



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated February 3, 2020, which reads as follows:

“G.R. No. 249863 (Consuelo Lilian R. Espiritu vs. Field Investigation Office [FIO] II). – This is a Petition for Review on *Certiorari*¹ filed by Consuelo Lilian R. Espiritu (petitioner) assailing the Resolutions dated December 12, 2018² and October 15, 2019³ of the Court of Appeals (CA) in CA-G.R. SP No. 155850, outrightly dismissing petitioner’s petition for review based on technicalities.

Antecedents

Petitioner was designated as Officer-In-Charge of the Financial Planning and Monitoring Division of the Technology Resource Center (TRC). Petitioner, as OIC/Budget Officer of TRC, certifies the budget availability on request for expenditures.

In the year 2007, Congressman Benhur L. Salimbangon (Salimbangon) was allotted an amount of ₱10,000,000.00 as his Priority Development Assistance Fund (PDAF). Through the initiative of Salimbangon, the amount of ₱7,800,000.00 was released under Special Allotment Release Order (SARO) No. ROCS-08-00446 to TRC. Relative to the SARO, the Department of Budget and Management issued Notice of Cash Allocation No. 362078-3 notifying the Land Bank of the Philippines that the amount of ₱7,800,000.00 is to be credited to MDS Sub-Account No. 2001-9016-73 with Agency Code A5514.⁴ Accordingly, the Bureau of Treasury released ₱7,800,000.00 to TRC under Disbursement Voucher (DV) No. 104-08-03-0127.⁵

¹ *Rollo*, pp. 14-33.

² Penned by Associate Justice Sesinando E. Villon, with Associate Justices Edwin D. Sorongon and Germano Francisco D. Legaspi, concurring; *id.* at 6-7.

³ Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Edwin D. Sorongon and Maria Elisa Sempio Diy, concurring; *id.* at 8-10.

⁴ *Id.* at 42.

⁵ *Id.* at 43.

To implement the PDAF of Salimbangon, TRC was made as the implementing agency, with Aaron Foundation Philippines Inc. (AFPI) as the non-government organization, as the beneficiary of the PDAF of Salimbangon. Thus, the TRC, through its Direct General Antonio Yrigon Ortiz (Ortiz), Salimbangon, and AFPI, through its President Pio Ablaza Ronquillo, Jr. (Ronquillo, Jr.), entered into a Memorandum of Agreement (MOA), wherein it is stated that the ₱7,800,000.00 shall be released to AFPI for the implementation of various livelihood projects. Per the MOA, TRC retained the amount of ₱390,000.00 as management/service fee, another ₱390,000.00 for livelihood materials, and ₱780,000.00 as retention fee that will be returned to AFPI upon implementation of the project. Thus, TRC released the amount of ₱6,240,000.00 under an undated DV No. 012008030856 to AFPI.⁶

Upon request of Salimbangon, the amount of ₱780,000.00 was further released to AFPI under DV No. 012008051258 after Salimbangon's information that the livelihood projects and seminars has been fully implemented.⁷

The two DV Nos. 012008030856 and 012008051258 were signed by various officers of TRC, among them was herein petitioner. She certified that the disbursement was within budget.⁸

Due to the government-wide audit on the PDAF allocation and disbursements of certain officials, the Commission on Audit noted various irregularities in the release and utilization of the PDAF of Salimbangon. Thus, the Ombudsman filed criminal complaints for Malversation of Public Funds through Falsification of Public Documents under Article 217, in relation to Article 48 and Article 171 of the Revised Penal Code, and Causing Undue Injury and Giving Unwarranted Benefits through Evident Bad Faith and Manifest Partiality under Section 3(e) of Republic Act No. 3019 against Salimbangon, Molly Concepcion, Ortiz, Dennis Lacson Cunanan, Francisco Baldoza Figura, Maria Rosalinda Masongsong Lacsamana, Maurine Elefante Dimaranan (Dimaranan), Marivic Villaluz Jover (Jover), Ronquillo, Jr. and herein petitioner.⁹

The Ombudsman also filed an administrative complaint for Serious Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service against petitioner, Dimaranan, and Jover, docketed as OMB-C-A-16-0030.¹⁰

⁶ Id. at 44-46.

⁷ Id. at 46.

⁸ Id. at 48.

⁹ Id. at 35.

¹⁰ Id. at 36.

Ombudsman's Ruling

On November 21, 2017, the Ombudsman issued a Decision¹¹ on the administrative complaint finding petitioner and Jover guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, and were meted the penalty of dismissal from the service.

