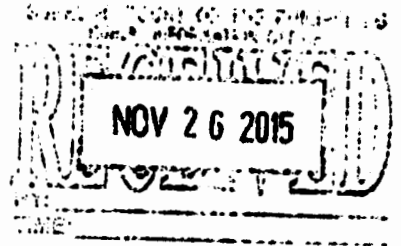




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

REY TORRECAMPO, JOVITA
V. CALMA, WINTHROP
MARK N. BARBA and LEA
TAPNIO,

Petitioners,

- versus -

NATIONAL LABOR
RELATIONS COMMISSION
(NLRC), MATSUSHITA
ELECTRONIC PHILS. CORP.,
SEIICHI FUKAMI, IROKAZU
UMEDA, BARTOLOME
SARANGGAYA, JAIME
TIONGSON and SINICHI
JOSONE,

Respondents.

G.R. No. 199617

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DECASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

SEP 02 2015

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RESOLUTION

PEREZ, J.:

For resolution of the Court is the instant Petition for Review on *Certiorari*¹ filed by petitioners Rey Torrecampo, Jovita V. Calma, Winthrop Mark N. Barba and Leo Q. Tapnio seeking to reverse and set aside the Resolutions dated 12 July 2011² and 6 December 2011³ of the Court of Appeals (CA) in CA-G.R. SP. No. 119590. The assailed resolutions dismissed the Petition for *Certiorari* filed by petitioners for having been

¹ Rollo, pp. 3-34.

² Id. at 35-42; Penned by Associate Justice Ramon M. Bato Jr. with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino concurring.

³ Id. at 43-44.

filed out of time rendering the National Labor Relations Commission (NLRC) Decision dated 5 January 2011 and its Resolution dated 7 March 2011 final and executory.

In a Resolution dated 6 December 2011, the appellate court refused to reconsider its earlier Resolution.

The Antecedents

On 12 July 2011, the CA issued a resolution dismissing the Petition for *Certiorari* filed by petitioners for failing to perfect their petition for *certiorari* within the 60-day reglementary period provided under the Revised Rules of Court. In dismissing their petition, the appellate court found that not only did petitioners fail to perfect their petition for *certiorari* on time, they likewise attempted to mislead the appellate court as to the date of the receipt of the assailed decision, thus:

For one, petitioners failed to provide a cogent and compelling reason in order for [u]s to extend liberality and exempt them from a strict application of the rules. For another, apart from the obvious fact that the petition was filed late, petitioners had still the gall to state that their petition is x x x “filed within the 60-day reglementary period.” Not only that, what is worse is that petitioners put the blame on the housemaid of their counsel on record for the late filing of their petition alleging that “x x x the housemaid of their counsel on record erroneously informed them x x x” that the assailed NLRC Resolution was received on March 27, 2011 instead of March 21, 2011.⁴

After finding that petitioners received copy of the assailed NLRC Resolution on 21 March 2011 and not on 27 March 2011, and, without any justifiable cause to warrant the relaxation of the rules, the CA arrived at the inevitable conclusion that petitioners failed to seasonably file their appeal, viz.:

Petitioners allege that a copy of the NLRC Resolution dated March 7, 2011 was received on March 21, 2011. Under the afore-quoted Rule, petitioners have 60 days from March 21, 2011 or until May 20, 2011 within which to file a petition for certiorari. **However, a perusal of the rollo of this case shows that it was filed only on May 25, 2011 or five (5) days after the expiration of the 60-day reglementary period provided by the afore-quoted Rule. Undoubtedly, therefore, the instant petition is filed out of time.**⁵ (Emphasis supplied)

⁴ Id. at 37.

⁵ Id. at 36.

Aggrieved by the foregoing resolution, petitioners timely interposed a Motion for Reconsideration which was also denied by the appellate court in a Resolution dated 6 December 2011.

Issue

Petitioners are now before this Court *via* this instant Petition for Review on *Certiorari* praying that the CA Resolutions be reversed and set aside on the ground that:

THE COURT OF APPEALS GRAVELY ERRED IN STRICTLY APPLYING THE RULES OF PROCEDURE AND PLEADING AGAINST THE PETITIONERS.

