



REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
Quezon City

**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., and*  
Moreno, R.B., *J.*

PROMULGATED:

JANUARY 29, 2024

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**RESOLUTION**

***Moreno, J.:***

For resolution are the *Motion for Reconsideration* x x x<sup>1</sup> and the *Supplemental Motion for Reconsideration* x x x<sup>2</sup> filed by accused Leonila M. Hayahay on July 26, 2023 and August 18, 2023, respectively, to assail our July 20, 2023 Resolution. The prosecution, through the Office of the Special Prosecutor (OSP), filed its *Motion to Admit Attached Consolidated*

<sup>1</sup> Record, vol. VIII, pp. 43-58.

<sup>2</sup> *Id.* at 76-107.

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*Opposition x x x<sup>3</sup>* and *the Consolidation Opposition* both on September 11, 2023.

*Hayahay's motions*

In her motion for reconsideration, Hayahay prayed that we set aside our July 20, 2023 resolution; accept the *Notice of Appeal with Explanation and Apology* dated September 9, 2022; *accept* the payment of the appellate and legal fees; and, give due course to the appeal and elevate the records of this case to the Supreme Court.

Hayahay, citing several cases decided by the Supreme Court, essentially argued that a liberal application of the rules on appeal should be allowed in exceptionally meritorious cases. She contended that she should be allowed to prove her innocence, more so since the present cases involved her life, liberty and honor. Hayahay added that if given her day before the Supreme Court, she intends to show that her guilt had not been proven with moral certainty.

Hayahay also claimed that she should not be bound by the negligence and mistakes of her counsel. She further added that there was no participatory negligence on her part. According to Hayahay, her participation during the trial stage should not warrant the denial of her notice of appeal.

Hayahay likewise alleged that she did not resort to frivolous and dilatory tactics: her counsel immediately filed a Notice of Appeal with Explanation and Apology the moment the procedural error was discovered. She also maintained that there was no disregard of procedural rules.

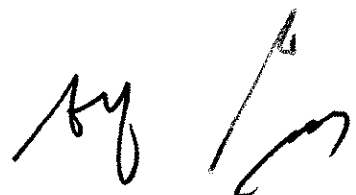
Hayahay insisted that the motion for extension of time to file a petition for review on *certiorari* should be treated as a Notice of Appeal to this Court. She added that there had been substantial compliance on her part to “duly notify this Honorable Court of her intent to appeal its Decision.”<sup>4</sup> Hayahay thus asked that she be given the fullest opportunity to establish the merits of her defense.

In her *Supplemental Motion for Reconsideration*, Hayahay reiterated her prayers in the previously submitted motion for reconsideration. She

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<sup>3</sup> *Id.* at 112-114.

<sup>4</sup> *Id.* at 54.



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insisted that her appeal was extremely meritorious, and asked that she be given the fullest opportunity to establish the merits of her case.

In her Supplemental Motion, Hayahay begged for the indulgence of this Court to allow her to discuss the merits of her appeal, as follows: she was not a signatory to the Memorandum of Agreement and did not have the duty and function to endorse, select and accredit a non-government organization; the meticulous evaluation of the project proposal had been done by the Project Management Bureau and not by the DSWD Chief Accountant; it was the PMB which validated and inspected irregularities or deficiencies in the Liquidation Report; and, she did not act with manifest partiality, evident bad faith or gross inexcusable negligence.

*The Opposition to the motions*

In its *Consolidated Opposition*, the prosecution prayed for the denial of Hayahay's motion for lack of merit. It countered that appeal was not a matter of right, and that parties wishing to appeal must comply with the requirements of the rules.

The prosecution also pointed out that one of the cases cited by the herein accused was misplaced since unlike Hayahay, the accused therein was able to seasonably file an appeal, albeit transmitted to the wrong forum.

The prosecution further argued that Hayahay's failure to seasonably file a Notice of Appeal has rendered the Court's May 27, 2022 Decision final. It added that Hayahay "has not shown that any of the exceptions to the rule on immutability of final judgments is present in these cases."<sup>5</sup>

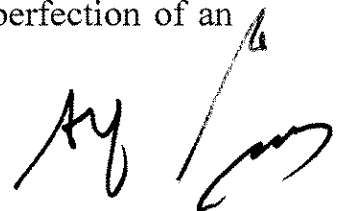
**THE COURT'S RULING:**

We **grant** the motion for reconsideration and supplemental motion for reconsideration filed by accused Leonila M. Hayahay. Accordingly, we set aside our Resolution dated July 20, 2023.

We point out at the outset that appeal is not a matter of right. Parties wishing to appeal must comply with the rules, or risk losing their opportunity to appeal. Accordingly, courts and tribunals have the discretion whether to give due course to an appeal or to dismiss it outright. The perfection of an

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<sup>5</sup> Id. at 118.

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appeal is, thus, jurisdictional. Non-compliance with the manner in which to file an appeal renders the judgment final and executory.

As the Supreme Court held in *Deepak Kumar v. People of the Philippines*:<sup>6</sup>

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

***The attendant circumstances warrant a relaxation of the Rules in the interest of substantial justice***

To recall, this Court 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 per our Decision of May 27, 2022.

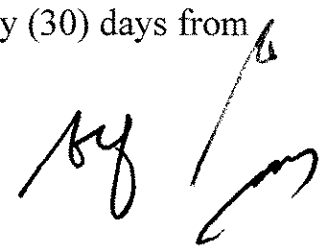
Hayahay timely filed a motion for reconsideration, but we denied her motion in our Resolution dated July 22, 2022. Significantly, Hayahay received a copy of this resolution via mail on July 26, 2022.

Part II, Rule, Section 1(a) of the 2018 Revised Internal Rules of the Sandiganbayan requires the appeal to the Supreme Court in criminal cases decided by the Sandiganbayan in the exercise of its original jurisdiction to be by notice of appeal filed with the Sandiganbayan and by serving a copy thereof upon the adverse party.

In the present case, Hayahay's counsels admitted that instead of filing a notice of appeal, they filed a *motion for extension of time to file petition for review on certiorari xxx* before the Supreme Court on August 10, 2022 where they prayed that they be granted an additional period of thirty (30) days from

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<sup>6</sup> G.R. No. 247661, June 15, 2020.

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August 10, 2022 (or until September 9, 2022) within which to file accused's petition.

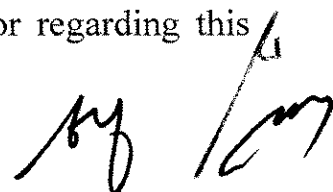
Accordingly, Hayahay's counsels filed before this Court a Notice of Appeal with Explanation and Apology, where they explained that while they were finalizing the petition for review on September 8, 2022, they found out that Section 1 (a), Rule XI of A.M. No. 13-7-05-SC (or the Revised Internal Rules 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.

As earlier stated, we denied this Notice of Appeal in our Resolution of July 20, 2023.

A careful examination of the attendant circumstances in this case leads us to reconsider our denial of the notice of appeal.

It bears pointing out that Hayahay's counsels owned up to their grave oversight and took full responsibility for their mistake and negligence. We emphasize that 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 (6) years and one (1) month, as minimum, to eight (8) years, as maximum. In Criminal Case No. SB-17-CRM-1677, we sentenced both accused to suffer, among others, the indeterminate penalty of twelve (12) years and one (1) day of reclusion temporal, as minimum, to eighteen (18) years, eight months and one (1) day of reclusion temporal, as maximum. Indeed, to deny Hayahay the right to appeal on account of the negligence or incompetence of her counsel would lead to grave consequences. Notably, there is nothing in the records showing that Hayahay had been guilty of contributory negligence for the loss of her right to appeal. As any client not well-versed in the legal processes, she put her full trust to the expertise of his counsels: she had no part whatsoever in the legal processes the said counsels chose to undertake.

We are fully aware that negligence of counsel binds the client, even mistakes in the application of procedural rules. The exception to the rule is when the **reckless or gross negligence** of the counsel deprives the client of due process of law. In the present case, we characterize the mistake of Hayahay's counsels as regards the choice of the mode of appeal to be gross and reckless, owing to the grave consequences of an error regarding this



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matter, that is, the loss of liberty without being able to exercise the right to appeal.

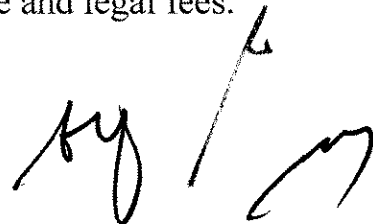
As held by the Honorable Supreme Court in fairly recent case of *Coche v. People*:<sup>7</sup>

To deprive him of his right to appeal because of his reliance in good faith on his counsel would amount to a violation of his right to due process. To send him to prison for life without allowing him to exhaust his rights and remedies under the law would be a travesty of justice and a failure of our judicial system which this Court will not stand for. Consequently, in the interest of equity and substantial justice, We rule to grant the petition and set aside the Entry of Judgment to give due course to Conche's right to a final appeal of his case.

We also take into account that Hayahay's intention to appeal and assert her innocence had been clear and unmistakable, as shown by the following circumstances: filing a motion for extension of time to file petition for review on *certiorari*; and the payment of the docket and other lawful fees. To our mind, these actions, while erroneous, indubitably showed a desire on Hayahay's part to contest his convictions of the crimes charged. Significantly, this motion included the following material statements required in a notice of appeal: party to the appeal; judgment being appealed from; court to which appeal is taken; and the material dates.

In addition, this Court had been furnished a copy of the said *motion for extension x x x* via registered mail on August 12, 2022. The records also revealed that Hayahay's counsel filed an *Urgent Manifestation with Motion for Withdrawal* of the motion for extension on September 15, 2022

Prescinding from the reasons stated above, and in the paramount interest of justice, we thus accept and give due course to Hayahay's notice of appeal, subject to the payment of the appellate and legal fees.

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<sup>7</sup> G.R. No. 253312, March 1, 2023.

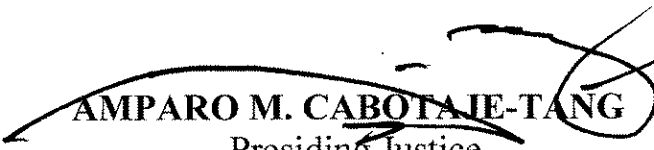
**WHEREFORE**, in light of all the foregoing, the Court resolves to:

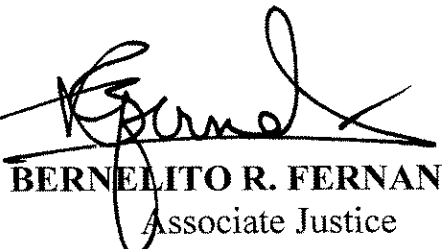
- (a) **GRANT** the Motion for Reconsideration and the Supplemental Motion for Reconsideration filed by accused Leonila M. Hayahay;
- (b) **SET ASIDE** our July 20, 2023 Resolution;
- (c) **GIVE DUE COURSE** to the Notice of Appeal dated September 9, 2022, subject to the payment of the accused of the appellate and legal fees; and
- (d) **ELEVATE** the records of this case to the Supreme Court.

**SO ORDERED.**

  
**RONALD B. MORENO**  
Associate Justice

**WE CONCUR:**

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

  
**BERNEMITO R. FERNANDEZ**  
Associate Justice