



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 10, 2023, which reads as follows:

“G.R. No. 265211 (*Obinna Oliver Okeke and Obi Ezema King v. People of the Philippines*). – Before this Court is a Petition for Review on *Certiorari*¹ dated February 5, 2023 filed by Obinna Oliver Okeke and Obi Ezema King (petitioners), assailing the Resolutions dated March 15, 2022² and January 13, 2023³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 14846, which dismissed petitioners’ appeal for failure to seasonably file an Appellants’ Brief.

Antecedents

The instant case arose from an Information charging petitioners with sale of dangerous drugs in violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 the accusatory portion of which reads:

That on or about May 30, 2011, in the City of Cainta, Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with each other, without having been authorized by law, did then and there, knowingly, willfully, and feloniously sell, trade, deliver, give away to another, and distribute in consideration of Three Hundred Thousand Pesos (P300,000.00) to IO1 Froilan Bitong, who acted as poseur[-]buyer of Nine Hundred Fifty[-]Four and Seven (954.7) grams quantity of a white powder of cocaine, a dangerous [drug], in violation of the aforecited law.⁴

The case arose from a buy-bust operation conducted by members of the Philippine Drug Enforcement Agency (PDEA) Regional Office 3 after a confidential informant notified them of illegal drug activities in the area.⁵

¹ *Rollo*, pp. 3-48.

² *Id.* at 54.

³ *Id.* at 49-53. Penned by Associate Justice Geraldine C. Fiel-Macaraig with Associate Justices Marlene Gonzales-Sison and Michael Pastores Ong, concurring.

⁴ *Id.* at 65.

⁵ *Id.* at 9.

Upon arraignment, petitioners entered a plea of not guilty.⁶ Thereafter, petitioners filed a Petition for Bail which the Regional Trial Court (RTC) scheduled for hearing.⁷

During the hearing on the petition for bail, the prosecution presented the following witnesses: (1) IO1 Jean Atibagos; (2) IO1 Froilan Bitong, the poseur buyer; (3) Agent Janice Aviso. With respect to the PDEA Forensic Chemist Marjorie Inojales the substance of her testimony was stipulated upon by the parties.⁸

Ruling of the Regional Trial Court

In its Decision⁹ dated December 7, 2018, the RTC found petitioners guilty of the crime charged and convicted both petitioners. The dispositive portion of the said Decision, reads:

WHEREFORE, foregoing premises considered, the Court renders judgment finding accused **OBINNA OLIVER OKEKE** and **OBI EZEMA KING GUILTY** beyond reasonable doubt of the violations of Section 5, Article II, of R.A. 9165 and sentence them to suffer the penalty of life imprisonment and to pay a fine of Ten Million Pesos (P10,000,000.00).

Let the Nine Hundred [Fifty-Four] and Seven (954.7) grams of cocaine, confiscated from the accused be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.¹⁰

Accordingly, petitioners timely filed a Notice of Appeal which was given due course by the CA and ordered them to file their appellants' brief within thirty (30) days from receipt of its Resolution.¹¹

Ruling of the Court of Appeals

In its Resolution¹² dated March 15, 2022, the CA considered petitioners' appeal abandoned for their failure to file an Appellants' Brief and dismissed the same. The relevant portions of the CA Resolution reads:

The JRD Report dated December 21, 2021 and the CMIS verification dated February 21, 2021 that no appellant's brief has been filed, notwithstanding receipt by accused-appellant's counsel of the Notice to File Brief on January 14, 2021 is likewise NOTED.

Consequently, the instant appeal is considered ABANDONED and

⁶ Id.
⁷ Id.
⁸ Id. at 11.
⁹ Id. at 30.
¹⁰ Id.
¹¹ Id. at 49.
¹² Id. at 49-53.

DISMISSED pursuant to Sec. 8, Rule 124 of the Rules of Court.¹³

This prompted petitioners to file a Motion for Reconsideration questioning the foregoing Resolution. In the said Motion for Reconsideration, counsel for petitioners admitted not having filed an Appellants' Brief since the previous counsel had not turned over the files to counsel and had to secure the records from the RTC. Moreover, counsel for petitioners likewise reasoned that due to the ongoing Covid-19 pandemic, he was unable to file the Appellants' Brief within the prescribed period.¹⁴ Petitioners attached to the said Motion for Reconsideration Appellants' Brief praying that the CA admit the same and to reinstate petitioners' appeal.¹⁵

In its Resolution¹⁶ dated January 13, 2023, the CA resolved to deny petitioners' Motion for Reconsideration. According to the CA, the petitioners' counsel on record received the Notice to file Brief on January 14, 2021.¹⁷ However, petitioners failed to file their brief. Thus, the CA issued its Resolution dated March 15, 2022 dismissing petitioners' appeal for having been abandoned.¹⁸

Hence the present Petition.

Issue

The primordial issue now before this Court is whether the CA erred in dismissing the appeal of petitioners for the non-filing of the appellants' brief within the required period.

