



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

WILSON T. GO,

Petitioner,

G.R. No. 199354

Present:

CARPIO, J.,

Chairperson,

BRION,

DEL CASTILLO,

PEREZ, and

PERLAS-BERNABE, JJ.

- versus -

Promulgated:

BPI FINANCE CORPORATION,
Respondent.

JUN 26 2013

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DECISION

BRION, J.:

Before us is the petition for review on *certiorari*,¹ filed by Wilson Go under Rule 45 of the Rules of Court, assailing the resolutions dated May 4, 2010² and October 12, 2011³ of the Court of Appeals (CA) in CA-G.R. SP No. 111800. The CA denied Go's petition for review for having been filed out of time.

The Antecedent Facts

BPI Finance Corporation (*BPI*), operating under the name BPI Express Credit Card, has been engaged in the business of extending credit accommodations through the use of credit cards. Under the system, BPI

¹ *Rollo*, pp. 11-32.

² Id. at 36. Penned by Associate Justice Magdangal M. de Leon, and concurred in by Associate Justices Mario V. Lopez and Franchito N. Diamante.

³ Id. at 37-39.

agrees to extend credit accommodations to its cardholders for the purchase of goods and services from BPI's member establishments on the condition that the charges incurred shall be reimbursed by the cardholders to BPI upon proper billing.⁴

BPI filed a complaint for collection of sum of money before the Metropolitan Trial Court (*MeTC*), Branch 67, Makati City, against Go. The complaint alleged that Go was among the cardholders of BPI when he was the Executive Vice-President of Noah's Ark Merchandising and that Go incurred credit charges amounting to ₱77,970.91.⁵

Go denied the allegations, arguing that the BPI credit card was a company account and was issued to him because of his position as Executive Vice-President. He also stated that he had actually requested from BPI an updated statement of account, as well as supporting documents for purposes of accounting and verification, but BPI failed to comply.⁶

At the pre-trial, the parties agreed to the truth of the contents of the following:

1. Credit Card Application;
2. Letter dated February 16, 2000 [which was sent to Go at his] office address at Noah's Ark Merchandising;
3. Statements of Account dated February 20, 2000, May 20, 2000, April 20, 2000 and March 20, 2000.⁷

BPI also presented a witness who testified during trial that the BPI credit card belongs to Go. However, Go insisted that he cannot be held liable since he was only acting in behalf of the company. In his comment, he argued that the credit card application was a mere "pro forma" document unilaterally prepared by BPI; that the letter sent to his office address would prove that it was a company account; and that although the statements of account were not disputed, he alleged that he did not receive any demand letter from BPI.⁸

⁴ Id. at 45.

⁵ Ibid.

⁶ Ibid.

⁷ Id. at 46.

⁸ Ibid.

Go failed to present any evidence during the hearing. As a result, the MeTC declared that he had waived his right to present evidence. For this reason, the court deemed the case submitted for decision.⁹

On April 23, 2008, the MeTC rendered a decision¹⁰ whose dispositive portion reads:

WHEREFORE, the Court RENDERS judgment holding the defendant Wilson T. Go liable to pay plaintiff BPI Card Finance Corporation the following amounts:

1. ₱77,970.91 plus interest of 1% per month and penalty of 1% per month to be computed from May 23, 2000 until full payment;
2. 10% of the total amount due as attorney's fees; and
3. Cost of suit.¹¹

The MeTC ruled that nothing in the credit card application states that the credit card was for the account of the company. The statement of account was addressed to Noah's Ark Merchandising simply because Go requested it. By preponderance of evidence, the MeTC found that BPI proved the existence of Go's debt.¹²

Go appealed the MeTC decision to the Regional Trial Court (*RTC*). In a decision dated September 4, 2009, the RTC fully affirmed the MeTC decision. Go filed a motion for reconsideration, which the RTC denied in an order dated November 16, 2009. Go's counsel received the denial of the motion for reconsideration on November 26, 2009.¹³

On December 10, 2009, Go filed before the CA a motion for extension of time for thirty (30) days, or up to January 10, 2009, within which to appeal. However, since January 10, 2010 was a Sunday, Go instead filed his petition for review on January 11, 2010.

On May 20, 2010, four months after the motion for extension of time was filed, the CA issued the disputed May 4, 2010 resolution, denying the petition for review:

⁹ Id. at 46.

¹⁰ Id. at 45-48. Penned by Presiding Judge Rico Sebastian D. Liwanag.

¹¹ Id. at 47.

¹² Ibid.

