



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated March 9, 2022 which reads as follows:

“G.R. No. 248206 (People of the Philippines, *Plaintiff-Appellee* vs. Baby Sanday y Mama @ Bob, Abdulbassir Manalinding y Ara and Joechara Sanday y Taha, *Accused*; Baby Sanday y Mama @ Bob and Abdulbassir Manalinding y Ara, *Accused-Appellants*). – Before the Court is an appeal¹ assailing the Resolutions² dated February 10, 2017 and January 11, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08443. The Resolution dated February 10, 2017 denied the Motion to Admit Appellants’ Brief³ of Baby Sanday y Mama and Abdulbassir Manalinding y Ara, and dismissed their appeal from the Joint Decision⁴ dated April 28, 2015 of Branch 231, Regional Trial Court (RTC), Pasay City, in Criminal Case Nos. R-PSY-11-04411-CR, R-PSY-11-04412-CR, and R-PSY-11-04413-CR that found them guilty of violation of Section 5,⁵ Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended. On the other hand, the Resolution dated January 11, 2018 denied accused-appellants’ Motion for Reconsideration⁶ dated March 6, 2017.

- over – ten (10) pages ...

116

¹ *Rollo*, pp. 9-10.

² *Id.* at 3-5 and 6-8. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Sesonando E. Villon and Rodil V. Zalameda (now a member of the Court).

³ *CA rollo*, pp. 28-29.

⁴ *Records*, pp. 241-253. Penned by Presiding Judge Divina Gracia Lopez Pelino.

⁵ Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x.

⁶ *CA rollo*, pp. 62-68.

The Antecedents

The instant case stemmed from three separate Informations, the accusatory portions of which read as follows:

Criminal Case No. R-PSY-11-04411-CR
(Section 5, Article II, RA 9165; for accused-appellants
and accused Joehara Sanday y Taha)

That on or about the 6th day of November 2011, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to another 996.74 grams of METHAMPHETAMINE HYDROCHLORIDE, a dangerous drug.

Contrary to law.⁷

Criminal Case No. R-PSY-11-04412-CR
(Section 15, Article II, RA 9165; for accused-appellant
Abdulbasir Manalinding y Ara)

That on the 06th day of November 2011, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously use Methamphetamine Hydrochloride also known as “*shabu*”, a dangerous drug.

Contrary to law.⁸

Criminal Case No. R-PSY-11-04413-CR
(Sections 15, Article II, RA 9165; for accused-appellant
Baby Sanday y Mama)

That on the 06th day of November 2011, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously use Methamphetamine Hydrochloride also known as “*shabu*”, a dangerous drug.

Contrary to law.⁹

- over -

⁷ Records, p. 241-242.

⁸ Id. at 242.

⁹ Id.

When arraigned, accused-appellants and their co-accused Joebara Sanday y Taha (Joebara) entered their respective pleas of not guilty to the charges.¹⁰

Trial ensued.¹¹

The Ruling of the RTC

In the Joint Decision¹² dated April 28, 2015, the RTC ruled as follows:

(a) In Criminal Case No. R-PSY-11-04411-CR, the RTC found accused-appellants guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165 (illegal sale of *shabu*). The RTC sentenced accused-appellants to suffer the penalty of life imprisonment and to pay a fine of ₱700,000.00 each. However, the RTC acquitted Joebara based on reasonable doubt.¹³

The RTC ruled that the prosecution was able to establish all the elements of illegal sale of *shabu* and that accused-appellants are guilty beyond reasonable doubt of the charge of violation of Section 5, Article II of RA 9165. The RTC likewise found that the integrity and the evidentiary value of the 996.74 grams of *shabu* seized from accused-appellants were duly preserved.¹⁴

(b) In Criminal Case Nos. R-PSY-11-04412-CR and R-PSY-11-04413-CR, the RTC acquitted accused-appellants of violation of Section 15, Article II of RA 9165 (illegal use of drugs) on the ground of reasonable doubt¹⁵ despite Chemistry Report No. PDEA-DT011-393 to 395¹⁶ dated November 7, 2011, which stated that their urine samples tested positive for *shabu*.

Undaunted, accused-appellants filed an appeal with the CA.¹⁷

- over -

116

¹⁰ Id.

¹¹ Id. at 243.

¹² Id. at 241-253.

¹³ Id. at 252.

¹⁴ Id. at 248-250.

¹⁵ Id. at 252-253.

¹⁶ Id. at 13.

¹⁷ See Notice of Appeal dated July 7, 2016, CA *rollo*, pp. 11-13.

On August 12, 2016, the CA required accused-appellants to file their appellant's brief within 30 days from notice.¹⁸ However, in their Motion for Extension of Time to File Appellant's Brief¹⁹ dated September 26, 2016, accused-appellants prayed for an additional period of 30 days, or until October 29, 2016, within which to file the appellant's brief. In the Resolution²⁰ dated October 12, 2016, the CA granted accused-appellants' motion for extension.

On October 28, 2016, accused-appellants filed their 2nd Motion for Extension of Time to File Appellant's Brief²¹ wherein they prayed for an additional 15 days, or until November 13, 2016, to file their appellant's brief. The CA again granted an extension.²² However, on November 13, 2016, accused-appellants failed to file an appellant's brief.²³

On November 23, 2016, accused-appellants filed a Motion to Admit Appellant's Brief²⁴ and appended thereto a copy of the Appellant's Brief²⁵ dated November 3, 2016.

The Ruling of the CA

In the assailed Resolution²⁶ dated February 10, 2017, the CA dismissed the appeal and denied accused-appellants' Motion to Admit Appellant's Brief on the ground of abandonment or failure to prosecute under Section 8,²⁷ Rule 124 of the Rules of Court. The CA likewise expunged from the records the Appellant's Brief attached to accused-appellants' Motion to Admit Appellant's Brief.²⁸

The CA emphasized that accused-appellants were given a total of 75 days to prepare and submit their appellant's brief, but they still failed to timely submit one.²⁹ The CA ruled that the right to appeal is

- over -

116

¹⁸ See Notice to File Brief, *CA rollo*, p. 15.

¹⁹ *CA rollo*, pp. 16-18.

²⁰ *Id.* at 21.

²¹ *Id.* at 22-24.

²² See Resolution dated November 24, 2016, *CA rollo*, p. 27.

²³ *CA rollo*, p. 28.

²⁴ *Id.* at 28-29.

²⁵ *Id.* at 30-45.

²⁶ *Rollo*, pp. 3-5.

²⁷ Section 8. *Dismissal of appeal for abandonment or failure to prosecute.* — The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de officio*.

x x x x.

²⁸ *Rollo*, p. 5.

²⁹ *Id.* at 4.

merely a statutory right and one who seeks to avail of it must comply with the rules, otherwise, the rules will be meaningless.³⁰

Accused-appellants filed their Motion for Reconsideration³¹ dated March 6, 2017.

On August 8, 2017, plaintiff-appellee, through the Office of the Solicitor General (OSG), filed its Comment.³² Pending resolution of accused-appellants' motion for reconsideration, accused-appellants' private counsel withdrew his appearance.³³ This prompted accused-appellants' respective families to seek the assistance of the Public Attorney's Office – Special and Appealed Cases Service (PAO-SACS).³⁴

On January 11, 2018, the CA issued the assailed Resolution³⁵ that denied accused-appellants' motion for reconsideration.

Hence, the instant appeal.

On September 9, 2019, the Court notified the parties to file their respective supplemental briefs, if they so desire, within 30 days from notice.³⁶

On January 22, 2020, plaintiff-appellee, through the OSG, filed a Manifestation³⁷ dated December 23, 2019. In its Manifestation, the OSG submitted that it is in no position to file a supplemental brief considering that it did not file an appellee's brief after it received the CA Resolution that struck down the Appellant's Brief; and that it did not receive any notice from the CA that the expunged Appellant's Brief was ever admitted thereafter.³⁸

On February 24, 2020, accused-appellants, through PAO-SACS, filed their supplemental brief³⁹ and insisted that there are special and important reasons that warrant the relaxation of the rules and the liberality of the Court's judicial discretion to give credence to their

- over -

116

³⁰ Id. at 5.

³¹ CA *rollo*, pp. 62-66.

³² Id. at 71-74.

³³ See Motion for Withdrawal of Appearance, CA *rollo*, pp. 81-82.

³⁴ See letter dated November 28, 2017, CA *rollo*, p. 85.

³⁵ *Rollo*, pp. 6-8.

³⁶ See Notice of Resolution, *rollo*, pp. 13-A and 13-B.

³⁷ *Rollo*, pp. 37-40.

³⁸ Id. at 38.

³⁹ Id. at 50-61.

appeal. Specifically, they argue that the police officers failed to comply with Section 21 of RA 9165 and the chain of custody rule. They seek the kind indulgence of the Court to relax technical rules of procedure in order to serve the broader interest of substantial justice.⁴⁰

The Issue

The issue to be resolved is whether the CA erred in dismissing accused-appellants' appeal based on a procedural ground – their failure to timely file their appellant's brief.

The Court's Ruling

The appeal is meritorious.

It is well settled that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.⁴¹ The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.⁴²

Guided by the foregoing consideration and after examining the entire records of the instant case, the Court deems it proper to reverse and set aside the assailed CA Resolutions dated February 10, 2017 and January 11, 2018. The Court admits accused-appellants' brief, reinstates accused-appellants' appeal, and remands the case to the CA. The CA is to require plaintiff-appellee to file its appellee's brief; after which, it shall decide the appeal on the merits.

At the outset, it must be emphasized that the CA dismissed accused-appellants' appeal for their failure to timely file their brief despite the two extensions granted by the appellate court.

There is no question that in appeals of criminal cases before the CA, the appellant's failure to timely file his or her brief is a ground for the dismissal of an appeal under Section 8, Rule 124 of the Rules of Court, which provides:

- over -

116

⁴⁰ Id. at 52-59.

⁴¹ *People v. Bernardo*, G.R. No. 242696, November 11, 2020.

⁴² *People v. Estonilo*, G.R. No. 248694, October 14, 2020.

Section 8. *Dismissal of appeal for abandonment or failure to prosecute.* — The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, *dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel de officio.* x x x (Italics supplied.)

Likewise, Section 1(e), Rule 50 of the Rules of Court states:

Section 1. *Grounds for dismissal of appeal.* — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules[.]

The dismissal of an appeal based on the foregoing provisions is in accord with the well settled principle that “the right to appeal is not a natural right or 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. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost.”⁴³ “Procedural rules, we must stress, should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice.”⁴⁴

Still “[i]t has been held that if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.”⁴⁵

*Heirs of Zaulda v. Zaulda*⁴⁶ is instructive:

- over -

116

⁴³ *Tamboa v. People*, G.R. No. 248264, July 27, 2020.

⁴⁴ *Ng Ching Ting v. Philippine Business Bank, Inc.*, 835 Phil. 965 (2018), citing *Fortich v. Corona*, 359 Phil. 210, 220 (1998).

⁴⁵ *Barayuga v. People*, G.R. No. 248382, July 28, 2020, citing *Curammeng v. People*, 799 Phil. 575, 581-582 (2016).

⁴⁶ 729 Phil. 639 (2014).

The reduction in the number of pending cases is laudable, but if it would be attained by precipitate, if not preposterous, application of technicalities, justice would not be served. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "It is a more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal rather than dispose of the case on technicality and cause a grave injustice to the parties, *giving a false impression of speedy disposal of cases* while actually resulting in more delay, if not miscarriage of justice."

What should guide judicial action is the principle that a party-litigant should be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor, or property on technicalities. The rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. (Italics supplied.)⁴⁷

Moreover, the rule that the mistakes of counsel bind the client "may not be strictly followed where observance of it would result in the outright deprivation of the client's liberty or property, or where the interest of justice so requires."⁴⁸

In the case, the RTC convicted accused-appellants of violation of Section 5, Article II of RA 9165, which carries the penalty of life imprisonment.⁴⁹ The Court cannot simply allow accused-appellants to be incarcerated for life without their conviction being fully reviewed on the merits.

Records reveal that Atty. Xilexferen P. Barroga (Atty. Barroga), accused-appellants' previous counsel, was negligent in handling their case before the CA. Atty. Barroga failed to timely file the Appellant's Brief despite the two extensions granted by the CA.⁵⁰ It was only after the lapse of the period given that he filed a motion to admit appellant's brief, which the CA denied.⁵¹ After Atty. Barroga filed a motion for reconsideration,⁵² and pending its resolution, Atty. Barroga withdrew his appearance as accused-appellants' counsel.⁵³ This prompted accused-appellants' respective families to seek the assistance of PAO-SACS.

- over -

116

⁴⁷ Id. at 651.

⁴⁸ *Tambova v. People*, *supra* note 43.

⁴⁹ Records, pp. 252-253.

⁵⁰ *CA rollo*, pp. 21 and 27.

⁵¹ Id. at 28-29.

⁵² Id. at 62-66.

⁵³ Id. at 81-85.

It is understandable that accused-appellants, who are serving life imprisonment, could not be expected to timely communicate with Atty. Barroga.⁵⁴ Clearly, the negligence of Atty. Barroga should not bind accused-appellants; otherwise, a serious injustice will result as they are incarcerated for life without their case being fully reviewed on the merits.

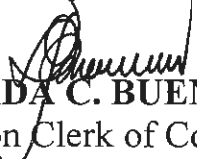
Furthermore, it appears that accused-appellants' appeal before the CA posit alleged lapses of the buy-bust team in duly complying with the chain of custody rule.⁵⁵ The CA can properly address the alleged lapses by deciding the appeal on the merits.

In view of the foregoing circumstances, the Court finds that the relaxation of strict procedural rules is warranted in this case.

WHEREFORE, the appeal is **GRANTED**. The Resolutions dated February 10, 2017 and January 11, 2018 of the CA in CA-G.R. CR-HC No. 08443 are hereby **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Court of Appeals for resolution of the appeal on its merits. The Court of Appeals is **DIRECTED** to admit the Appellant's Brief dated November 3, 2016, require the plaintiff-appellee to submit an Appellee's Brief, and decide the case on the merits.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

116

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 08443)

The Hon. Presiding Judge
Regional Trial Court, Branch 231
1300 Pasay City
(Crim. Case No. R-PSY-11-04411-CR)

- over -

⁵⁴ See *Barayuga v. People*, supra note 45.

⁵⁵ *Rollo*, pp. 57-59.



PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
5/F, DOJ Agencies Building
NIA Road cor. East Avenue, Diliman
1101 Quezon City

Messrs. Baby M. Sanday & Abdalbassir
A. Manalinding
Accused-Appellants
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court



116

UR

105