



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated January 30, 2023, which reads as follows:

“G.R. No. 257179 (Jaime S. Edlay, Sr. and Kenneth Paul G. Edlay, *Petitioners*, v. Court of Appeals [Mindanao Station, Cagayan de Oro City] and People of the Philippines, *Respondents*). – This Petition for *Certiorari*¹ seeks to nullify the Resolutions dated September 11, 2019² and May 25, 2021³ of the Court of Appeals (CA), which dismissed the appeal of Jaime S. Edlay, Sr. and Kenneth Paul G. Edlay⁴ (collectively, petitioners) in CA-G.R. CR-HC No. 02135-MIN for failure to file their appellants’ brief on time.⁵

In a Decision⁶ dated July 9, 2018 in Criminal Case No. CrC 259-2015, Branch 34, Regional Trial Court (RTC), Panabo City, Davao del Norte found petitioners guilty beyond reasonable doubt of Illegal Sale, Trade, and Delivery of Dangerous Drugs as defined and penalized under Section 5,⁷ Article II of Republic Act No. (RA) 9165,⁸ otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The Antecedents

Petitioners were both charged with violation of Section 5, Article II

¹ *Rollo*, pp. 17–31.

² *Id.* at 33–35. Penned by Associate Justice Lily V. Biton and concurred in by Associate Justices Evalyn M. Arellano-Morales and Florencio M. Marnauag, Jr..

³ *Id.* at 113–115. Penned by Associate Justice Lily V. Biton and concurred in by Associate Justices Evalyn M. Arellano-Morales and Loida S. Posadas-Kahulugan.

⁴ Referred to as “Kenneth Paul G. Edlay” in some parts of the *rollo* (see *id.* at 33, 78 – 82, 84, 89, 113).

⁵ *Id.* at 35.

⁶ *Id.* at 78–91. Penned by Presiding Justice Dax Gonzaga Xenos.

⁷ SEC. 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

⁸ Approved on June 7, 2002.

of RA 9165 under the following Information:

That on or about July 10, 2015, in Panabo City, Davao, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating, and willfully helping each other, without being authorized by law, willfully, unlawfully and knowingly traded, sold and delivered six (6) packs of marijuana weighing 160 grams, 185 grams, 150 grams, 205 grams, 150 grams, and 480 grams, respectively, or a total of 1,330 grams, a dangerous drug, to PO3IRVIN S. GARZON and PO2 ROBERTO H. MONTUYA, JR., who acted as poseur buyers in a legitimate buy-bust operation, and took and received Three Thousand Five Hundred Pesos (P3,500.00) bill marked money composed of five (5) Php 500.00 bills bearing serial numbers TC459303, WQ065434, ZW307747, CR513254 and TT854559 and one (1) Php 1,000.00 bill bearing serial number BT481821, from the said poseur buyers.⁹

Upon arraignment, petitioners pleaded, “not guilty” to the charge.¹⁰

Trial ensued.

In its Decision¹¹ dated July 9, 2018, the RTC found petitioners guilty beyond reasonable doubt of the charge and sentenced them as follows:

WHEREFORE, judgment is hereby rendered finding accused Jaime S. Edlay, Sr. and Kenneth Paul G. Edlay guilty beyond reasonable doubt of delivering marijuana defined and penalized under Section 5 of R.A. No. 9165, they are each sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of Ten Million Pesos (Php10,000,000.00).

In the service of their sentence, accused are entitled to the credit of their preventive imprisonment pursuant to the provisions of Art. 29 of the Revised Penal Code. Accused shall serve their sentence at Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte.

The six (6) packs of marijuana with a total weight of 1,330 grams are hereby ordered confiscated and forfeited in favor of the government through the PDEA subject to the destruction by the latter in accordance with existing laws and regulations. In connection thereto, PDEA Regional Office XI is directed to assume custody of the subject drugs for its proper disposition within ten (10) days from notice.

SO ORDERED.¹²

Aggrieved, petitioners appealed to the CA.

In a Notice dated December 18, 2018, the CA required the

⁹ As culled from the RTC Decision, *rollo*, p. 78.

¹⁰ *Id.*

¹¹ *Id.* at 78–91.