¹³ Id. at 21.

Petitioner's motion for extension of thirty (30) days is **PARTLY GRANTED**. Petitioner is granted "an additional period of 15 days only within which to file the petition for review." Considering that the Petition for Review was filed beyond the granted extension, the same is hereby **DENIED ADMISSION**.¹⁴

Go filed a motion for reconsideration which the CA also denied in a Resolution dated October 12, 2011. The CA explained that while the motion for extension of time was granted, only a period of fifteen (15) days was given, not the requested thirty (30) days. Hence, the last period to file the petition for review should have been on December 25, 2009, not on January 10, 2010 as Go had assumed. Since Go filed his petition for review after December 25, 2009, his filing was out of time.

The Petition

Go now questions the CA rulings before us. He posits that it was only on May 20, 2010, or four months after he filed his motion for extension of time, when he became aware that he had only been given an extension of 15 days. He also claims that he was denied due process on mere technicality, without resolving the petition based on the merits or the evidence presented.

The Court's Ruling

We deny the petition for lack of merit.

Section 1, Rule 42 of the Rules of Court provides that:

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.** [emphasis, italics and underscore ours]

¹⁴

Id. at 36.

The rule is clear that an appeal to the CA must be filed within a period of fifteen (15) days. While a further extension of fifteen (15) days may be requested, a specific request must be made with specifically cited reason for the request. The CA may grant the request only at its discretion and, by jurisprudence, only on the basis of reasons it finds meritorious.

Under the requirements, it is clear that only fifteen (15) days may initially be requested, not the thirty (30) days Go requested. The petitioner cannot also assume that his motion has been granted if the CA did not immediately act. In fact, faced with the failure to act, the conclusion is that no favorable action had taken place and the motion had been denied. It is thus immaterial that the resolution granting the extension of time was only issued four months later, although such late action is a response we cannot approve of. In any case, the late response cannot be used as an excuse to delay the filing of its pleading as a party cannot make any assumption on how his motion would be resolved. Precisely, a motion is submitted to the court for resolution and we cannot allow any assumption that it would be granted.

The right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.¹⁵ Contrary to Go's assertion, his appeal was not denied on a mere technicality. "The perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but jurisdictional, and the failure to perfect that appeal renders the judgment of the court final and executory."¹⁶

In *Lacsamana v. IAC*,¹⁷ the Court laid down the now established policy on extensions of time in order to prevent the abuse of this recourse. The Court said:

Beginning one month after the promulgation of this Decision, an extension of only fifteen days for filing a petition for review may be granted by the Court of Appeals, save in exceptionally meritorious cases.

¹⁵ *Lebin v. Mirasol*, G.R. No. 164255, September 7, 2011, 657 SCRA 35, 44.

¹⁶ *Demata v. Court of Appeals*, 363 Phil. 316, 323 (1999).

¹⁷ 227 Phil. 606 (1986).

The motion for extension of time must be filed and the corresponding docket fee paid within the reglementary period of appeal.¹⁸
(italics supplied; emphasis and underscore ours)

We similarly ruled in *Videogram Regulatory Board v. Court of Appeals*¹⁹ where we said that the appellant “knew or ought to have known that, pursuant to the above rule, his motion for extension of time of thirty (30) days could be granted for only fifteen (15) days. There simply was no basis for assuming that the requested 30-day extension would be granted.” As we heretofore stressed, an extension of time to appeal is generally allowed only for fifteen (15) days. Go cannot simply demand for a longer period, without citing the reason therefor, for the court’s consideration and application of discretion.

Additionally, this Court rules only on questions of law in petitions for review on *certiorari* under Rule 45 of the Rules of Court. This Court is likewise bound by findings of fact of the lower courts in the absence of grave abuse of discretion, particularly where all three tribunals below have been unanimous in their factual findings. Thus, even on the merits, there is more than enough reason to deny the present petition.

WHEREFORE, premises considered, we hereby **DENY** the petition for lack of merit. Costs against petitioner Wilson T. Go.

SO ORDERED.



ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

¹⁸ Id. at 613.

¹⁹ G.R. No. 106564, November 28, 1996, 265 SCRA 50, 57.

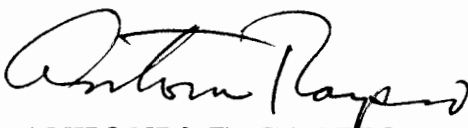

MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

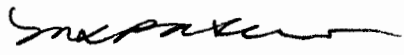
ATTESTATION

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, Second 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