

**LEONIDISA A. TAN, NICOLASA A. TAN AND MARIA A. TAN,
PLAINTIFFS-APPELLEES, VS. HEIRS OF GAVINA DABON,
DEFENDANTS-APPELLANTS.**

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

On January 13, 2014, this Court issued a Minute Resolution[1] requiring the parties and their counsels to take the necessary steps for the completion of records of the case or, in the alternative to manifest before this Court, within a non-extendible period of ten [10] days from receipt thereof whether they are dispensing with the submission of the Minutes of the Hearing conducted on May 18, 2009 before the RTC.

Candidly, there was error in the said resolution because it stated that absent compliance by the parties, the case will be submitted for decision but to date, the records are still incomplete and We have not required the parties to file their respective briefs, thus, the phrase submitted for decision was erroneously used therein.

In the case at bench, as shown by the Registry Return Cards the defendants-appellants themselves as well as their counsel received the Minute Resolution on January 23, 2014[2], but per Judicial Records Division Report dated May 15, 2014 no compliance was made by defendants-appellants.[3]

It must be stressed that while it is the duty of the clerk of the lower court to transmit the records of an appealed case to the appellate court, it is also the duty of the appellant to make the clerk of court act, and the failure of the clerk to perform his legal duty is no justification for the appellant's failure to perform his. The rule that it is the duty of the appellant to prosecute his appeal with reasonable diligence is still a sound rule. He cannot simply "fold his hands" and say that it is the duty of the clerk of court to have his case promptly submitted to the appellate court for the disposition of his appeal. This absence of an awareness or regard on the part of the defeated litigant to personally see to it that the needed records are forthwith sent to the appellate court is one major cause of delays in litigations.[4]

Thus, this appeal is hereby dismissed for failure of the defendants-appellants to take the necessary steps for the correction or completion of the record within the time limited by the Court pursuant to Rule 50, Section 1(g) of the Rules of Court.

WHEREFORE, the instant petition is hereby DISMISSED and WITHDRAWN from the docket of active cases of this Court pursuant to Section 1(g), Rule 50[5] of the Rules of Court.

SO ORDERED.

Hernando, and Azcarraga-Jacob, JJ., concur.

[1] Rollo, p. 13

[2] Rollo, p. 13 (dorsal portion)

[3] Rollo, p. 17 (dorsal portion)

[4] Philippine National Construction Corporation v. CA, et al., G.R. No. 118349, May 23, 1997

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

xxx

g) Failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the court in its order;

xxx

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