



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **November 20, 2019**, which reads as follows:

“G.R. No. 226410 (Romeo G. Panganiban, joined by his wife Perla L. Panganiban v. RCBC Savings Bank and Edgar C. De Asis). - This is a Petition for Review on *Certiorari*¹ of the Resolutions dated February 6, 2015² and August 17, 2016³ of the Court of Appeals (CA) in CA-G.R. CV No. 103300.

On November 9, 2005, petitioners Romeo G. Panganiban (Romeo), joined by his wife Perla L. Panganiban (Perla; collectively, Sps. Panganiban) filed a Complaint for Annulment of Credit Agreement and Real Estate Mortgage and Damages with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction⁴ against respondents RCBC Savings Bank (RCBC) and Edgar C. De Asis (De Asis), vice-president of RCBC. Romeo maintains that he did not authorize his wife Perla to obtain a loan from RCBC. Romeo and Perla are now allegedly separated because they quarreled over the subject loan transaction.⁵

In a Decision⁶ dated July 7, 2014, the Regional Trial Court of Parañaque City, Branch 195 (RTC) dismissed the complaint.⁷ The RTC held that the credit agreement and the real estate mortgage entered into by Sps. Panganiban were perfectly valid.⁸ The RTC considered Romeo’s failure to question the disputed transaction immediately after learning about the alleged forgery committed by his wife Perla in obtaining the loan from RCBC as a condonation and/or ratification of Perla’s act of signing his name in the loan documents without his knowledge and consent.⁹

¹ *Rollo*, pp. 11-20.

² Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Magdangal M. De Leon and Nina G. Antonio-Valenzuela, concurring; id. at 25-26.

³ Id. at 27-28.

⁴ Id. at 29-35.

⁵ Id. at 30-31.

⁶ Penned by Judge Aida Estrella Macapagal; id. at 37-44.

⁷ Id. at 44.

⁸ Id. at 43.

⁹ Id. at 43-44.

Sps. Panganiban filed a Notice of Appeal,¹⁰ which was given due course by the RTC in an Order dated August 14, 2014.¹¹

On October 30, 2014, the CA issued a Notice to File Brief¹² requiring Sps. Panganiban to file their Appellants' Brief within 45 days from receipt thereof. A copy of the notice was received by Sps. Panganiban on November 18, 2014.¹³ On December 23, 2014, Sps. Panganiban allegedly filed a Motion for Extension¹⁴ of 60 days from January 2, 2015, or until March 3, 2015 within which to file their brief. Sps. Panganiban attached the Certification from Records Unit Head Rodrigo SP. Romero of the Central Post Office in Manila stating that the document covered by Registry Receipt No. 055579, which was their Motion for Extension, was posted at the Parañaque City Hall Postal Office on December 23, 2014 and that it was delivered by Timothy M. Gomez to the CA on January 20, 2015.¹⁵ They also attached a copy of the registry receipt with the date stamped "DEC 23 14."¹⁶

In a Resolution¹⁷ dated February 6, 2015, the CA dismissed the case due to the failure of Sps. Panganiban to file their brief within the period prescribed by the Rules of Court (Rules). According to the CA, the Notice to File Appellants' Brief¹⁸ directing Sps. Panganiban to file their Appellants' Brief within 45 days from receipt thereof was received by their counsel on November 18, 2014. Per Docket Book Entry Verification Report dated January 26, 2015, no brief had been filed by Sps. Panganiban.¹⁹

Meanwhile, on March 3, 2015, the last day for filing the brief pursuant to the Motion for Extension, Sps. Panganiban filed their Appellants' Brief²⁰ through registered mail. On March 9, 2015, Sps. Panganiban filed a Motion for Reconsideration and/or Clarification and attached the Certification of Records Unit Head Rodrigo SP. Romero of the Central Post Office in Manila.²¹

In a Resolution²² dated August 17, 2016, the CA denied the Motion for Reconsideration of Sps. Panganiban.²³

In the present petition, Sps. Panganiban insist that the dismissal of their appeal on the ground that they allegedly failed to file their brief within the reglementary period is erroneous because they timely filed a Motion for

¹⁰ Id. at 45-46.
¹¹ Penned by Judge Aida Estrella Macapagal; id. at 47.
¹² Id. at 48.
¹³ Id. at 15.
¹⁴ Id. at 49-50, 52-53.
¹⁵ Id. at 51.
¹⁶ Id. at 49.
¹⁷ Supra note 2.
¹⁸ Id. at 48.
¹⁹ Id. at 25.
²⁰ Id. at 55-69.
²¹ Id. at 71-73.
²² Id. at 27-28.
²³ Id. at 27.

