REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No.
SB-17-CRM-1675-1678
For: Violation of Section 3(e), R.A. No. 3019

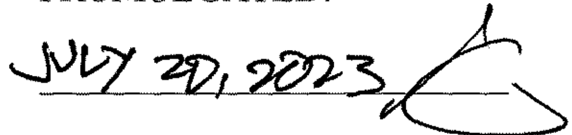
-versus-

GREGORIO TOCMO IPONG, ET AL.,
Accused,

Present:

Cabotaje-Tang, A.M., *PJ, Chairperson*
Fernandez, B.R., *J.*
Moreno, R.B., *J.*
Trespeses, Z.V., *J.*,[1] and
Jacinto, B.H., *J.*[2]

PROMULGATED:



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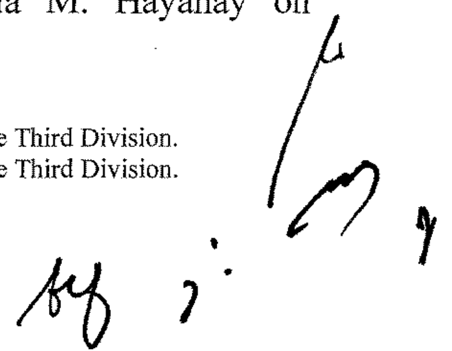
RESOLUTION

Moreno, J.:

For resolution is the *Notice of Appeal (Re: Decision promulgated on 27 May 2022 and Resolution promulgated on 22 July 2022) with Explanation and Apology*[3] filed by accused Leonila M. Hayahay on



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1 Sitting as Special Member of a Special Division of Five Justices in the Third Division.
2 Sitting as Special Member of a Special Division of Five Justices in the Third Division.
3 Record, vol. VII, pp. 582-610.

September 9, 2022. The prosecution filed its *Opposition* on September 16, 2022.

Brief Background:

In the Court's Decision dated May 27, 2022, we found accused Leonila M. Hayahay and Mateo G. Montano guilty beyond reasonable doubt of two counts of violation of Section 3(e) of Republic Act No. 3019, as amended, in Criminal Case No. SB-17-CRM-1675 to 1676, and one (1) count of malversation of public funds under Article 217 of the Revised Penal Code in Criminal Case No. SB-17-CRM-1677.[4]

Hayahay moved to reconsider the decision on June 13, 2022. In the Court's Resolution of July 22, 2022, we denied her motion for reconsideration. Hayahay received a copy of the Court's resolution via electronic mail on July 26, 2022.

On August 10, 2022, Hayahay, through counsel, filed a *Motion for Extension of Time to File Petition for Review on Certiorari* before the Supreme Court. In this motion, Hayahay prayed that she be granted an additional period of thirty (30) days from August 10, 2022 (or until September 9, 2022) within which to file her petition. This Court received the motion through mail on August 12, 2022.

The Notice of Appeal with Explanation and Apology:

In her *Notice of Appeal x x x*,[5] Hayahay's counsels explained that while they were finalizing the petition for review on September 8, 2022, they found out that Section 1 (a), Rule XI of A.M. No. 13-7-05-SC (or the Revised Internal Rules of the Sandiganbayan) required the filing of a notice of appeal with this Court where the decision appealed from had been rendered in the exercise of its original jurisdiction.

Hayahay's counsel admitted their grave oversight and took full responsibility for their mistake and negligence. Accordingly, they appealed for this Court's leniency and prayed that their appeal be given due course. Hayahay's counsels maintained that "Hayahay's right to appeal, have her

