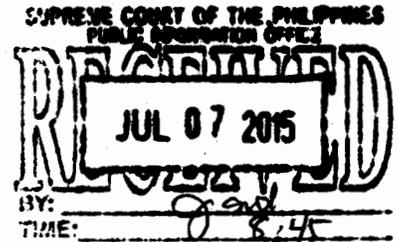




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 17 June 2015 which reads as follows:

G.R. No. 217846 – Sandee S. Adora and William B. De Vera v. Civil Service Commission and Philippine Amusement and Gaming Corporation.

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the October 9, 2013¹ and March 10, 2015 Resolutions² of the Court of Appeals (CA), in CA-G.R. SP No. 132051, which denied the petitioners' Motion for Extension of Time to File Petition for Review under Rule 45 because it was the wrong mode of appeal.

The Facts:

Petitioners Sandee S. Adora and William B. De Vera (*petitioners*) were Slot Machine Technical Maintenance Assistant and Internal Security Staff, respectively, of the Philippine Amusement and Gaming Corporation (PAGCOR), assigned at the Mactan Casino Satellite in Lapu-Lapu City, Cebu.

On January 13, 2012, petitioners were charged with Serious Dishonesty, Theft, Grave Misconduct, and Loss of Trust and Confidence for allegedly employing fraudulent scheme to steal tokens from the slot machines.

Petitioners filed their answer, denying the charges against them.

On January 17, 2012, petitioners were placed under preventive suspension pending formal investigation of the case.

After the investigation, in a Memorandum, dated October 16, 2012, PAGCOR informed petitioners of their dismissal from the service for Serious Dishonesty, Grave Misconduct and Gross Neglect of Duty.

Aggrieved, petitioners appealed before the Civil Service Commission (CSC). In its April 23, 2013 Decision,³ the CSC affirmed the dismissal of petitioners. The CSC held that petitioners were not denied the due process of law as they were properly informed of the charges and were given

¹ *Rollo*, p. 32. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Stephen Cruz and Myra V. Garcia-Fernandez, concurring.

² *Id.* at 34-36.

³ *Id.* at 171-178.

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opportunity to explain their side of the controversy. The CSC gave credence to the extrajudicial confession of customer Gilbert Saberon, who disclosed the scheme employed by petitioners to enable him to steal ₱2,000.00 worth of tokens from the slot machine, which were converted to cash and handed to petitioners; and to the affidavit of Assistant Branch Surveillance Officer Romeo Salvatierra, who was monitoring the CCTV when he noticed the suspicious actions of the customer and the petitioners.

Upon denial of their motion for reconsideration,⁴ petitioners elevated the matter before the CA. They filed a motion for extension of time to file petition and subsequently a motion to admit the attached petition for review under Rule 43. In the assailed resolution, the CA denied the motion for extension of time to file petition for being improper as it was filed under Rule 45 instead of Section 1, Rule 43 of the Rules of Court.

Thereafter, petitioners filed a motion for reconsideration explaining that the error was due to oversight and rushed to file the motion for extension of time to beat the deadline.

The CA, however, found no compelling reason to adopt a liberal stance in the application of the rules. Acting on the motion for reconsideration and the motion to admit the attached petition for review, the CA denied the said motions.

Hence, this petition anchored on the following

GROUNDS

The Court of Appeals has so far departed from the accepted and usual course of judicial proceedings that decision must as far as possible be decided on merit rather than on technicalities.

The Court of Appeals has decided a question of substance in a way probably not in accord with law or with the applicable decisions of the Supreme Court.⁵

Petitioners beg the Court to exercise its discretionary power of judicial review and set aside technical rules to give way to the merits of the case. Petitioners admitted that there was an error in the citation of Rule 45 instead of Rule 43 in the motion for extension of time to file petition but explained

⁴ Resolution, dated August 27, 2013, id. at 186-188.

⁵ Id at 6.

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that such error was only due to oversight. They further stated that the petition for review on *certiorari*, which was subsequently filed with a covering motion to admit petition, was filed under Rule 43 and within the requested 15-day period of extension.

The Court's Ruling

The CA correctly dismissed the petition because it was the wrong remedy as can be gleaned from the motion for extension of time to file a petition.

In the interest of justice, however, the Court grants liberality to the petitioners.

The Court has consistently held that the rules of procedure must not be applied rigidly so as not to override substantial justice.⁶ In the case of *Yao v. Court of Appeals*,⁷ the Court wrote:

In the interest of substantial justice, procedural rules of the most mandatory character in terms of compliance, may be relaxed. In other words, if strict adherence to the letter of the law would result in absurdity and manifest injustice or where the merit of a party's cause is apparent and outweighs consideration of non-compliance with certain formal requirements, procedural rules should definitely be liberally construed. A party-litigant is to 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 mere technicalities. We therefore withhold legal approbation on the RTC decision at bar for its palpable failure to comply with the constitutional and legal mandates thereby denying YAO of his day in court. We also remind all magistrates to heed the demand of Section 14, Article VIII of the Constitution. It is their solemn and paramount duty to uphold the Constitution and the principles enshrined therein, lest they be lost in the nitty-gritty of their everyday judicial work.⁸

The rules of procedure, designed to facilitate the attainment of justice, must always be avoided if their rigid application would result in technicalities that tend to delay or frustrate rather than promote substantial justice.⁹ For it is the policy of the Court to afford party-litigants the amplest opportunity to enable them to have their cases justly determined, free from

⁶ *Ginete v. Court of Appeals*, 357 Phil. 36, 53 (1998).

⁷ 398 Phil. 86 (2000).

⁸ *Id.* at 107-108.

⁹ *Public Estates Authority v. Caoibes*, 371 Phil. 688, 692 (1999).

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the constraints of technicalities. It should be remembered that the rules of procedure are but tools to facilitate the attainment of justice, such that when their rigid application tend to frustrate rather than promote substantial justice, this Court is empowered to suspend their operation.¹⁰

In the present case, the erroneous labeling of the petition in the motion, as being under Rule 45, is only a minor procedural lapse. As long as there is substantial compliance with the rules, the petition should be given due course.¹¹

Admittedly, petitioners filed their motion for extension to file petition under Rule 45 of the Rules of Court, instead of Rule 43. They, however, explained that the error was due to oversight and urgency to beat the deadline for the filing of the petition. In fact, petitioners wasted no time and immediately filed their petition under Rule 43 within the requested period of extension. Considering that what is at stake in the petition is the livelihood of petitioners, the CA should have refrained from dismissing the case based solely on technical grounds. Time and again, the Court has pronounced that the workingman's welfare should be the primordial and paramount consideration.¹² In fact, the Constitution guarantees the promotion of social justice and ordains full protection to labor.¹³ When a person has no property, his job may possibly be his only possession or means of livelihood. Therefore, he should be protected against any arbitrary deprivation of his job.¹⁴ Let it be emphasized that dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense for rules of procedure are used only to help secure, not override substantial justice.¹⁵

WHEREFORE, the petition is **GRANTED**. The October 9, 2013 and March 10, 2015 Resolutions of the Court of Appeals in CA-G.R. SP No. 132051 are **SET ASIDE**. The Court of Appeals is directed to **REINSTATE** the petition and act on the case. (*Leonen, J., on official leave, Jardeleza, J., designated Acting Member, per Special Order No. 2056, dated June 10, 2015*)

SO ORDERED.

Very truly yours,

MA. LOURDES G. PERFECTO
 MA. LOURDES G. PERFECTO
 Division Clerk of Court *by 7/2*

¹⁰ *Vette Industrial Sales Co., Inc. v. Cheng*, 539 Phil. 37, 52 (2006).

¹¹ *Nerves v. Civil Service Commission*, 342 Phil. 578, 584 (1997).

¹² *Bunagan v. Sentinel Watchman & Protective Agency, Inc.*, 533 Phil. 283, 291 (2006).

¹³ Article XIII of the 1987 Constitution.

¹⁴ *Rance v. National Labor Relations Commission*, 246 Phil. 287, 292-293 (1988).

¹⁵ *Aguam v. Court of Appeals*, 388 Phil. 587, 594 (2000).

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