



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
 Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE  
 PHILIPPINES,**

*Plaintiff,*

**SB-15-CRM-0101**

For: Violation of Section 3(e)  
 of R.A. 3019 as amended

**SB-15-CRM-0102**

Violation of Section 7(d) of  
 R.A. No. 6713

- versus -

**HENRY M. GELACIO,**

*Present:*

*Accused.* **FERNANDEZ, SJ, J.,**  
 Chairperson  
**MIRANDA, J.** and  
**VIVERO, J.**

*Promulgated:*

**JAN 10 2020** 

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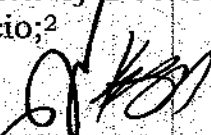

**RESOLUTION**

**FERNANDEZ, SJ, J:**

This resolves the following:

1. *Motion for Leave of Court [To Admit Attached Manifestation and Motion for Reconsideration] filed by accused Henry M. Gelacio;<sup>1</sup>*
2. *Manifestation and Motion for Reconsideration (With Submission of Payment of Docket Fees) filed by accused Henry M. Gelacio;<sup>2</sup>*

<sup>1</sup> Dated September 19, 2019, received through mail on September 23, 2019; Record, Vol. 2, pp. 161-440.  
<sup>2</sup> Dated September 19, 2019.

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3. *Comment/Opposition (to the Motion for Leave of Court to Admit Attached Manifestation and Motion for Reconsideration)* filed by the prosecution;<sup>3</sup> and,

4. *Reply* filed by accused Henry M. Gelacio.<sup>4</sup>

In his *Motion for Leave of Court [To Admit Attached Manifestation and Motion for Reconsideration]*, accused Gelacio asks the Court to admit his *Manifestation and Motion for Reconsideration*.

In his *Manifestation and Motion for Reconsideration*, accused Gelacio asks this Court to reverse its *Resolution* dated September 4, 2019, which disallowed and dismissed his appeal. He argues:

1. He substantially complied with the rules of procedure particularly Rule XI, Section 1(a) of the *2018 Revised Internal Rules of the Sandiganbayan*:

a. He filed a *Notice of Appeal* with this Court on time, on July 19, 2019.<sup>5</sup>

b. Mindful of the fees that must be paid within the 15-day reglementary period from receipt of this Court's *Resolution* dated May 24, 2019, he paid the docket fees and other lawful fees to the Supreme Court on July 23, 2019 when he filed a *Motion for Additional Time to File Petition for Review on Certiorari*.<sup>6</sup>

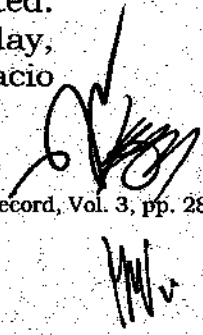
c. Upon receipt of the *Minutes of the Resolution* dated September 4, 2019 dismissing his *Notice of Appeal*, he sent Atty. Jesus P. Olivar, Jr. to this Court's Clerk of Court, to pay the docket fees. However, his payment was not accepted. Thus, on the next working day, September 16, 2019, accused Gelacio

<sup>3</sup> Dated October 2, 2019, filed on October 2, 2019; Record, Vol. 2, pp. 486-494

<sup>4</sup> Dated October 8, 2019, received through private courier on October 10, 2019; Record, Vol. 3, pp. 28-65.

<sup>5</sup> *Manifestation and Motion for Reconsideration*, p. 5.

<sup>6</sup> *Manifestation and Motion for Reconsideration*, p. 6.



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secured postal money order checks in the amount of PhP4,000.00.<sup>7</sup>

- d. His good faith and willingness to abide by the *Rules of Court* constitute good grounds for the Court to reconsider its denial and dismissal of accused' *Notice of Appeal*.<sup>8</sup>
2. His counsels beg the Court's indulgence for their mistake, being new members of the bar, in their interpretation of the *Internal Rules* and the Rules of Court.<sup>9</sup> Rule XI, Section 1(a) of the 2018 *Internal Rules* is silent on the payment of appellate and other lawful fees.
  3. They mistakenly paid the docket fees to the Supreme Court, instead of the Sandiganbayan.
  4. Accused Gelacio begs for the liberal interpretation of the *Rules of Court* as applied in the cases of (1) *Spouses Buenaflor v. Court of Appeals*, (2) *Camaso v. TSM Shipping (Phils.) Inc.*, and, (3) *KLT Fruits, Inc. v. WSR Fruits, Inc.*<sup>10</sup>

The prosecution, in its *Comment/Opposition*, argues:

1. The case of *Buenaflor* is not applicable. There, the postal money orders were seasonably received by the Clerk of Court.<sup>11</sup>
2. The case of *Camaso* is inapplicable. There, the *Petition for Certiorari* filed with the Court of Appeals was accompanied by the check payment.<sup>12</sup>
3. In said cases, the payment of appellate docket fees, while erroneous, were made within the reglementary period. Here, accused Gelacio made no attempt to pay the appellate docket fees and other legal fees. Without the

<sup>7</sup> *Manifestation and Motion for Reconsideration*, pp. 6-7.

<sup>8</sup> *Comment/Opposition*, p. 7.

<sup>9</sup> *Id.*, p. 9.

<sup>10</sup>

<sup>11</sup> *Id.*, p. 4.

<sup>12</sup> *Id.*, p. 4.



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*Resolution* dismissing and disallowing his appeal, he would not have secured the postal money order checks to pay for the fees.<sup>13</sup>

4. The fees paid by accused Gelacio with the Supreme Court were not intended for the payment of appellate docket fees.<sup>14</sup>
5. That Attys. Rongo and Del Fierro are new and inexperienced lawyers should not be an excuse for non-compliance with the law and the rules. Counsels for the accused cannot hide behind the inexperience of their associates to cover their own negligence.<sup>15</sup>

In his *Reply*, accused Gelacio reiterates his plea for reconsideration and invokes good faith, substantial compliance, equity considerations and liberal application of procedural rules. He contends:

1. In *Spouses Buenaflor v. Court of Appeals*, the Supreme Court ruled that (i) the failure to pay appellate court docket fee allows only discretionary and not automatic dismissal of an appeal, (ii) such power should be used in the exercise of the Court's discretion and with a great deal of circumspection considering all attendant circumstances, in accordance with the tenets of justice and fair play.<sup>16</sup>
2. His counsels relied in good faith on the plain meaning of Rule XI, Section 1(a) of the *2018 Revised Internal Rules of the Sandiganbayan*, which states, "in the exercise of its original jurisdiction shall be by notice of appeal filed with the Sandiganbayan and by serving a copy thereof upon the adverse party," but is silent on the payment of docket fees which tend to suggest that the docket fees are to be paid elsewhere.<sup>17</sup>

<sup>13</sup> *Id.*, p. 5.

<sup>14</sup> *Id.*, p. 5.

<sup>15</sup> *Id.*, p. 7.

<sup>16</sup> *Reply*, p. 2.

<sup>17</sup> *Reply*, p. 3.

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3. Accused Gelacio is aware that docket fees must be paid within the prescribed period. Accused paid the docket fees within the reglementary period to the Supreme Court on July 23, 2014, when he filed his *Motion for Additional Time to File Petition for Review on Certiorari (With Submission of Payment of Docket Fees)*.<sup>18</sup>
4. When accused Gelacio realized that the docket fees are to be paid to this Court, he immediately dispatched a lawyer to personally pay the docket fees, but without success. <sup>19</sup>
5. In *KLT Fruits, Inc. et al v. WSR Fruits, Inc.*, the Supreme Court provided for exceptions to the strict application of the procedure in the payment of docket fees. <sup>20</sup>

#### **THE COURT'S RULING**

Since it appears that the *Motion for Reconsideration* was timely filed, the Court admits the same.

After a careful reconsideration, taking into account the explanations offered by accused Gelacio's counsels, the Court grants accused Gelacio's *Motion for Reconsideration*.

The right to appeal is not a natural right nor a part of due process but is merely a statutory privilege. It may be exercised only in the manner and in accordance with the provisions of law. The party who seeks to avail of the same must comply with the requirements of the rules, failing in which the right to appeal is lost.<sup>21</sup> Section 13, Rule 41 of the Rules of Court<sup>22</sup> provides that the trial court may *motu proprio* dismiss an appeal for having been taken out of time or for nonpayment of the docket and other lawful fees within the reglementary period.

<sup>18</sup> Reply, p. 3

<sup>19</sup> Reply, p. 3

<sup>20</sup> Reply, p. 9

<sup>21</sup> *Estarija v. People*, 604 SCRA 464 [2009].

<sup>22</sup> Sec. 13. Dismissal of appeal. Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may *motu proprio* or on motion, dismiss the appeal for having been taken out of time for nonpayment of the docket and other lawful fees within the reglementary period. (As amended, A.M. No. 00-2-10-SC, May 1, 2000.)

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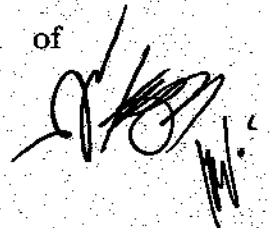
In the recent case of **Zosa v. Consilium, Inc.**, G.R. No. 196765, September 19, 2018, the Supreme Court reversed the Court of Appeals' Decision which, in turn, reversed the trial court's Orders denying due course to Consilium's *Notice of Appeal*. The Supreme Court emphasized that the provisions of the law and the rules concerning the manner and period of appeal are mandatory and jurisdictional requirements; hence, cannot simply be discounted under the guise of liberal construction. The Supreme Court noted that it has consistently upheld the dismissal of an appeal or notice of appeal for failure to pay the full docket fees within the period for taking the appeal. The Supreme Court acknowledged that it upheld the liberal application of the rules but only on exceptionally meritorious circumstances peculiar to their particular situations that convinced the Court of their entitlement to a lax application of the Rules.

In *Zosa*, the High Court rejected the tendered excuse for the late payment and explained that if it were to admit the tendered excuse, i.e., the negligence of the counsel's clerk, as compelling or sufficient explanation for the belated payment of the appeal fee, it would be putting a premium on such lackadaisical attitude and negating a considerable sum of jurisprudence that affirmed dismissals of appeals or notices of appeal for nonpayment of the full appellate docket fees, and, it would not do that. *Viz:*

Fundamental is the rule that the provisions of the law and the rules concerning the manner and period of appeal are mandatory and jurisdictional requirements; hence, cannot simply be discounted under the guise of liberal construction. But even if we were to apply liberality as prayed for, it is not a magic word that once invoked will automatically be considered as a mitigating circumstance in favor of the party invoking it. There should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.

In this case, contrary to the finding of the Court of Appeals, there is no compelling reason advanced to exempt Consilium from the consequences of its noncompliance with the rules on appeals and motions.

Consilium prays for the liberal application of





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Section 4 in relation to Section 13, Rule 41 of the Rules of Court, as amended on the justification that its counsel's clerk "forgot" to pay the appeal fee when he filed the notice of appeal – an excusable negligence.

Sections 4 and 13, Rule 41 of the Rules of Court, as amended provide:

xxx xxx xxx

With the foregoing provisions, "the Court has consistently upheld the dismissal of an appeal or notice of appeal for failure to pay the full docket fees within the period for taking the appeal. Time and again, this Court has consistently held that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal. Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the action and the decision sought to be appealed from becomes final and executory."

Admittedly, there are exceptions to the aforecited general rule on the timely payment of appellate docket fees, embodied also in jurisprudence as identified by the Court of Appeals and Consilium in its petition for certiorari with the appellate court. But reading them, including a catena of other cases will show that they involve exceptionally meritorious reasons why the appellate docket fees were not timely paid – the substantive merits of the case, a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, the existence of a special or compelling circumstance, etc.

The Court of Appeals cites *Villena v. Rupisan* where the appellate docket fees were paid six days beyond the reglementary period to appeal. Therein, we upheld the Court of Appeals decision reversing the trial court's denial of the notice of appeal where the reason extended by the appellant for their failure to timely pay the docket fees was admitted poverty, which is a defense miles away from the proffered lapse in memory by Consilium. Such excuse does not even come close to the ample precedents allowing for liberal construction of the rules of procedure. In other words, in *Villena* and the other cited cases where we upheld the liberal application of the rules, the appellants therein hinged their arguments on exceptionally meritorious circumstances peculiar to their particular

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situations that convinced Us of their entitlement to a lax application of the Rules.

If the Court were to admit the tendered excuse, i.e., the negligence of the counsel's clerk as compelling or sufficient explanation for the belated payment of the appeal fee, we would be putting a premium on such lackadaisical attitude and negating a considerable sum of our jurisprudence that affirmed dismissals of appeals or notices of appeal for nonpayment of the full appellate docket fees. We will not do that.

Moreover, categorizing the "lapse in memory" as compelling reason would set a bad precedent wherein such negligence of an appellant's counsel or his clerk is sufficient to relax the jurisdictional requirements for the perfection of an appeal.

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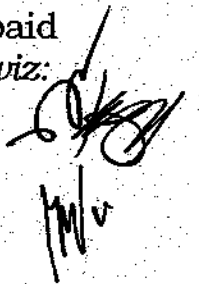
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A final word.

Litigants must bear in mind that procedural rules should always be treated with utmost respect and due regard since these are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. Though litigations should, as much as possible, be decided on their merits and not on technicalities, this does not mean, however, that procedural rules are to be belittled to suit the convenience of a party. Indeed, the primordial policy is a faithful observance of the Rules of Court, and their relaxation or suspension should only be for persuasive reasons and only in meritorious cases x x x.

Here, the chronology of events clearly show that the appeal was not perfected because the legal fees were not paid within the prescribed period. In fact, the fees remain unpaid when the September 4, 2019 Resolution was promulgated, viz:





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- a. On April 29, 2019, this Court promulgated its *Decision* convicting accused Gelacio of the crimes charged.<sup>23</sup>
- b. On May 30, 2019, the Court received accused Gelacio's *Motion for Reconsideration*. It appears that accused Gelacio filed the same through registered mail on May 14, 2019.<sup>24</sup> The prosecution filed its *Comment* on June 4, 2019.<sup>25</sup>
- c. On June 26, 2019, this Court promulgated its *Resolution* denying the *Motion for Reconsideration*.<sup>26</sup>
- d. The counsel for accused Gelacio claims that he received the June 26, 2019 *Resolution* on July 9, 2019.<sup>27</sup>
- e. On August 9, 2019, this Court received accused Gelacio's *Notice of Appeal*, which indicated that it was sent through registered mail on July 19, 2019.<sup>28</sup>
- f. On August 9, 2019, the Court received a copy of accused Gelacio's *Motion for Additional Time to File Petition for Review*. It appears from the photocopy of the *Postal Money Order* checks attached to the said motion that the docket and other fees in the amount of Four Thousand Five Hundred Thirty Pesos (PhP4,530.00) were paid with the High Court.
- g. On August 29, 2019, this Court received its copy of the *Petition for Review*. It appears that the *Petition* was sent by registered mail to this Court on August 8, 2019.<sup>29</sup>
- h. On September 4, 2019, the Court dismissed the *Notice of Appeal* for failure of accused Gelacio to pay the prescribed appellate docket and other legal fees.<sup>30</sup>
- i. According to accused Gelacio, his counsel received a copy of the *Resolution* on September 12, 2019.<sup>31</sup>

<sup>23</sup> Record, Vol. 1, pp. 383-416.

<sup>24</sup> Record, Vol. 1, pp. 431-448.

<sup>25</sup> Record, Vol. 1, pp. 450-452.

<sup>26</sup> Record, Vol. 1, pp. 468-471.

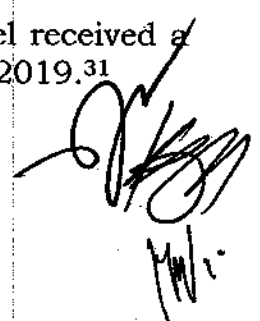
<sup>27</sup> *Notice of Appeal*, dated July 16, 2019.

<sup>28</sup> Record, Vol. 1, pp. 497-500.

<sup>29</sup> Record, Vol. 2, p. 15.

<sup>30</sup> Record, Vol. 2, p. 157-158.

<sup>31</sup> *Motion for Leave of Court [to Admit Attached Manifestation and Motion for Reconsideration]*; Record, vol. 2, p. 161.



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- j. On September 13, 2019, accused Gelacio's representative went to the Office of the Division Clerk of Court signifying his intention to pay the docket and other lawful fees.<sup>32</sup>
- k. On September 23, 2019, this Court received accused Gelacio's *Motion for Leave of Court [To Admit Attached Manifestation and Motion for Reconsideration]* together with the *Postal Money Orders*. It appears that the Motion was sent through registered mail on September 16, 2019.<sup>33</sup>

For accused Gelacio's failure to pay the prescribed legal fees, this Court had no recourse but to declare that his appeal was not perfected, and to dismiss his appeal pursuant to Section 13, Rule 41 of the Rules of Court.

The cases cited by accused Gelacio in the *Motion for Reconsideration* do not help his cause.

In *KLT Fruits, Inc. et al. v. WSR Fruits, Inc.*,<sup>34</sup> the Supreme Court laid down exceptions to the strict application of the rules on payment of appellate and docket fees. Nonetheless, the Supreme Court ruled that KLT Fruits, Inc.'s justifications do not constitute adequate excuse to call for a relaxation of the Rules of Procedure on the mandatory payment of docket fees. The Supreme Court pointed out that KLT Fruits failed to justify the late (more than thirty (30) days) payment of fees and the counsel failed to rectify his error despite several opportunities, *viz*:

From the foregoing, we are tasked to determine whether the above justification constitutes adequate excuse to call for a relaxation of the Rules of Civil Procedure regarding the mandatory payment of docket fees. We answer this in the negative. In exceptional circumstances, we allowed a liberal application of the rule. However, in those exceptional circumstances, the payments of the required docket fees were delayed for only a few days, so much unlike this case in which the delay was for more than thirty days; and, at worse, counsel had several opportunities to rectify said

<sup>32</sup> p. 3, *Manifestation and Motion for Reconsideration (With Submission of Payment of Docket Fees)*.

<sup>33</sup> Dated September 19, 2019, received through mail on September 23, 2019; Record, Vol. 2, pp. 161-440.

<sup>34</sup> 538 SCRA 713, November 23, 2007.

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faux pas, yet failed to do so. We are, thus, reminded of *Guevarra v. Court of Appeals*, in which the payment of docket fees was made 41 days after notice of the questioned Decision; and the excuse of "inadvertence, oversight, and pressure of work was disregarded as too flimsy, an old hat, a hackneyed pretext. Such has never been given the badge of excusability by the Court.

On the other hand, *Spouses Buenaflor vs. Court of Appeals* and *Camaso vs. TSM Shipping (Phils.) Inc.* are not on all fours with the present case. In both cases, the payments of appellate docket and other legal fees, while defective, were made within the prescribed period.

In *Spouses Buenaflor vs. Court of Appeals*,<sup>35</sup> two postal money orders for the appellate docket fees, made payable to the Clerks of Court of the Supreme Court and the Court of Appeals, were seasonably received by the Clerk of Court of the trial court.<sup>36</sup>

In *Camaso vs. TSM Shipping (Phils.) Inc.*,<sup>37</sup> the check payment was attached to the *Petition for Certiorari* filed with the Court of Appeals.

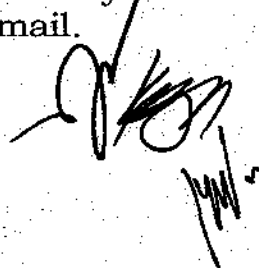
Here, accused Gelacio availed of two separate remedies:

- a) a *Petition for Review on Certiorari* under Rule 45 of the *Rules of Court* by filing, on July 23, 2019, a *Motion for Additional Time to File Petition for Review on Certiorari (With Submission of Payment of Fees)* and later, on August 8, 2019, a *Motion to Admit Petition for Review on Certiorari (With Petition Attached)*; and,
- b) a *Notice of Appeal* on August 9, 2019, received by this Court through registered mail.

<sup>35</sup> 346 SCRA 563, November 29, 2000.

<sup>36</sup> 346 SCRA 563, November 29, 2000.

<sup>37</sup> 807 SCRA 204, November 07, 2016.



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In the *Motion for Additional Time* and the *Petition for Review* filed with the Supreme Court, there was no mention of the *Notice of Appeal* filed with this Court. Every lawyer is expected to know that an ordinary appeal through a *Notice of Appeal* is different from a *Petition for Review*. Hence, this Court cannot lend credence to accused Gelacio's claim that the fees paid to the Supreme Court were intended for the present *Notice of Appeal*.

Accused Gelacio tendered the *Postal Money Order* checks to this Court on September 16, 2019, only after he received the Court's *Resolution* dated September 4, 2019, dismissing his appeal. The payment was made 59 days from July 9, 2019, the date he allegedly mailed his *Notice of Appeal* on July 19, 2019, or 69 days from his receipt on July 9, 2019 of the *Resolution* denying his *Motion for Reconsideration*.

Even if the Court were to consider that accused Gelacio sent a representative to the Office of the Division Clerk of Court on September 13, 2019 to tender the payment of the appeal fees, said visit was already 66 days after he received the *Resolution* denying his *Motion for Reconsideration* or 41 days after it was due.