On February 2, 2018, petitioner filed her Motion for Reconsideration.¹² In an Order¹³ dated March 15, 2018, the Ombudsman denied the Motion for Reconsideration.¹⁴

CA Ruling

On May 23, 2018, petitioner filed a Petition for Review (with Motion for Consolidation)¹⁵ with the CA. In a Resolution¹⁶ dated December 12, 2018, the CA dismissed outright the petition on mere technicalities. The CA held that since petitioner received the order of the Ombudsman denying her Motion for Reconsideration on May 7, 2018, the petitioner only has 15 days, or until May 22, 2018, to file her petition for review. Since petitioner only filed her petition, one day late, or only on May 23, 2018, the Order dated March 15, 2018 of the Ombudsman is now final and executory.

Further, the CA held that petitioner failed to state in the verification that the allegations in the petition are true and correct of his personal knowledge and based on authentic records. Also, the notary public failed to state in the jurat the date of issuance of the Integrated Bar of the Philippines (IBP) Lifetime No. 013864 and her Mandatory Continuing Legal Education (MCLE) Certificate of Compliance/Exemption and its date of issuance. Likewise, the petition is not accompanied by certified true copies of pertinent pleadings and documents.¹⁷

On Motion for Reconsideration, the CA denied the same in the Resolution¹⁸ dated October 15, 2019.

Thus, petitioner now comes before this Court asking for leniency and the relaxation of the technical rules of procedure. The petitioner sought the remand of the case to the CA for the latter to decide the case on the merits.

Petitioner argued that the stringent application of the technical rules of procedure must be relaxed in this case, considering that strong considerations of substantial justice are manifest. The case involves her

¹¹ Penned by Graft Investigation and Prosecution Officer III Leilani P. Tagulao-Marquez; id. at 512-534.

¹² Id. at 535-553.

¹³ Penned by Graft Investigation and Prosecution Officer III Leilani P. Tagulao-Marquez; id. At 554-560.

¹⁴ Id. at 2.

¹⁵ Id. at 561-590.

¹⁶ Supra note 2.

¹⁷ *Rollo*, p. 2.

¹⁸ Supra note 3.

dismissal from public service despite her long service in the government. Further there was no prejudice caused due to the filing of the petition for review belatedly.

Petitioner also claimed that contrary to the CA, the verification attached to the petition filed before the CA contained that “[t]he facts and circumstance in the petition are true, correct, based on records of the case and my personal knowledge.”¹⁹ Also, the failure of the notary public to indicate the date of issuance of the IBP Lifetime membership and her MCLE Compliance in the jurat of the verification is not a ground to dismiss the petition. It will only subject the lawyer to disciplinary action or fine. Nevertheless, verification is not a jurisdictional requirement, it is merely a formal requirement, which the court may direct to be corrected or waived in order to meet the ends of justice.

As to the failure of petitioner in attaching certified true copies of pertinent pleadings and documents, she claimed that in her motion for reconsideration before the CA, she already attached certified true copies of the Ombudsman Decision dated November 21, 2017 and Order dated March 15, 2018. Thus, petitioner’s substantial compliance with the rules should have prompted the CA to reinstate the case and decide the same on the merits.²⁰

The Court’s Ruling

After a judicious review of the case, We resolve to remand the case to the CA and to decide the same based on its merits.

While it is true that the right to appeal is not a natural right, but merely a statutory privilege, and the appellant must exercise the same in the manner and in accordance with what is provided for under the law, procedural rules are merely designed to facilitate the adjudication of cases properly. It is not intended to frustrate the ends of justice. The resolution of cases justly and based on the merits cannot be sacrificed merely to decide the same based on technicalities. If the rigid application of the rules of procedure will tend to obstruct the dispensation of justice, such as where strong considerations of substantial justice are manifest in the petition, the rules of procedure can be relaxed.²¹

Be it noted that the petition filed with the CA was only filed one day late and no prejudice was caused for the delay. The fact that the case involves petitioner’s livelihood because she was ordered dismissed from government service and the policy that as much as possible cases are decided based on the merits, the CA should have decided the case based on

¹⁹ *Rollo*, p. 28.

²⁰ *Id.* at 22-23.

²¹ *Curammeng v. People*, 799 Phil. 575, 581 (2016).

the merits and not dismissed it outright based on technicalities.

WHEREFORE, the case is **REMANDED** to the Court of Appeals for resolution of the case on the merits.

SO ORDERED.”

Very truly yours,

Mis-DC Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court
gmr
2/2/20

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