



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RHODORA PRIETO,
Petitioner,

G.R. No. 191025

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

- versus -

**ALPADI DEVELOPMENT
CORPORATION,**
Respondent.

Promulgated:

JUL 31 2013

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RESOLUTION

LEONARDO-DE CASTRO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, petitioner Rhodora Prieto (Prieto) seeks to annul and set aside the Decision¹ dated August 28, 2009 and Resolution² dated November 12, 2009 of the Court of Appeals in CA-G.R. SP No. 91714, which (1) annulled and set aside, on the ground of grave abuse of discretion, the Orders dated March 8, 2005³ and August 8, 2005⁴ of the Regional Trial Court (RTC) of Manila, Branch 8, in Criminal Case No. 97-157752, granting Prieto's Demurrer to Evidence; and (2) reinstated and remanded said criminal case to the RTC for further trial.

Prieto was employed as an accounting clerk and cashier of the Alpadi Group of Companies, composed of respondent Alpadi Development Corporation (ADC), Manufacturers Building, Incorporated (MBI), and Asian Ventures Corporation (AVC). ADC and MBI are both engaged in the business of leasing office spaces.

¹ *Rollo*, pp. 20-32; penned by Associate Justice Romeo F. Barza with Associate Justices Remedios A. Salazar-Fernando and Isaias P. Dicdican, concurring.

² *Id.* at 34-35.

³ *Id.* at 81-83.

⁴ *Id.* at 84-86.

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Prieto was charged before the RTC with the crime of *estafa* in an Information⁵ dated May 13, 1997 that reads:

That in or about and during the year from 1992 up to 1994, inclusive, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud ALPADI DEVELOPMENT CORPORATION, a business entity duly organized and existing under the laws of the Republic of the Philippines, and doing business in said City, in the following manner, to wit: the said accused being then employed as cashier and accounting clerk of the said corporation, collected and received rental payments from the different tenants of Alpadi Development Corporation in the total amount of ₱544,858.64, under the express obligation on the part of said accused to account for and remit immediately the deposits and rentals due to said corporation, but the said accused, once in the possession of the said amount, far from complying with her aforesaid obligation, failed and refused and still fails and refuses to do so, despite repeated demands made upon her to that effect and instead, with intent to defraud, unfaithfulness and grave abuse of confidence, misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of Alpadi Development Corporation represented by Angeles Manzano, in the aforesaid sum of ₱544,858.64, Philippine Currency.

Trial ensued and the prosecution presented its evidence which included, among other things, the testimonies of Angeles A. Manzano (Manzano), Office Manager of ADC and MBI, and Jaime Clamar, Jr. (Clamar), Private Investigator; Prieto's "*kusang-loob na salaysay*" executed before Clamar on January 3, 1995, in which Prieto admitted collecting rental payments from the tenants of ADC and MBI, making it appear through fraudulent deposit slips that she deposited her collections in the bank accounts of ADC and MBI, and actually using said collections to pay for her household expenses and to lend to employees of Tri-Tran Transit; the fraudulent deposit slips; Clamar's Investigation Report dated July 18, 1995 recommending that Prieto be charged in court for *estafa* and be made to pay the amount she misappropriated; computation of Prieto's unremitted/undeposited rental collections prepared by Lourdes P. Roque, Supervising Director, and Manzano, Office Manager, with the *conforme* of Prieto; and Affidavit dated December 16, 1994 of Harry Chua Ga Haou, a tenant of MBI, stating that Prieto, personally and by a handwritten note, requested that rental payments be made in cash rather than checks.

After resting its case, the prosecution filed its Formal Offer of Evidence, which was admitted by the RTC in an Order dated December 13, 2004. Prieto, represented by the Public Attorney's Office (PAO), asked for leave of court to file a Demurrer to Evidence. The RTC gave Prieto 20 days from December 13, 2004 within which to file her Demurrer to Evidence. The 20th day of the period was January 2, 2005, a Sunday, so Prieto could still file her Demurrer to Evidence on January 3, 2005, a Monday. Records show that Prieto filed her Demurrer to Evidence only on January 13, 2005.

⁵

Id. at 37.

In her Demurrer to Evidence, Prieto argued that she could not be convicted for *estafa* because (1) as an employee, her custody of the rental collections was precarious and for a temporary purpose or short period only, and the juridical or constructive possession of the said collections remained in her employer; and (2) there was no showing that demand was made upon Prieto to deliver or return the rental collections to ADC.

In an Order dated March 8, 2005, the RTC granted Prieto's Demurrer to Evidence, reasoning as follows:

Accused being an employee of the complaining corporation, cannot be convicted of *estafa* because when accused received the rental payments from the tenants, she only received the material and physical possession of the money and the juridical possession remains in the owner. The position of accused is likened to that of a bank teller receiving money from the depositors.

The Supreme Court ruled in the case *GUZMAN vs. CA* (G.R. No. L-9572[,], July 31, 1956) that:

“The case cited by the Court of Appeals (*People v. Locson*, 57 Phil., 325), in support of its theory that appellant only had the material possession of the merchandise he was selling for his principal, or their proceeds, is not in point. In said case, the receiving teller of a bank who misappropriated money received by him for a bank, was held guilty of qualified theft on the theory that the possession of the teller is the possession of the bank. There is an essential distinction between the possession by a receiving teller of funds received from third persons paid to the bank, and an agent who receives the proceeds of sales of merchandise delivered to him in agency by his principal. In the former case, payment by third persons to the teller is payment to the bank itself; the teller is a mere custodian or keeper of the funds received, and has no independent right or title to retain or possess the same as against the bank. An agent, on the other hand, can even assert, as against his own principal, an independent, autonomous, right to retain the money or goods received in consequence of the agency; as when the principal fails to reimburse him for advances he has made, and indemnify him for damages suffered without his fault (Article 1915, new Civil Code; Article 1730, old).”

Accused in this case is not even an agent of the corporation but a cashier and accounting clerk. Payment of rentals by the tenants to the accused is also payment to the corporation because accused is only a cashier whose duties include the receipt of rentals due from the tenants.

WHEREFORE, the Demurrer to Evidence is granted.

On the civil aspect of the case, set for hearing on May 25, 2005 and June 13, 2005 at 8:30 A.M.⁶

ADC, as the private complainant in Criminal Case No. 97-157752, filed a Motion for Reconsideration of the aforementioned RTC Order. The RTC, in an Order dated August 8, 2005, denied the Motion for Reconsideration, thus:

[T]he Court is constrained to deny the [Motion for Reconsideration filed by private complainant] because the prosecution failed to prove all the elements of estafa with abuse of confidence under paragraph 1(b) of Art. 315 which are the following:

- 1) That money, goods or other personal property be received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return, the same;
- 2) That there be misappropriation or conversion of such money or property by the offender, or denial on his part as such receipt;
- 3) That such misappropriation or conversion or denial is to the prejudice of another; and
- 4) That there is a demand made by the offended party to the offender.

In this case, the prosecution failed to prove the first element. The Supreme Court ruled in the case of *Burce vs. CA, supra*, to wit:

“When the money, goods, or any other personal property is received by the offender from the offended party (1) in trust or (2) on commission or (3) for administration, the offender acquires both material or physical possession and juridical possession of the thing received. Juridical possession means a possession which gives the transferee a right over the thing which the transferee may set up even against the owner. In this case, petitioner was a cash custodian who was primarily responsible for the cash-in-vault. Her possession of the cash belonging to the bank is akin to that of a bank teller, both being mere bank employees.”

To reiterate, when accused received the rental payments from the tenants, she only received the material and physical possession of the money and the juridical possession remains in the owner.

In view of the foregoing, [the] Motion for Reconsideration is hereby DENIED.

ADC sought recourse from the Court of Appeals by filing a Petition for *Certiorari*, docketed as CA-G.R. SP No. 91714. ADC averred that the

⁶ Id. at 82.

RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Orders dated March 8, 2005 and August 8, 2005, contrary to law and jurisprudence, and despite the overwhelming evidence on record proving Prieto's liability for *estafa*. ADC additionally pointed out that Prieto's Demurrer to Evidence was filed beyond the 20-day period granted by the RTC.

Prieto, through the PAO, filed her Comment, arguing that: (1) the Petition for *Certiorari* of ADC was not anchored on any of the grounds provided under Rule 65 of the Rules of Court and failed to expressly indicate that there was no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, available; (2) ADC had no personality to file the Petition because only the Office of the Solicitor General (OSG) may represent the Republic of the Philippines or the People, in criminal proceedings, before the Court of Appeals and the Supreme Court; and (3) the grant of the demurrer to evidence dismissed the criminal case and was equivalent to Prieto's acquittal, from which no appeal could be taken, as it would place Prieto in double jeopardy.

The OSG, on behalf of the People, eventually filed, in lieu of a Comment, a Manifestation and Motion ratifying and adopting the Petition for *Certiorari* of ADC. According to the OSG, in addition to Prieto's own confession, the prosecution had duly proven the elements of *estafa*. The cases cited by the RTC in its assailed Orders were inapplicable to Prieto's case. Also, since the grant of the demurrer to evidence is tantamount to an acquittal, albeit based on erroneous grounds and misinterpretation of law and jurisprudence, the remedy of appeal was not available to the People. Thus, the Petition for *Certiorari* was the proper remedy.

The Court of Appeals rendered its Decision on August 28, 2009 granting the Petition for *Certiorari* in CA-G.R. SP No. 91714 and finding that:

Evidence on record strongly supports the *People's* argument that the cases cited by the trial court are inapplicable in this case. The elements of *Estafa* have been duly proven by the prosecution. Records reveal that [Prieto] had admitted having failed to remit the rentals from 1992 to 1994, or for a period of two (2) years. While it is a fact that she was instructed to have the rentals collected to be deposited on the day of the collection or the following day, however, since the misappropriation was discovered only after two (2) years, it only goes to show that she had the discretion as to when to have these rentals deposited or not to have them deposited at all. She had control as to the amount she wished to include as part of her collections, which led her to misappropriating the rental collections. The said misappropriation would not have been discovered only after 2 years had there not been a fiduciary relationship between [Prieto] and her employer. As such, she could not be considered not having juridical possession of the rentals she had collected. Clearly, the trial court erred in declaring that [Prieto] is likened to a bank teller, whose possession of the cash collections is merely physical. Contrary to

such findings, [Prieto] in this case had physical or material possession and juridical possession with a duty to make delivery of the collections she received in trust.

Moreover, it is well to note that the case of *People vs. Benitez* raised by [ADC], finds application in the instant case. In *Benitez*, the accused was employed as collector of rents of the houses owned by his employer. For two (2) months, the accused made several collections from his employer's tenants amounting to ₱540.00. Having failed to turn over said amount, or to account for it, to his employer, upon demand, the accused offered to work in the former's establishment, in the sum of ₱100.00, to be deducted from his salary every month until the whole amount of ₱540.00 is fully paid. The agreement was reduced to writing. However, after working for a few days, the accused did not report for work. His employer sent him a demand letter for the settlement of his account. As the accused failed to pay the amount of his obligation, a complaint for Estafa was filed against him, and for which he was convicted. The Supreme Court ratiocinates in this case that the failure to account upon demand, for funds or property held in trust is circumstantial evidence of misappropriation.⁷

Given the findings of the Court of Appeals that the RTC Orders were in contravention of law and settled jurisprudence and were, therefore, issued with grave abuse of discretion amounting to lack or excess of jurisdiction, the appellate court held that its reversal of the grant of Demurrer to Evidence did not violate Prieto's right against double jeopardy, citing *People v. Hon. Laguio, Jr.*⁸ and *Dayap v. Sendiong*.⁹

The Court of Appeals lastly ruled, based on *People v. Nano*,¹⁰ that the filing of the Petition for *Certiorari* by ADC, instead of by the OSG, was a mere defect in form, which was cured when the OSG subsequently filed a Manifestation and Motion ratifying and adopting said Petition.

In the end, the Court of Appeals decreed:

WHEREFORE, finding grave abuse of discretion amounting to lack or excess of jurisdiction, as prayed for, the assailed Orders, of the Regional Trial Court of Manila, Branch 8, dated 08 March 2005 and 08 August 2005, in Criminal Case No. 97-157752, are hereby **ANNULLED and SET ASIDE**. Let the instant case be remanded to the RTC and reinstated for the reception of the defense evidence/further trial.¹¹

The appellate court denied Prieto's Motion for Reconsideration in its Resolution dated November 12, 2009.

The PAO, Prieto's counsel before the RTC and the Court of Appeals, received a copy of the Resolution dated November 12, 2009 on November

⁷ Id. at 27-29.

⁸ 547 Phil. 296, 309-310 (2007).

⁹ G.R. No. 177960, January 29, 2009, 577 SCRA 134, 146-147.

¹⁰ G.R. No. 94639, January 13, 1992, 205 SCRA 155, 159.

¹¹ *Rollo*, p. 31.

24, 2009, hence, giving Prieto until December 9, 2009 to appeal the adverse judgment of the Court of Appeals to this Court. Atty. Allan Julius B. Azcueta (Azcuenta), Public Attorney II of the PAO, filed on December 4, 2009 a Motion for Extension of Time to File Petition for Review on *Certiorari* before the Court, requesting an extension of 30 days from December 9, 2009, or until January 8, 2010, within which to file Prieto's appeal of the Decision dated August 28, 2009 and Resolution dated November 12, 2009 of the Court of Appeals in CA-G.R. SP No. 91714. The Motion was docketed as G.R. No. 190282.

However, on January 12, 2010, Atty. Azcueta filed before the Court a Manifestation with Motion, alleging that:

3. On 06 January 2010, the petitioner, Rhodora Prieto, personally visited the undersigned counsel's office and after a thorough discussion of the case with her, [Prieto] had a change of heart and has decided not to further appeal her case anymore, considering that she still has the chance to present her evidence before the lower court and at the same time the chance to have the case settled amicably if the lower court allows;

4. After careful deliberation and exhaustive discussion with the undersigned counsel, [Prieto] is now voluntarily signifying her desire to withdraw the filing of the Petition for Review on *Certiorari*;

5. For this reason, the undersigned humbly and profusely apologizes for the inconvenience that the non-filing of the petition may have caused to this Honorable Court. The motion for extension was filed solely for the purpose of protecting and serving the interest of [Prieto].¹²

Atty. Azcueta then prayed for the Court to note the Manifestation with Motion and to dispense with the filing of the Petition for Review on *Certiorari*.

In its Resolution dated February 10, 2010 in G.R. No. 190282, the Court resolved:

- (1) to **NOTE** the manifestation of Public Attorney's Office that [Prieto] decided not to appeal her case considering that she still has the chance to present her evidence before the lower court and at the same time has the chance to have the case amicably settled;
- (2) to **GRANT** the said counsel's motion to withdraw the filing of the petition for review on *certiorari*; and
- (3) to consider this case **CLOSED** and **TERMINATED**.¹³

Entry of Judgment was eventually made in G.R. No. 190282 on April 5, 2010.

¹² Id. at 114-115.

¹³ Id. at 117.

Meanwhile, also on February 10, 2010, Prieto, through another counsel, Atty. Xilexferen P. Barroga (Barroga) of Barroga, Nario & Associates Law Offices, filed the instant Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying for the reversal of the Decision dated August 28, 2009 and Resolution dated November 12, 2009 of the Court of Appeals in CA-G.R. SP No. 91714 and the reinstatement of the Orders dated March 8, 2005 and August 8, 2005 of the RTC in Criminal Case No. No. 97-157752. The Petition is docketed as G.R. No. 191025.

To justify the timeliness of the filing of her Petition in G.R. No. 191025 on February 10, 2012, Prieto alleges that she received a copy of the Resolution dated November 12, 2009 of the Court of Appeals, denying her Motion for Reconsideration, only on January 26, 2010, mailed to her by the PAO.

In the present Petition, Prieto insists that she was a mere employee with continuing instruction from ADC to deposit the rental payments either on the same day or the day after collection, and she could not have validly retained control of the amounts collected because ownership of the same still belonged to ADC. Prieto goes on to argue that without juridical possession of the rental payments she collected, she cannot be convicted of *estafa* since an essential element of the crime is lacking.

In a Resolution¹⁴ dated March 3, 2010, the Court, without necessarily giving due course to the Petition in G.R. No. 191025, required ADC to file its Comment.

ADC, in its Comment, prays for the outright denial of the Petition on the following grounds: (1) G.R. Nos. 190282 and 191025 both involve Prieto's appeal of the Decision dated August 28, 2009 and Resolution dated November 12, 2009 of the Court of Appeals in CA-G.R. SP No. 91714, and in the Resolution dated February 10, 2010, the Court already granted Prieto's motion to withdraw the Petition in G.R. No. 190282 and considered G.R. No. 190282 closed and terminated; (2) even with the grant of Prieto's previous motion for extension of time, she only had until January 8, 2010 within which to appeal the adverse judgment of the Court of Appeals in CA-G.R. SP No. 91714, so the filing of the Petition in G.R. No. 191025 on February 10, 2010 was already out of time; and (3) Prieto's arguments in her Petition in G.R. No. 191025 merely rehash or restate those already resolved by the Court of Appeals.

Prieto claims in her Reply that she was not aware that Atty. Azcueta filed a Motion for Extension of Time to file a Petition for Review, docketed as G.R. No. 190282 and that she did not authorize Atty. Azcueta to file a Manifestation with Motion withdrawing her appeal of the adverse judgment

¹⁴ Id. at 88-89.

of the Court of Appeals in CA-G.R. SP No. 91714. According to Prieto, she went to the PAO from time to time to follow-up on her case, but she felt that her case was not being diligently attended to, so she decided to hire the services of a private lawyer with money raised by her relatives. When she asked for a copy of the Court of Appeals Resolution dated November 12, 2009 denying her Motion for Reconsideration, she was told by the PAO that a copy of the same would be sent to her through mail. She received a copy of said Resolution only on January 26, 2010, giving her until February 10, 2010 to appeal. Consequently, her Petition in G.R. No. 191025 filed on February 10, 2010 was filed within the reglementary period.

At the outset, the Court notes that both G.R. Nos. 190282 and 191025 involve Prieto's appeal of the Decision dated August 28, 2009 and Resolution dated November 12, 2009 of the Court of Appeals in CA-G.R. SP No. 91714. On February 10, 2010, the motion to withdraw the appeal in G.R. No. 190282, filed by the PAO, was granted by the Court; and on the same date, the Petition in G.R. No. 191025 was filed by Prieto's new counsel.

The Court hereby outrightly denies Prieto's Petition in G.R. No. 191025 for being filed out of time, without the need of delving into the propriety of the institution of G.R. No. 191025 in light of the previous withdrawal of G.R. No. 190282.

The reglementary period for filing a Petition for Review on *Certiorari* is set forth in Rule 45, Section 2 of the Rules of Court, which provides:

SEC. 2. *Time for filing; extension.* — The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

In this case, Prieto, through her counsel of record, the PAO, received a copy of the Resolution denying her Motion for Reconsideration of the adverse judgment of the Court of Appeals on November 24, 2009. The 15-day period to appeal would have ended on December 9, 2009, but with the 30-day extension period prayed for by the PAO in G.R. No. 190282, the last day for filing the appeal was moved to January 8, 2010. Clearly, the filing of the Petition in G.R. No. 191025 by Prieto's new counsel was already beyond the reglementary period for appeal.

Time and again the Court has declared that the right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal

must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.¹⁵

Prieto prays for the liberal application of the rules of procedure and posits that the 15-day reglementary period be counted from January 26, 2010, the day she actually received a copy of the Resolution denying her Motion for Reconsideration of the adverse judgment of the Court of Appeals, sent to her through mail by the PAO.

The Court is not persuaded.

In *National Power Corporation v. Laohoo*,¹⁶ the Court pronounced that:

The rules provide that if a party is appearing by counsel, service upon him shall be made upon his counsel or one of them unless service upon the party himself is ordered by the court. x x x.

The general rule is that a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique. The exception to this rule is when the negligence of counsel is so gross, reckless and inexcusable that the client is deprived of his day in court. The failure of a party's counsel to notify him on time of the adverse judgment to enable him to appeal therefrom is negligence, which is not excusable. Notice sent to counsel of record is binding upon the client, and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment valid and regular on its face.

To sustain petitioner's self-serving argument that it cannot be bound by its counsel's negligence would set a dangerous precedent, as it would enable every party-litigant to render inoperative any adverse order or decision of the courts, through the simple expedient of alleging gross negligence on the part of its counsel. (Citations omitted.)

The Court further elucidated in *People v. Kawasa and Salido*¹⁷ on why it is not easily swayed by assertions of gross negligence or mistake on the part of the counsel that should not bind the client:

If indeed accused-appellant felt and believed that his counsel was inept, that he should have taken action, such as discharging him earlier, instead of waiting until an adverse decision was handed, and thereupon heap all blame and condemnation on his counsel, who cannot now be heard to defend himself. This cannot be allowed, for to do otherwise would result in a situation where all a defeated party would have to do to salvage his case is to claim neglect or mistake on the part of his counsel as a ground for reversing an adverse judgment. There would be no end to litigation if this were allowed as every shortcoming of counsel could be the subject of challenge by his client through another counsel who, if he is

¹⁵ *Basuel v. Fact-Finding and Intelligence Bureau (FFIB)*, 526 Phil. 608, 613-614 (2006).

¹⁶ G.R. No. 151973, July 23, 2009, 593 SCRA 564, 584-585.

¹⁷ 327 Phil. 928, 935 (1996).

also found wanting, would likewise be disowned by the same client through another counsel, and so on *ad infinitum*. This would render court proceedings indefinite, tentative, and subject to reopening at any time by the mere subterfuge of replacing counsel. x x x.

Prieto herein not only alleges mistake or negligence on the part of the PAO, but more seriously, attributes to her former counsel deliberate acts which deprived her of her right to appeal, *i.e.*, refusing to give her a copy of the Resolution dated November 12, 2009 of the Court of Appeals in CA-G.R. SP No. 91714 and misrepresenting to the Court that it was authorized by Prieto to withdraw her appeal in G.R. No. 190282. However, other than Prieto's bare allegations, there is no other evidence of the purported detrimental acts of the PAO. In addition, Prieto's allegations are so contrary to the past conduct of the PAO, which diligently represented her before the RTC, the Court of Appeals, and even up to this Court, with the PAO even timely filing the Motion for Extension of Time to File Petition for Review on *Certiorari* before this Court, docketed as G.R. No. 190282.

It must be stressed that anyone seeking exemption from the application of the reglementary period for filing an appeal has the burden of proving the existence of exceptionally meritorious instances warranting such deviation.¹⁸ Parties praying for the liberal interpretation of the rules must be able to hurdle that heavy burden of proving that they deserve an exceptional treatment. It was never the Court's intent "to forge a bastion for erring litigants to violate the rules with impunity."¹⁹ Unfortunately for Prieto, she was unable to discharge this burden of proof.

Procedural rules should not be so easily brushed aside with the mere averment of the "higher interest of justice," as the Court discussed in *Building Care Corp./Leopard Security & Investigation Agency v. Macaraeg*²⁰:

It should be emphasized that the resort to a liberal application, or suspension of the application of procedural rules, must remain as the exception to the well-settled principle that rules must be complied with for the orderly administration of justice. In *Marohomsalic v. Cole*, the Court stated:

While procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances. While litigation is not a game of technicalities, every case must be

¹⁸ *Neplum, Inc. v. Orbeso*, 433 Phil. 844, 868 (2002).

¹⁹ *Rivera-Pascual v. Lim*, G.R. No. 191837, September 19, 2012, 681 SCRA 429, 436.

²⁰ G.R. No. 198357, December 10, 2012, 687 SCRA 643, 647-648.

prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.

The later case of *Daikoku Electronics Phils., Inc. v. Raza*, further explained that:

To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice. x x x. The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse. x x x.

We must stress that the bare invocation of “the interest of substantial justice” line is not some magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party’s substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction. (Emphases and citations omitted.)

Prieto cannot claim that she had been deprived of her day in court when her arguments in support of her Demurrer to Evidence had been heard by the RTC and the Court of Appeals. Moreover, she does not lose her liberty at this point for she still has the opportunity to present evidence in her defense before the RTC in the continuation of the proceedings in Criminal Case No. 97-157752.

With the withdrawal of the appeal in G.R. No. 190282 and the belated filing of the Petition in G.R. No. 191025, the Decision dated August 28, 2009 of the Court of Appeals in CA-G.R. SP No. 91714, reversing the grant by the RTC of Prieto’s Demurrer to Evidence and reinstating Criminal Case No. 97-157752, had become final and executory, thus, immutable. As the Court declared in *Lalican v. Insular Life Assurance Co. Ltd.*²¹:

A judgment becomes “final and executory” by operation of law. Finality becomes a fact when the reglementary period to appeal lapses and no appeal is perfected within such period. As a consequence, no court (not even this Court) can exercise appellate jurisdiction to review a case or modify a decision that has become final. When a final judgment is executory, it becomes immutable and unalterable. It may no longer be modified in any respect either by the court, which rendered it or even by this Court. The doctrine is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some definite point in time. (Citations omitted.)


²¹ G.R. No. 183526, August 25, 2009, 597 SCRA 159, 173.

WHEREFORE, the Petition is **DENIED** for being filed out of time.

SO ORDERED.


TÉRESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

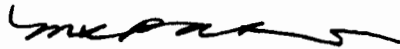

LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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