The Court cannot give a badge of excusability to the claim of accused Gelacio that his counsel merely relied on the clear words of the Rules which did not provide for the payment of docket and other legal fees. While Section 1, Rule XI<sup>38</sup> of the Internal Rules of the Sandiganbayan is a new provision, it was lifted from Section 2, Rule 41 of the Rules of Court<sup>39</sup>

<sup>38</sup> Rule XI, Section 1. *Methods of Review.* --

- (a) *In General.* - The appeal to the Supreme Court in criminal cases decided by the Sandiganbayan in the exercise of its original jurisdiction shall be by notice of appeal filed with the Sandiganbayan and by serving a copy thereof upon the adverse party.

<sup>39</sup> Rule 41, Sec. 2. *Modes of appeal.*

- (a) *Ordinary appeal.* - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.



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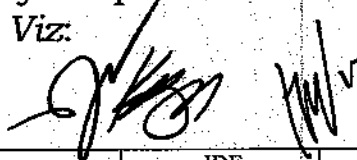
govern ordinary appeals of RTC decisions. SC AM No. 35-2004<sup>40</sup> provides for the fees to be paid.

The Court also cannot subscribe to accused Gelacio's claim that the mistake in the payment in the fees was caused by the inexperience of his counsels. The record shows that accused Gelacio is represented by Atty. Jasper V. Lumacad, who is his lead counsel, and by Batacan Montejo & Vicencio Law Firm, as collaborating counsel. Between said counsels are decades of legal experience.

Nonetheless, despite its finding that the excuses given do not justify the relaxation of the rules, this Court is compelled to grant the *Motion for Reconsideration* and give due course to the *Notice of Appeal* of accused Gelacio. The explanations in the *Motion for Reconsideration* and the discussions above reveal the gross negligence of accused Gelacio's counsels in the handling of his appeal.

The Supreme Court, in **Curammeng v. People**, 808 SCRA 613, November 14, 2016, ruled that the Court of Appeals should have disregarded the rules and proceeded to make a full review of the factual and legal bases of Curammeng's conviction. The Supreme Court noted that the dismissal of Curammeng's appeal is based solely on his counsel's negligence in failing to attach a certification of non-forum shopping as well as material portions of the record. The Supreme Court explained that it deems it appropriate to relax the technical rules of procedure in order to afford Curammeng the fullest opportunity to establish the merits of his appeal, rather than to deprive him of such and make him lose his liberty on procedural blunders which he had no direct hand in. *Viz.*

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	JDF	SAJ
SEC. 4. Clerks of Court of the SUPREME COURT, COURT OF APPEALS, SANDIGANBAYAN AND COURT OF TAX APPEALS.	452.00	2,548.00
(a) For filing an action or proceeding with the Supreme Court, Court of Appeals and Sandiganbayan, for each action or proceeding INCLUDING A PETITION OR MOTION FOR INTERVENTION - P3,000.00		

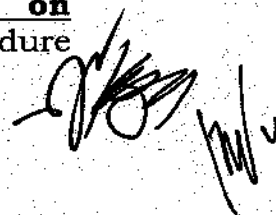
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It must be stressed that since a petition for review is a form of appeal, non-compliance with the foregoing rule may render the same dismissible. This is in furtherance of the well-settled rule that "the right to appeal is not a natural right or a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost." Verily, compliance with procedural rules is a must, "since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice."

Nevertheless, if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction. The Court's pronouncement in *Heirs of Zaulda v. Zaulda* is instructive on this matter, to wit:

The reduction in the number of pending cases is laudable, but if it would be attained by precipitate, if not preposterous, application of technicalities, justice would not be served. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. **"It is a more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not miscarriage of justice."**

**What should guide judicial action is the principle that a party-litigant should 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 technicalities.** The rules of procedure



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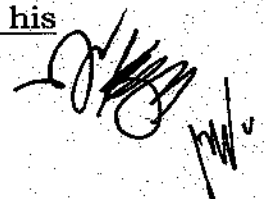
should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. At this juncture, the Court reminds all members of the bench and bar of the admonition in the often-cited case of *Alonso v. Villamar* [16 Phil. 315, 322 (1910)]:

Lawsuits, unlike duels, are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts. There should be no vested rights in technicalities. (Emphases and underscoring supplied)

Otherwise stated, procedural rules may be relaxed for the most persuasive of reasons in order to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. Corollarily, the rule, which states that the mistakes of counsel bind the client, may not be strictly followed where observance of it would result in the outright deprivation of the client's liberty or property, or where the interest of justice so requires.

