



Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

**BOARDWALK BUSINESS
VENTURES, INC.,**

Petitioner,

- versus -

**ELVIRA A. VILLAREAL (deceased)
substituted by Reynaldo P. Villareal,
Jr.-spouse, Shekinah Marie Villareal-
Azugue-daughter, Reynaldo A. Villareal
III-son, Shahani A. Villareal-daughter,
and Billy Ray A. Villareal-son,**
Respondents.

G.R. No. 181182

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:

APR 10 2013

X ----- X

DECISION

DEL CASTILLO, J.:

“[T]he right to appeal is neither a natural right nor [is it a component] of due process[. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law.”¹

This Petition for Review on *Certiorari*² seeks a review of the Court of Appeals’ (CA) April 25, 2007 Resolution³ in CA-G.R. SP No. UDK 5711 which dismissed outright petitioner’s Petition. Also assailed is the December 21, 2007 Resolution⁴ which denied the Motion for Reconsideration.

Factual Antecedents

Petitioner Boardwalk Business Ventures, Inc. (Boardwalk) is a duly organized and existing domestic corporation engaged in the selling of ready-to-

¹ *Fenequito v. Vergara, Jr.*, G.R. No. 172829, July 18, 2012, 677 SCRA 113, 117.

² *Rollo*, pp. 41-83.

³ CA *rollo*, pp. 75-78; penned by Associate Justice Edgardo F. Sundiam and concurred in by Associate Justices Portia Aliño-Hormachuelos and Monina Arevalo-Zenarosa.

⁴ *Id.* at 138-141.

wear (RTW) merchandise. Respondent Elvira A. Villareal (Villareal), on the other hand, is one of Boardwalk's distributors of RTW merchandise.

On October 20, 2005, Boardwalk filed an Amended Complaint⁵ for replevin against Villareal covering a 1995 Toyota Tamaraw FX, for the latter's alleged failure to pay a car loan obtained from the former. The case, docketed as Civil Case No. 160116, was filed with the Metropolitan Trial Court (MeTC) of Manila and was assigned to Branch 27 thereof.

Ruling of the Metropolitan Trial Court

On May 30, 2005, the MeTC rendered its Decision⁶ favoring Boardwalk, as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant adjudging that the former has the right to the possession of the subject motor vehicle and for the latter to pay the costs of the suit.

SO ORDERED.⁷

Villareal moved for reconsideration,⁸ but failed.⁹

Ruling of the Regional Trial Court (RTC)

She thus appealed¹⁰ to the Manila RTC, which court¹¹ issued a Decision¹² reversing the MeTC Decision, thus:

WHEREFORE, the appeal is granted. The assailed judgment of the lower court is reversed and set aside. Defendant Villareal has the right of possession to and the value of subject vehicle described in the complaint. Hence, plaintiff is directed to deliver the subject vehicle to defendant or its value in case delivery cannot be made. The complaint and counterclaim are both dismissed.

SO ORDERED.¹³

⁵ Records, pp. 2-5.

⁶ Id. at 343-347; penned by Judge Joel A. Lucasan.

⁷ Id. at 347.

⁸ Id. at 348.

⁹ See Order dated September 9, 2005, id. at 374-376.

¹⁰ Id. at 381.

¹¹ Branch 18 thereof.

¹² Id. at 392-410; penned by Judge Myra V. Garcia-Fernandez.

¹³ Id. at 410.

Boardwalk filed a Motion for Reconsideration,¹⁴ but the same was denied by the RTC in a December 14, 2006 Order,¹⁵ which Boardwalk received on January 19, 2007.¹⁶ On February 5, 2007,¹⁷ Boardwalk through counsel filed with the Manila RTC a Motion for Extension of Time to File Petition for Review,¹⁸ praying that it be granted 30 days, or until March 7, 2007, to file its Petition for Review. It paid the docket and other legal fees therefor at the Office of the Clerk of Court of the Manila RTC.¹⁹ On even date, Boardwalk also filed a Notice of Appeal²⁰ with the RTC which the said court denied for being a wrong mode of appeal.²¹

On March 7, 2007, Boardwalk filed through mail²² its Petition for Review²³ with the CA.

