



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated 7 September 2022, which reads as follows:

“**G.R. No. 241149 (*Philippine National Bank vs. Aquiles Ascalon, Jr.*)**. – Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45, Rules of Court, seeking the nullification of the assailed *Resolutions* dated 22 May 2018² and 23 July 2018³ of the Court of Appeals (CA) in CA-G.R. CV No. 110247. The 22 May 2018 *Resolution* dismissed the appeal filed by the Philippine National Bank (PNB), citing Section 1(e), Rule 50, Rules of Court, and ruling that PNB had abandoned its appeal when it failed to timely file its appellant’s brief. The 23 July 2018 *Resolution* denied reconsideration.

On 10 February 1970, Armando Villaluna (Villaluna) sold a property covered by Transfer Certificate of Title (TCT) No. 210023⁴ (subject title),⁵ of the Registry of Deeds for the Province of Rizal, registered under the name of “Armando V. Villaluna, married to Evelyn Villanueva,” to Aquiles Ascalon, Sr. (Ascalon, Sr.), the father of respondent Aquiles Ascalon, Jr. (Ascalon, Jr.).⁶ Two real estate mortgages⁷ (executed by Villaluna in favor of PNB) dated 18 January 1968 were annotated on the subject title.⁸ As the property was mortgaged to PNB at the time of the sale and the owner’s duplicate of the subject title was in PNB’s possession, Ascalon, Sr. was not able to register the deed of sale and the title was not transferred to his name. On 1 June 1991, he passed away.⁹

¹ *Rollo*, pp. 3-35.

² Penned by Associate Justice Marlene Gonzales-Sison, with the concurrence of Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Rafael Antonio M. Santos; *id.* at 38.

³ *Id.* at 39-40.

⁴ *Id.* at 141-142.

⁵ *Id.*

⁶ *Id.* at 201.

⁷ *Id.* at 133-140.

⁸ *Id.* at 142.

⁹ *Id.* at 201.

On 29 November 2011, Ascalon, Jr. filed a *Complaint*¹⁰ for Replevin with the Regional Trial Court (RTC), Branch 114, Pasay City, against PNB for the delivery of the owner's duplicate of the subject title.¹¹ The *Complaint* was docketed as Civil Case No. R-PSY-11-08698-CV.¹² Ascalon, Jr. also had his adverse claim annotated on the subject title.¹³

After trial, the RTC rendered a *Decision*¹⁴ dated 24 November 2017 and ruled in favor of Ascalon, Jr.¹⁵ The RTC found that the heirs of the late Ascalon, Sr., including respondent Ascalon, Jr., are the owners of the property covered by the subject title. In support of this finding, the RTC cited the *Decisions* of the CA in: (a) CA-G.R. CV No. 92146 dated 18 May 2012; and (b) CA-G.R. CV No. 92574 dated 27 August 2010 (collectively, the CA *Decisions*), as affirmed by this Court in its *Resolution*¹⁶ dated 6 June 2011. The cited CA *Decisions* resolved the issue of the validity of an auction sale conducted by the City of Makati over the same property in favor of the heirs of Ascalon, Sr., recognizing the latter's purchase of the property from Villaluna and his heirs' ownership of the property.¹⁷ The RTC also ruled that PNB's action to enforce the mortgages had already prescribed.¹⁸

Consequently, the RTC ordered PNB to deliver the owner's duplicate of the subject title to Ascalon, Jr.¹⁹

PNB received a copy of the RTC's *Decision*²⁰ on 5 December 2017. On 13 December 2017, it filed its *Notice of Appeal*.²¹ The RTC subsequently issued an *Order*²² dated 15 December 2017 giving due course to PNB's appeal and ordering the transmittal of the entire records of the case to the CA.²³

On 1 March 2018, PNB received notice from the CA requiring it to file its appellant's brief within 45 days from 1 March 2018, or by 15 April 2018.²⁴ On 13 April 2018, PNB filed an *Urgent Motion for Additional Time to File Appellant's Brief*²⁵ requesting an additional period of 15 days from 15 April 2018, or until 30 April 2018, within which to file its appellant's

¹⁰ Id. at 41-43.

¹¹ Id.

¹² Id.

¹³ Id. at 441.

¹⁴ Penned by Judge Edwin B. Ramizo; id. at 200-213.

¹⁵ Id. at 213.

¹⁶ Id. at 121.

¹⁷ Id. at 77-90 and 92-120.

¹⁸ Id. at 211.

¹⁹ Id. at 213.

²⁰ Id. at 200-213.

²¹ Id. at 214-216.

²² Id. at 217.

²³ Id.

²⁴ Id. at 218.

²⁵ Id. at 219-221.

brief.²⁶ On 30 April 2018, PNB filed another *Urgent Motion for Additional Time to File Appellant's Brief*²⁷ requesting an additional period of 15 days from 30 May 2018, or until 15 May 2018, to file its appellant's brief.²⁸ On 15 May 2018, PNB filed its appellant's brief.²⁹

On 22 May 2018, the Special Fifteenth Division of the CA issued a *Resolution*³⁰ dismissing PNB's appeal on the sole ground that it failed to file its appellant's brief, and thus had abandoned its appeal under Sec. 1(e), Rule 50, Rules of Court.³¹ On 23 July 2018, the CA issued the *Resolution* denying PNB's *Motion for Reconsideration*.³² Hence, this Petition.³³

PNB argues that it did not abandon its appeal as it timely filed its appellant's brief on 15 May 2018, within the requested extended period.³⁴ According to PNB, jurisprudence is "replete with precedents that in case the appellant's brief was filed within the period sought, the better course of action for the [CA] was to admit the appellant's brief."³⁵ Moreover, the CA "ignored the basic tenets that litigations must be decided on their merits and not on technicality."³⁶ PNB "raised meritorious grounds in its appeal that truly deserve consideration and appellate review by the [CA], and the appeal should be disposed of based on its merits and not purely on technicalities."³⁷

On the merits, PNB claims that (a) the CA Decisions cited by the RTC did not adjudge ownership of the property covered by the subject title to Ascalon, Sr. and they "merely rectified the procedural lapses of the City Treasurer of Makati City in conducting the tax sale over the mortgaged property;"³⁸ (b) PNB cannot be bound by the CA Decisions, as it was not impleaded as a party in those proceedings;³⁹ (c) Ascalon, Jr. failed to prove ownership of, or entitlement to possession of, the subject title;⁴⁰ and (d) the RTC mistakenly applied prescription in favor of Ascalon, Jr., as prescription is a personal defense that may be waived.⁴¹

On the other hand, Ascalon, Jr. argues that the CA correctly ruled that PNB did not file its appellant's brief within the period provided,⁴² and that the appellate court correctly cited the case of *Laguna Metts Corporation v.*

²⁶ Id.

²⁷ Id. at 224-226.

²⁸ Id. at 225.

²⁹ Id. at 233-261.

³⁰ Id. at 38.

³¹ Id.

³² Id. at 39-40.

³³ Id. at 3-35.

³⁴ Id. at 11-12.

³⁵ Id. at 14.

³⁶ Id. at 15.

³⁷ Id. at 16.

³⁸ Id. at 17.

³⁹ Id. at 17-20.

⁴⁰ Id. at 20-27.

⁴¹ Id. at 28-29.

⁴² Id. at 437-440.

*Court of Appeals*⁴³ as basis for stating that “[i]t has been settled time and again that heavy workload is relative and often self-serving.”⁴⁴ PNB’s reliance on *Tiangco, et al. v. Land Bank of the Philippines*⁴⁵ citing *Aguam v. Court of Appeals*⁴⁶ is misplaced. In *Aguam*, this Court considered the “honest mistake in the counting of the period to file the appellant’s brief,” as well as a mistake on the part of the clerk in sending the notice requiring submission of the appellant’s brief.⁴⁷ In *Tiangco*, the Court considered the case exceptional as it was “impressed with no less than the public interest,” considering the “already depressed economic condition” of the Philippines at the time the decision was penned.⁴⁸

Ascalon, Jr. also argues that PNB’s arguments on the merits do not warrant reversal of the assailed resolutions for the following reasons: (a) Ascalon, Jr., as owner of the disputed property, is entitled to possession of the subject title, and the CA Decisions “are, in and of themselves, documentary evidence of ownership of the property covered by the [subject title];”⁴⁹ (b) Ascalon, Jr. sufficiently proved that he is an heir of Ascalon, Sr.;⁵⁰ (c) it is irrelevant that PNB was not a party to the CA Decisions, as “all judgments that bind Villaluna and all his successors-in-interest, also bind the mortgagor as the mortgagor cannot be in position to gain more property and property[-] related rights than the mortgagee;”⁵¹ (d) Ascalon, Jr. has sufficiently proven the sale of the disputed property;⁵² and (e) registration of the subject title is irrelevant, as it is PNB’s possession of the owner’s duplicate of the subject title which makes registration in the name of Ascalon, Jr. impossible.⁵³