In the instant case, the Court notes that the dismissal of Curammeng's appeal is based solely on his counsel's negligence in failing to attach a certification of non-forum shopping as well as material portions of the record. Notwithstanding the filing of a Motion for Reconsideration with Compliance dated November 6, 2014, the CA upheld its earlier dismissal, ratiocinating that the reasons presented by Curammeng's counsel were not compelling enough to relax the technical rules on appeal.

While the Court understands and applauds the CA's zealotness in upholding procedural rules, it cannot simply allow a man to be incarcerated without his conviction being reviewed due to the negligence of his





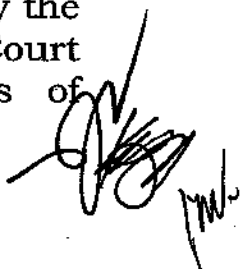
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counsel. To note, Curammeng, a public utility vehicle driver and his family's sole breadwinner, is appealing his conviction for the crime of Reckless Imprudence Resulting in Homicide where he stands to be sentenced with imprisonment for the indeterminate period of four (4) months and one (1) day of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum, among others. In view of these circumstances, as well as his counsel's eventual - albeit irregular - compliance with the technical rules of appeal, the CA should have disregarded the rules and proceeded to make a full review of the factual and legal bases of Curammeng's conviction, including the attendance of modificatory circumstances (*e.g.*, the mitigating circumstance of voluntary surrender which Curammeng argues to be existent in his case), if any, pursuant to the principle that an appeal in criminal cases opens the entire case for review.

In sum, the Court deems it appropriate to relax the technical rules of procedure in order to afford Curammeng the fullest opportunity to establish the merits of his appeal, rather than to deprive him of such and make him lose his liberty on procedural blunders which he had no direct hand in. Accordingly, the case should be remanded to the CA for resolution of the appeal on its merits.

Again, this Court does not find the explanations posited by accused Gelacio's counsels to be excusable to relax the application of the Rules. Nonetheless, the Court concludes that accused Gelacio's lawyers were grossly negligent in the handling of his appeal. Attys. Lumacad and Batacan, knowing that Attys. Rongu and Del Fiero were inexperienced lawyers, should have closely supervised and guided them in the filing of the *Notice of Appeal*. Attys. Rongu and Del Fiero were equally negligent. Their supposed inexperience should have lead them to ask the senior lawyers in their law firm for guidance. It is also not unusual for lawyers to ask the Courts for the docket and legal fees payable, so that they can purchase the necessary postal money orders when they file their *Notice of Appeal* by registered mail, instead of by personal filing.

In fine, this Court heeds the lesson in *Curammeng*. As in *Curammeng*, this Court cannot allow accused Gelacio to be incarcerated without his conviction being reviewed by the High Court due to the negligence of his counsel. This Court deems it appropriate to relax the technical rules of



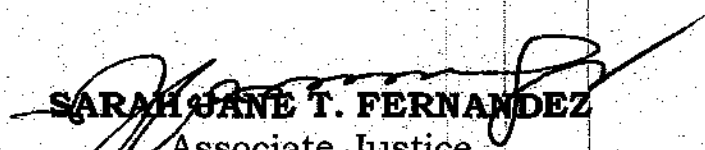
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procedure in order to afford accused Gelacio the fullest opportunity to establish the merits of his appeal before the High Court, rather than for this Court to deprive him of such and make him lose his liberty on procedural blunders which he had no direct hand in.

**WHEREFORE**, the Court resolves as follows:

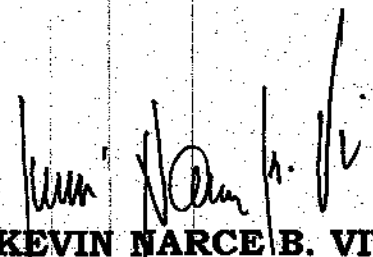
- a. Accused Gelacio's *Motion for Leave of Court* is **NOTED**.
- b. Accused Gelacio's *Motion for Reconsideration* is **GRANTED**. The *Resolution* dated September 4, 2019 is reversed and set aside;
- c. The Division Clerk of Court is directed to accept the belated payment of the appellate and legal fees; and,
- d. Accused Gelacio's appeal is given due course. The Division Clerk of Court is directed to elevate the records of this case to the Supreme Court.

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice