

IMELDA M. DE LATORRE, PETITIONER-APPELLANT, VS. VICTOR M. DE LATORRE, JR., DEFENDANT-APPELLEE.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

In Our Resolution[1] dated October 17, 2013, We required the petitioner-appellant to submit to this Court within a non-extendible period of ten (10) days from notice, a certification from the postmaster concerned stating the exact date when the registered mails containing the Appellant's Brief had been received by the Office of the Solicitor General and the defendant-appellee Victor De Latorre.

The Notice of Resolution was received[2] by petitioner-appellant on December 10, 2013, as per registry return receipt.

Upon verification of the case, the Judicial Records Division (CA-JRD), made a report that petitioner-appellant failed to comply with the directive in the Resolution dated October 17, 2013, as per Cebu Civil docket entry[3] dated June 20, 2014.

Under Rule 17 of the Rules of Court, Section 3. Dismissal due to fault of plaintiff, reads:

Sec. 3. Dismissal due to fault of plaintiff. - if, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.(emphasis supplied)

Here, petitioner-appellant failed to comply the directive of the Court for an unreasonable length of time despite receipt of notice per the report dated June 20, 2014 of the Judicial Records Division (CA-JRD). This circumstance shows petitioner-appellant's lack of interest and laxity in prosecuting her case.

WHEREFORE, pursuant to Section 3, Rule 17[4] of the Revised Rules of Court, the appeal is hereby DISMISSED.

SO ORDERED.

Ingles,[*] and Lopez, JJ., concur.

[*] In lieu of Justice Edgardo L. Delos Santos who is on wellness leave per Office Order No. 13-14-GTI.

[1] Rollo, page 68.

[2] Rollo, dorsal portion of page 68.

[3] Rollo, dorsal portion of page 68.

[4] SEC. 3. Dismissal due to fault of plaintiff. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

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