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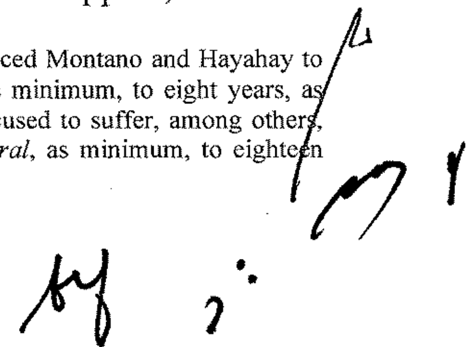
[4] In Criminal Case No. SB-17-CRM-1675 to 1676, this Court sentenced Montano and Hayahay to suffer, *inter alia*, the indeterminate penalty of six years and one month, as minimum, to eight years, as maximum. In Criminal Case No. SB-17-CRM-1677, we sentenced both accused to suffer, among others, the indeterminate penalty of twelve years and one day of *reclusion temporal*, as minimum, to eighteen years, eight months and one day of *reclusion temporal*, as maximum.

[5] Supra, note 3.



case reviewed by the high court, and be presumed innocent, should be protected and not sacrificed through no fault of her own."[6] They added that their client "should not bear the unspeakable consequences of undersigned counsel's mistake, of which she had no part."[7]

Hayahay's counsels further stated that their client's intention to appeal and continue to assert her innocence had been clear and unmistakable from the time she filed her motion for extension of time (which also stated the parties to the appeal); the judgment or order appealed from; and the court to which the appeal was being taken. They added that docket and other lawful fees had also been paid, albeit to the Supreme Court. According to them, there was substantial compliance with the appeal requirements, warranting a relaxation of the rules.

The prosecution's Opposition:

In its *Opposition*,[8] the People of the Philippines, through the Office of the Special Prosecutor (OSP), moved for the denial of Hayahay's Notice of Appeal for lack of merit. It countered that the Notice of Appeal had been filed out of time. Hayahay resorted to a petition for review under Rule 45 before the Supreme Court instead of filing the notice of appeal before the Anti-Graft Court.

The OSP likewise argued that clients are bound by the negligence of their clients. It added that Hayahay should have been more prudent in monitoring her case. The OSP likewise claimed that Hayahay had not been deprived of due process considering that she had her day in court; her case had been tried on the merits; and she was duly represented during the trial stage. The OSP also reiterated the doctrine of immutability of judgments.

Hayahay's Reply:

In their *Reply*,[9] Hayahay's counsels reiterated their prayer that this Court give due course to the Notice of Appeal and elevate the case records to the Supreme Court. They asked this Court to heed the call of justice and relax the procedural rules in favor of the accused. The counsels also pointed

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6 Record, vol. VII, p. 584.
7 Id. at 586.
8 *Id.* at 670.
9 *Id.* at 697-705.

out that Hayahay's life and liberty were at stake, and that she should not be allowed to lose her liberty on a procedural blunder.

OUR RULING:

After due consideration, we **DENY** the Notice of Appeal.

I. *Preliminary considerations: reckoning point of appeal*

Section 6, Rule 122 of the Revised Rules of Criminal Procedure provides for the period when an appeal from a judgment or final order in a criminal case should be taken, as follows:

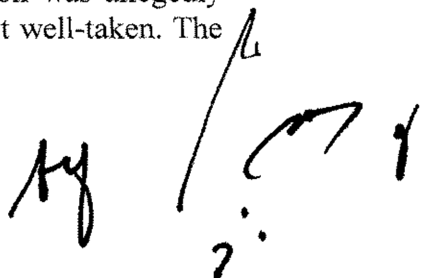
> Sec. 6. *When appeal to be taken.* – An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. This period for perfecting an appeal shall be suspended from the time a motion for new trial or reconsideration is filed until notice of the order overruling the motions has been served upon the accused or his counsel at which time the balance of the period begins to run.

The Rules of Court thus mandates that an appeal should be filed within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. It necessarily follows that this period is interrupted only by the filing of a motion for new trial or reconsideration of the judgment or of the final order being appealed.

As early as *Landicho v. Tan*,[10] the Court has held that one who desires a review of a criminal case must appeal within fifteen days from the date the decision or judgment was announced in open court in the presence of the accused, or was promulgated in the manner set forth in Section 6 of Rule 116 (now Section 6 of Rule 120) of the Rules of Court. This ruling was reiterated in *People v. Tamani*[11] where the Court has further clarified that the word promulgation in the old provision should be construed as referring to "judgment;" and notice, to "order", thus:

> The assumption that the fifteen-day period should be counted from February 25, 1963, when a copy of the decision was allegedly served on appellant's counsel by registered mail is not well-taken. The

[10] 87 Phil. 601, 605, November 16, 1950
[11] 55 SCRA 153, January 21, 1974.



> word 'promulgation' in section 6 should be construed as referring to 'judgment', while the word 'notice' should be construed as referring to 'order'.

In *Neplum, Inc. v. Orbeso,*[12] the Supreme Court reiterated its pronouncement in *Landicho* that the period for appeal was to be counted from the date of promulgation of the decision, thus:

> We clarify. Had it been the accused who appealed, we could have easily ruled that the reckoning period for filing an appeal be counted from the promulgation of the judgment. In *People v. Tamani*, the Court was confronted with the question of when to count the period within which the accused must appeal the criminal conviction. Answered the Court:
>
> > "The assumption that the fifteen-day period should be counted from February 25, 1963, when a copy of the decision was allegedly served on appellant's counsel by registered mail is not well-taken. The word 'promulgation' in section 6 should be construed as referring to 'judgment', while the word 'notice' should be construed as referring to 'order'."
>
> The interpretation in that case was very clear. The period for appeal was to be counted from the date of promulgation of the decision. Text writers are in agreement with this interpretation.
>
> In an earlier case, this Court explained the same interpretation in this wise:
>
> > "It may, therefore, be stated that one who desires to appeal in a criminal case must file a notice to that effect within fifteen days from the date the decision is announced or promulgated to the defendant. And this can be done by the court either by announcing the judgment in open court as was done in this case, or by promulgating the judgment in the manner set forth in [S]ection 6, Rule 116 of the Rules of Court."

Prescinding from the foregoing, the reckoning point within which to file the appeal would be 15 days *from promulgation of judgment* if the promulgation had been for an order issued by the trial court **in the exercise of its original jurisdiction.**

To be sure, promulgation of judgment is an official proclamation or announcement of the decision of the court. In a criminal case, promulgation of the decision cannot take place until after the clerk receives it and enters it into the criminal docket. It follows that when the judge mails a decision through the clerk of court, it is not promulgated on the date of mailing but

[12] G.R. No. 141968, July 11, 2002.

after the clerk of court enters the same in the criminal docket. [13] Promulgation thus presupposes that a ruling is ready for release.

On the other hand, the reckoning point within which to file the appeal would be within fifteen (15) days from notice of the final order appealed from in cases of orders issued by the court **in the exercise of its appellate jurisdiction.**

The Supreme Court's pronouncement in *Neplum* on this point is instructive:

> We clarify also that the situations covered by this Rule (Section 6, Rule 122) are limited to appeals of judgments rendered by regional trial and inferior courts. In higher courts, there is no promulgation in the concept of Section 6 Rule 122 of the 2000 Rules on Criminal Procedure. In the Supreme Court and the Court of Appeals, a decision is promulgated when the signed copy thereof is filed with the clerk of court, who then causes copies to be served upon the parties or their counsels. Hence, the presence of either party during promulgation is not required.

II. *The timeliness of accused's motion for reconsideration and notice of appeal*

Under the Revised Rules of Criminal Procedure, a motion for reconsideration of the judgment of conviction may be filed within 15 days from the promulgation of the judgment or from notice of the final order appealed from. Failure to file a motion for reconsideration within the reglementary period renders the subject decision final and executory.[14]

In *Neypes v. Court of Appeals*,[15] the Supreme Court modified the rule in civil cases on the counting of the 15-day period within which to appeal, and categorically set a fresh period of 15 days from a denial of a motion for reconsideration within which to appeal. The Court explained the rationale for the "fresh period rule" as follows:

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13 See *Pascua v. Hon. Court of Appeals*, G.R. No.140243, December 14, 2000.
14 See *Mapagay v. People*, G.R. No. 178984, August 19, 2009.
15 G.R No. 141524, September 14, 2005.