Finally, on the issue of prescription, Ascalon, Jr. argues that “[m]ore than 40 years have passed since the date of execution of the mortgage. It would be hard-pressed to believe that there has been no default for the payment of the loan within this time, causing the ten[-]year period for the prescription period of the mortgage to run.”⁵⁴

The appeal is not impressed with merit.

It is settled that the right to appeal is not a natural right but a statutory privilege, and “[t]he party who seeks to avail of the same must comply with the requirements of the rules. Otherwise, the right to appeal is lost.”⁵⁵

⁴³ 611 Phil. 530 (2009).

⁴⁴ *Rollo*, p. 439.

⁴⁵ 646 Phil. 554 (2010).

⁴⁶ 388 Phil. 587 (2000).

⁴⁷ *Rollo*, pp. 439-440.

⁴⁸ *Id.* at 440.

⁴⁹ *Id.* at 441.

⁵⁰ *Id.* at 444.

⁵¹ *Id.* at 448.

⁵² *Id.* at 449-451.

⁵³ *Id.* at 451-452.

⁵⁴ *Id.* at 459.

⁵⁵ *Spouses Casador v. Spouses Bacar*, G.R. No. 219930, 30 June 2021.

In *Republic v. Court of Appeals*,⁵⁶ this Court stated that “proceeding from the premise that appeal is a statutory right, it is equally settled that a **party seeking to appeal an adverse action of a court must strictly follow the statutory requirements. Procedural rules setting the period for perfecting an appeal or filing an appellate petition are generally inviolable.** 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.**”⁵⁷

On the matter of the appellant’s brief in particular, this Court explained in the recent case of *Spouses Casador v. Spouses Bacar*⁵⁸ that “**the authority of the Court of Appeals to dismiss an appeal for failure to file the appellant’s brief is a matter of judicial discretion.** In the exercise of this discretion, however, the Court of Appeals still adheres to the fundamentals of justice and fairness, **bearing in mind the peculiar circumstances attendant to each case.**”⁵⁹ In that case, this Court found that petitioners “miserably failed to show that they were deserving of the court’s special consideration or liberal application of the rules [on filing of the appellant’s brief],”⁶⁰ and that petitioners did not show that “they rightly deserve liberal application of the rules to warrant the reinstatement of their appeal. Nor have they demonstrated that their appeal is meritorious.”⁶¹

In *Sibayan v. Costales*,⁶² this Court affirmed the CA’s decision dismissing petitioner’s appeal for failure to file the appellant’s brief, as no explanation was provided which would “compel [this Court] to reverse the appellate court:”⁶³

We find no reason to disturb the appellate court’s exercise of discretion in dismissing the appeal. We perused the explanation proffered by petitioner and we found nothing that would compel us to reverse the appellate court. The attribution of negligence to the counsel does not automatically shield the client from adverse consequence of her own negligence and relieve her from the unfavorable result of such lapse. Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client’s duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.

⁵⁶ G.R. No. 229952, 4 March 2020.

⁵⁷ Id.; emphasis supplied.

⁵⁸ Supra note 55.

⁵⁹ Id.; emphasis supplied.

⁶⁰ Id.

⁶¹ Id.

⁶² 789 Phil. 1 (2016).

⁶³ Id. at 8.

The failure to file Appellant's Brief, though not jurisdictional, results in the abandonment of the appeal which may be the cause for its dismissal. We must emphasize that the right to appeal is not a natural right but a statutory privilege, and it may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost. In the present case, petitioner failed to file the required brief within the period prescribed under Section 7, Rule 44 of the Rules. Thus, the appellate court rightly considered her appeal abandoned and consequently dismissed the same.⁶⁴

Similarly, in *Sindophil, Inc. v. Republic of the Philippines*,⁶⁵ the Court held that there were no “extraordinary circumstances” which would warrant belated filing of the petitioner’s appellant’s brief:

