¹ Annex “S” to Petition, *id.* at 79.

¹² Annex “M” to Petition, *id.* at 65-67.

¹³ Annex “N” to Petition, *id.* at 68.

¹⁴ Annex “O” to Petition, *id.* at 69-71.

¹⁵ Annex “P” to Petition, *id.* at 72-74.

On December 4, 2007, the MeTC issued an Order¹⁶ declaring petitioner in default and directing respondent to present evidence *ex parte*.

Petitioner filed a Motion to Set Aside Order of Default,¹⁷ but the MeTC denied it in its Order¹⁸ dated February 8, 2008.

After respondent's evidence *ex parte* was presented, the MeTC rendered its Decision¹⁹ dated August 6, 2008, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff Susan San Pedro Agoncillo and against the defendant Hector Hernandez, ordering him,

- a) To pay the plaintiff the amount of One Hundred Thirty-Two Thousand Three Hundred Two Pesos and 53/100 (Php 132,302.53) for the actual damages for the repair of the car and the towing fee;
- b) Attorney's fees in the amount of Ten Thousand Pesos (Php 10,000.00)
- c) And costs.

The case as against defendant Freddie Apawan Verwin is dismissed without prejudice as summons was not validly served upon him.

SO ORDERED.²⁰

The MeTC held that respondent was able to sufficiently establish her cause of action against petitioner in accordance with the provisions of Article 2180 of the Civil Code.

Petitioner appealed to the RTC which, however, denied the same in its Decision dated February 18, 2009. The RTC affirmed the findings and conclusions of the MeTC. As to the procedural aspect, the RTC ruled that the MeTC correctly denied due course to petitioner's Answer as the Motion for

¹⁶ Annex "Q" to Petition, *id.* at 75.

¹⁷ Annex "R" to Petition, *id.* at 76-78.

¹⁸ Annex "L" to Petition, *id.* at 64.

¹⁹ Annex "T" to Petition, *id.* at 80-83.

²⁰ *Id.* at 83.

Extension to file the same was filed out of time and that the said Answer was, in fact, filed beyond the extended period requested in the Motion for Extension.

Petitioner then filed a petition for review with the CA. On April 29, 2010, the CA rendered its assailed Decision denying the petition for lack of merit. Petitioner filed a Motion for Reconsideration, but the CA denied it in its Resolution dated October 12, 2010.

Hence, the instant petition for review on *certiorari* raising a sole issue, to wit:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS
DECISION IS IN ACCORD WITH APPLICABLE DECISIONS OF THE
HONORABLE SUPREME COURT, SPECIFICALLY THE
HONORABLE SUPREME COURT'S RULING IN *SABLAS* vs. *SABLAS*
(526 SCRA 292 [2007]).²¹

Petitioner's basic contention is that, pursuant to this Court's ruling in *Sablas v. Sablas*,²² the MeTC should have admitted his Answer as his pleading was filed before he was declared in default.

The petition is without merit.

It is true that this Court held in *Sablas* that where the Answer is filed beyond the reglementary period but before the defendant is declared in default and there is no showing that defendant intends to delay the case and no prejudice is caused to the plaintiff, the Answer should be admitted.²³

It must be emphasized, however, that it is not mandatory on the part of the trial court to admit an Answer which is belatedly filed where the defendant is not yet declared in default. Settled is the rule that it is within

²¹ *Rollo*, p. 13.

²² G.R. No. 144568, July 3, 2007, 526 SCRA 292.

²³ *Id.* at 298.

the discretion of the trial court to permit the filing of an answer even beyond the reglementary period, **provided that there is justification for the belated action and there is no showing that the defendant intended to delay the case.**²⁴

In the instant case, the MeTC found it proper not to admit petitioner's Answer and to subsequently declare him in default, because petitioner's *Ex Parte* Motion for Extension of Time to File His Answer was filed out of time; that petitioner filed his Answer beyond the period requested in the Motion for Extension; and that petitioner failed to appear during the scheduled hearing on respondent's Motion to declare him in default.

The Court finds no cogent reason to depart from the above ruling of the MeTC, as affirmed by the RTC and the CA.

Sablas differs from the instant case on two aspects, to wit: *first*, in *Sablas*, the petitioners' motion for extension to file their answer was seasonably filed while in the present case, petitioner's Motion for Extension to File His Answer was filed beyond the 15-day period allowed by the Rules of Court; *second*, in *Sablas*, since the trial court admitted the petitioners' Answer, this Court held that the trial court was correct in denying the subsequent motion of the respondent to declare the petitioners in default while, in the instant case, the MeTC denied due course to petitioner's Answer on the ground that the Motion for Extension was not seasonably filed and that the Answer was filed beyond the period requested in the Motion for Extension, thus, justifying the order of default. Thus, the principle enunciated in *Sablas* is not applicable in the present case.

