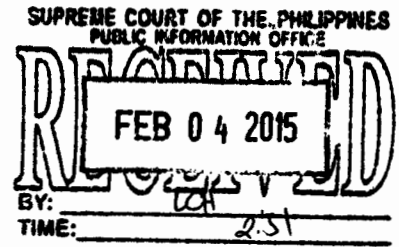




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated December 1, 2014 which reads as follows:

“G.R. No. 208728 (Danilo Sabugo and the Heirs of Federico L. Fariñas,* namely: Remedios C. Fariñas, Teresita V. Fariñas, Richard V. Fariñas, Jackie V. Fariñas, Roger C. Fariñas, Rodolfo C. Fariñas, Leticia** Fariñas-Calope, Michael V. Fariñas, Brian V. Fariñas, Gloria Fariñas-Peralta, Rizalina Fariñas-Favis,** Eric C. Fariñas, Baby Remedios C. Fariñas, or his assignee or representative or the person who has control and supervision over the subject Fariñas Bus, and the defendant Danilo Sabugo**** v. Heirs of Jose Rosario, Jr., represented by Victoria H. Rosario and Jose Rosario, Sr.)- The petitioners’ reply to comment on the petition for review on certiorari is **NOTED**, and the petitioners are hereby required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed reply pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

Assailed in this petition for review on *certiorari*¹ are the Resolutions dated March 13, 2013² and August 8, 2013³ rendered by the Court of Appeals (CA) in CA-G.R. CV No. 96412 which dismissed the appeal filed by petitioners for failure to submit their appellants’ brief within the reglementary period.

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* “Farinas” in some parts of the records.

** “Letecia” in some parts of the records.

*** “Rezalina Fariñas-Favis” in some parts of the records.

**** See Complaint dated June 26, 2003 filed before the Regional Trial Court of Quezon City, Branch 96; records, p. 1.

¹ *Rollo*, pp. 80-99.

² Id. at 104. Per Minute Resolution issued by Executive Clerk of Court III Vilma S. Ayala-Dasal.

³ Id. at 106-107. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Rebecca De Guia-Salvador and Apolinario D. Bruselas, Jr., concurring.

The Facts

The instant case stemmed from a civil case for *quasi-delict* and damages⁴, filed by respondents-heirs Jose Rosario, Jr. (Jose, Jr.), represented by Victoria H. Rosario and Jose Rosario, Sr. (Rosario Heirs), against petitioners Danilo Sabugo (Sabugo) and the heirs of Federico L. Fariñas (Federico), namely, Remedios C. Fariñas, Teresita V. Fariñas, Richard V. Fariñas, Jackie V. Fariñas, Roger C. Fariñas, Rodolfo C. Fariñas, Leticia Fariñas-Calope, Michael V. Fariñas, Brian V. Fariñas, Gloria Fariñas-Peralta, Rizalina Fariñas-Favis, Eric C. Fariñas, and Baby Remedios C. Fariñas (Fariñas Heirs), as well as the person who had direct control and supervision over the subject Fariñas Transit Bus No. 28 (Bus Operator).

Records show that on September 17, 2002, at around 12:30 in the afternoon, Jose, Jr. was driving his Honda Civic car from Vigan, Ilocos Sur *en route* to San Fernando, La Union, with his companions Audie Palejo (Palejo) and Joni Abarico (Abarico). While cruising along the two-lane highway of Tagudin, Ilocos Sur, a Fariñas Transit Bus No. 28 bearing plate number AVG-158 and Motor No. 42291810-594795 suddenly appeared from behind a cargo truck coming from the opposite lane, attempting to overtake it. To prevent a collision, Jose, Jr. applied the brakes and swerved to the shoulder of the road, but because there were people walking thereat, he returned to his lane.⁵

Unfortunately, Sabugo, the driver of the errant Fariñas bus, persisted on encroaching upon Jose, Jr.'s lane, causing a direct collision. Jose, Jr. and his companions all lost consciousness at the impact and were taken to the hospital to receive medical treatment. However, while Palejo and Abarico merely sustained injuries, Jose, Jr. died. The investigation showed that the aforementioned bus was trying to overtake another vehicle; thus, it encroached upon Jose, Jr.'s lane, the highway being a two-lane highway.⁶ The same bus was registered in the name of Federico L. Fariñas, and its certificate of registration had already expired. Likewise, the public utility franchise of Fariñas Transit Bus had already expired on May 18, 2002, or four (4) months prior to the subject incident.⁷

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⁴ See Complaint dated June 26, 2003; records, pp. 1-17.