The same extraordinary circumstances similar to *Bigornia*⁶⁶ and *Aguam*⁶⁷ are not present here. In Sindophil's Motion for Reconsideration before the Court of Appeals, Sindophil's counsel, Atty. Obligar, explained that his law office used to be located in Pasig City. However, when two (2) of his staff left due to "family reasons," he had to transfer his office to Las Piñas City, which was near Parañaque City where he resided. He then speculated that in the course of the transfer, the Court of Appeals' resolution directing Sindophil to file its appeal brief might have been one of the files lost or inadvertently disposed of by his house helpers.⁶⁸

In fine, there is no “peculiar” or “extraordinary” circumstance in this case that would justify PNB’s belated filing of its appellant’s brief and the reversal of the assailed resolutions dismissing PNB’s appeal. In fact, this Court has held that “‘heavy workload’ [the reason cited by PNB’s counsel in his requests for extension] is normally considered by this Court as insufficient cause to allow extensions of time to file pleadings.”⁶⁹

⁶⁴ Id. at 8-9; citations omitted; emphasis supplied.

⁶⁵ G.R. No. 204594, 7 November 2018.

⁶⁶ The “extraordinary circumstance” in *Bigornia*, as discussed in *Sindophil, Inc. v. Republic of the Philippines*, is as follows: “In *Bigornia*, this Court ordered the reinstatement of the appeal despite the late filing of the appellant’s brief. **The petitioners in *Bigornia* were police officers who, this Court said, ‘receive meager salaries for risking life and limb.’** With the police officers having been adjudged liable for substantial amounts in damages, this Court said that “[i]t is but fair that [petitioners] be heard on the merits of their case before being made to pay damages, for what could be, a faithful performance of duty.” (Citations omitted; emphasis supplied)

⁶⁷ The “extraordinary circumstance” in *Aguam*, as discussed in *Sindophil, Inc. v. Republic of the Philippines*, is as follows: “The appeal was likewise reinstated in *Aguam v. Court of Appeals*, where a motion for extension of time to file appellant’s brief was denied by the Court of Appeals for having been filed nine (9) days beyond the period for filing the appellant’s brief. The motion for reconsideration with attached appellant’s brief was likewise denied. However, it was established that **the notice to file appellant’s brief was received by an employee of the realty firm with whom the appellant’s lawyer was sharing office, not by the appellant’s lawyer who was a solo practitioner.** Thus, this Court ordered the Court of Appeals to admit the appellant's brief in the higher interest of justice.” (Citations omitted; emphasis supplied)

⁶⁸ Id.; citations omitted; emphasis supplied.

⁶⁹ *Republic v. Court of Appeals*, supra note 56.



In any event, PNB's arguments on the merits must likewise fail. The Court has always accorded great weight and respect to the findings of fact of trial courts.⁷⁰ Indeed, the general rule is that the trial court's findings of fact are entitled to great weight and will not be disturbed on appeal.⁷¹ Thus, "a petition for review under Rule 45 is limited only to questions of law. Factual questions are not the proper subject of an appeal by *certiorari*. This Court will not review facts, as it is not our function to analyze or weigh all over again evidence already considered in the proceedings below."⁷² While there are exceptions to this rule,⁷³ including situations where facts of weight and substance have been overlooked, misapprehended or misapplied in a case under appeal,⁷⁴ PNB has failed to establish that any of these exceptions apply to its petition and warrant the reversal of the *Resolutions* of the Court of Appeals and the *Decision* of the RTC.

WHEREFORE, the instant petition is **DENIED**. The *Resolutions* of the Court of Appeals dated 22 May 2018 and 23 July 2018 are **AFFIRMED**.

SO ORDERED." Hernando, J., no part; Dimaampao, J. designated additional Member per Raffle dated 19 July 2022.

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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⁷⁰ *Gatan v. Vinarao*, 820 Phil. 257 (2017).

⁷¹ *People v. Lumikid*, G.R. No. 242695, 23 June 2020.

⁷² *Gatan v. Vinarao*, supra note 70 at 266, citing *Miro v. Vda. de Erederos*, 721 Phil. 772, 785-787 (2013).

⁷³ *Miano v. Manila Electric Co.*, 800 Phil. 118, 123 (2016), citing *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225 (1990), lists the following exceptions: (1) When the conclusion is a finding grounded entirely on speculations, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the CA are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the CA is premised on the supposed absence of evidence and is contradicted by the evidence on record.

⁷⁴ *People v. Lumikid*, supra note 71.

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