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Wynful Sison
VICENTE V. LACRIZ
Deputy Clerk of Court
Third Division

Republic of the Philippines
Supreme Court
Manila

FEB 06 2018

THIRD DIVISION

PHILIPPINE SAVINGS BANK,
Petitioner,

G.R. No. 200469

Present:

- versus -

VELASCO, Jr., J., *Chairperson*,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, JJ.

JOSEPHINE L. PAPA,
Respondent.

Promulgated:

January 15, 2018

Wynful Sison

X-----X

DECISION

MARTIRES, J.:

This is a petition for review on certiorari seeking to reverse and set aside the 21 July 2011 Decision¹ and the 1 February 2012 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 112611, which affirmed the 14 October 2009 Decision³ and the 14 January 2010 Order of the Regional Trial Court of Makati City, Branch 65 (RTC), in Civil Case No. 09-545, which in turn reversed and set aside the 23 December 2008 Decision⁴ of the Metropolitan Trial Court of Makati City, Branch 65 (MeTC) in Civil Case No. 90987.

Quia

¹ Rollo, pp. 46-56; penned by Associate Justice Marlene Gonzales-Sison, and concurred in by Associate Justices Noel G. Tijam (now a member of this Court) and Associate Justices Michael P. Elbinias.

² Id. at 43-44.

³ CA rollo, pp. 170-176; penned by Presiding Judge Edgardo M. Caldon.

⁴ Id. at 51-53; penned by Presiding Judge Henry E. Laron.

THE FACTS

On 30 March 2006, petitioner Philippine Savings Bank (*PSB*) filed before the MeTC a complaint⁵ for collection of sum of money against respondent Josephine L. Papa (*Papa*). In its complaint, PSB alleged that Papa obtained a flexi-loan with a face amount of ₱207,600.00, payable in twenty-four (24) monthly installments of ₱8,650.00 with interest at 38.40% per annum. For the said loan, Papa executed a promissory note dated 26 July 2005. PSB further alleged that the promissory note provides additional charges in case of default, to wit: Three percent (3%) late payment charge per month of the total amount until the amount is fully paid; Twenty-Five percent (25%) Attorney's Fees, but not less than ₱5,000.00; Ten percent (10%) liquidated damages, but not less than ₱1,000.00; and costs of suit. When the obligation fell due, Papa defaulted in her payment. PSB averred that as of 27 March 2006, Papa's total obligation amounted to ₱173,000.00; and that despite repeated demands, Papa failed to meet her obligation.

On 26 October 2006, Papa filed her Answer.⁶ She alleged that PSB had no cause of action against her as her liability had already been extinguished by the several staggered payments she made to PSB, which payments she undertook to prove. She likewise claimed that there was no basis for the interest and damages as the principal obligation had already been paid.

During the trial on the merits, PSB introduced in evidence a photocopy of the promissory note,⁷ which the MeTC admitted despite the vehement objection by Papa. Meanwhile, Papa chose to forego with the presentation of her evidence and manifested she would instead file a memorandum.

After the parties had submitted their respective memoranda, the case was submitted for decision.

The MeTC Ruling

On 23 December 2008, the MeTC rendered a decision in favor of PSB and against Papa. The MeTC was convinced that PSB was able to establish its cause of action against Papa by preponderance of evidence. It also emphasized the fact that other than her bare allegation, Papa never adduced any evidence regarding the payments she had allegedly made. The MeTC,

⁵ Id. at 33-35.

⁶ Id. at 41-42.

⁷ Id. at 37.

however, deemed it equitable to award interest at the rate of twelve percent (12%) per annum only instead of the stipulated interest, penalty, and charges. The dispositive portion of the MeTC Decision provides:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendant JOSEPHINE L. PAPA to pay plaintiff the amount of ₱173,000.00 plus interest at the rate of 12% per annum from February 9, 2006 until the whole amount is fully paid; the amount of ₱20,000.00 as and by way of attorney's fees; and the costs.