Ruling of the Court

This Court has held that failure to file appellants' brief, though not jurisdictional, results in the abandonment of the appeal which may be the cause of its dismissal.¹⁹ We recognize that the CA has the discretion to dismiss an appeal for failure of the appellant to file a Brief within the prescribed period.²⁰

Section 8, paragraph 1, Rule 124 of the Revised Rules of Criminal Procedure, as amended, provides:

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

¹³ Id. at 54.

¹⁴ Id. at 55-56.

¹⁵ Id. at 61.

¹⁶ Id. at 49-53.

¹⁷ Id. at 49-50.

¹⁸ Id. at 50.

¹⁹ *Sibayan v. Costales, et al.*, 789 Phil. 1, 9 (2016).

²⁰ RULES OF COURT, Rule 124, Section 8, paragraph 1. See also *People v. Ramos*, 791 Phil 162, 170 (2016).

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*.

Nevertheless, We have repeatedly ruled that technical and procedural rules are intended to ensure, not suppress, substantial justice. Accordingly, a deviation from their rigid enforcement may be allowed to attain their prime objective, that is, the dispensation of justice.²¹ The relaxation of the rules finds more application especially when the life and liberty of the accused is at stake.²²

In the instant case, petitioners were found guilty by the RTC of violating Section 5, Article II, of R.A. No. 9165 and sentenced with the penalty of life imprisonment. Considering the gravity of the penalty imposed, as it involves the deprivation of petitioners' liberty, We deem it necessary that their appeal should be weighed based on a full consideration of its merits and not on the basis of technicalities.

This Court notes that petitioners timely filed their Notice of Appeal, by virtue of which the CA acquired jurisdiction over the matter. However, despite Notice of the CA, petitioners failed to file their Brief within the prescribed period. Nevertheless, petitioners filed a Motion for Reconsideration of the CA's Resolution dismissing their appeal, and attached therewith their Appellants' Brief.

In *People v. Ramos*,²³ this Court had occasion to distinguish between the failure to file a notice of appeal and the failure to file a brief within the prescribed period, thus:

We must remember that there is a distinction between the failure to file a notice of appeal within the reglementary period and the failure to file a brief within the period granted by the appellate court. 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. The latter simply results in the abandonment of the appeal which can lead to its dismissal upon failure to move for its reconsideration. Considering that we suspend our own rules to exempt a particular case where the appellant failed to perfect its appeal within the reglementary period, we should grant more leeway to exempt a case from the stricture of procedural rules when the appellate court has already obtained jurisdiction.²⁴

In this regard, We have had occasion to relax the rules to serve substantial justice under exceptional or compelling reasons to allow petitioners the fullest opportunity to establish the merits of their appeal.²⁵

²¹ *Tamayo v. Court of Appeals*, 467 Phil. 603, 607-608 (2004), citing *Acme Shoe, Rubber & Plastic Corp. v. CA*, 329 Phil. 531, 538 (1996), *People v. Ciudadano*, G.R. No. 248182, September 7, 2022. Resolution.

²² *People v. Ramos*, supra note 20 at 158.

²³ *Id.*

²⁴ *Id.* at 171.

²⁵ *People v. Ciudadano*, supra; *Tambova v. People*, G.R. No. 248264, July 27, 2020, 944 SCRA 1, 7.

In the present case, without necessarily preempting the resolution of the CA on the substantive matters, We find that there is ostensible merit in petitioners claims that there may have allegedly been lapses in the chain of custody, in particular: (1) the marking and inventory of the seized items were not done at the place of arrest;²⁶ (2) the marking and inventory of the seized items were not made in the presence of the required witnesses;²⁷ and (3) the movement and custody of the seized items from the time of seizure, to the receipt of the forensic chemist and up to the presentation in court was not duly proven by the prosecution.²⁸

Moreover, Section 8 of Rule 124 of the Rules of Court requires notice to the appellant prior to dismissal of appeal. The phrase “with notice to the appellant” means that a notice must first be furnished to the appellant to show cause why his appeal should not be dismissed.²⁹ In the instant case, there appears to be no such notice given to petitioners prior to the dismissal of the appeal for failure to file the appellants’ brief.

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.³⁰ Thus, 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.³¹

WHEREFORE, the present Petition dated February 5, 2023 is hereby **GRANTED**. The Resolutions dated March 15, 2022 and January 13, 2023 of the Court of Appeals in CA-G.R. CR-HC No. 14846 are **SET ASIDE**. Accordingly, the appeal of petitioners Obinna Oliver Okeke and Obi Ezema King is hereby **REINSTATED** and the case is **REMANDED** to the Court of Appeals for resolution on the merits.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Courts *July 11/27/23*

²⁶ *Rollo*, p. 41.

²⁷ *Id.*

²⁸ *Id.* at 40.

²⁹ *Dimarucot v. People*, 645 Phil. 218, 229 (2010), Resolution; *People v. Adelantar*, G.R. No. 248329, June 16, 2021, Notice; *Masas v. People*, 565 Phil. 574, 580 (2007).

³⁰ *De Guzman v. People*, 547 Phil. 654, 661 (2007).

³¹ *Tamboa v. People*, supra note 25.

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