⁵ *Rollo*, pp. 39-40.

⁶ *Id.* at 40.

⁷ *Id.* at 40-42.

Consequently, on July 1, 2003, the Rosario Heirs filed a complaint for *quasi-delict* and damages before the Regional Trial Court of Quezon City, Branch 96 (RTC) against Sabugo, the Fariñas Heirs, and the Bus Operator (petitioners).

For failure to present evidence in support of petitioners' defense, the case was submitted for resolution *sans* said evidence.

The RTC Ruling

In a Decision⁸ dated December 28, 2009, the RTC found petitioners jointly and severally liable to pay the Rosario Heirs the following: (a) ₱1,063,414.15 as actual damages, plus 12% interest *per annum*, reckoned from the filing of the complaint; (b) ₱19,200,000.00 for loss of earning capacity; (c) ₱2,000,000.00 as moral damages; (d) ₱500,000.00 as exemplary damages; (e) ₱157,000.00 as attorney's fees; (f) ₱50,000.00 as indemnity for death; and (g) ₱248,862.80 as costs of suit.⁹

In so ruling, the RTC found that Sabugo was at fault during the incident, having acted in a reckless and negligent manner and failing to exercise the extraordinary diligence of a good father of a family. Evidence showed that his attempt to overtake the cargo truck and encroaching upon the lane occupied by Jose, Jr.'s car caused the collision.¹⁰ Similarly, the RTC held the Fariñas Heirs and the Bus Operator liable on the basis of the presumption *juris tantum* that the employer failed to exercise the diligence of a good father of a family in the selection and supervision of his employees under Articles 2176¹¹ and 2180¹² of the Civil Code.¹³

Aggrieved, petitioners elevated the case to the CA.

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⁸ Id. at 39-49. Penned by Presiding Judge Afable E. Cajigal.

⁹ Id. at 49.

¹⁰ Id. at 43-46.

¹¹ Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

¹² Art. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those persons for whom one is responsible.

x x x x

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

x x x x

¹³ See *rollo*, p. 47.

The Proceedings Before the CA

On September 6, 2012, or two (2) days before the lapse of the period to file an appellants’ brief, petitioners, through their counsel of record, Atty. Elaias T. Timbol (Atty. Timbol) of the Paras & Timbol Law Office, filed a motion for extension of time¹⁴ to file the same. In a Resolution¹⁵ dated October 9, 2012, the CA granted their motion and gave them an additional period of forty-five (45) days from September 8, 2012, or until October 23, 2012, within which to file their appellants’ brief.

On October 23, 2012 – the last day of the extended period for the filing of the appellants’ brief – Atty. Timbol again moved¹⁶ for an extension of time of forty-five (45) days to comply. Once again, the CA granted¹⁷ the motion and gave petitioners until December 7, 2012 for compliance.

Finally, or on December 7, 2012, Atty. Timbol once again pleaded¹⁸ for an extension of forty-five (45) days, or until January 21, 2013, within which to file the appellants’ brief. However, on January 21, 2013, the final day of the extended period for the filing of the brief, Atty. Timbol filed a withdrawal of appearance,¹⁹ reasoning that petitioners decided to engage the services of another counsel. The withdrawal, however, lacked the conformity of the petitioners.

On February 14, 2006, the Rosario Heirs moved²⁰ to dismiss the appeal grounded on petitioners’ failure to file their appellants’ brief within the reglementary period. On March 13, 2013, the CA issued a Resolution²¹ granting said motion and dismissed petitioners’ appeal pursuant to Section 1 (e),²² Rule 50 of the Rules of Court. It likewise noted without action the withdrawal of appearance filed by Atty. Timbol for lack of written conformity from petitioners.