SO ORDERED.⁸

Papa moved for reconsideration, but the same was denied by the MeTC in its Order, dated 14 May 2009.


Aggrieved, Papa elevated an appeal before the RTC.

The RTC Ruling

In its decision, dated 14 October 2009, the RTC reversed and set aside the MeTC decision. The trial court ruled that PSB failed to prove its cause of action due to its failure to prove the existence and due execution of the promissory note. It opined that Papa's apparent admission in her Answer could not be taken against her as, in fact, she denied any liability to PSB, and she never admitted the genuineness and due execution of the promissory note. It explained that the fact that Papa interposed payment as a mode of extinguishing her obligation should not necessarily be taken to mean that an admission was made regarding the contents and due execution of the promissory note; specifically the amount of the loan, interests, mode of payment, penalty in case of default, as well as other terms and conditions embodied therein. The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, the instant appeal is hereby GRANTED. The decision dated December 23, 2008 in Civil Case No. 09-945 is reversed and set aside.

SO ORDERED.⁹

On 10 November 2009, PSB filed its motion for reconsideration,¹⁰ wherein it admitted that it received the copy of the 14 October 2009 RTC decision on 26 October 2009. 

⁸ Id. at 53.

⁹ Id. at 176.

In its opposition to PSB's motion for reconsideration, Papa posited, among others, that the RTC decision had already attained finality. Papa explained that although PSB filed the motion for reconsideration on 10 November 2009, it appears that service of the said motion was made one (1) day late as PSB availed of a private courier service instead of the modes of service prescribed under the Rules of Court. As such, PSB's motion for reconsideration is deemed not to have been made on the date it was deposited to the private courier for mailing but rather on 11 November 2009, the date it was actually received by Papa.

In its Order, dated 14 January 2010, the RTC denied PSB's motion for reconsideration ratiocinating that its 14 October 2009 decision had already attained finality, among others.

Aggrieved, PSB filed a petition for review under Rule 42 of the Revised Rules of Court before the CA.

In her comment,¹¹ Papa reiterated her position that the 14 October 2009 RTC decision had already attained finality.

The CA Ruling

In its assailed decision, dated 21 July 2011, the CA affirmed the 14 October 2009 decision and the 14 January 2010 order of the RTC.

The appellate court ruled that the RTC decision had already attained finality due to PSB's failure to serve on Papa a copy of its motion for reconsideration within the prescribed period. The appellate court noted that in its motion for reconsideration, PSB did not offer any reasonable explanation why it availed of private courier service instead of resorting to the modes recognized by the Rules of Court.

The appellate court further agreed with the RTC that PSB failed to prove its cause of action. It concurred with the RTC that Papa made no admission relative to the contents and due execution of the promissory note; and that PSB failed to prove that Papa violated the terms and conditions of the promissory note, if any.



¹⁰ Id. at 54-57.

¹¹ Id. at 98-118.

The dispositive portion of the assailed decision reads:

WHEREFORE, premises considered, the Decision of the Makati Regional Trial Court, Branch 65 dated 14 October 2009 and its subsequent Order dated 14 January 2010 denying petitioner's Motion for Reconsideration in Civil Case No. 09-545 are hereby AFFIRMED *in toto*. With costs against the petitioner.

SO ORDERED.¹²

PSB moved for reconsideration, but the same was denied by the CA in its resolution, dated 1 February 2012.

Hence, this petition.

THE ISSUES

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT DISMISSED PETITIONER'S APPEAL BY REASON OF PURE TECHNICALITY THEREBY PREJUDICING THE SUBSTANTIAL RIGHT OF THE PETITIONER TO RECOVER THE UNPAID LOAN OF THE RESPONDENT.

II.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE LOWER COURTS DECISION DATED 14 OCTOBER 2009 ON THE GROUND THAT PETITIONER FAILED TO PROVE ITS CAUSE OF ACTION WHEN IT FAILED TO PRESENT THE ORIGINAL OF THE PROMISSORY NOTE THEREBY FAILING TO ESTABLISH THE DUE EXISTENCE AND EXECUTION OF THE PROMISSORY NOTE.