The Court's Ruling

Petitioners, in assailing the appellate court's decision, argue that strict application of the rules in light of the extant merits of this case is not justified under the circumstances. They argue that the delay in assailing the NLRC Resolution was mainly attributable to their former counsel who, for unknown reasons and without promptly informing them, deserted their case. In justifying their original claim that they received the NLRC resolution on 21 March 2011, the petitioners reasoned that they merely relied on the declarations made by the housemaid of their counsel. Petitioners plead for the liberal interpretation of the rule on perfection of appeal so that the case can be threshed out on the merits, and not on technicality.

We deny the petition.

Under Section 4 of Rule 65 of the 1997 Rules of Civil Procedure,⁶ *certiorari* should be instituted within a period of 60 days from notice of the judgment, order, or resolution sought to be assailed.⁷ The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their

⁶ Section 4. *Where petition filed.* The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

⁷ *Labao v. Flores*, G.R. No. 187984, 15 November 2010, 634 SCRA 723, 730-731.

case.⁸ Rules of procedure must be faithfully complied with and should not be discarded with the mere expediency of claiming substantial merit.⁹ As a corollary, rules prescribing the time for doing specific acts or for taking certain proceedings are considered **absolutely indispensable** to prevent needless delays and to orderly and promptly discharge judicial business. By their very nature, these rules are regarded as mandatory.¹⁰

It is beyond dispute that petitioners received a copy of the **7 March 2011 NLRC Resolution** denying their Motion for Reconsideration on **21 March 2011**. Applying the rules set under Section 4 of the Revised Rules of Court as amended by A.M. No. 07-7-12-SC,¹¹ petitioners had until 20 May 2011 within which to file their petition for *certiorari*. The filing of the petition before the CA five days later or on 25 May 2011 resulted to the non-perfection of the appeal rendering the decision of the NLRC final and executory.

We are not persuaded by petitioners' argument that they should not be bounded by their counsel's negligence in not taking the proper course of action after the issuance by the NLRC of an adverse decision. Petitioners are not entirely blameless as they were not vigilant in monitoring the progress of their case.

The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel

⁸ Id. at 731.

⁹ *Laguna Metts Corporation v. Court of Appeals*, 611 Phil. 530, 534 (2009).

¹⁰ Id. at 534-535.

¹¹ Section. 4. *When and where to file petition*. The petition shall be filed not later than sixty (60) days from notice of the judgment or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from the notice of the denial of the motion.

If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the courts appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.

within the scope of the authority is regarded, in the eyes of the law, as the act or omission of the client himself. A recognized exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law. For the exception to apply, however, the gross negligence should not be accompanied by the client's own negligence or malice, considering that the client has the duty to be vigilant in respect of his interests by keeping himself up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against him.¹²

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.¹³

Well settled is the doctrine that appeal is not a constitutional right, but a mere statutory privilege. Hence parties who seek to avail themselves of it must comply with the statutes and rules allowing it.¹⁴ There is no doubt that no petition for certiorari was perfected by the petitioners within the 60-day period under Rule 65 of the Revised Rules of Court. Consequently, the Court of Appeals did not commit an error in dismissing the appeal of the petitioners on account of non-perfection of the same.

WHEREFORE, premises considered, the instant petition is hereby **DENIED**. The assailed Resolutions of the Court of Appeals are hereby **AFFIRMED**.

SO ORDERED.

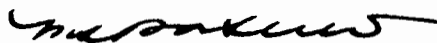

JOSE PORTUGAL PEREZ
Associate Justice

¹² *Suliman v. People of the Philippines*, G.R. No. 190970, 24 November 2014.

¹³ Id. citing *Bejarasco v. People*, G.R. No. 159781, 2 February 2011, 641 SCRA 328, 330-331

¹⁴ *Sarah Lee Philippines, Inc. v. Macallang*, G.R. Nos. 180147, 180148, 180149, 180150, 180319 & 180685, 4 June 2014, 724 SCRA 552, 575.

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson


Teresita Leonardo de Castro
TERESITA J. LEONARDO DE-CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice