



REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
Quezon City

**Third Division**

**PEOPLE OF THE  
PHILIPPINES,**

*Plaintiff-Appellee,* **SB-20-A/R-0028-0031**

-versus-

**LEOVINO V. AYUMA**  
*Accused-Appellant.*

*Present:*  
Cabotaje-Tang, A.M., *PJ.*,  
*Chairperson*  
Fernandez, B.R., *J.* and  
Moreno, R.B., *J.*

PROMULGATED:

May 12, 2022 

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**RESOLUTION**

***Moreno, J.:***

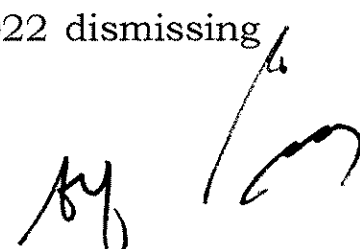
For our consideration are the following:

- (1) *Motion for Reconsideration with Notice of Change of Address,*<sup>1</sup> filed by accused-appellant Leovino V. Ayuma (Ayuma), through counsel; and
- (2) *Comment (on Accused-Appellants' Motion for Reconsideration with Notice of Change of Address dated 24 March 2022)*<sup>2</sup> filed by the plaintiff-appellee, represented by the Office of the Ombudsman, through the Office of the Special Prosecutor.

Accused-appellant Ayuma, moved for the reconsideration of the Court's *Resolution* dated February 23, 2022 dismissing

<sup>1</sup> Filed on March 25, 2022. *Records*, Vol. II, pp. 705-732.

<sup>2</sup> Received through mail on April 12, 2022. *Id.*, pp. 738-744.



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his appeal for failure to file his appellant's brief, "in the interest of justice". Counsel for Ayuma argued that he did not receive a copy of the *Resolution* dated November 11, 2020 directing accused-appellant to file his appellant's brief within 30 days from notice of said resolution. He also narrated that this case was initially raised on appeal with the Court of Appeals (CA), however, upon the manifestation of the Office of the Solicitor General (OSG) that it is the Sandiganbayan which had jurisdiction over the case, the CA resolved to endorse the records to this Court.<sup>3</sup> Further, counsel for Ayuma mentioned his attempts to personally follow-up the status of the case at the Sandiganbayan but was unable to do so due to various times the Court was physically closed.

In lieu of his submission of an appellant's brief, accused-appellant submitted the *Appeal Brief* filed on December 17, 2019 with the CA as his compliance with the Order of this Court. Accused-appellant's notice of change of address was duly noted.<sup>4</sup>

Plaintiff-appellee, in its *Comment*, contested the fact that accused-appellant's counsel was unable to receive the Order directing the submission of an appellant's brief because the registry return receipt reflects that it was received on December 9, 2020. Moreover, counsel for accused-appellant received a copy of the February 23, 2022 *Resolution* dismissing the appeal, a copy of which was sent to the address on record. Plaintiff-appellee also highlighted that even if the Court was physically closed on several occasions, it remained accessible to litigants via electronic or other forms of communication; hence, it was still possible to inquire about the status of the case. In addition, plaintiff-appellee pointed out that even if an appellant's brief was filed before the CA, the CA did not have jurisdiction over the appeal, and to date, no appellant's brief was filed before the Sandiganbayan.

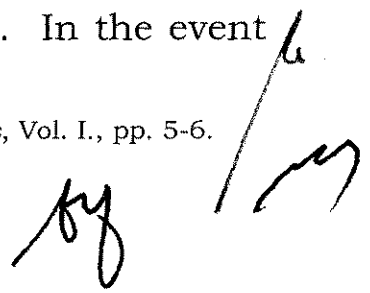
We deny accused-appellant's motion.

Section 1, Rule XII of the Sandiganbayan Revised Internal Rules are clear that an appeal to this Court rendered by a Regional Trial Court (RTC) in the exercise of its original jurisdiction shall be by ordinary appeal under Rules 122 and 124 of the Revised Rules of Criminal Procedure. In the event

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<sup>3</sup> *Resolution* of the Court of Appeals dated August 26, 2020, *Records*, Vol. I., pp. 5-6.

<sup>4</sup> *Resolution* dated March 25, 2002, *Records*, Vol. II, p. 734.



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that an appellant's brief is not timely filed, it would result in the dismissal of the appeal, Section 8, Rule 124 provides:

**Section 8. Dismissal of appeal for abandonment or failure to prosecute. — The Court of Appeals may, upon motion of the appellee or motu proprio and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de officio*. The Court of Appeals may also, upon motion of the appellee or *motu proprio*, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal. [*Emphasis supplied.*]**

Contrary to the allegations of accused-appellant, the *Registry Return Receipt* indicates that a copy of the November 11, 2020 resolution directing accused-appellant to file his *Appellant's Brief* within 30 days from notice thereof was received on December 9, 2020.<sup>5</sup> Section 15 of the 2019 Amendments to the 1997 Rules of Civil Procedure provide that “[s]ervice by registered mail is complete upon actual receipt by the addressee x x x”. Furthermore, the registry return receipt (or card) “carries the presumption that it was prepared in the course of official duties that have been regularly performed; in this sense, it is presumed to be accurate, unless proven otherwise”.<sup>6</sup>

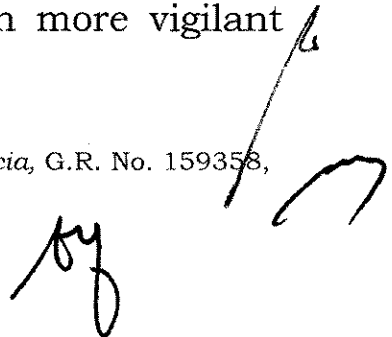
The Court did not receive any appellant's brief from accused-appellant Ayuma within the 30-day period following service of the November 11, 2020 *Resolution* on December 9, 2020. Consequently, the assailed February 23, 2022 *Resolution* dismissing the appeal, was issued by the Court pursuant to Section 1, Rule XIII, Part III of the 2018 Revised Internal Rules of the Sandiganbayan in relation to Sec. 8, Rule 124 of the Revised Rules of Criminal Procedure.

Perusal of accused-appellant's grounds to reconsider this Court's dismissal of his appeal would readily reveal his and his counsel's negligence and failure to monitor the progress of the case. Accused-appellant should have been more vigilant

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<sup>5</sup> *Records*, Vol. II, p. 693.

<sup>6</sup> *Eureka Personnel & Management Services, Inc., v. Eduardo Valencia*, G.R. No. 159358, July 15, 2009.



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considering that there was already a previous error in the court appealed to (CA) and more importantly, it is a judgment of conviction which is being appealed.

As held in *Sibayan v. Costales, et al*,<sup>7</sup> “a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.” While it is true that failure to file an appellant’s brief is not jurisdictional, its consequence is the abandonment of the appeal and its subsequent dismissal.<sup>8</sup> The oft-repeated principle is applicable in this case: that “[t]he right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law.”<sup>9</sup>

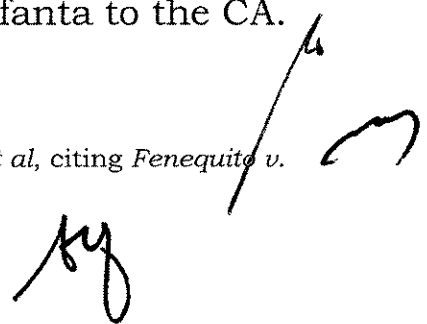
The contention of accused-appellant relating to the inability to personally follow-up the status of the case at the Sandiganbayan due to the Court’s physical closures should not be given credence because the Sandiganbayan, pursuant to the administrative circulars issued by the Supreme Court, continued to operate online, conducted videoconferencing hearings, and maintained a skeletal staff arrangement for all its offices. This was to ensure that there will be no delay in the trial of cases and court processes. Without specific dates and times by which it can be verified that the Sandiganbayan’s physical closure hindered any follow-up on cases before the Court, accused-appellant’s argument does not hold water.

Neither can accused-appellant submit the *Appeal Brief* filed before the CA as his compliance to the order of the Sandiganbayan to submit one before it. To reiterate, the period within which to file the same already lapsed after the 30<sup>th</sup> day, or on January 8, 2021. In fact, it was already a leniency on the part of this Court to have allowed him an opportunity to be heard considering that the records were forwarded to the Sandiganbayan when accused-appellant initially appealed his judgment of conviction from the RTC in Infanta to the CA.

<sup>7</sup> G.R. No. 191492, July 4, 2016.

<sup>8</sup> *Id.*

<sup>9</sup> *Boardwalk Business Ventures, Inc. v. Elvira A. Villareal, et al*, citing *Fenequito v. Vergara, Jr.*, G.R. No. 172829, July 18, 2012.