¹² *Id.* at 89–90.

petitioners, through their counsel Atty. Geoffrey P. Navarra, Jr. (Atty. Navarra), to file the appellants' brief within the period of 30 days from receipt of such notice. Atty. Navarra received the Notice on January 4, 2019 through a certain Nico Lopez as evidenced by a Reply to Tracer submitted by the Postmaster of Davao City. Thus, petitioners had until February 4, 2019 within which to file their appellant's brief.¹³

Based on the CA's Case Management Information System verification report dated September 3, 2019, no appellants' brief was filed despite the opportunity given and the expiration of the prescribed period for compliance by petitioners.¹⁴

On September 11, 2019, the CA issued a Resolution¹⁵ dismissing petitioners' appeal. It treated petitioners' failure to file the required Appellants' brief as an abandonment of their appeal. The CA decreed as follows:

It bears to stress that strict compliance with the Rules of Court is indispensable for the orderly and speedy disposition of justice. The Rules must be followed, otherwise, they will become meaningless and useless.

Many times over, the Honorable Supreme Court has emphasized that the right to appeal is merely a statutory privilege, and as such, may be exercised only in the manner and in accordance with the provisions of law. An appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court, failing which, the right to appeal is lost.

WHEREFORE, the instant appeal is declared ABANDONED and is DISMISSED pursuant to Section 8, Rule 124 of the Rules of Court.

SO ORDERED.¹⁶

Unperturbed, petitioners filed an *Omnibus Motion for the Reconsideration of the Honorable Court's Resolution dated 11 September 2019 and for the Admission of Accused-Appellants' Appellant's Brief*,¹⁷ which prayed for the reversal of the dismissal of their appeal, as well as the admission of the appellants' brief.¹⁸

The motion was opposed by the People, through the Office of the Solicitor General (OSG).¹⁹

¹³ Id. at 33-34.
¹⁴ Id. at 34.
¹⁵ Id. at 33-35.
¹⁶ Id. at 34-35.
¹⁷ Id. at 36-44.
¹⁸ Id. at 51-77.
¹⁹ Id. at 114.

On May 25, 2021, the CA issued a Resolution²⁰ denying the motion for reconsideration. It held that the petitioners failed to present any compelling reason to warrant the reversal of its earlier Resolution. It noted that petitioners were represented by counsel *de parte*, who failed to file their appeal brief within the reglementary period. In fact, petitioners' appeal brief was filed eight months beyond the period prescribed. Hence, petitioners were properly deemed to have abandoned their appeal.²¹ The CA explained:

The reason for the dismissal lies in the nature of the right to appeal. The right to appeal is statutory and one who seeks to avail of it must comply with the statute or rules. 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. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well; hence, failure to perfect the same renders the judgment final and executory.

To stress, even if We were to apply liberality as prayed for, it is not a magic word that once invoked will automatically be considered as a mitigating circumstance in favor of the party invoking it. There should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.” Litigants must bear in mind that procedural rules should always be treated with utmost respect and due regard since these 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. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. Though litigations should, as much as possible, be decided on their merits and not on technicalities, this does not mean, however, that procedural rules are to be belittled to suit the convenience of a party,

WHEREFORE, there being no valid and cogent reason to depart from the conclusions arrived at in the aforementioned Resolution of this Court, the Motion for Reconsideration is DENIED.

SO ORDERED.²²

Hence, the present petition for *certiorari*.²³

Petitioners aver that they were convicted of delivery of marijuana and penalized by the RTC with life imprisonment. Given their circumstances, the dismissal of their appeal by the CA was tantamount to a denial of their right to due process.²⁴

²⁰ Id. at 113–115.

²¹ Id. at 114.

²² Id. at 114–115.

²³ Id. at 17–31.

²⁴ Id. at 24.

In its Comment,²⁵ the OSG contends that petitioners availed themselves of the wrong remedy in assailing the CA's Resolutions before the Court.²⁶ Further, the OSG argues that the CA validly dismissed their appeal for having been filed eight months beyond the reglementary period.²⁷

Issue

The issue to be resolved is whether the CA committed grave abuse of discretion in dismissing petitioners' appeal for their failure to file the appellants' brief within the prescribed period.