III.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT DISMISSED PETITIONER'S APPEAL RESULTING IN UNJUST ENRICHMENT IN FAVOR OF THE RESPONDENT.¹³

Stated differently, PSB argues that the appellate court erred when it ruled that the RTC decision had already attained finality; and that the

¹² *Rollo*, p. 55.

¹³ *Id.* at 8-41.

appellate court erred when it ruled that it failed to prove its cause of action despite Papa's admission regarding the existence of the loan.

OUR RULING

PSB insists that it timely filed its motion for reconsideration. It stresses that the records of the case would disclose that it personally filed the subject motion before the RTC on 10 November 2009, or the last day of the 15-day prescriptive period. PSB also claims that, although it deviated from the usual mode of service as prescribed by the Rules of Court when it served the copy of the aforesaid motion by private courier service, there was still effective service upon Papa considering that she received the motion for reconsideration through her counsel, on 11 November 2009, and nine (9) days prior to its intended hearing date. Additionally, PSB contends that the timeliness of the filing of the motion for reconsideration should not be reckoned from the date of the actual receipt by the adverse party, but on the actual receipt thereof by the RTC, pointing out that filing and service of the motion are two different matters.

PSB further argues that, notwithstanding the said deviation, a liberal construction of the rules is proper under the circumstances and that the Court has the power to suspend its own rules especially when there appears a good and efficient cause to warrant such suspension.

These arguments deserve scant consideration.

PSB is correct that filing and service are distinct from each other. Indeed, filing is the act of presenting the pleading or other paper to the clerk of court; whereas, service is the act of providing a party with a copy of the pleading or paper concerned.¹⁴

Nevertheless, although they pertain to different acts, filing and service go hand-in-hand and must be considered together when determining whether the pleading, motion, or any other paper was filed within the applicable reglementary period. Precisely, the Rules require every motion set for hearing to be accompanied by proof of service thereof to the other parties concerned; otherwise, the court shall not be allowed to act on it,¹⁵ effectively making such motion as not filed.



¹⁴ RULES OF COURT, Rule 13, Section 2, par. 2.

¹⁵ RULES OF COURT, Rule 15, Section 6.

The kind of proof of service required would depend on the mode of service used by the litigant. Rule 13, Section 13 of the Rules of Court provides:

SECTION 13. *Proof of Service.* – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. **If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with section 7 of this Rule.** If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. [emphasis supplied]

In some decided cases, the Court considered filing by private courier as equivalent to filing by ordinary mail.¹⁶ The Court opines that this pronouncement equally applies to service of pleadings and motions. Hence, to prove service by a private courier or ordinary mail, a party must attach an affidavit of the person who mailed the motion or pleading. Further, such affidavit must show compliance with Rule 13, Section 7 of the Rules of Court, which provides:

Section 7. *Service by mail.* — Service by registered mail shall be made by depositing the copy in the post office in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered. **If no registry service is available in the locality of either the senders or the addressee, service may be done by ordinary mail.** [emphasis supplied]

This requirement is logical as service by ordinary mail is allowed only in instances where no registry service exists either in the locality of the sender or the addressee.¹⁷ This is the only credible justification why resort to service by ordinary mail or private courier may be allowed.

In this case, PSB admits that it served the copy of the motion for reconsideration to Papa's counsel via private courier. However, said motion was not accompanied by an affidavit of the person who sent it through the said private messengerial service. Moreover, PSB's explanation why it resorted to private courier failed to show its compliance with Rule 13, Section 7. PSB's explanation merely states:

¹⁶ *Industrial Timber Corp. v. National Labor Relations Commission*, 303 Phil. 621, 626 (1994). *Philippine National Bank v. Commissioner of Internal Revenue*, 678 Phil. 660, 674 (2011).

¹⁷ *Philippine National Bank v. Commissioner of Internal Revenue*, 678 Phil. 660, 674 (2011).

Greetings:

Kindly set the instant motion on 20 November 2009 at 8:30 o'clock in the morning or soon thereafter as matter and counsel may be heard. Copy of this pleading was served upon defendant's counsel by private registered mail for lack of material time and personnel to effect personal delivery.¹⁸

Very clearly, PSB failed to comply with the requirements under Rule 13, Section 7 for an effective service by ordinary mail. While PSB explained that personal service was not effected due to lack of time and personnel constraints, it did not offer an acceptable reason why it resorted to "private registered mail" instead of by registered mail. In particular, PSB failed to indicate that no registry service was available in San Mateo, Rizal, where the office of Papa's counsel is situated, or in Makati City, where the office of PSB's counsel is located. Consequently, PSB failed to comply with the required proof of service by ordinary mail. Thus, the RTC is correct when it denied PSB's motion for reconsideration, which, for all intents and purposes, can be effectively considered as not filed.

Since PSB's motion for reconsideration is deemed as not filed, it did not toll the running of the 15-day reglementary period for the filing of an appeal; and considering that PSB's appeal was filed only after the expiration of the 15-day period on 10 November 2009, such appeal has not been validly perfected. As such, the subject 14 October 2009 decision of the RTC had already attained finality as early as 11 November 2009.

It is well-settled that judgments or orders become final and executory by operation of law and not by judicial declaration. The finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or no motion for reconsideration or new trial is filed. The court need not even pronounce the finality of the order as the same becomes final by operation of law.¹⁹

At this juncture, the Court stresses that the bare invocation of "the interest of substantial justice" or, in this case, "good or efficient case" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may have prejudiced a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of

¹⁸ CA rollo, p. 57.

¹⁹ *Barrio Fiesta Restaurant v. Beronia*, G.R. No. 206690, 11 July 2016, 796 SCRA 257, 277.



an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.²⁰

Time and again, the Court has reiterated that rules of procedure, especially those prescribing the time within which certain acts must be done, are absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business.²¹ While procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances. While litigation is not a game of technicalities, every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.²²

Considering that the RTC decision had already attained finality, there is no longer need to discuss whether the RTC and the CA erred in ruling that PSB failed to prove its cause of action. A decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.²³

WHEREFORE, the present petition is **DISMISSED** for lack of merit. The 21 July 2011 Decision and the 1 February 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 112611 are **AFFIRMED**.

SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice


²⁰ *Lazaro v. Court of Appeals*, 386 Phil. 412, 417 (2000).

²¹ *Philippine National Bank v. Deang Marketing Corporation*, 593 Phil. 703, 715 (2008).

²² *De Leon v. Hercules Agro Industrial Corporation*, 734 Phil. 652, 663 (2014).

²³ *Gadrinab v. Salamanca*, 736 Phil. 279, 292-293 (2014).

WE CONCUR:



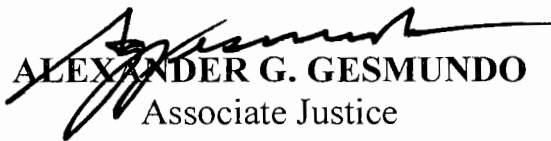
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice




MARVIC M.V.F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

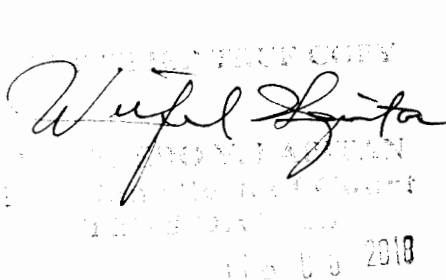
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

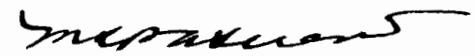
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been 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

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MARIA LOURDES P.A. SERENO
Chief Justice