



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 29, 2022** which reads as follows:*

“G.R. No. 252049 (*People of the Philippines v. Joseph Panis y Saco alias “Otep”*). – Before the Court is an appeal¹ filed by accused-appellant Joseph Panis y Saco alias “Otep” (accused-appellant) seeking to reverse and set aside the Resolutions dated September 20, 2018² and June 28, 2019³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02864. The CA dismissed his appeal for failure to seasonably file an Appellant’s Brief.

In a Notice to File Brief⁴ dated April 25, 2018, the CA directed accused-appellant to file his appellant’s brief within 30 days from receipt of the notice. Despite receipt thereof on May 16, 2018, accused-appellant did not file an appellant’s brief; thus, the CA was prompted to dismiss the appeal in a Resolution⁵ dated September 20, 2018. The pertinent portion of the Resolution reads:

On August 07, 2018, per Judicial Records Division (Criminal Cases Section) verification report, no appellant’s brief was filed by the accused-appellant. Under Section 8, Rule 124 of the Revised Rules of Criminal Procedure, “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*.”

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¹ See Notice of Appeal the Matter to the Honorable Supreme Court Based on Questions of Law/Facts; *rollo*, pp. 10-11.

² *Id.* at 5-6. Penned by Associate Justice Dorothy P. Montejo-Gonzaga and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired Member of the Court) and Edward B. Contreras.

³ *Id.* at 7-9.

⁴ *CA rollo*, p. 11.

⁵ *Rollo*, pp. 5-6.

For failure of the Accused-appellant to reasonably file his brief, *We* now exercise the above-quoted prerogative to dismiss the appeal.

ACCORDINGLY, the appeal of Joseph Panis y Saco alias “Otep” is hereby DISMISSED.

SO ORDERED.⁶

On March 28, 2019, the CA noted,⁷ among others, the Case Management Information System Verification Report dated March 12, 2019 which indicated that none of the parties in the case filed a motion for reconsideration before the CA, or a petition or appeal before the Court. It likewise considered its Resolution dated September 20, 2018 as final for failure of either of the parties to assail it despite due notice.⁸

Accused-appellant moved for reconsideration and contended that his counsel failed to act on the Resolution dated September 20, 2018 because the latter’s house got burned on October 24, 2018.⁹ The CA denied the motion on June 28, 2019.¹⁰ It explained:

Here, *Our Resolution* dismissing accused-appellant’s appeal was received by his counsel on 11 October 2018, per *Registry Return Receipt*. According to accused-appellant’s counsel, his house was on fire only on 24 October 2018. Hence, accused-appellant’s counsel already had notice of *Our Resolution* dismissing the case approximately thirteen (13) days prior to the fire accident. Still, he failed to file the required Motion for Reconsideration.

Under Section 1, Rule 52 of the Rules of Court, a motion for reconsideration of a judgment or final resolution should be filed within fifteen (15) days from notice. If no appeal or motion for reconsideration is filed within this period, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgment as provided under Section 10 of Rule 51.

The fifteen-day reglementary period for filing a motion for reconsideration is non-extendible.

In fine, the Court finds no error in the issuance of the *Entry of Judgment* of *Our Resolution* dismissing accused-appellant’s appeal as the *Resolution* has already become final and executory.

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⁶ *Id.*

⁷ *CA rollo*, pp. 28-29.

⁸ *Id.* at 28.

⁹ See Motion for Reconsideration with Explanation, All in the Interest of Substantial Justice, *id.* at 33-34.

¹⁰ *Rollo*, pp. 7-9.

WHEREFORE, premises considered, accused-appellant's *Motion for Reconsideration* is DENIED.

SO ORDERED.¹¹

Hence, the present appeal.

On September 14, 2020, the Court issued a Resolution¹² that notified the parties that they could file their respective supplemental briefs, if they so desire, within 30 days from notice.

In its Manifestation and Motion¹³ dated December 9, 2020, the Office of the Solicitor General states that it would no longer file a supplemental brief considering that the appellee's brief it previously filed before the CA had thoroughly discussed the issues presented for resolution.

In his Supplemental Brief/Memorandum¹⁴ dated January 25, 2021, accused-appellant maintains that he should be acquitted due to lack of evidence to prove his guilt beyond reasonable doubt.¹⁵

The Issue

The main issue here is whether the CA erred in dismissing the appeal of accused-appellant for the non-filing of the appellant's brief within the required period.

The Court's Ruling

Before all else, the Court notes that accused-appellant availed himself of the wrong remedy in assailing the Resolutions of the CA before the Court. In the assailed CA Resolutions, accused-appellant's appeal was dismissed due to his failure to file his brief within the required period. The proper remedy to assail the CA Resolutions, under the circumstances, is to file a petition for review on *certiorari* under Rule 45 and not a notice of appeal.¹⁶ In a number of cases

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¹¹ *Id.* at 8-9.

¹² *Id.* at 14-15.

¹³ See Manifestation and Motion In Lieu of Supplemental Brief; *id.* at 18-19.

¹⁴ *Id.* at 23-26.

¹⁵ *Id.* at 25.

¹⁶ Section 3(e) of Rule 122 of the Revised Rules of Criminal Procedure states that "[e]xcept as provided in the last paragraph of Section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rule 45."

involving the CA's dismissal of an appeal for failure to file an appellant's brief, the Court already clarified that an appeal to the Court should be *via* a petition for review on *certiorari* under Rule 45.¹⁷

In the interest of substantial justice, however, the Court shall treat this appeal as an appeal *via* a petition for review on *certiorari*.

While a final and executory judgment may no longer be attacked or modified, the Court may relax this rule to serve substantial justice and consider the following circumstances which are obtaining in the case: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; and (e) a lack of any showing that the review sought is merely frivolous and dilatory.¹⁸

In the case, it appears that the appeal interposed by accused-appellant before the CA has ostensible merit considering the alleged lapses of the arresting officers in duly complying with the chain of custody. Specifically, he insists that: (1) the marking of drugs was irregular as the time and place were not indicated; and (2) the required three witnesses were not present during the inventory and photographing as required by Republic Act No. 9165, as amended.¹⁹

The Court cannot fault the CA for upholding the procedural rules and acknowledges its adherence thereto. Nevertheless, the Court cannot countenance that accused-appellant's appeal of his conviction be disposed of without a thorough review on account of the negligence of his counsel. At the very least, it should be done based on a full consideration of the merits and not for reasons anchored on technicalities. Hence, the Court deems it proper to relax the technical rules of procedure in order to afford accused-appellant the fullest opportunity to establish the merits of his appeal.

Accordingly, the Entry of Judgment²⁰ in CA-G.R. CR-HC No. 02864 is recalled and the case remanded to the CA for resolution of the appeal on its merits.

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¹⁷ *People v. Adelantar*, G.R. No. 248329 (Notice), June 16, 2021, citing *People v. Pagal*, G.R. No. 241257, September 29, 2020.

¹⁸ *Lindongan v. People*, UDK-16615, February 15, 2021.

¹⁹ *Rollo*, pp. 23-24.

²⁰ *CA rollo*, pp. 45-46.

WHEREFORE, the Resolutions dated September 20, 2018 and June 28, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 02864 are **SET ASIDE**, and the Entry of Judgment dated November 1, 2018 is **RECALLED**. Accordingly, the appeal of accused-appellant Joseph Panis y Saco alias “*Otep*” is hereby **REINSTATED** and the case is **REMANDED** to the Court of Appeals for resolution on the merits. Accused-appellant Joseph Panis y Saco alias “*Otep*” is **DIRECTED** to file his appellant’s brief within a non-extendible period of thirty (30) days from receipt of this Resolution.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
SLP

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals
6000 Cebu City
(CA-G.R. CR-HC No. 02864)

The Hon. Presiding Judge
Regional Trial Court, Branch 47
Tagbilaran City, 6300 Bohol
(Crim. Case Nos. 19499 to 19500)

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