²⁴ *Philippine National Bank v. Deang Marketing Corporation*, G.R. No. 177931, December 8, 2008, 573 SCRA 312, 319, citing *Spouses Ampeloquio, Sr. v. Court of Appeals*, G.R. No. 124243, June 15, 2000, 333 SCRA 465, 470.

In this respect, the Court agrees with the CA in its ruling that procedural rules are not to be ignored or disdained at will to suit the convenience of a party.

Procedural rules are designed to facilitate the adjudication of cases.²⁵ Courts and litigants alike are enjoined to abide strictly by the rules.²⁶ While in certain instances, the Court allows a relaxation in the application of the rules, there is no intention to forge a weapon for erring litigants to violate the rules with impunity.²⁷ The liberal interpretation and application of rules apply only in proper cases of demonstrable merit and under justifiable causes and circumstances.²⁸ While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.²⁹ Party litigants and their counsel are well advised to abide by – rather than flaunt – procedural rules for these rules illumine the path of the law and rationalize the pursuit of justice.³⁰

Moreover, while the Court frowns upon default judgments, it does not condone gross transgressions of the rules.³¹ The Court is duty-bound to observe its rules and procedures and uphold the noble purpose behind their issuance. Rules are laid down for the benefit of all and should not be made dependent upon a suitor's sweet time and own bidding.³²

Petitioner's negligence in the present case is inexcusable, because aside from the belated filing of his Motion for Extension to File His Answer, he also failed to file his Answer within the period requested in his Motion

²⁵ *MCA-MBF Countdown Cards Philippines, Inc., et al. v. MBF Card International Limited, et al.*, G.R. No. 173586, March 14, 2012; *Spouses David Bergonia and Luzviminda Castillo v. Court of Appeals and Amado Bravo, Jr.*, G.R. No. 189151, January 25, 2012; *Alamayri v. Pabale*, G.R. No. 151243, April 30, 2008, 553 SCRA 146, 166; *Hun Hyung Park v. Eung Won Choi*, G.R. No. 165496, February 12, 2007, 515 SCRA 502, 510-511.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Tagabi v. Tanque*, G.R. No. 144024, July 27, 2006, 496 SCRA 622, 631-632.

³¹ *Philippine National Bank v. Deang Marketing Corporation*, *supra* note 24, at 322.

³² *Id.* at 323.

without offering any justifiable excuse. Moreover, as observed by the MeTC in its Order dated February 8, 2008, petitioner also failed to appear during the scheduled hearing on respondent's Motion to Declare Him in Default. Furthermore, petitioner did not deny respondent's allegation that he also failed to appear during his requested date of hearing of his Motion to Set Aside the Order of Default. From these circumstances, the Court finds no compelling ground to depart from the findings of the CA that petitioner is guilty of deliberately employing delay in the prosecution of the civil case against him.

Aside from petitioner's abovementioned breach of procedural rules, the Court notes that petitioner and his counsel once again committed another violation when they failed to comply with this Court's Resolution dated March 16, 2011 requiring petitioner to file his Reply to respondent's Comment-Opposition to the present petition. It is true that this Court set aside its Resolution dated July 27, 2011 which dismissed the instant petition on the basis of this infraction committed by petitioner. However, it cannot be denied that this infringement affirms petitioner's propensity to ignore at will not only the rules of procedure but also the lawful order of the Court.

The Court agrees with respondent's observation that in his Memorandum filed with the RTC, petitioner reasoned out that his failure to seasonably file his Answer was due to the inadvertence and pressure of work on the part of his counsel.

In their Motion for Reconsideration of this Court's July 27, 2011 Resolution, petitioner, through his counsel, again used as excuse for their failure to file the required pleading the allegation that the counsel had voluminous workload. However, petitioner's counsel cannot hide from this pretense as he himself claimed that they, in fact, had no intention to file a Reply. Instead, they intended to simply file a Manifestation indicating their

desire to waive their right to reply and that they are adopting the arguments in their Petition as their Reply to respondent's Comment. If that, indeed, was the case, then the preparation of the intended manifestation could have taken just a few minutes. In fact, a perusal of petitioner's Motion for Reconsideration with Manifestation shows that it is a mere recapitulation of his arguments raised in his petition.³³ Yet, petitioner failed to file his Manifestation on time, which is within a period of ten (10) days from his receipt of the Resolution requiring his reply. Indeed, petitioner's counsel admitted that they received the Resolution requiring petitioner to file his Reply on April 26, 2011. However, petitioner ignored this Resolution and it was only on September 16, 2011, or almost five months after, that petitioner filed his Motion for Reconsideration with Manifestation. Notably, the said Motion for Reconsideration with Manifestation was filed only when this Court issued another Resolution dismissing the instant petition for petitioner's failure to comply with the order of this Court directing him to file his reply. This only indicates that were it not for the dismissal of his petition, petitioner and his counsel would have continued to ignore this Court's lawful order.

Truly, the conduct of petitioner and his counsel can never be a case of excusable neglect. On the contrary, it smacks of a blatant disregard of the rules and lawful directives of the court. Thus, giving in to petitioner's maneuvering is tantamount to putting premium on a litigant's naked indolence and sanctioning a scheme of prolonging litigation.

It bears stressing that a lawyer has the responsibility of monitoring and keeping track of the period of time left to file pleadings, and to see to it that said pleadings are filed before the lapse of the period.³⁴ If he fails to do so, his client is bound by his conduct, negligence and mistakes.³⁵ In the

³³ *Rollo*, pp. 145-151.

³⁴ *LTS Philippines Corporation v. Maliwat*, G.R. No. 159024, January 14, 2005, 448 SCRA 254, 259; 489 Phil. 230, 235 (2005).

³⁵ *Id.*

present case, petitioner and his counsel knew and should have known of the periods within which they are to file their pleadings. In fact, with respect to their Answer, they should be aware that they had only until July 21, 2007 to file the same because they were the ones who requested for an extension of time to file the said Answer. It was incumbent on petitioners' counsel to arrange his workload and attend to important and pressing matters such that pleadings are filed within the prescribed period therefor.³⁶ If the failure of the petitioners' counsel to cope with his heavy workload should be considered a valid justification to sidestep the reglementary period, there would be no end to litigations so long as counsel had not been sufficiently diligent or experienced.³⁷

Time and again, this Court has cautioned lawyers to handle only as many cases as they can efficiently handle.³⁸ The zeal and fidelity demanded of a lawyer to his client's cause require that not only should he be qualified to handle a legal matter, he must also prepare adequately and give appropriate attention to his legal work.³⁹ Since a client is, as a rule, bound by the acts of his counsel, a lawyer, once he agrees to take a case, should undertake the task with dedication and care.⁴⁰ This Court frowns upon a lawyer's practice of repeatedly seeking extensions of time to file pleadings and thereafter simply letting the period lapse without submitting any pleading or even any explanation or manifestation for his omission.⁴¹ Failure of a lawyer to seasonably file a pleading constitutes inexcusable negligence on his part.

On the other hand, it would not also be amiss to remind petitioner of the settled rule that litigants, represented by counsel, should not expect that

³⁶ *Id.*

³⁷ *Id.* at 259-260.

³⁸ *Salcedo v. Marino*, G.R. No. 170102, July 27, 2007, 528 SCRA 420, 425-426; *Bacarra v. National Labor Relations Commission*, G.R. No. 162445, October 20, 2005, 473 SCRA 581, 587; 510 Phil. 353, 359 (2005).

³⁹ *Id.*

⁴⁰ *Salcedo v. Marino*, *supra* note 38, at 426.

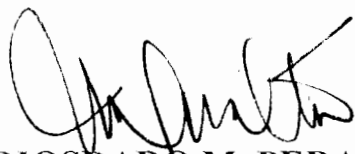
⁴¹ *Id.*

all they need to do is sit back, relax and await the outcome of their case.⁴² Instead, they should give the necessary assistance to their counsel and exercise due diligence to monitor the status of the case for what is at stake is their interest in the case.⁴³ This petitioner failed to do.

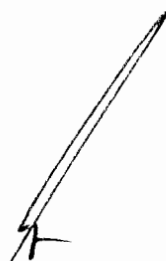
In any case, respondent was granted favorable relief only after the MeTC has ascertained that such relief is warranted by the evidence presented and the facts proven by the respondent. The Court agrees with the CA in holding that even if he was declared in default, petitioner was not deprived of his right to appeal. In fact, he appealed his case to the RTC, which ruled squarely on the merits of respondent's complaint and found sufficient evidence to sustain the ruling of the MeTC in respondent's favor.

WHEREFORE, the petition for review on *certiorari* is **DENIED**. The April 29, 2010 Decision and the October 12, 2010 Resolution of the Court of Appeals are **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

⁴² *Lao v. Special Plans, Inc.*, G.R. No. 164791, June 29, 2010, 622 SCRA 27, 42.

⁴³ *Id.*



ROBERTO A. ABAD
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CASAL MENDOZA
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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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