

MARIA BOMEDIANO, ET AL., PLAINTIFFS-APPELLANTS, VS. ANIANA ARARAO, ET AL., DEFENDANTS-APPELLEES.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

Previously, this Court issued a Resolution[1] dated February 8, 2013, which reads:

1. NOTE the JRD Report stating that Docket Fee short by P30.00; and
2. DIRECT the appellants to pay the lacking of P30.00 for the docket fee, within five (5) from notice.

On November 26, 2013, the Judicial Records Division (JRD) made a report[2] that no compliance has been made by plaintiffs-appellants as per Cebu Civil docket entry.

Upon re-verification of the case, the Judicial Records Division (JRD), made a report that plaintiffs-appellants have failed to comply with the directive in the Resolution dated February 8, 2013, as per Cebu Civil docket entry[3] dated May 29, 2014.

In this case, no compliance had been made by the plaintiffs-appellants up to even date despite receipt[4] of the Resolution dated February 8, 2013. Plaintiffs-appellants' lack of interest in complying the directive and the considerable lapse of time from receipt of notice without positive action is an indication that they are no longer interested in pursuing the instant appeal.

In the case of Spouses Papa and Lolita Manalili, vs. Spouses Arsenio and Gliceria De Leon[5], the Supreme Court held that appeal is not a constitutional right but a mere statutory privilege. It must be exercised strictly in accordance with the provisions of the law and rules. Specifically, the payment of docket fees within the period for perfecting an appeal is mandatory. In the present case, plaintiffs-appellants have not given sufficient reason why they should be exempt from this stringent rule.

On the matter of non-payment in full of the docket fee, Section 4 of Rule 41 of the Rules of Court, as amended, provides that appellate court docket and other lawful fees should be paid within the period for taking an appeal, viz:

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.

Payment in full of docket fees within the prescribed period is mandatory. Non-compliance therewith may cause the dismissal of the appeal pursuant to Sec. 1, Rule 50 of the Rules of Court, which reads:

Sec. 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 . . . (c) Failure of the appellant to pay the docket and other lawful fees as provided in Section 5 of Rule 40 and Section 4 of Rule 41

WHEREFORE, the appeal is DISMISSED pursuant to Sections 4, Rule 41 in relation to Section 1, Rule 50 of the Revised Rules of Court.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[1] Rollo, page 86.

[2] Rollo, dorsal portion of page 88.

[3] Ibid, page 88.

[4] See Registry Return Receipt, dorsal portion of page 86.

[5] G.R. No. 140858, November 27, 2001.

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