



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**SPOUSES MILA YAP-SUMNDAD
and ATTY. DALIGDIG SUMNDAD,
DATU YAP SUMNDAD, JOEL
GELITO, and JOHN DOES,**

Petitioners,

- versus -

**FRIDAY'S HOLDINGS, INC.,
represented herein by its Director
MARIO B. BADIOLA,**

Respondent.

G.R. No. 235586

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J.,
LAZARO-JAVIER, and
LOPEZ, JJ.

Promulgated:

JAN 22 2020

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DECISION

PERALTA, C.J.:

This is a Petition for Review on *Certiorari* with Application for Issuance of Temporary Restraining Order (*TRO*)/Writ of Preliminary Attachment, assailing the Court of Appeals' (*CA*) Resolution¹ dated October 30, 2017, which denied the petitioners' Motion for Reconsideration of the *CA* Resolution² dated May 15, 2017 in *CA-G.R. CEB-SP No. 10655*.

The assailed Petition stems from the case of forcible entry filed by the respondent, praying, among others, that a Decision be rendered in its favor, and to declare him as the actual prior possessor and owner of the subject property and, therefore, entitled to a continuous, exclusive, peaceful and actual possession of the same.³

¹ Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Gabriel T. Ingles and Marilyn Lagura-Yap, concurring; *rollo*, pp. 223-225.

² *Id.* at 85-86.

³ *Id.* at 14.

In a Decision⁴ dated April 24, 2015, the 5th Municipal Circuit Trial Court (*MCTC*) of Buruanga-Malay ruled in favor of respondent, the dispositive portion of which provides:

WHEREFORE, considering the foregoing, judgment is hereby rendered:

1. Finding plaintiff FRIDAY'S HOLDINGS, INC. to be in better right to possession of the subject property prior to February 15, 2014;
2. Directing defendants Mila Yap-Sumndad, Daligdig Sumndad, Datu Yap Sumndad, Joel Gelito and any person claiming rights under them to restore plaintiff FRIDAY'S HOLDINGS, INC. in peaceful possession of the property;
3. Directing defendant Mila Yap-Sumndad to pay plaintiff reasonable compensation for the use and occupation of the premises in the amount equivalent to 60% of the last rental paid by plaintiff-lessee to defendant-lessor as provided in their Contract of Lease which expired February 14, 2014; and
4. Directing defendant Mila Yap-Sumndad to pay plaintiff FRIDAY'S HOLDINGS, INC. the amount of ₱15,000.00 as attorney[']s fees and the cost of his suit.

SO ORDERED.⁵

On appeal before the Regional Trial Court (*RTC*) Branch 7 of Kalibo, Aklan, the *RTC* affirmed the 5th *MCTC* of Buruanga-Malay, with modification in its Decision⁶ dated September 5, 2016, the dispositive portion of which reads:

WHEREFORE, based on the foregoing premises, the Decision dated 24 April 2015 is AFFIRMED with modification. The defendants-appellants are DIRECTED to pay, jointly and solidarily, FHI for reasonable compensation for the lost profits equal to Ten Thousand Pesos (₱10,000.00) per room per day, being the reasonable daily rental income of the nineteen (19) premier rooms involved in the forcible entry for a period from 15 February 2014 up to 14 March 2015 comprising of 392 days in the total amount of Seventy[-]Four Million Four Hundred Eighty Thousand Pesos (₱74,480,000.00).

SO ORDERED.⁷



⁴ *Id.* at 50-71.

⁵ *Id.* at 70-71.

⁶ *Id.* at 72-81.

⁷ *Id.* at 83.

On March 7, 2017, the petitioners filed a Petition for Review with the CA Cebu City.⁸ Petitioner Mila Yap-Sumndad (*Yap-Sumndad*) argued that June 19, 2017 was the actual date of receipt by the petitioners' counsel of the CA Resolution dated May 15, 2017.⁹ It was on June 19, 2017 when Yap-Sumndad called her lawyer to follow-up the status of her case at the CA, especially with regard to the May 15, 2017 Resolution, which dismissed the Petition for Review.¹⁰ The petitioners' counsel was surprised of the said information and immediately called the attention of the law firm's secretary in charge of case records to verify the information.¹¹ After the verification, it was found out from the office logbook that on **May 29, 2017**, the law office received the CA Resolution dated **May 15, 2017**.¹² However, due to the office secretary's inadvertence, the same was neither reported to the handling counsel nor attached to the case folder. Thus, it was only on June 19, 2017 that the said Resolution actually came to the attention of the handling counsel.¹³ Petitioners admitted fault, and prayed before the CA for leniency because what is in consideration is "a right worthy of careful examination of impartial minds with the end view of giving substantial justice to all parties, rather than clinging basically to technicalities of procedural laws."¹⁴

With respect to the grounds for dismissal of the Petition, there were several justifications given:¹⁵

x x x First, [petitioners] claim that their failure to attach [a] Certificate of Non-Forum Shopping to the petition was a mere oversight. Thus, they attached a Certificate of Non-Forum Shopping in the said motion and prayed that the same be admitted. Second, they argue that while not all the material dates were indicated in the petition, there was sufficient compliance with the Rules because the date of receipt of the denial of their motion for reconsideration was stated in the petition. Third, they posit that it was their honest belief that all lawful fees have been paid, including those corresponding to the prayer for issuance of injunctive relief. They also manifested that they are willing to pay additional fees if so required. Fourth, they attached copies of all the relevant pleadings and documents that are pertinent to the present petition. Fifth, they assert that the failure to append page 13 of the [April 24,] 2015 Decision of the MCTC is not intentional and should not be used as a ground to dismiss the petition outright.

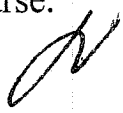
On May 15, 2017, the CA issued a Resolution dismissing the Petition for Review.¹⁶ In the CA Minute Resolution,¹⁷ the appellate court enumerated reasons and infirmities warranting the dismissal of the Petition for Review:

⁸ *Id.* at 10.
⁹ *Id.* at 87.
¹⁰ *Id.*
¹¹ *Id.*
¹² *Id.*
¹³ *Id.*
¹⁴ *Id.* at 87-88.
¹⁵ *Id.* at 224.
¹⁶ *Id.*
¹⁷ *Id.* at 85-86.

1. Petitioners failed to file the mandatory Certificate of Non-Forum Shopping in violation of Section 5, Rule 7, in relation to Section 2, Rule 42 of the 1997 Rules of Civil Procedure; and petitioners failed to offer valid justification for their failure to comply with Section 5, Rule 7 of the 1997 Rules of Civil Procedure.
2. Petitioners failed to indicate in the Petition the following material dates, in violation of Section 2, Rule 42 of the 1997 Rules of Civil Procedure, *viz.*:
 - a. when notice of the assailed September 5, 2016 Decision of the Regional Trial Court (RTC), Branch 7, Kalibo, Aklan was received;
 - b. when Motion for Reconsideration of the assailed September 5, 2016 Decision subject thereof was filed with the RTC, Branch 7, Kalibo, Aklan; and
 - c. the date of the assailed December 21, 2016 Order of the RTC, Branch 7, Kalibo, Aklan denying the Motion for Reconsideration of the assailed September 5, 2016 Decision.
3. While Petitioners prayed for injunctive relief, they failed to pay the corresponding lawful fees.
4. Apart from the assailed September 5, 2016 Decision and December 21, 2016 Order, both of the RTC, Branch 7, Kalibo, Aklan, and the April 24, 2015 Decision of the 5th Municipal Circuit Trial Court (MCTC) of Buruanga-Malay, Buruanga, Aklan, petitioners failed to attach copies of all pleadings and documents, which are relevant and pertinent to the Petition, pursuant to Section 2, Rule 42 of the 1997 Rules of Civil Procedure.
5. Page 13 of the April 24, 2015 Decision of the 5th MCTC of Buruanga-Malay, Buruanga, Aklan in Civil Case No. 311-M was not appended to the Petition.
6. There was no competent evidence of identity of petitioner Datu Yap Sumndad in the verification, as required by Section 12, Rule II of the 2004 Rules on Notarial Practice.
7. The Notarial Certificate in the Verification did not contain the province/city where the notary public was commissioned, the expiration date of the commission of the notary public and the place and the date of issuance of the professional tax receipt (PTR) of the notary public, in violation of Rule VIII, Section 2(c) and (d) of the 2004 Rules on Notarial Practice.

On July 3, 2017, the petitioners filed a Motion for Reconsideration¹⁸ praying that the CA Resolution dated May 15, 2017 be reconsidered, and that the Petition for Review filed before the appellate court, be given due course.

¹⁸ *Id.* at 87-96.



On October 30, 2017, the CA denied the petitioners' Motion for Reconsideration.

Hence, the present Petition for Review on *Certiorari* filed before this Court.

Issue

Whether the CA erred in denying the petitioners' Motion for Reconsideration for belated filing.

The Court's Ruling

We DENY the Petition.

The CA did not err in denying the petitioners' motion for reconsideration for belated filing.

The petitioners' Motion for Reconsideration was filed beyond the fifteen (15)-day reglementary period.

There is no question that the petitioners filed their Motion for Reconsideration of the CA Resolution dated May 15, 2017, 20 days beyond the fifteen-day reglementary period for filing the motion. The petitioners, through their counsel, received the copy of the said CA Resolution on May 29, 2017, and had only until June 13, 2017 to file their Motion for Reconsideration. It was only on July 3, 2017 that the petitioners filed their Motion for Reconsideration.¹⁹

Section 1, Rule 52 of the Rules of Court provides that a motion for reconsideration of a judgment or final resolution should be filed within fifteen (15) days from notice. If there is no appeal or motion for reconsideration filed within fifteen (15) days from notice, the judgment or final resolution shall be entered by the clerk of court in the book of entries of judgment.²⁰

¹⁹ *Id.*

²⁰ The 1997 Rules of Civil Procedure, Rule 51, § 10.

Rule 51, § 10 provides:

SECTION 10. *Entry of judgments and final resolutions.* - If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. The record shall contain the dispositive

The Motion for Reconsideration was filed beyond the fifteen (15)-day period from the time the denial of the Petition for Review, was received by the counsel.

The purpose of filing a motion for reconsideration within the period to appeal is to allow an inferior court to correct itself before review by a higher court.²¹ However, if the motion for reconsideration is filed beyond such period, the motion *ipso facto* forecloses the right to appeal.²²

In *Building Care Corporation v. Macaraeg*,²³ the Court emphasized, “the resort to a liberal application, or suspension of the application of procedural rules, must remain as the exception to the well-settled principle that rules must be complied with[,] for the orderly administration of justice.” If the Court relaxes the rules of procedure even in cases where there are no sufficient justification of meritorious and exceptional circumstances attendant, then such relaxation of the Rules will render the latter inutile.²⁴ The relaxation of the application of the Rules in exceptional cases was never intended to forge a bastion for erring litigants to violate the rules with impunity.²⁵

In *Ponciano, Jr. v. Laguna Lake Development Authority, et al.*,²⁶ the Court refused to admit a motion for reconsideration filed only one day late, and pointed out that the Court has, in the past, similarly refused to admit motion for reconsideration which were filed late without sufficient justification.

The petitioners admit that a copy of the CA Resolution dated May 15, 2017 was given to the handling counsel only on June 19, 2017. This will not justify the belated filing of the Motion for Reconsideration of the subject Resolution. It is the counsel’s duty to adopt and to strictly maintain a system that ensures that all pleadings should be filed and duly-served within the period; and if he fails to do so, the negligence of his secretary or clerk to file such pleading is imputable to the said counsel.²⁷ Further, petitioners’ invocation of “the end view of giving substantial justice to all parties” in praying for the leniency of the late filing of their motion for reconsideration, will not automatically compel this Court to suspend the

part of the judgment or final resolution and shall be signed by the clerk, with a certificate that such judgment or final resolution has become final and executory.

²¹ *Barrio Fiesta Restaurant, et al. v. Beronia*, 789 Phil. 520, 535 (2016).

²² *Id.*

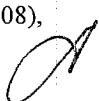
²³ 700 Phil. 749, 755 (2012).

²⁴ *Rivera-Avante v. Rivera*, G.R. No. 224137, April 3, 2019.

²⁵ *Id.*

²⁶ 591 Phil. 194, 211 (2008).

²⁷ *The Government of the Kingdom of Belgium v. Hon. Court of Appeals*, 574 Phil. 380, 393 (2008), citing *Asian Spirit Airlines (Airline Employees Cooperative) v. Bautista*, 491 Phil. 476, 484 (2005).



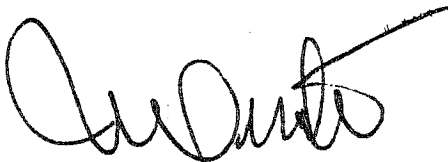
procedural rules. Procedural rules cannot simply be set aside on the basis that their non-observance may have prejudiced a party's substantive rights.²⁸

Since the petitioners' Motion for Reconsideration of the CA Resolution dated May 15, 2017 was belatedly filed, the said Resolution became final and executory by operation of law. In other words, the petitioners' failure to file their Motion for Reconsideration within the 15-day reglementary period foreclosed any right which they may have had under the rules: *first*, in seeking reconsideration of the CA's assailed Resolution; and *second*, in exercising their right to assail the CA Resolutions dated May 15, 2017 and October 30, 2017, before this Court.

With this pronouncement, the Court does not deem it necessary to discuss the other arguments raised in the instant petition for review on *certiorari*.

WHEREFORE, the instant petition is **DENIED**. The Resolutions of the Court of Appeals, promulgated on May 15, 2017 and October 30, 2017, respectively, in CA-G.R. CEB-SP No. 10655, are hereby **AFFIRMED**.

SO ORDERED.

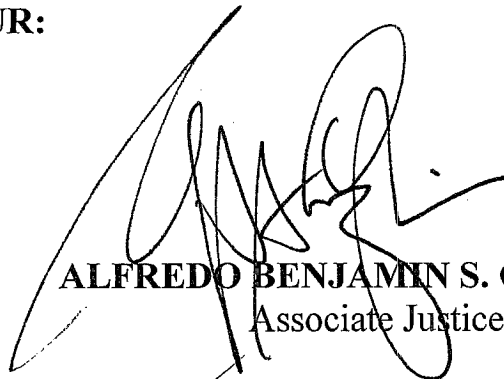


DIOSDADO M. PERALTA
Chief Justice


²⁸

Foculan-Fudalan v. Spouses Ocial, et al., 760 Phil. 815, 829 (2015).


WE CONCUR:



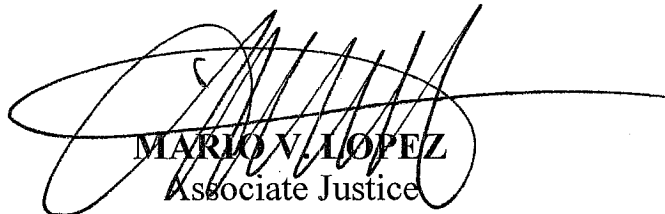
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REXES, JR.
Associate Justice



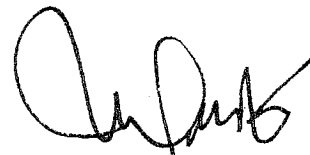
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



DIOSDADO M. PERALTA
Chief Justice