Extension. As a result of the dismissal of their appeal, Sps. Panganiban claim that their constitutional right to be heard was violated.²⁴

In their Comment,²⁵ respondents reiterate that heavy workload, standing alone, is not considered a compelling reason to justify a request for extension of time and that motions for extension are not granted as a matter of right but in the sound discretion of the court.²⁶

After a judicious study of the case, We resolve to remand the case to the CA for further proceedings.

The CA should have taken cognizance of the case instead of dismissing the appeal based on the alleged failure of Sps. Panganiban to timely file their Appellants' Brief. Based on the pleadings submitted, We have established that on October 30, 2014, the CA issued a Notice to File Brief²⁷ requiring Sps. Panganiban to file their Appellants' Brief within 45 days from receipt thereof. A copy of the notice was received by Sps. Panganiban on November 18, 2014.²⁸ On December 23, 2014, or 35 days from receipt of the notice, Sps. Panganiban filed a Motion for Extension, through registered mail, seeking for an extension of 60 days from January 2, 2015 or until March 3, 2015 within which to file their brief.²⁹

Section 13, Rule 13 of the Rules states:

Sec. 13. *Proof of service.* – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Section 7 of this Rule. **If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office.** The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.³⁰
(Emphasis ours)

In order to substantiate the allegation of Sps. Panganiban that they timely filed a Motion for Extension, they attached the Certification from Records Unit Head Rodrigo SP. Romero of the Central Post Office in Manila stating that the document covered by Registry Receipt No. 055579, which was their Motion for Extension, was posted at the Paranaque City Hall Postal

²⁴ Id. at 16-17.

²⁵ Id. at 91-93.

²⁶ Id. at 91-92.

²⁷ Id. at 48.

²⁸ Id. at 15.

²⁹ Id. at 49-50, 52-53.

³⁰ RULES OF COURT, Rule 13, Sec. 13

Office on December 23, 2014 and that it was delivered by Timothy M. Gomez to the Court of Appeals on January 20, 2015.³¹ They also attached a copy of the registry receipt with the date stamped "DEC 23 14," signifying that the Motion for Extension was filed on December 23, 2014, or within the 45-day period to file the brief.³² From January 20, 2015, the date Timothy Gomez received the Motion for Extension, to February 6, 2015, the date he handed the pleading to the Receiving Section Parcel of the CA, there was an inexplicable delay of 17 days.³³ Eleven days after or on February 17, 2015, the 8th Division Clerk of Court received the pleading.³⁴ There was a total of 28 days of delay in transmitting the Motion for Extension to the proper office, which delay cannot be attributed to Sps. Panganiban as they ceased to have control over the Motion for Extension the moment it was filed through registered mail at the Parañaque City Hall Postal Office on December 23, 2014.

Since the Appellants' Brief was timely filed, the appeal should not have been considered abandoned by the CA.

WHEREFORE, the case is hereby **REMANDED** to the Court of Appeals for further proceedings.

SO ORDERED." (Leonen, J., on official business; Gesmundo, J., designated as Acting Chairperson of the Third Division per Special Order No. 2737; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728, on official leave.)

Very truly yours,

Misael D C Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court

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³¹ Id. at 51.
³² Id. at 49.
³³ Id. at 51.
³⁴ Id. at 52.

DE GUIA DE GUIA & ASSOCIATES
Counsel for Petitioners
147 San Antonio Avenue, San Antonio
Valley 1, Sucat, 1700 Paranaque

COURT OF APPEALS
CA G.R. CV No. 103300
1000 Manila

RSB LITIGATION DEPARTMENT-CLSD
Counsel for Respondent
31/F RCBC Savings Bank Corporate Center
26th & 25th Sts., Bonifacio Global City
1630 Taguig City

Mr. Edgar C. De Asis
Respondent
[Present address unknown]

The Presiding Judge
REGIONAL TRIAL COURT
Branch 195, Parafiaque City
(Civil Case No. CV-05-410)

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