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¹⁴ CA rollo, pp. 32-35.

¹⁵ Id. at 36. Issued by Executive Clerk of Court III Vilma S. Ayala-Dasal.

¹⁶ Id. at 37-41.

¹⁷ See Resolution dated November 6, 2012, id. at 42.

¹⁸ See Last Motion for Extension of Time to File Appellants’ Brief; id. at 43-47.

¹⁹ Id. at 48-49.

²⁰ Id. at 52-57.

²¹ Id. at 59.

²² Section 1. *Grounds for dismissal of appeal.* – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

x x x x



Petitioners, through new counsel, Atty. John John P. Felipe (Atty. Felipe), moved²³ for the reconsideration of the order of dismissal, which the CA denied in a Resolution²⁴ dated August 8, 2013, hence, this petition.

The Issue Before the Court

In their petition, petitioners decry that the CA disregarded substantial justice in favor of procedural infirmities, as their former counsel, Atty. Timbol, failed to file their appellants' brief within the reglementary period. As such, they plead that their appeal be reinstated in the interest of substantial justice.

The Court's Ruling

The petition is meritorious.

While the Court is cognizant of the rule that, generally, a client will suffer the consequences of the negligence, mistake or lack of competence of his counsel, in the interest of justice and equity, exceptions may be made to such rule, in accordance with the facts and circumstances of each case.²⁵

In this case, records show that Atty. Timbol, petitioners' former counsel, sought three (3) extensions of time within which to file petitioners' appellants' brief before the CA. On the last day of the final extension period for such filing, however, Atty. Timbol abruptly filed a motion for withdrawal as counsel of petitioners *without their consent*, as evidenced by the conspicuous lack of their written conformity. Petitioners lament²⁶ that Atty. Timbol did not even notify them that he would be withdrawing from the case. To the Court's mind, such circumstances reveal that Atty. Timbol, in representing petitioners before the appellate court, clearly abandoned his clients' cause, unfortunately resulting in the dismissal of their appeal on procedural grounds. Else the Court effectively sanction the deprivation of petitioners' right to appellate due process through the gross mistakes of their counsel, it thus deems it proper to order

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²³ See Motion for Reconsideration (With Entry of Appearance) dated April 11, 2013; CA *rollo*, pp. 60-67.

²⁴ *Rollo*, pp. 106-107.

²⁵ *Legarda v. CA*, G.R. No. 94457, March 18, 1991, 195 SCRA 418, 427, citing *Escudero v. Judge Dulay*, 241 Phil. 877, 886 (1988).

²⁶ See Petition, *rollo*, p. 19.

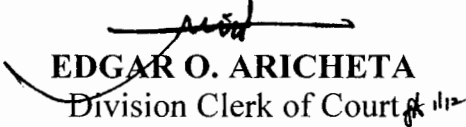
the reinstatement of the appeal. Verily, the higher interests of substantial justice compel this course of action. In *People's Homesite & Housing Corp. v. Tiongco and Escasa*,²⁷ the Court exhorted that a procedural technicality should not be made a bar to the vindication of a legitimate grievance. When such technicality deserts from being an aid to justice, the courts are justified in excepting from its operation a particular case. Where there was something fishy and suspicious about the actuations of the former counsel of petitioner[s] in the case at bar, in that he did not give any significance at all to the processes of the court, which has [been] proven prejudicial to the rights of said clients, it is held that said lawyer deprived his clients of their day in court.²⁸

The case is therefore remanded to the CA for the foregoing purpose.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated March 13, 2013 and August 8, 2013 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 96412 are hereby **REVERSED** and **SET ASIDE**. This case is **REMANDED** to the CA for the reinstatement of petitioners' appeal and further proceedings.

SO ORDERED. **BERSAMIN, J.**, on official leave; **REYES, J.**, designated acting member per S.O. No. 1892 dated November 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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²⁷ 120 Phil. 1264 (1964).

²⁸ See id. at 1269.

The Hon. Presiding Judge
Regional Trial Court, Br. 96
1100 Quezon City
(Civil Case No. Q-03-49973)

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