Ruling of the Court of Appeals

On April 25, 2007, the CA issued the first assailed Resolution, the dispositive portion of which reads as follows:

ACCORDINGLY, the Petition for Review is hereby **DISMISSED OUTRIGHT**.

SO ORDERED.²⁴

In dismissing the Petition for Review, the CA held that Boardwalk erred in filing its Motion for Extension and paying the docket fees therefor with the RTC. It should have done so with the CA as required by Section 1²⁵ of Rule 42 of the Rules of Court. It held that as a result of Boardwalk's erroneous filing and payment of docket fees, it was as if no Motion for Extension was filed, and the

¹⁴ Id. at 412-430.

¹⁵ Id. at 447-448.

¹⁶ Id. at 451.

¹⁷ Id.

¹⁸ Id. at 451-456.

¹⁹ Id. at 461-462.

²⁰ Id. at 457-460.

²¹ See Order dated February 15, 2007, id. at 463.

²² See CA *rollo*, p. 75.

²³ Id. at 2-23.

²⁴ Id. at 77-78. Emphases in the original.

²⁵ Section 1. *How appeal taken; time for filing*.

A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ₱500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

subsequent March 7, 2007 filing of its Petition with the appellate court was thus late and beyond the reglementary 15-day period provided for under Rule 42.

The CA added that Boardwalk's prayer for a 30-day extension in its Motion for Extension was irregular, because the maximum period that may be granted is only 15 days pursuant to Section 1 of Rule 42. A further extension of 15 days should only be granted for the most compelling reason which is not obtaining in the present case. Moreover, it held that Boardwalk's Petition for Review failed to include a board resolution or secretary's certificate showing that its claimed representative, Ma. Victoria M. Lo (Lo), was authorized to sign the Petition or represent Boardwalk in the proceedings, which thus rendered defective the Verification and Certification against forum-shopping. Finally, the CA faulted Boardwalk for its failure to attach to its Petition copies of the Complaint, Answer, position papers, memoranda and other relevant pleadings, as required in Sections 2 and 3²⁶ of Rule 42, thus meriting the outright dismissal of its Petition for Review.

Boardwalk filed a Motion for Reconsideration²⁷ and Supplemental Motion for Reconsideration,²⁸ invoking a liberal construction of the Rules in its favor. It further informed the CA that it had paid the docket fees with the CA Cashier, and submitted the required secretary's certificate and additional pleadings in support of its Petition.

In the second assailed December 21, 2007 Resolution subsequently issued, the CA denied the Motion for Reconsideration and its supplement. It held that despite curative action, the fact remains that Boardwalk's Petition was filed beyond the reglementary 15-day period. Even if technicality were to be set aside and Boardwalk were to be allowed an extension of 15 days from the filing of the

²⁶ Sec. 2. *Form and contents.*

The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

Sec. 3. *Effect of failure to comply with requirements.*

The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

²⁷ CA rollo, pp. 79-92.

²⁸ Id. at 93-96.

Motion for Extension on February 5, 2007, or until February 20, 2007, within which to file its Petition, its actual filing on March 7, 2007 would still be tardy.

Issues

Boardwalk thus filed the instant Petition, raising the following issues for resolution:

PETITIONER IS INVOKING THE LIBERAL CONSTRUCTION OF THE RULES TO EFFECT SUBSTANTIAL JUSTICE IN ACCORDANCE WITH RULE 1, SECTION 6 OF THE 1997 RULES OF CIVIL PROCEDURE.

SPECIFICALLY, THE ASSAILED RESOLUTIONS X X X ORDERING THE OUTRIGHT DISMISSAL OF THE PETITION FOR REVIEW X X X DUE TO PROCEDURAL LAPSES, IN TOTAL DISREGARD OF THE SUBSTANTIAL ISSUES CLEARLY RAISED THEREAT, [ARE] CONTRARY TO EXISTING RULES, LAW, JURISPRUDENCE AND THE PRINCIPLE OF EQUITY AND SUBSTANTIAL JUSTICE.²⁹

Petitioner's Arguments

In its Petition and Reply,³⁰ Boardwalk invokes the principle that litigations should be decided on the merits and not on technicalities; that litigants should be afforded the amplest opportunity for the proper and just disposition of their causes, free from the constraints of technicalities. It claims that it should not be faulted for the error committed by its counsel's clerk in wrongly filing the Motion for Extension and paying the docket fees with the RTC Clerk of Court. It prays that the Court review the merits of its case.

As for the defective Verification and Certification of non-forum shopping, Boardwalk contends that these are formal, not jurisdictional, requisites which could as well be treated with leniency. Its subsequent submission of the proper secretary's certificate should thus have cured the defect. It adds that the same treatment should be accorded its subsequent payment of the docket fees with the CA Cashier and submission of the required annexes and pleadings in support of its Petition. It prays the Court to consider these as substantial compliance with the Rules.

Respondent's Arguments

In her Comment,³¹ respondent simply echoes the CA ruling. She insists

²⁹ *Rollo*, p. 54.

³⁰ *Id.* at 189-197.

³¹ *Id.* at 181-186.

that Boardwalk's reasons for erroneously filing the Motion for Extension and paying the docket fees in the RTC are flimsy and should not be considered.

Respondent adds that Boardwalk's Petition raised factual issues relative to the merits of the case, which may not be the subject of review at this stage.

Our Ruling

The Court denies the Petition.

Petitioner's case is not unique, and there is no compelling reason to accord it the privilege it now seeks.

"[T]he right to appeal is neither a natural right nor [is it a component] of due process[. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law."³² This being so,

x x x an appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated. The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by clogged dockets, the Rules need to be followed by appellants with greater fidelity. Their observance cannot be left to the whims and caprices of appellants. x x x³³

In this case, petitioner must comply with the following requirements laid down in Rule 42 of the Rules of Court:

Section 1. How appeal taken; time for filing.

A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, x x x. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration x x x. Upon proper motion x x x, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

Sec. 2. Form and contents.

The petition shall be x x x accompanied by x x x copies x x x of the pleadings and other material portions of the record as would support the allegations of the petition.

³² *Fenequito v. Vergara, Jr.*, supra note 1.

³³ *Id.*

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

In addition, the Rules also require that the Petition must be verified or accompanied by an affidavit by which the affiant attests under oath that he “has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.”³⁴

And finally, Section 3 of Rule 42 provides that non-compliance “with any of the foregoing requirements regarding the payment of the docket and other lawful fees, x x x and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.”

Records show that petitioner failed to comply with the foregoing rules.

The Petition must be accompanied by a Verification and Certification against forum shopping. Copies of the relevant pleadings and other material portions of the record must likewise be attached to the Petition.

The Rules require that the Petition must be accompanied by a Verification and Certification against forum shopping. If the petitioner is a juridical entity, as in this case, it must be shown that the person signing in behalf of the corporation is duly authorized to represent said corporation. In this case, no special power of attorney or board resolution was attached to the Petition showing that Lo was authorized to sign the Petition or represent Boardwalk in the proceedings. In addition, petitioner failed to attach to the Petition copies of the relevant pleadings and other material portions of the record.

Petitioner tried to cure these lapses by subsequently submitting a board

³⁴ See RULES OF COURT, Rule 7, Section 4.

resolution showing Lo's authority to sign and act on behalf of Boardwalk, as well as copies of the relevant pleadings. Now, it prays that the Court consider these as substantial compliance with the Rules.

Concededly, this Court in several cases exercised leniency and relaxed the Rules. However, in this case, petitioner committed multiple violations of the Rules which should sufficiently militate against its plea for leniency. As will be shown below, petitioner failed to perfect its appeal by not filing the Petition within the reglementary period and paying the docket and other lawful fees before the proper court. These requirements are mandatory and jurisdictional.

Petitioner erroneously paid the docket fees and other lawful fees with the RTC.

Section 1, Rule 42 of the Rules of Court specifically states that payment of the docket fees and other lawful fees should be made to the clerk of the CA. A plain reading of the Rules leaves no room for interpretation; it is categorical and explicit. It was thus grave error on the part of the petitioner to have misinterpreted the same and consequently mistakenly remitted its payment to the RTC clerk. Petitioner's subsequent payment to the clerk of the CA of the docket fees and other lawful fees did not cure the defect. The payment to the CA was late; it was done long after the reglementary period to file an appeal had lapsed. It must be stressed that the payment of the docket fees and other lawful fees must be done within 15 days from receipt of notice of decision sought to be reviewed or denial of the motion for reconsideration. In this case, petitioner remitted the payment to the CA clerk long after the lapse of the reglementary period.

The CA may grant an extension of 15 days only. The grant of another 15-days extension, or a total of 30-days extension is allowed only for the most compelling reason.

Petitioner sought an extension of 30 days within which to file its Petition for Review with the CA. This is not allowed. Section 1 of Rule 42 allows an extension of only 15 days. "No further extension shall be granted except for the most compelling reason x x x."³⁵ Petitioner never cited any compelling reason.

Thus, even on the assumption that the CA granted Boardwalk a 15-day reprieve from February 3, 2007, or the expiration of its original reglementary

³⁵ RULES OF COURT, Rule 42, Section 1.

period,³⁶ it still failed to file its Petition for Review on or before the February 19, 2007³⁷ due date. Records show that the Petition was actually filed only on March 7, 2007, or way beyond the allowable February 19, 2007 deadline. The appellate court thus correctly ruled that this may not simply be brushed aside.

Petitioner's appeal is not deemed perfected.

More significantly, Section 8 of Rule 42 provides that the appeal is deemed perfected as to the petitioner “[u]pon the timely filing of a petition for review and the payment of the corresponding docket and other lawful fees.” Undisputably, petitioner’s appeal was not perfected because of its failure to timely file the Petition and to pay the docket and other lawful fees before the proper court which is the CA. Consequently, the CA properly dismissed outright the Petition because it never acquired jurisdiction over the same. As a result, the RTC’s Decision had long become final and executory.

To stress, the right to appeal is statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory. And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party have the correlative right to enjoy the finality of a decision in his favor.

True it is that in a number of instances, the Court has relaxed the governing periods of appeal in order to serve substantial justice. But this we have done only in exceptional cases. Sadly, the instant case is definitely not one of them.³⁸

At this point, it must be emphasized that since petitioner’s right of appeal is a mere statutory privilege, it was bound to a strict observance of the periods of appeal, which requirements are not merely mandatory, but jurisdictional.

Nor may the negligence of Boardwalk’s former counsel be invoked to excuse it from the adverse effects of the appellate court’s pronouncement. His negligence or mistake proceeded from carelessness and ignorance of the basic rules of procedure. This does not constitute excusable negligence that would extricate and excuse Boardwalk from compliance with the Rules.

³⁶ The CA erroneously reckoned the additional 15-day period from the date of filing of the Motion for Extension. It should be reckoned from the date of expiration of the original reglementary period.

³⁷ February 18, 2007 is a Sunday.

³⁸ *Apex Mining Co., Inc. v. Commissioner of Internal Revenue*, 510 Phil. 268, 275 (2005).

extricate and excuse Boardwalk from compliance with the Rules.

Boardwalk's request for the Court to review its case on the merits should be denied as well. The import of the Court's foregoing pronouncements necessarily renders the RTC judgment final and unassailable; it became final and executory after the period to appeal expired without Boardwalk perfecting an appeal. As such, the Court may no longer review it.

In light of the above conclusions, the Court finds no need to further discuss the other issues raised by the parties.

WHEREFORE, the Petition is **DENIED**. The Court of Appeals' April 25, 2007 and December 21, 2007 Resolutions in CA-G.R. SP No. UDK 5711 are hereby **AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

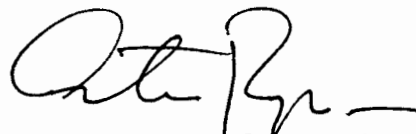

ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

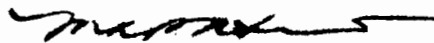
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

*Associate Justice
Chairperson*

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