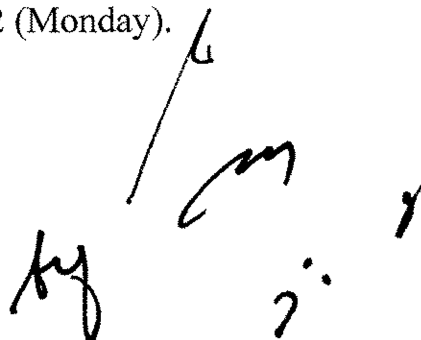
> To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a fresh period of 15 days within which to file the notice of appeal in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.
>
> Henceforth, this "fresh period rule" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals; Rule 43 on appeals from quasi-judicial agencies to the Court of Appeals and Rule 45 governing appeals by certiorari to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution.

Yu v. Tatad[16] expanded the scope of the doctrine in *Neypes* to criminal cases in appeals of conviction under Section 6, Rule 122 of the Revised Rules of Criminal Procedure, thus:

> While Neypes involved the period to appeal in civil cases, the Court's pronouncement of a "fresh period" to appeal should equally apply to the period for appeal in criminal cases under Section 6 of Rule 122 of the Revised Rules of Criminal Procedure x x x

a. Hayahay's *Motion for Reconsideration* filed on time

A perusal of the records showed Hayahay's motion for reconsideration had been *timely filed*. To recall, the Court found accused Hayahay guilty of violation of Section 3(e) of R.A. No. 3019 (2 counts) in its Decision promulgated on May 27, 2022. Since the case was decided by this Court *in the exercise of our original jurisdiction*, Hayahay had 15 days from May 27, 2022 within which to file the appeal, or until June 11, 2022. Since June 11, 2022 fell on a <u>Saturday</u>, the due date for filing the accused's motion for reconsideration was on June 13, 2022 (Monday).



[16] G.R. No. 170979, February 9, 2011.

b. *Notice of Appeal filed late*

It is beyond question that this Court denied Hayahay's motion for reconsideration on July 22, 2022; and that she received a copy of the resolution via mail on July 26, 2022.

Under Part II, Rule, Section 1[17](a) of the 2018 Revised Internal Rules of the Sandiganbayan, 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.

Pursuant to this Section, and in relation to the Supreme Court's pronouncement in *Yu v. Tatad*, Hayahay had 15 days from receipt of the denial of her motion for reconsideration on July 26, 2022 to file a notice of appeal before this Court, or until August 10, 2022 (Wednesday).

The records, however, showed that instead of filing a notice of appeal, Hayahay's counsels filed a *motion for extension of time to file petition for review on certiorari x x x* before the Supreme Court. The counsels later filed an *Urgent Manifestation with Motion for Withdrawal* of this motion before the Supreme Court on September 15, 2022, but this was after they belatedly filed their *Notice of Appeal x x x with Explanation and Apology* before the Sandiganbayan on <u>September 9, 2022</u>.[18]

It is basic that appeal is not a matter of right. Parties wishing to appeal must comply with the rules, otherwise they lose their opportunity to appeal. Accordingly, 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 the law. The party who seeks to avail of the remedy of appeal must comply with the requirements of the rules; otherwise, the appeal is lost. Rules of procedure are required to be followed, except only when, for the most persuasive of reasons, they may be relaxed to relieve the litigant of an injustice not commensurate with the