The Ruling of the Court

Before all else, the Court notes that petitioners availed themselves of the wrong remedy in assailing the Resolutions of the CA before the Court. In the assailed CA Resolutions, petitioners' appeal was dismissed due to their failure to file the appeal brief within the required period. The proper remedy to assail the Resolutions is to file a petition for review on *certiorari* under Rule 45 instead of a petition for *certiorari*. In a number of cases involving the CA's dismissal of the appeal for failure to file an appellant's brief, the Court already clarified that the appeal to the Court should be *via* a petition for review on *certiorari* under Rule 45.²⁸

Nevertheless, in the interest of substantial justice, the Court shall treat this as a petition for review on *certiorari* to resolve the issue raised by petitioners.²⁹

Settled is the rule that an appeal from the judgment of the lower court is generally "not a matter of right but of sound judicial discretion," except in criminal cases where the penalty imposed is *reclusion perpetua* or death.³⁰ As the Court repeatedly held, "[t]he circulars of this Court prescribing technical and other procedural requirements are meant to promptly dispose of unmeritorious petitions that clog the docket and waste the time of the courts."³¹ It must be stressed, however, that technical and procedural rules are "intended to ensure, not suppress, substantial justice." Thus, a deviation from the rigid enforcement of technical and procedural rules may be allowed to attain their prime objective, that is, the dispensation of justice.³²

²⁵ Id. at 162–181.

²⁶ Id. at 167–169.

²⁷ Id. at 169–177.

²⁸ *People v. Adelantar*, G.R. No. 248329 (Notice), June 16, 2021.

²⁹ See *id.*

³⁰ *Tamayo v. Court of Appeals*, 467 Phil. 603, 607–608 (2004), citing *Acme Shoe, Rubber & Plastic Corp. v. CA*, 329 Phil. 531, 537–538 (1996).

³¹ *Tamayo v. Court of Appeals*, *supra* at 608.

³² *Id.*

In the case, it must be observed that petitioners timely filed their notice of appeal, and that the CA acquired jurisdiction over the case. Their counsel simply failed to submit the appellants' brief within the period provided by the rules. At this point, the failure to file a notice of appeal within the reglementary period must be distinguished from the failure to file a brief within the period granted by the CA.³³ As explained in one case:

The former results in the failure of the appellate court to acquire jurisdiction over the appealed decision resulting in its becoming final and executory upon failure of the appellant to move for reconsideration. In contrast, the latter simply results in the abandonment of the appeal which can lead to its dismissal upon failure to move for its reconsideration.³⁴

In *People v. Ramos*,³⁵ the Court held that the "failure to file an appellant's brief within the prescribed period is not fatal to the case of the accused if there are substantial considerations in giving due course to the appeal."³⁶ Accordingly, if the appellant is represented by a counsel *de parte* and he fails to file his brief on time, the CA *may* dismiss the appeal. However, when the appellant is represented by a counsel *de officio*, the appeal should not be dismissed outright as the rule on filing briefs on time is not automatically applied to the appellant.³⁷

More recently, in *Tambova v. People*,³⁸ the Court relaxed the technical rules of procedure to afford therein petitioner the fullest opportunity to establish the merits of her appeal. It discussed:

Nevertheless, it should be observed 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." x x x "*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.*" x x x

In this case, it appears that the appeal interposed by petitioner before the CA has ostensible merit owing to the alleged lapses of the arresting officers in duly complying with the chain of custody rule. While the Court cannot fault the CA for upholding procedural rules and acknowledges its adherence thereto, We cannot countenance the incarceration of an accused without the underlying conviction being thoroughly reviewed on account of the negligence of counsel. At the

³³ Id.

³⁴ Id., citing *Development Bank of the Philippines v. Court of Appeals*, 411 Phil. 121, 137-138 (2001).
³⁵ 791 Phil. 162 (2016).

³⁶ Id. at 170.

³⁷ Id., citing *De Guzman v. People*, 547 Phil. 654, 659 (2007).