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The *Order*<sup>10</sup> dated August 2, 2019 denying accused-appellant's motion for reconsideration of his conviction was received by his counsel on August 13, 2019. The *Notice of Appeal*<sup>11</sup> was filed on August 20, 2019 wherein accused-appellant prayed that the *Notice of Appeal* be made of record and approved, with the "records of the cases... forwarded to the Court of Appeals."<sup>12</sup> The RTC-Infanta issued a *Joint Order* dated August 30, 2019<sup>13</sup> wherein the acting presiding judge directed the Clerk of Court to transmit the complete record of the case to the CA pursuant to Section 8, Rule 122 of the 2000 Rules of Criminal Procedure. On September 2, 2019, the Clerk of Court of the RTC issued a *Certification*<sup>14</sup> regarding the completeness of the entire records for transmittal to the CA. Consequently, the records were forwarded by the RTC-Infanta to the CA.

However, it was only upon the instance of the OSG, through its *Manifestation and Motion*, that the CA resolved to endorse the instant case to the Sandiganbayan for appropriate action.<sup>15</sup> Said *Resolution* by the CA was promulgated on August 26, 2020. In the same resolution, the CA noted the accused-appellant's appellant's brief dated December 11, 2019. The Sandiganbayan received the records of the case on November 3, 2020.<sup>16</sup>

If Section 2, Rule 50 of the 2019 Revised Rules of Civil Procedure (which was retained from the 1997 Rules of Civil Procedure) will be strictly followed, the case should have been dismissed outright by the CA. The pertinent provision reads:

**Section 2.** *Dismissal of improper appeal to the Court of Appeals.* – An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed. (n)

<sup>10</sup> *Records*, Vol. II., p. 218.

<sup>11</sup> *Id.*, p. 219

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*, p. 223.

<sup>14</sup> *Id.* pp. 224, - 226.

<sup>15</sup> *Id.*, pp. 5 - 6.

<sup>16</sup> *Id.*, p. 3.

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**An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.** (3a) [Underscoring for emphasis.]

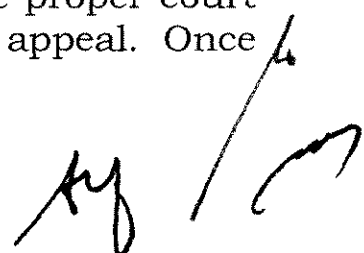
At the outset, the CA could have readily dismissed the case for lack of jurisdiction; however, it did not and chose to forward the case records to the Sandiganbayan. It was a consideration of accused-appellant's due process rights which prompted this Court to direct the accused-appellant to file his appellant's brief, an opportunity he inexplicably squandered.

Republic Act No. 10660, which further amended Presidential Decree No. 1606 defines the jurisdiction of the Sandiganbayan, Section 4 reads that "[t]he Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided." In other words, this Court is vested with appellate jurisdiction over final judgments or orders of the RTC whether in the exercise of their original or appellate jurisdiction over crimes and civil cases falling within the original exclusive jurisdiction of the Sandiganbayan but which were committed by public officers below Salary Grade 27. Despite the consideration extended by this Court, accused-appellant only acted on his appeal *after* it was dismissed for failure to submit his appellant's brief before the Sandiganbayan.

A review of the material dates would show that the period within which to file an appeal in the appropriate court already lapsed. To recall, accused-appellant's counsel received a copy of the denial of the *Motion for Reconsideration* of the RTC's decision on August 13, 2019, he had until August 28, 2019 to file and perfect his appeal. The CA initially gave due course to the appeal, only to endorse the same to the Sandiganbayan on August 26, 2020. Clearly, this is beyond the 15-day period within which to appeal. *Jesus Torres v. People of the Philippines*,<sup>17</sup> citing *Andres T. Melencion v. Sandiganbayan and People of the Philippines*,<sup>18</sup> emphasized that "the designation of the wrong court does not necessarily affect the validity of the notice of appeal. However, the designation of the proper court should be made within the 15-day period to appeal. Once

<sup>17</sup> G.R. No. 175074, August 31, 2011.

<sup>18</sup> G.R. No. 150684, June 12, 2008.



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made within the said period, the designation of the correct appellate court may be allowed even if the records of the case are forwarded to the Court of Appeals. Otherwise, Section 2, Rule 50 of the Rules of Court would apply x x x”

In the extant case, there was not even an attempt by the accused-appellant to correct his error in the filing of his appeal before the CA and waited until the Sandiganbayan dismissed his appeal on February 23, 2022 before he acted on the same. His failure to submit his appellant’s brief before the Sandiganbayan is tantamount to an abandonment of his appeal.

Jurisprudence is replete with the principle that clients are bound by the actions of their counsel in the conduct of their case. To invoke liberality in the application of procedural rules can be made if there is an excusable formal deficiency or error in a pleading—but if such liberal application would directly subvert the essence of the proceedings or would result in utter disregard of the Rules of Court—the rules should strictly apply.<sup>19</sup> In the case at bar, the grounds for reconsideration proffered by accused-appellant cannot warrant a relaxation of the Sandiganbayan’s procedural rules.

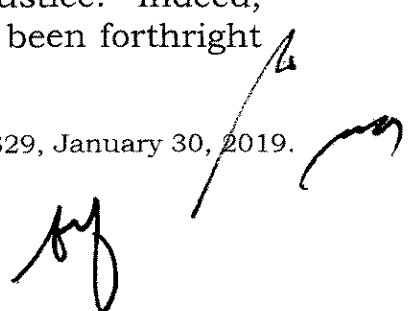
In *Land Bank of the Philippines v. the Court of Appeals and Heirs of Manuel Bolanos*,<sup>20</sup> provides a reminder on the importance of observing rules on procedure, to wit:

While it is true that we have applied a liberal application of the rules of procedure in a number of cases, we have stressed that this can be invoked only in proper cases and under justifiable causes and circumstances. We agree with petitioner's contention that the CA and private respondents did not proffer a reasonable cause to justify non-compliance with the rules besides the exhortation of circumspect leniency in order to give private respondents a day in court. Private respondents failed to specifically cite any justification as to how and why a normal application of procedural rules would frustrate their quest for justice. Indeed, private respondents have not been forthright

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<sup>19</sup> *Bagaporo v. People of the Philippines*, G.R. No. 211829, January 30, 2019.

<sup>20</sup> G.R. No. 221636, July 11, 2016.

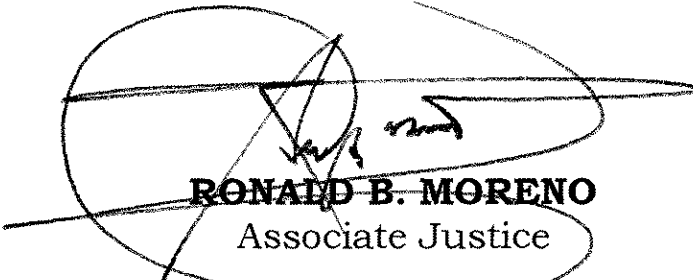


in explaining why they chose the wrong mode of appeal. The bare invocation of "the interest of substantial justice" line is not some magic wand that will automatically compel us to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction. [Citations omitted. Emphasis supplied.]

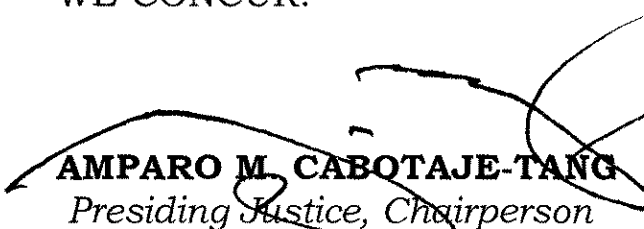
**WHEREFORE**, in light of the foregoing, the Court **DENIES** the *Motion for Reconsideration* filed by accused-appellant Leovino V. Ayuma for utter lack of merit.

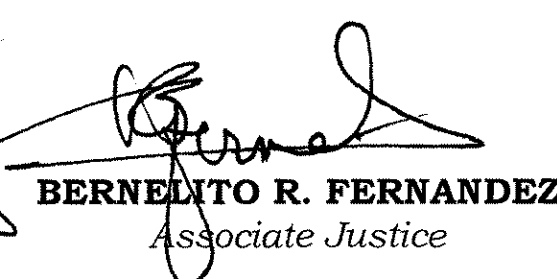
**SO ORDERED.**

Quezon City, Metro Manila.

  
**RONALD B. MORENO**  
Associate Justice

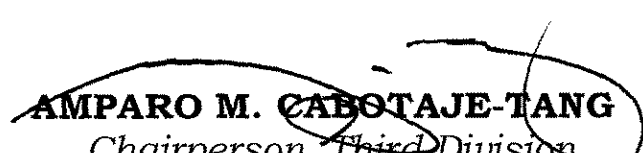
WE CONCUR:

  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice, Chairperson

  
**BERNELITO R. FERNANDEZ**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above *Resolution* were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**AMPARO M. CABOTAJE-TANG**  
Chairperson, Third Division



**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above *Resolution* were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**AMPARO M. CABOTAJE-TANG**  
*Presiding Justice*