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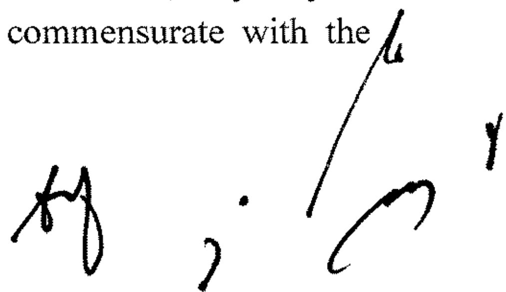
17 Methods of Review.
18 Stamped 'received' on September 12, 2022.



degree of his thoughtlessness in not complying with the procedure prescribed.[19]

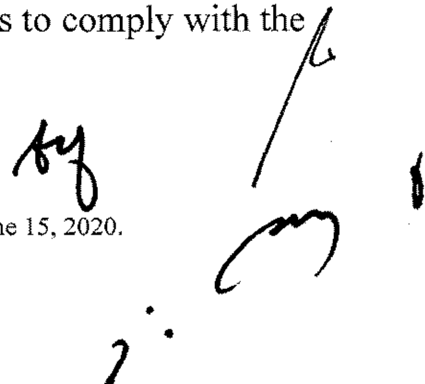
For failure of Hayahay to file a notice of appeal on or before August 10, 2022, this Court's assailed rulings had already attained finality. Once a judgment becomes final and executory, the principle of immutability of judgments automatically operates.

We are aware that the Supreme Court itself has allowed a liberal application of the rules of appeal. However, the same applies only in exceptionally meritorious cases.

By their own admission, Hayahay's counsels committed a serious mistake and were negligent in ascertaining the proper remedy at the time they filed their motion before the Supreme Court. The general rule is that the client is bound by the negligence and mistakes of his counsel. The sole exception would be where the lawyer's gross negligence would result in the grave injustice of depriving his client of the due process of law. A departure from this rule would bring about never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by operation of law.[20]

In the present case, Hayahay had the opportunity to defend herself in the criminal proceedings against her before this Court. While she may have lost her right to appeal, it cannot be denied that she had been given her day in court. After all, the essence of due process is the opportunity to be heard.

To our mind, the counsels' unfamiliarity and/or confusion with the modes of appeal was not a substantial justification for the relaxation of the rules. As earlier stated, appeal is not a matter of right but a mere statutory privilege. Simply put, the failure of Hayahay's counsel/s to comply with the



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19 See *Deepak Kumar v. People of the Philippines*, G.R. No. 247661, June 15, 2020.

20 See *Dimaandal v. PO2 Ilagan*, G.R. No. 202280, December 7, 2016.

requirements of the Rules of Court forfeited their privilege to appeal. As the Supreme Court held in *Macapagal v. People of the Philippines*:[21]

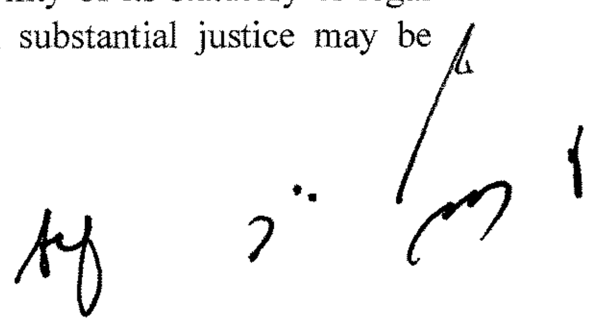
> Indeed, cases should be determined on the merits after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections in order to serve better the ends of justice. It is the duty of the counsel to make sure of the nature of the errors he proposes to assign, to determine which court has appellate jurisdiction, and to follow the requisites for appeal. Any error in compliance may be fatal to the client's cause. It should be stressed that the right to appeal is neither a natural right nor a part of due process. It is merely a procedural remedy of statutory origin and may be exercised only in the manner prescribed by the provisions of law authorizing its exercise. The requirements of the rules on appeal cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.

