



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**GREGORIO DE LEON, doing G.R. No. 183239**  
**business as G.D.L. MARKETING,**  
Petitioner, **Present:**

- versus -

VELASCO, JR., J., *Chairperson,*  
PERALTA,  
BERSAMIN,\*  
VILLARAMA, JR.,\*\* and  
LEONEN, JJ.

**HERCULES AGRO INDUSTRIAL**  
**CORPORATION and/or JESUS Promulgated:**  
**CHUA AND RUMI RUNGIS MILK,**  
Respondents. **June 2, 2014**

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DECISION

**PERALTA, J.:**

Before us is a petition for review on *certiorari* which assails the Resolution<sup>1</sup> dated January 7, 2008 and the Resolution<sup>2</sup> dated June 2, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 87212.

Petitioner filed with the Regional Trial Court (RTC) of Manila an action for breach of contract with damages and a prayer for a writ of preliminary attachment against respondent Hercules Agro Industrial Corporation, represented by Jesus Chua, and respondent Rumi Rungis Milk. The case was docketed as Civil Case No. 98-89938 and was raffled off to Branch 20.

\* Designated additional member in lieu of Associate Justice Jose Catral Mendoza, per Raffle dated July 12, 2010.

\*\* Designated Acting Member, per Special Order No. 1691 dated May 22, 2014.

<sup>1</sup> Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Andres B. Reyes, Jr. and Jose C. Mendoza (now a member of this Court), concurring; *rollo*, pp. 62-64.

<sup>2</sup> *Id.* at 74-75.

Trial thereafter ensued. On September 23, 2005, the RTC promulgated its Decision,<sup>3</sup> the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding defendant RUMI RUNGIS liable to the herein plaintiff, as follows:

1. \$142,080 at the conversion rate of ₱26.41 to a dollar plus legal interest
2. ₱100,000.00 in attorney's fees
3. ₱477,622.00 for customs duties and taxes
4. ₱6,358.40 representing payment for the analysis of the delivered milk and the milk sample.

The case against defendants Hercules Agro Industrial Corporation and Jesus Chua are hereby DISMISSED for want of evidence. The counterclaims of defendants Hercules Agro Industrial Corporation and Jesus Chua is hereby DISMISSED absent concrete evidence to support it.

SO ORDERED.<sup>4</sup>

On October 19, 2005, petitioner, through counsel, filed a Motion for Time,<sup>5</sup> asking for an additional period of 10 days from October 19, 2005 to file a motion for reconsideration. Petitioner, subsequently, filed on October 24, 2005 his Motion for Partial Reconsideration<sup>6</sup> of the September 23, 2005 decision. In an Order<sup>7</sup> dated October 27, 2005, the RTC denied the Motion for Time, as the period for filing a motion for reconsideration is non-extendible.

On November 2, 2005, respondent Rumi Rungis Milk filed its Motion for Reconsideration<sup>8</sup> of the September 23, 2005 decision and to dismiss the complaint for lack of jurisdiction over the defendant foreign corporation not doing business in the Philippines. On January 9, 2006, the RTC issued its Order<sup>9</sup> denying respondent Rumi Rungis Milk's motion for reconsideration.

On February 13, 2006, petitioner filed a Notice of Partial Appeal<sup>10</sup> from the Order dated January 9, 2006.

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<sup>3</sup> *Id.* at 77-107; Per Judge Marivic T. Balisi-Umali.

<sup>4</sup> *Id.* at 107.

<sup>5</sup> Records, pp. 768-769.

<sup>6</sup> *Rollo*, pp. 108-172.

<sup>7</sup> *Id.* at 381.

<sup>8</sup> *Id.* at 173-176.

<sup>9</sup> *Id.* at 382-383.

<sup>10</sup> *Id.* at 384-387.

On February 15, 2006, the RTC issued an Order<sup>11</sup> which stated that petitioner's notice of partial appeal cannot be given due course as the same had been filed beyond the reglementary period to appeal. Petitioner filed a Motion for Reconsideration, Supplement to Petitioner's Motion for Reconsideration and Reply to respondent's comment.

Earlier, on February 13, 2006, petitioner also moved for partial execution<sup>12</sup> of the RTC Decision dated September 23, 2005. The RTC denied the motion, since the case against respondent Rumi Rungis Milk was not yet final and executory as its notice of appeal<sup>13</sup> had been timely filed. Petitioner's partial reconsideration was denied in an Order<sup>14</sup> dated June 1, 2006 for failure of petitioner or counsel to appear on the date the motion was set for hearing. Petitioner had also filed a Notice of Appeal<sup>15</sup> of the June 1, 2006 Order.

On November 16, 2006, petitioner received a notice<sup>16</sup> from the CA requiring him to file appellant's brief which he did on December 28, 2006.<sup>17</sup> On the other hand, respondent Rumi Rungis Milk filed a motion for extension of time to file its appellant's brief, which the CA denied in a Resolution dated March 15, 2007.

Respondent Hercules Agro Industrial Corporation filed a Motion<sup>18</sup> to strike out or dismiss petitioner's appeal and motion for leave of court to lift the amended order of attachment and release the properties in *custodia legis*. Petitioner filed his Opposition thereto with motion for refund of overpayment of fees.

On January 7, 2008, the CA issued its first assailed Resolution, which ordered petitioner's brief stricken off the records and dismissing the appeal.

In so ruling, the CA found that the appeal could not be legally entertained, since it was filed out of time and denied due course by the RTC. With regards to petitioner's contention of overpayment of appeal and docket fees, his claim of refund should be referred to the Chief Justice through the Court Administrator, pursuant to A.M. No. 05-9-256-MeTC dated October 12, 2005. Respondent's Motion to Lift the Amended Order of Attachment dated September 25, 2000 and release the properties in *custodia legis* should

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<sup>11</sup> *Id.* at 183.

<sup>12</sup> *Id.* at 210-222.

<sup>13</sup> *Id.* at 224.

<sup>14</sup> *Id.* at 231.

<sup>15</sup> *Id.* at 232-233.

<sup>16</sup> *Id.* at 235.

<sup>17</sup> *Id.* at 236-331.

<sup>18</sup> *Id.* at 370-377.

be filed before the trial court. Leave of court to file said motion is, therefore, denied.

The CA also ordered the Appellant's Brief dated March 5, 2007, filed by respondent Rumi Rungis Milk, expunged from the records taking into account the Resolution promulgated on March 15, 2007 denying respondent Rumi Rungis Milk's motion for extension of time to file appellant's brief and dismissing its appeal.

Both petitioner and respondent Rumi Rungis Milk filed their respective motions for reconsideration, which the CA denied in its second assailed Resolution dated June 2, 2008.

Hence, this petition filed by petitioner.

The issue for resolution is whether the CA erred when it ordered petitioner's appellant's brief filed with it be stricken off the records.

We find no merit in the petition.

The records show that the RTC Decision dated September 23, 2005 was received by petitioner on October 4, 2005; thus, he had until October 19, 2005 within which to file an appeal or a motion for reconsideration. Petitioner, however, filed on October 19, 2005 a motion for time praying for an additional 10 days or until October 29, 2005 to file his motion for partial reconsideration. The RTC denied the motion to which we agree, since such motion is a transgression of the mandatory prohibition on the filing of a motion for extension to file a motion for reconsideration.

In *Habaluyas Enterprises Inc. v. Japson*:<sup>19</sup>

Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court. Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in its sound discretion either grant or deny the extension requested.<sup>20</sup>

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<sup>19</sup> 226 Phil. 144 (1986).

<sup>20</sup> *Habaluyas, Inc. v. Japson, supra*, at 148.

In *Rolloque v. Court of Appeals*,<sup>21</sup> we restated the rule, thus:

The filing by petitioners of a motion for extension of time to file motion for reconsideration did not toll the fifteen-day period before a judgment becomes final and executory.<sup>22</sup>

It has, likewise, been explicitly stated in Section 2, Rule 40 and Section 3, Rule 41 of the 1997 Rules of Civil Procedure that in appeals from municipal trial courts or regional trial courts, no motion for extension of time to file a motion for reconsideration shall be allowed.

As the period to file a motion for reconsideration is non-extendible, petitioner's motion for extension of time to file a motion for reconsideration did not toll the reglementary period to appeal; thus, petitioner had already lost his right to appeal the September 23, 2005 decision. As such, the RTC decision became final as to petitioner when no appeal was perfected after the lapse of the prescribed period.

Doctrinally-entrenched is that the right to appeal is a statutory right and the one who seeks to avail that right must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence, failure to perfect the same renders the judgment final and executory.<sup>23</sup>

The CA correctly ordered that petitioner's appellant's brief be stricken off the records. As the CA said, the parties who have not appealed in due time cannot legally ask for the modification of the judgment or obtain affirmative relief from the appellate court. A party who fails to question an adverse decision by not filing the proper remedy within the period prescribed by law loses his right to do so.<sup>24</sup> As petitioner failed to perfect his appeal within the period for doing so, the September 23, 2005 decision has become final as against him. The rule is clear that no modification of judgment could be granted to a party who did not appeal. It is enshrined as one of the basic principles in our rules of procedure, specifically to avoid ambiguity in the presentation of issues, facilitate the setting forth of arguments by the parties, and aid the court in making its determinations. It

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<sup>21</sup> 271 Phil. 40 (1991).

<sup>22</sup> *Rolloque, v. Court of Appeals, supra*, at 50.

<sup>23</sup> *Prieto v. Court of Appeals*, G.R. No. 158597, June 18, 2012, 673 SCRA 371, 377.

<sup>24</sup> *Spouses Batingal v. Court of Appeals*, 403 Phil. 780, 789 (2001).

is not installed in the rules merely to make litigations laborious and tedious for the parties. It is there for a reason.<sup>25</sup>

Petitioner claims that when respondent Rumi Ringis Milk's motion for reconsideration of the September 23, 2005 decision was denied by the RTC in its Order dated January 9, 2006, he immediately filed his notice of partial appeal within 15 days from receipt of such Order; thus, the CA erred in finding that his Notice of Partial Appeal dated February 10, 2006 was filed out of time. He also contends that respondent Rumi Rungis Milk's filing of its motion for reconsideration from the Decision dated September 23, 2005 prevented the decision from obtaining finality as to all parties; and that a motion for reconsideration opens the entire case for review, citing the case of *Seventh Day Adventist Conference Church of Southern Philippines, Inc. v. Northeastern Mindanao Mission of Seventh Day Adventist Inc.*<sup>26</sup>

We find the arguments devoid of merit.

The Order dated January 9, 2006 denying respondent Rumi Rungis Milk's motion for reconsideration of the Decision dated September 23, 2005 could not be relied upon by petitioner to make it appear that he can still appeal the said decision. Petitioner had already lost his right to appeal the September 23, 2005 decision as early as October 19, 2005 when he failed to file his motion for partial reconsideration of such decision within the reglementary period. He cannot be allowed to appeal the decision at any time he might choose as it would violate the rule on perfection of appeal. Perfection of appeal is not an empty procedural rule, but is grounded on fundamental considerations of public policy and sound practice.<sup>27</sup>

The *Seventh Day Adventist Conference Church of Southern Philippines, Inc.* case cited by petitioner has no application in this case, since the former did not deal with the issue on the period to appeal as herein discussed.

Petitioner's insistence that the RTC Order dated February 15, 2006 denying due course to his notice of partial appeal had not attained finality, because of the RTC's failure to rule on his motion of reconsideration therefrom, is not meritorious. It has already been established that as early as October 19, 2005, the reglementary period within which petitioner could appeal the September 23, 2005 decision had already lapsed. Petitioner, therefore, has no more right to file a notice of partial appeal from the

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<sup>25</sup> *Id.*

<sup>26</sup> 528 Phil. 647 (2006).

<sup>27</sup> *Ram's Studio and Photographic Equipment, Inc. v. Court of Appeals*, 400 Phil. 542, 548-549 (2000).

January 9, 2006 Order which denied respondent Rumi Rungi Milk's motion for reconsideration of the September 23, 2005 decision.

Petitioner argues that jurisprudence is replete with instances wherein an expressly non-extendible period for filing a pleading was nevertheless extended.

We are not persuaded.

In *Building Care Corporation/Leopard Security & Investigation Agency v. Macaraeg*,<sup>28</sup> We said:

It should be emphasized that 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. In *Marohomsalic v. Cole*, the Court stated:

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.

The later case of *Daikoku Electronics Phils., Inc. v. Raza*, further explained that:

To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice. x x x. The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse. x x x.

We must stress that the bare invocation of “the interest of substantial justice” line is not some magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party’s substantial rights. Utter disregard of

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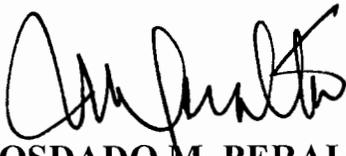
<sup>28</sup> G.R. No. 198357, December 10, 2012, 687 SCRA 643.

the rules cannot be justly rationalized by harping on the policy of liberal construction.<sup>29</sup>

Petitioner's plea that the rules be not strictly applied so that the ends of justice will be served is not meritorious. We found that petitioner had not shown any satisfactory reason which would merit the relaxation of the rules. Petitioner moved for motion of time to file his motion for partial reconsideration alleging heavy volume of work and the need to attend to other urgent matters in other equally urgent cases, which we cannot consider as exceptional circumstances to justify the non-observance of the rules of procedure.

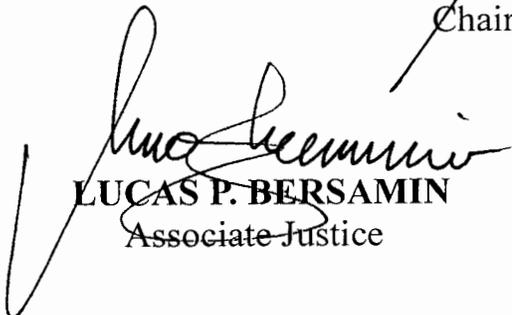
**WHEREFORE**, the petition for review is **DENIED**. The Resolutions dated January 7, 2008 and June 2, 2008 of the Court of Appeals are hereby **AFFIRMED**.

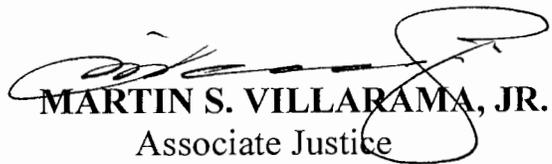
**SO ORDERED.**

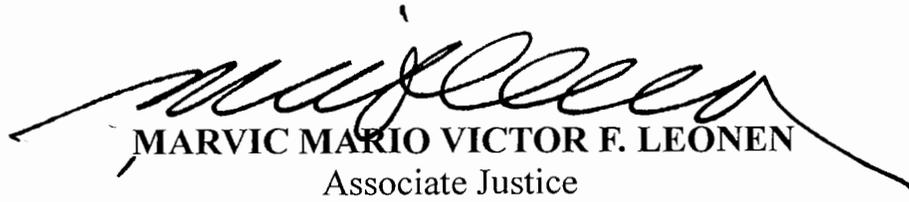
  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

<sup>29</sup> *Id.* at 647-648. (Emphases and citations omitted)

**ATTESTATION**

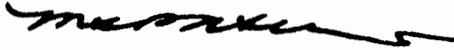
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**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