



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated December 9, 2020 which reads as follows:

“G.R. No. 209824 – (P02 LEONCIO P. CANOY, *petitioner* v. ARNEL C. TANCINCO, *respondent*). – The present petition for review on *certiorari*¹ assails the October 14, 2011² and the October 8, 2013³ Resolutions of the Court of Appeals (CA) in CA-GR. SP No. 06121, which dismissed Police Officer 2 Leoncio P. Canoy’s (Canoy) petition for *certiorari* against the May 12, 2009 Decision and March 14, 2011 Order of the Office of the Ombudsman in Case No. OMB-P-A-07-0580-E.

Canoy is a member of the Philippine National Police (PNP) assigned at the Mandaue City Police Office;⁴ while respondent Arnel C. Tancinco was then the Executive Officer of the Cebu City Traffic Operations Management (CITOM) office.⁵

The records show that sometime between 2007 and 2008, Canoy was charged with forging the documents required for the release of a passenger utility vehicle which was being held in the CITOM impounding area.⁶ As the erstwhile head of CITOM, Tancinco filed the criminal and administrative complaints against Canoy.⁷ Accordingly, Canoy was administratively charged with grave misconduct before the

- over – five (5) pages ...

168

¹ Rollo, pp. 11-33.

² Id. at 35-37; penned by Associate Justice Edgardo L. Delos Santos (now a member of this Court, with Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Victoria Isabel A. Paredes, concurring.

³ Id. at 38-39; penned by Associate Justice Edgardo L. Delos Santos (now a member of this Court, with Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Maria Elisa Sempio Diy, concurring.

⁴ Id. at 12.

⁵ Id. at 65-66.

⁶ Id. at 43.

⁷ Id. at 66

Military and Other Law Enforcement Officers (OMB-MOLEO);⁸ and criminally charged with estafa through falsification of public documents before the trial court. The criminal case was raffled to and tried by Branch 14 of the Regional Trial Court (RTC) of Cebu City.⁹ On February 14, 2013,¹⁰ the trial court acquitted Canoy, on the ground of the prosecution's failure to prove that he was the author of the falsification.¹¹

Meanwhile, in the administrative proceeding, the OMB-MOLEO rendered a decision dated May 12, 2009, finding Canoy guilty of dishonesty and dismissing him from the police force.¹² Canoy alleges that he only learned about the OMB-MOLEO ruling on April 26, 2010, when the PNP National Headquarters issued his dismissal orders.¹³ Canoy filed a motion for reconsideration on May 26, 2010. On March 14, 2011, the OMB-MOLEO denied Canoy's motion for reconsideration.¹⁴ Canoy received a copy of the OMB-MOLEO order denying his motion for reconsideration on July 14, 2011.¹⁵

Aggrieved, Canoy filed on July 29, 2011, a motion for extension of time to file a petition for certiorari before the CA, seeking a 15-day extension.¹⁶ The CA granted Canoy's motion.¹⁷ Canoy filed his petition for certiorari via registered mail on August 15, 2011.¹⁸ On October 14, 2011, the CA rendered the first assailed resolution, which states in part:

On July 29, 2011, [Canoy] filed a motion for extension of time for fifteen (15) days from July 29, 2011 or until August 13, 2011, within which to file his petition for review from the Decision dated May 12, 2009 and Order dated March 14, 2011 of the Office of the Ombudsman in OMBP-A-07-0580-E. Considering that August 13, 2011 falls on a Saturday, [Canoy] has until the following Monday, or August 15, 2011, to seasonably file his petition. The Court finds merit to the motion and grants the same in the interest of substantive justice.

Lamentably, [Canoy] failed to file his petition on time. A perusal of the envelope that contained his petition shows that it was sent to this Court by registered mail only on August 16, 2011. Apparently, [Canoy] was one day late in filing his petition. By then, the assailed Decision and Order of the Office of the Ombudsman

- over -

168

⁸ Id. at 12-13.

⁹ Id. at 13.

¹⁰ Id. at 43-59; penned by Presiding Judge Raphael B. Yrastorza, Sr.

¹¹ Id. at 59.

¹² Id. at 13. The records do not include a copy of the OMB-MOLEO decision.

¹³ Id.

¹⁴ Id. The records do not include a copy of the OMB-MOLEO order.

¹⁵ Id.

¹⁶ Id. at 14, 35. The records do not include a copy of the motion for extension.

¹⁷ Id. at 35.

¹⁸ Id. at 16. The records do not include a copy of the petition.

have already attained finality. Once a judgment has become final the appellate court is devoid of jurisdiction to entertain an appeal therefrom.

x x x x

Moreover, the Court also observes the following defects in the petition, to wit:

- a.) the copies of the assailed judgment and order attached to the petition are neither original nor certified true copies thereof, in violation of Section 6, Rule 43 of the Revised Rules of Court;
- b.) contrary to the provision of Section 4, Rule 7 of the Rules of Court, the verification failed to state that the allegations in the petition are based on authentic records; and
- c.) The notarial certificates in the verification and certification against forum shopping do not conform with Section 2(c), Rule VIII of the 2004 Rules on Notarial Practice.¹⁹

Canoy moved for reconsideration,²⁰ which the CA denied in the second assailed resolution; hence, this recourse, which raises the sole issue of whether the CA erred in dismissing Canoy's petition on the grounds of belated filing and procedural defects.

Considering that Canoy's petition stems from the administrative proceeding against him, the applicable law is Rule 43 of the Rules of Court, which governs appeals from decisions and other final orders of the Ombudsman in administrative cases.²¹ Under Section 4 of Rule 43, the aggrieved party has 15 days from notice or publication of the assailed judgment or denial of motion for reconsideration thereof to file an appeal with the CA. Also applicable to this petition is Rule 45, Section 4, which requires *inter alia* that a petition for review to this Court must contain such material portions of the record as would support the petition. In the case at bar, apart from the certified copies of the assailed resolutions, the lone attachment to the petition for review filed before this Court is the RTC decision in the estafa case against Canoy. The assailed orders of the OMB-MOLEO, the petition for review filed with the CA, and the motion for reconsideration from the first assailed CA resolution were not included in the petition, nor were they ever submitted for the consideration of this Court.

- over -

168

¹⁹ Id. at 35-36.

²⁰ Id. at 14. The records do not include a copy of the motion for reconsideration.

²¹ *Fabian v. Hon. Desierto*, 356 Phil. 787, 804 (1998).

Canoy alleges that the CA erred in considering his petition as belatedly filed, since the registry receipt issued to him when he filed the petition by registered mail clearly shows that the same was mailed on August 15, 2011, which is the last day of the period within which Canoy may file the petition. However, as was earlier mentioned, neither the registry receipt nor the motion for reconsideration with the CA was attached to Canoy's petition or incorporated into the records of this Court. Absent such documentary proof, his allegation that the petition was indeed filed on August 15, 2011 remains unsubstantiated.²²

Furthermore, given his allegations that the OMB-MOLEO erred in the appreciation of the evidence against him, Canoy should have attached his petition for review before the CA and the OMB-MOLEO's orders to his petition for review before this Court. Without these documents, the Court has no means of ascertaining, apart from the bare allegations in his petition for review before this Court, if there is indeed substantive merit to his petition for review before the CA which would justify a relaxation of the procedural rules in the name of substantial justice.

While courts are empowered to dispense with or relax the application of procedural rules in the name of substantial justice, litigants and counsels must likewise adduce proper and sufficient proof that their claims are meritorious enough to warrant the exercise of this power by the courts. Without such proof of substantive merit, the rigorous standards set by our procedural laws must prevail. As Our ruling in *Philippine Merchant Marine School, Inc. v. Court of Appeals*²³ instructs:

As a last recourse, petitioner contends that the interest of substantial justice would be served by giving due course to the appeal. However, we must state that the liberality with which we exercise our equity jurisdiction is always anchored on the basic consideration that the same must be warranted by the circumstances obtaining in each case. Having found petitioner's explanation less than worthy of credence, and without evidentiary support, we are constrained to adhere strictly to the procedural rules on the timeliness of submission before the court.²⁴

Consequently, without the necessary documentary proof to support its allegations of substantive merit, this Court is constrained to deny the present petition.

- over -

168

²² At the very least, a copy of the registry receipt itself must be submitted to this Court. A bare allegation that the petition was timely filed does not suffice. See *Bismonte, et al. v. Golden Sunset Resort and Spa*, G.R. No. 229326, November 5, 2018; *Quebral, et al. v. Angus Construction, Inc., et al.*, 798 Phil. 179, 185-186 (2016).

²³ 432 Phil. 733 (2002).

²⁴ *Id.* at 742.

WHEREFORE, premises considered, the petition is hereby **DENIED** for failure to comply with the requirements set forth in Rule 45 of the Rules of Court.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
168

RUIZ PAYOT MONTENEGRO
& ASSOCIATES
Counsel for Petitioner
Unit 1, H Villalon Building
260 Osmeña Boulevard, 6000 Cebu City

Court of Appeals
6000 Cebu City
(CA-G.R. SP No. 06121)

Atty. Rico P. Abellanos
Counsel for Respondent
Cebu City Legal Office
Ground Floor, City Hall Building
Corner M.C. Briones & D. Jakosalem
Streets, 6000 Cebu City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Mr. Arnel C. Tancinco
Respondent
c/o The Director/Chief
LAND TRANSPORTATION OFFICE
Region 7
Bacalso Avenue, 6000 Cebu City

Judgment Division (x)
Supreme Court

The Hon. Presiding Judge
Regional Trial Court, Branch 14
6000 Cebu City
(Crim. Case No. CBU-89141)

UR