We likewise cannot treat Hayahay's motion before the Supreme Court as a notice of appeal to this Court, even if the former included the material statements required in a notice of appeal. To us, this circumstance should not be even treated as substantial compliance due to the undeniable fact that no notice of appeal had been filed before this Court before August 10, 2022. It bears pointing out that at the time Hayahay filed his notice of appeal dated September 9, 2022 before us, she has not yet even withdrawn her motion before the Supreme Court. At any rate, the propriety of Hayahay's motion before the Supreme Court was not for us to rule upon. Nonetheless, nothing prevents this Court from making a ruling on Hayahay's notice of appeal and taking into account the following factors: it was filed late; and, the appeal fees had not been paid.

Finally, we do not find any justification for the application of the doctrine of equity jurisdiction in the present case.

To be sure, equity jurisdiction aims to do complete justice in cases where a court of law is unable to adapt its judgments to the special circumstances of a case because of the inflexibility of its statutory or legal jurisdiction. Equity is the principle by which substantial justice may be

[21] G.R. No. 193217, February 26, 2014 (citations omitted).



attained in cases where the prescribed or customary forms of ordinary law are inadequate.[22]

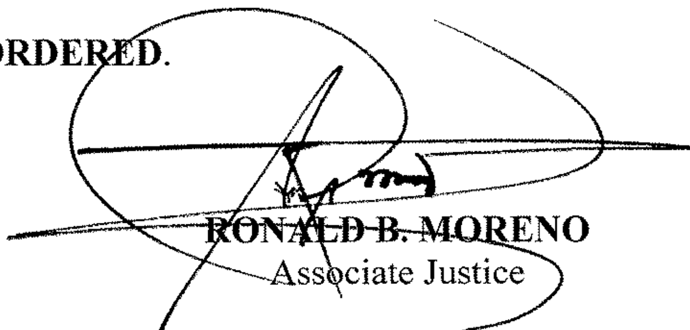
It is worth highlighting that Courts exercising equity jurisdiction must still apply the law and have no discretion to disregard the law[23] Thus, where the law prescribes a particular remedy with fixed and limited boundaries, the court cannot, by exercising equity jurisdiction, extend the boundaries further than the law allows.[24]

The Supreme Court's pronouncement in *Mangahas v. Court of Appeals*[25] on this point is instructive, thus:

> For all its conceded merits, equity is available only in the absence of law and not as its replacement. Equity is described as justice outside legality, which simply means that it cannot supplant although it may, as often happens, supplement the law. x x x all abstract arguments based only on equity should yield to positive rules, which pre-empt and prevail over such persuasions. Emotional appeals for justice, while they may wring the heart of the Court, cannot justify disregard of the mandate of the law as long as it remains in force.

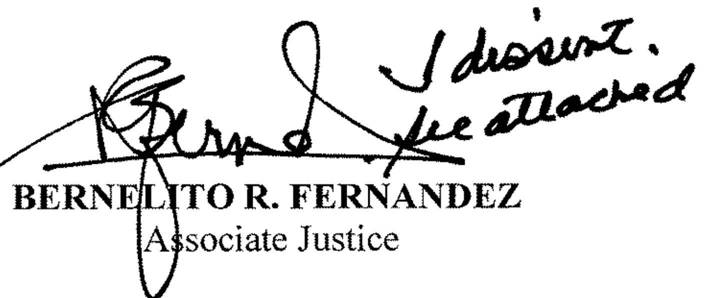
WHEREFORE, in light of all the foregoing, we **DENY** the Notice of Appeal filed by accused Leonila M. Hayahay for being filed out of time.

SO ORDERED.



RONALD B. MORENO
Associate Justice

WE CONCUR:



I join the dissent of Justice Fernandez.

AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

BERNELITO R. FERNANDEZ
Associate Justice

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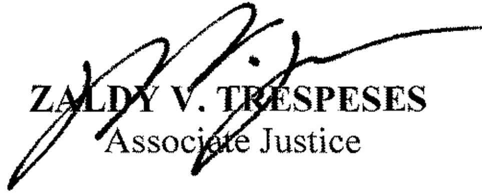
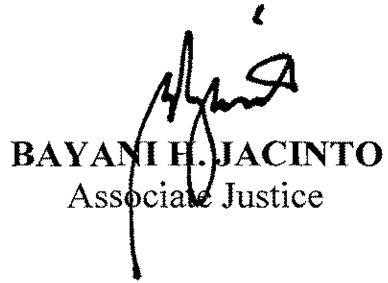
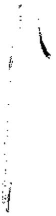
22 See *Reyes v. Lim*, 456 Phil. 1, 10 (2003).
23 *Arsenal v. IAC*, 227 Phil. 36 (1986).
24 See *Alvendia v. Intermediate Appellate Court*, G.R. No. 72138, January 22, 1990, 181 SCRA 252.
25 588 Phil. 61 (2008).



ZALDY V. TRESPESES
Associate Justice



BAYANI H. JACINTO
Associate Justice



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Crim. Cases Nos. SB-17-CRM-1675-1678
For: Violation of Sec. 3 (e) R.A. No. 3019

GREGORIO TOCMO IPONG; ESPERANZA ICASAS CABRAL; MATEO GELITO MONTAÑO; LEONILA MARCELO HAYAHAY; and ROBERTO M. SOLON,
Accused.

x-------------------------------------x

Present:

CABOTAJE-TANG, *P.J./Chairperson*
FERNANDEZ, B.R.,*J.* &
MORENO, R.B., *J.*

Promulgated:

JULY 20, 2022

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DISSENTING OPINION

FERNANDEZ, B. R., *J.*

This is to respectfully signify my dissent to the *ponencia.*

The only issue that confronts this Court is whether or not to allow the belated filing of the Notice of Appeal on September 9, 2022 or thirty (30) days beyond the period for taking an appeal.

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A denial thereof denotes that accused Hayahay loses her right to appeal, thus, rendering the judgment of this Court as final and executory. Consequently, accused Hayahay would have to serve her sentence in jail for two (2) counts of violation of Section 3 (e) of R.A. 3019 and malversation of public funds, including the payment of fines.

Nevertheless, in the interest of substantial justice and to avoid grave injustice to accused Hayahay by affording her an opportunity to re-plead her cause on an appeal to the Supreme Court, this Court may relax the strict application of the rules of procedure and give due course to the Notice of Appeal of accused Hayahay, although this should not be taken as an absolute rule or as a precedent for future cases.

Firstly, it should be recognized that accused Hayahay intended to appeal the Decision of this Court when her Motion for extension of time to file a petition for review on certiorari dated August 10, 2022 was filed by her counsel to the Supreme Court, copy furnished this Court and received through registered mail on August 12, 2022.

Under the 2018 Revised Internal Rules of the Sandiganbayan, the appeal to the Supreme Court in criminal cases decided by this Court in the exercise of its original jurisdiction shall be by a notice of appeal filed with the Sandiganbayan and serving a copy of thereof upon the adverse party. Meanwhile, Rule 41, Section 5 of the Rules of Court states that the notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal.

Herein, the aforesaid Motion of accused Hayahay to the Supreme Court included the material statements required in a notice of appeal (*i.e.* party to the appeal, judgment being appealed from, court to which the appeal is taken, and the material dates). It also appears that the adverse party, the Office of the Special Prosecutor, was served a copy of the same Motion through registered mail, only that the filing was in a different court, not with the Sandiganbayan. Still, there is substantial compliance on the part of accused Hayahay to notify this Court of her intent to appeal the subject Decision. Hence, if we treat the said Motion as a notice of appeal to this Court, the timeliness of the appeal is in order.

Secondly, in a timely manner and before the Supreme Court could take cognizance of the said Motion or act upon it by dismissing the same, the counsel for accused Hayahay filed before the Supreme Court an Urgent Manifestation with Motion for Withdrawal (Re: Motion for Extension of Time to File Petition for Review on Certiorari dated August 10, 2022) dated September 15, 2022, praying for the withdrawal of the said Motion to give way to the filing of the notice of appeal under Section 1 (a), Rule XI of the 2018 Revised Internal Rules of the Sandiganbayan. Hence, the withdrawal of said Motion to the Supreme Court avoided any issue of forum shopping.

Thirdly, we should also be mindful of the doctrinal rule that - negligence of the counsel binds the client, even mistakes in the application of procedural rules. However, this general rule also admits of an exception such as when the "negligence of counsel is so gross that the due process rights of the client were violated" (B.E. San Diego, Inc. vs. Bernardo, G.R. No. 233135, December 5, 2018).

In the instant case, the counsel for accused Hayahay, in gross ignorance of the 2018 Revised Internal Rules of Sandiganbayan filed a Motion for Extension before the Supreme Court to file a petition for review on certiorari, instead of merely filing a notice of appeal with this Court. This blunder committed by the counsel of accused Hayahay of basic procedural rules would result in accused Hayahay's losing her right to appeal. Hence, this palpable negligence by her counsel should not bind her.

Finally, it is settled that, even the Supreme Court, in some cases, relaxed the strict application of the rules of procedure in the exercise of its equity jurisdiction, more specifically, in cases were the observance of which would result in the outright deprivation of the client's liberty or property, such as in the instant case.

Case in point is the case of Curammeng vs. People (G.R. No. 219510, November 14, 2016). It elucidates, to wit - -

> 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:

x---x

> 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 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. Villamor* [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. *(bold ours)*

Likewise, it must be remembered that in the Sideño vs. People (G. R. No. 235640, September 3, 2020), the Supreme Court ruled, to wit - -

> However, the peculiar circumstances of the case at bench constrain the Court to relax and suspend the rules to give Sideño a chance to seek relief from the SB. X x x. It bears stressing that aside from matters of life, liberty, honor or property which would warrant the suspension of the rules of the most mandatory character, and an examination and review by the appellate court of the lower court's findings of fact, the other elements that are to be considered are the following: (1) the existence of special or compelling circumstances, (2) the merits of the case, (3) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (4) a lack

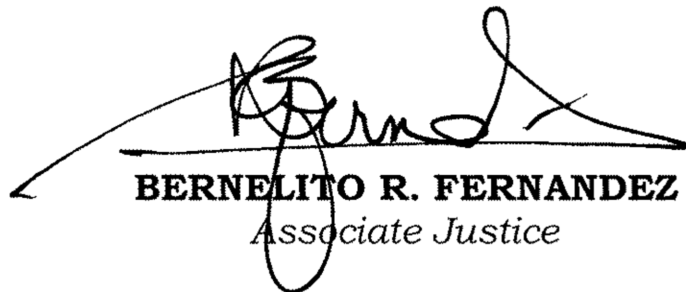
> of any showing that the review sought is merely frivolous and dilatory, (5) the other party will not be unjustly prejudiced thereby. All these factors are attendant in this case.

Additionally, the Supreme Court further guided us in Malixi vs. Baltazar (G. R. No. 208224, November 22, 2017, citing Durban Apartments Corporation vs. Catacutan, G. R. No. 167136, December 14, 2005) that - -

> It is well to remember that this Court, in not a few cases, has consistently held that cases shall be determined on the merits, after full opportunity to all parties for ventilation of their causes and defense, rather than on technicality or some procedural imperfections. In doing so, the ends of justice would be better served. The dismissal of cases purely on technical grounds is frowned upon and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, the substantial justice, and thereby defeat their very ends. Indeed, rules of procedure are mere tools designed to expedite the resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote justice must be avoided.

Hence, opportunity should be given to accused Hayahay to seek an appeal before the Supreme Court and to give due course to the Notice of Appeal filed by accused Hayahay.

Respectfully submitted.



BERNELITO R. FERNANDEZ
Associate Justice