

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ERLINDA LAREZA, ACCUSED-APPELLANT.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

On September 3, 2010, a Resolution[1] was issued requiring accused-appellant to show cause why the Appeal should not be dismissed for her failure to file an Appellant's brief. The Resolution read as follows:

"Considering that this is a heinous crimes case where the accused-appellant was sentenced to suffer life imprisonment, appellant is required to SHOW CAUSE within 10 days from notice why her appeal should not be ordered dismissed for the failure to file her brief within the reglementary period despite due notice." [2] (Emphasis supplied)

Per Judicial Records Division Report[3] dated January 24, 2013, accused-appellant still failed to file an Appellant's Brief or to comply with Our Resolution[4] dated September 3, 2010 despite receipt of Our Resolution[5] by her counsel on September 27, 2010[6].

Under Rule 50, Section 1(e) of the Rules of Court, and as emphasized in Arlyn Pineda vs. Julie Arcalas citing Gonzales v. Gonzales,[7] the failure of the appellant to file the Appellant's Brief on time justifies the dismissal of the appeal:

"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:

x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules." (Emphasis Ours)

Moreover, for accused-appellant's failure to comply with Our Resolution[8] of September 3, 2010, accused-appellant's Appeal is also dismissible under Section 1(h) of Rule 50 of the Rules of Court, which provides:

"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

(h) Failure of the appellant to appear at the preliminary conference under Rule 48 or to comply with orders, circulars, or directives of the court without justifiable cause; and" (Emphasis supplied)

That accused-appellant's failure to comply with the Court's order or directive within the required period warrants the dismissal of her Appeal, is pursuant to the following pronouncement of the Supreme Court in Zamboanga Forest Managers Corp. vs. New Pacific Timber and Supply Co., G.R. No. 173342, October 13, 2010:

"By and of itself, a party's failure to comply with the CA's directive without justifiable cause is also a ground

for the dismissal of an appeal under Section 1 (h), Rule 50 of the Rules." (Emphasis supplied)

IN VIEW OF ALL THESE, the Appeal is DISMISSED.

SO ORDERED.

Didican (Chairman) and Paredes, JJ., concur.

[1] Rollo, p. 71.

[2] Rollo, p. 71.

[3] Rollo, p. 72 (Dorsal portion)

[4] Rollo, p. 71.

[5] Rollo, p. 71.

[6] Rollo, p. 73.

[7] G.R. No. 170172, November 23, 2007.

[8] Rollo, p. 71.

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