

515 Phil. 568

SECOND DIVISION

[G.R. NO. 139596. January 24, 2006]

CHARLES CU-UNJIENG, PETITIONER, VS. HON. COURT OF APPEALS AND UNION BANK OF THE PHILIPPINES, RESPONDENTS.

DECISION

GARCIA, J.:

By this petition for review on certiorari, petitioner Charles Cu-Unjieng seeks the reversal of the following issuances of the Court of Appeals (CA) in CA-G.R. CV No. 8177-B-UDK, entitled *Charles Cu-Unjieng, plaintiff-appellant vs. Union Bank of the Philippines, et al., defendants-appellees*, to wit:

1. **Resolution^[1] dated May 10, 1999**, dismissing, for non-payment of docket and other lawful fees, petitioner's appeal from an earlier decision of the Regional Trial Court at Malolos, Bulacan which dismissed his complaint for specific performance and damages against respondent Union Bank of the Philippines and others; and
2. **Resolution^[2] dated July 30, 1999** which denied petitioner's Motion for Reconsideration and ordered expunged the appeal brief thereto attached.

The facts:

Respondent Union Bank of the Philippines (UBP) is the owner of a parcel of agricultural land with an area of 218,769 square meters situated in Barangay Sta. Maria, San Miguel, Bulacan and registered in its name under Transfer Certificate of Title (TCT) No. TC-1062 of the Registry of Deeds of Bulacan.

Sometime in January 1994, UBP caused the posting on the bulletin boards of its branch offices of a three-page list of acquired realty assets available for sale to interested parties. Included in said list was the aforementioned parcel of land, offered to be sold for P2,200,000.00.

Petitioner, through a letter^[3] dated April 11, 1994 and addressed to Joselito P. Valera, manager of UBP's Acquired Assets Department, offered to buy the subject property for a lesser amount of P2,078,305.50, payable as follows: 50% as down payment with the balance to be paid in equal monthly installments over a period of two (2) years. Petitioner explained that his offer for an amount lesser than UBP's asking price was on account of five (5) tenants occupying the subject land who were allegedly demanding P500,000.00 to voluntarily vacate the same.

As proof of his interest to buy the property, petitioner tendered PCIB Check No. 565827 for P103,915.27, purportedly representing 10% of the 50% down payment as earnest money or deposit. UBP acknowledged receipt thereof by way of Union Bank Receipt No. 495081 dated April 11, 1994.

On August 30, 1994, petitioner wrote a follow-up letter to UBP inquiring on the status of his offer to buy the subject premises.^[4]

Via a reply-letter dated August 31, 1994, the manager of UBP's Acquired Assets Department advised petitioner that his offer to purchase is yet to be acted upon because the bank was still awaiting the opinion of its legal division regarding the sale of "CARPable" agricultural assets acquired by the bank.^[5]

As it turned out, UBP rejected petitioner's offer as shown by the fact that in another letter^[6] dated December 19, 1994, the bank informed petitioner that his offer could not be favorably acted upon on account of the legal division's opinion that sales of lands covered by the Comprehensive Agrarian Reform Law without prior Department of Agrarian Reform (DAR) approval are considered null and void. Accordingly, UBP advised petitioner to pick up the refund of his P103,915.27 "earnest money" at the bank's disbursing unit.

Unable to accept UBP's rejection of his offer, petitioner, through counsel, made a formal demand^[7] for the bank to comply with its obligation to transfer and deliver the title of the subject property to him by executing the proper deed of conveyance, under the terms and conditions set forth in his April 11, 1994 offer.

Responding thereto, UBP, thru its counsel, Atty. Luzano, in a letter^[8] dated July 19, 1995, reiterated the bank's rejection of petitioner's offer as "the land being **carpable** could only be disposed of by the bank either thru Voluntary Offer to Sell (VOS) or compulsory acquisition, the procedure of which is outlined in Sec. 16" of Republic Act (RA) No. 6657.

It was against the foregoing backdrop of events that, on February 6, 1997, in the Regional Trial Court (RTC) at Malolos, Bulacan, petitioner filed his complaint^[9] in this case for *Specific Performance and Damages against* UBP, impleading as co-defendant in the suit the Register of Deeds of Bulacan. Docketed as Civil Case No. 80-M-97 and raffled to Branch 9 of the court, the complaint principally sought UBP's compliance with an alleged perfected contract of sale between it and petitioner relative to the parcel of land in question. More specifically, the complaint prays for a judgment ordering UBP to:

- a) accept payments from the plaintiff [petitioner] for the sale of the Property in accordance with the terms and conditions of the letter dated 11 April 1994;
- b) execute a Deed of Absolute Sale over the Property covered by TCT No. TC 1062 of the Registry of Deeds of the Province of Bulacan upon the plaintiff's full payment of the amount of *Two Million Seventy Eight Thousand Three Hundred Five & 50/100 (P2,078,305.50)*, failing in which, the deputy sheriff should be ordered to execute such deed and the Registry of Deeds to cancel the title of the Bank and issue a new one in favor of the plaintiff;
- c) pay plaintiff the sum of *Five Hundred Thousand Pesos (P500,000.00)* as moral damages;
- d) pay plaintiff the sum of *Five Hundred Thousand Pesos (P500,000.00)* as exemplary damages;
- e) pay plaintiff the sum of *Four Hundred Thousand Pesos (P400,000.00)* as attorney's fees; and
- f) pay the costs of the suit.

Other reliefs, just and equitable under the premises, are likewise respectfully prayed for.

After due proceedings, the trial court, in a decision dated September 1, 1998,^[10] upon a finding that no perfected contract of sale transpired between the parties, dismissed petitioner's complaint for lack of sufficient cause of action, thus:

WHEREFORE, on the basis of the evidence adduced and the laws/jurisprudence

applicable thereon, judgment is hereby rendered DISMISSING the complaint in the above entitled case for want of sufficient cause of action as well as the defendant's counterclaim for damages and attorney's fees for lack of proof to warrant the same.

However, defendant Union Bank of the Philippines is ordered to reimburse plaintiff Charles Cu-Unjieng the amount of P103,915.27 representing the face value of PCIBank Check No. 565827 tendered by the latter to the former as purported "earnest money", with interest thereon at the prevailing rates of interest periodically bestowed by UBP to its savings depositors from April 11, 1994, through the succeeding years, and until the full amount thereof shall have been delivered to the plaintiff.

No pronouncement as to costs.

SO ORDERED.

With his motion for reconsideration having been denied, petitioner filed with the trial court a *Notice of Appeal*^[11] therein making known that he is taking an appeal from the adverse decision to the CA. Acting thereon, the trial court issued an Order^[12] directing the elevation of the records of the case to the CA, whereat petitioner's appeal was docketed as *CA-G.R. CV No. 8177-B-UDK*.

As things would have it, in the herein first assailed **Resolution dated May 10, 1999**, the CA dismissed petitioner's appeal for nonpayment of the required docket and other lawful appeal fees, to wit:

For failure of the appellant [petitioner] to pay the docket and other lawful fees (Sec. 4, Rule 41, 1997 Rules of Civil Procedure), the Court Resolved to DISMISS the appeal pursuant to Sec. 1(c), Rule 50 of the same Rule.

SO ORDERED.^[13]

Petitioner filed a *Motion for Reconsideration*, attaching thereto his appellant's brief. However, in a subsequent **Resolution dated July 30, 1999**,^[14] the appellate court denied the motion and even expunged from the record the appellant's brief thereto attached:

Acting on the motion of the plaintiff-appellant [petitioner] for a reconsideration of the Resolution of May 10, 1999, which dismissed the appeal for the reason stated therein, and considering the opposition interposed thereto by defendant-appellee [respondent] Union Bank of the Philippines and it appearing that the filing of the notice of appeal of November 5, 1988, was not accompanied by the full and correct payment of the corresponding appellate court docket and other lawful fees, and for such tardiness of more than four (4) months, the Court resolved to **DENY** the motion for reconsideration and the attached brief thereto ordered **EXPUNGED**.

In *Pedrosa vs. Hill*, 257 SCRA 373, the Supreme Court, citing *Rodillas vs. Commission on Elections* (245 SCRA 702 aptly said:

xxx the mere filing of the notice of appeal was not enough. It should be accompanied by the payment of the correct amount of appeal fee. In other words, the payment of the full amount of the docket fee is an indispensable step for the perfection of an appeal. In both original and appellate cases, the court acquires jurisdiction over the case only upon the payment of the prescribed docket fees. Well-rooted is the principle that perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory, and deprives the appellate court or body of jurisdiction to alter the final judgment much less to entertain the appeal. This requirement of an appeal fee is by no means a mere technicality of law or procedure. It is an essential requirement without which the decision appealed from would become final and executory, as if no appeal was filed at all.

SO ORDERED.

Undaunted, petitioner is now with us via the present recourse seeking a relaxation of procedural rules and ultimately the reversal and setting aside of the assailed twin resolutions of the appellate court.

Petitioner would have the Court view his failure to pay the appeal docket fees on time as a non-fatal lapse, or a non-jurisdictional defect which the CA should have ignored in order to attain substantial justice. Further, petitioner passes the blame to the RTC clerk of court who

allegedly made the erroneous computation of docket fees.

We are not persuaded.

Doctrinally entrenched is the pronouncement that the right to appeal is merely statutory and a party seeking to avail of that right must comply with the statute or rules.^[15]

Rule 41, Section 4, of the 1997 Rules of Civil Procedure provides:

SEC. 4. Appellate court docket and other lawful fees. - Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

Well-settled is the rule that payment of the docket and other legal fees within the prescribed period is both mandatory and jurisdictional,^[16] noncompliance with which is fatal to an appeal. For, to stress, appeal is not a matter of right, but a mere statutory privilege.^[17]

An ordinary appeal from a decision or final order of the RTC to the CA must be made within fifteen (15) days from notice.^[18] And within this period, the full amount of the appellate court docket and other lawful fees must be paid to the clerk of the court which rendered the judgment or final order appealed from.

Time and again, this Court has consistently held that full payment of docket fees within the prescribed period is mandatory for the perfection of an appeal. Without such payment, the appeal is not perfected and the appellate court does not acquire jurisdiction to entertain the appeal, thereby rendering the decision sought to be appealed final and executory.^[19]

For sure, nonpayment of the appellate court docket and other lawful fees within the reglementary period as provided under Section 4, Rule 41, supra, is a ground for the dismissal of an appeal under Section 1(c) of Rule 50, to wit:

SECTION 1. Grounds for dismissal of appeal.- An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

XXX XXX XXX

c. Failure of the appellant to pay the docket and other lawful fees as provided in section 4 of Rule 41; xxx

This Court has invariably sustained the CA's dismissal on technical grounds under the aforementioned provision unless considerations of equity and substantial justice present cogent reasons to hold otherwise. True, the rules may be relaxed but only for persuasive and weighty reasons, to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure.^[20] So it is that in *La Salette College vs. Victor Pilotin*,^[21] we held:

Notwithstanding the mandatory nature of the requirement of payment of appellate docket fees, we also recognize that its strict application is qualified by the following: first, failure to pay those fees within the reglementary period allows only discretionary, not automatic, dismissal; second, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances

Then, too, in *Mactan Cebu International Airport Authority (MCIAA) vs. Mangubat*,^[22] we held that late payment of docket fees may be admitted when the party showed willingness to abide by the Rules by immediately paying the required fees. *Mactan*, however, cannot be a source of comfort for herein petitioner. For there, the appellate docket fees were paid six (6) days after the timely filing of the notice of appeal. Unlike in *Mactan*, payment of the appellate docket fees in this case was effected by petitioner only after four (4) months following the expiration of the reglementary period to take an appeal.

With the reality obtaining in this case that payment of the appellate docket fees was belatedly made four (4) months after the lapse of the period for appeal, it appears clear to us that the CA did not acquire jurisdiction over petitioner's appeal except to order its dismissal,^[23] as it rightfully did. Thus, the September 1, 1998 decision of the RTC has passed to the realm of finality and became executory by operation of law.

We must emphasize that invocation of substantial justice is not a magical incantation that will automatically compel this Court to suspend procedural rules. Rules of procedure are not

to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed. So it must be here.

WHEREFORE, petition is **DENIED** and the assailed resolutions dated May 10, 1999 and July 30, 1999 of the Court of Appeals **AFFIRMED**.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona and Azcuna, JJ., concur.

[1] Penned by Associate Justice Teodoro P. Regino (ret.) with Associate Justices Salome A. Montoya (ret.) and Conrado M. Vasquez, Jr., concurring; CA Rollo, p. 9.

[2] SC Rollo, pp. 6-7.

[3] Folder of Exhibits, Annex C.

[4] *Ibid*, Annex E.

[5] *Ibid*, Annex F.

[6] *Ibid*, Annex G.

[7] *Ibid*, Annex I.

[8] Folder of Exhibits, Annex "J."

[9] Record, pp. 1-7.

[10] Record, pp. 215-227; Penned by Judge D. Roy A. Masadao, Jr.

[11] Record, p. 251.

[12] Record, p. 253.

[13] CA Rollo, p. 9.

^[14] CA Rollo, pp. 60-61.

^[15] *Raymundo Villamor and Wenefreda Villamor vs. Heirs of Sebastian Tolang*, G.R. No. 144689, June 9, 2005.

^[16] *Lazaro vs. Court of Appeals*, 330 SCRA 208 (2000).

^[17] *Badillo vs. Tayag*, 400 SCRA 494 (2003).

^[18] Rule 41, Section 3, 1997 Rules of Civil Procedure.

^[19] *Navarro vs. Metropolitan Bank and Trust Co.*, 429 SCRA 439 (2004), citing *Alfonso vs. Andres*, 390 SCRA 465 (2002).

^[20] *Ibid.*

^[21] 418 SCRA 381, 387 (2003).

^[22] 312 SCRA 463 (1999).

^[23] *Far Corporation vs. Renato Magdaluyo, Antonio Valdez, and Rolando Chua*, 443 SCRA 218 (2004).