

Title: Bersabal v. Judge Salvador, et al.

Facts: Purita Bersabal (Petitioner) was involved in an ejectment suit filed against her by Tan That and Ong Pin Tee (Private Respondents) in the City Court of Caloocan City. The case, initially decided on November 25, 1970, was appealed by Bersabal to the Court of First Instance (CFI) of Caloocan City and designated as Civil Case No. C-2036.

The respondent judge, Honorable Serafin Salvador, ordered in compliance with Republic Act No. 6031, that the transcript of stenographic notes from the City Court should be forwarded to the CFI and gave both parties 30 days from receipt of this order to file their respective memoranda. On May 5, 1971, Bersabal moved for permission to submit her memorandum within 30 days from the receipt of the transcript of notes. Although the motion was granted, before Bersabal could receive notice of the transcript being submitted, the respondent judge dismissed the appeal for Bersabal's failure to prosecute because the memorandum was not filed within the set timeline. Bersabal's subsequent motions for reconsideration were denied, prompting her to bring the matter before the Supreme Court.

Procedurally, the case initially arose from an ejectment proceeding. After the appeal to the CFI and a series of orders regarding the submission of the memorandum, the appeal was dismissed. The case reached the Supreme Court via certified question of law by the Court of Appeals as stipulated in Section 17, paragraph (4) of the Judiciary Act of 1948 (as amended).

Issues:

1. Whether the failure to submit a memorandum on time can justify the dismissal of an appeal on grounds of lack of prosecution.
2. Whether the CFI is mandated to decide the appealed case based on available evidence and records regardless of the appellant's failure to submit a memorandum.

Court's Decision:

The Supreme Court ruled that under the second paragraph of Section 45 of R.A. No. 296, as amended by R.A. No. 6031, the submission of memoranda is optional for the parties. A failure to submit a memorandum does not warrant the dismissal of an appeal for failure to prosecute. Instead, it is imperative for the CFI to proceed with deciding the case based on evidence and records transmitted from the lower court, with or without the memoranda. The word "shall" used in the statute creates an obligatory duty that cannot be disregarded. The case's dismissal by the CFI for the appellant's failure to submit her memorandum was thus ruled null and void, and the CFI was directed to decide the appeal on its merits.

Doctrine:

The submission of memoranda in appealed cases from city or municipal courts to Courts of First Instance is optional for the parties. Failure to submit a memorandum does not authorize the dismissal of the appeal for lack of prosecution. The Court of First Instance has a mandatory duty to decide the appeal based on the evidence and records transmitted from the lower courts.

Class Notes:

Key Concepts: Appeal process, Memorandum submission, Discretion vs. Mandatory directives, Interpretation of statutes (Rule 50, Section 1 and Rule 40, Section 9, Rules of Court).

Critical Statutory Provisions: Republic Act No. 6031; Republic Act No. 296 Section 45.

Application: Courts must decide appeals on the merits based on court records and evidence, irrespective of whether the appellant submits a memorandum. The term “may” in statutes generally implies discretion, while “shall” indicates an obligatory action.

Historical Background:

Bersabal v. Judge Salvador, et al. reflects the Philippine judiciary’s approach to the procedural requirements of appeals from municipal to higher-level courts during the 1970s, post the amendment of the Judiciary Act of 1948 by R.A. No. 6031. The period was marked by legal reforms to streamline the appeal process and reduce technicalities that could deprive litigants of the opportunity to have their case justly resolved on the merits. The Court’s ruling in this case confirmed the intention to simplify appeals and prevent dismissals grounded on the mere technicality of failing to file non-mandatory memoranda.