³⁸ G.R. No. 248264, July 27, 2020.

very least, if the CA would eventually find that petitioner's appeal should be denied and her conviction must be affirmed, it should be based on a full consideration of the merits of her appeal and not for reasons anchored on technicalities. Hence, the Court deems it proper to relax the technical rules of procedure in order to afford petitioner the fullest opportunity to establish the merits of her appeal.

Accordingly, the Entry of Judgment made in this case should be recalled and the case be remanded to the CA for resolution of the appeal on its merits. Petitioner is given a non-extendible period of thirty (30) days upon receipt of this Decision to file her appellant's brief with the CA.³⁹ (Emphasis supplied)

In the case, if petitioners' appeal is denied due course, they could be wrongfully imprisoned for life over a mere technicality. It is beyond dispute that petitioners timely filed their notice of appeal. However, their counsel merely failed to file their appellants' brief within the period accorded to them.⁴⁰ "The Court can overlook the short delay in the filing of pleading if strict compliance with the Rules would mean sacrificing justice to technicality."⁴¹

Besides, Section 8, Rule 124 of the Rules of Court requires notice to the appellant prior to the dismissal of his or her appeal. Thus:

SEC. 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*.

The Court of Appeals may also, upon motion of the appellee or *motu proprio*, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal.

A criminal case may be dismissed by the CA *motu proprio* and *with notice* to the appellant if the latter fails to file his brief within the prescribed time. The phrase "with notice to the appellant" means that the appellant must first be furnished a notice to show cause why his or her appeal should not be dismissed.⁴²

Here, significantly, there is no showing that petitioners were served with a notice requiring them to show cause why their appeal should not be dismissed for failure to file the appellants' brief. Precisely, the required notice is meant to give the appellant the opportunity to state the reasons why the appeal should not be dismissed on the ground of such failure, so

³⁹ Id.

⁴⁰ *People v. Ramos*, supra note 35, at 170.

⁴¹ See *De Guzman v. People*, supra note 37, at 660.

⁴² *Dimarucot v. People*, 645 Phil. 218, 225 (2010).

that the CA may determine whether such explanation, if given, is satisfactory.⁴³ The Court explained in one case:

A healthy respect for petitioner's rights should caution courts against *motu proprio* dismissals of appeals, especially in criminal cases where the liberty of the accused is at stake. The rules allowing *motu proprio* dismissals of appeals merely confer a power and do not impose a duty; and the same are not mandatory but merely directory which thus require a great deal of circumspection, considering all the attendant circumstances. Courts are not exactly impotent to enforce their orders, including those requiring the filing of appellant's brief. This is precisely the *raison d'être* for the court's inherent contempt power. *Motu proprio* dismissals of appeals are thus not always called for. Although the right to appeal is a statutory, not a natural, right, it is an essential part of the judicial system and courts should proceed with caution so as not to deprive a party of this prerogative, but instead, afford every party-litigant the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities. More so must this be in criminal cases where, as here, the appellant is an indigent who could ill-afford the services of a counsel *de parte*.⁴⁴

In sum, while it is true that it is upon the discretion of the CA to consider an appeal despite the failure to file an appellant's brief on time, it must be emphasized that the dismissal of the appeal on purely technical grounds is frowned upon because the "general policy is to encourage hearings of appeals on their merits."⁴⁵ In the case, procedural rules take a step back when the life and liberty of the accused is at stake.

Further, petitioners' belatedly filing of their Appellant's Brief is **NOTED**.

Accordingly, the case is referred back to the CA for resolution of the appeal on its merits.

WHEREFORE, the Resolutions dated September 11, 2019 and May 25, 2021 of the Court of Appeals, Cagayan de Oro City, in CA-G.R. CR-HC No. 02135-MIN are **SET ASIDE**, and the appeal of petitioners Jaime S. Edlay, Sr. and Kenneth Paul G. Edlay is **REINSTATED**. The case is referred back to the Court of Appeals for the resolution of the appeal on the merits with reasonable dispatch.

⁴³ Id.

⁴⁴ *De Guzman v. People*, supra note 37.

⁴⁵ *Tamayo v. Court of Appeals*, supra note 30, at 610.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
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Division Clerk of Court *JB 5/25/23*

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