

LINO K. GARCIA, PLAINTIFF-APPELLEE, VS. LIPA PUBLIC SAVINGS BANK, DEFENDANT-APPELLANT.

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GALAPATE-LAGUILLES, J:

For Our resolution is the Motion to Dismiss[1] filed by plaintiff-appellee Lino K. Garcia (hereinafter appellee), through counsel, on 29 October 2013.

To recall, this Court issued a Minute Resolution[2] dated 6 September 2013 requiring defendant-appellant Lipa Public Savings Bank (hereinafter appellant), through its counsel, to submit to this Court, within five (5) days from notice, proof of receipt of a copy of its Brief served upon appellee. Further, in a Minute Resolution[3] dated 29 November 2013, this Court also required appellant to file its comment, within ten (10) days from notice, to appellee Garcia's Motion to Dismiss. However, as per Judicial Records Division (JRD) verification reports[4] dated 14 and 18 February 2014, no compliance nor comment has been filed by appellant as per docket book entry, and the said verification reports are hereby NOTED.

Acting now on the Motion to Dismiss, appellee averred that a perusal of Appellant's Brief would readily show that it miserably failed to comply with the mandatory requirements of Section 13, Rule 44 of the Rules of Court. The said Appellant's Brief allegedly has no subject index, table of cases and authorities with page references, and statement of the issue.[5]

The Motion to Dismiss is meritorious.

The right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law.[6] This being so, an appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated. The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by clogged dockets, the Rules need to be followed by appellants with greater fidelity. Their observance cannot be left to the whims and caprices of appellants.[7]

Section 13, Rule 44 of the Revised Rules of Civil Procedure governs the format to be followed by the appellant in drafting his Brief, as follows:

SEC. 13. Contents of appellant's brief. — The appellant's brief shall contain, in the order herein indicated, the following:

- (a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

(b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;

(c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;

(d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;

(e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;

(f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;

(g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks; and

(h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from.

This particular rule was instituted with reason, and most certainly, it was not intended to become "a custom more honored in the breach than in the observance." It has its logic, which is to present to the appellate court in the most helpful light, the factual and legal antecedents of a case on appeal.[8] Also, the employment of the word shall underscores the mandatory character of the rule.[9]

As correctly observed by the appellee, the Appellant's Brief does not contain the subject index. The importance of a subject index should not be underestimated.[10] In *De Liano v. Court of Appeals*,[11] the Supreme Court declared that the subject index functions like a table of contents, facilitating the review of appeals by providing ready reference. It held that:

[t]he first requirement of an appellant's brief is a subject index. The index is intended to facilitate the review of appeals by providing ready reference, functioning much like a table of contents. Unlike in other jurisdictions, there is no limit on the length of appeal briefs or appeal memoranda filed before appellate courts. The danger of this is the very real possibility that the reviewing tribunal will be swamped with voluminous documents. This occurs even though the rules consistently urge the parties to be "brief" or "concise" in the drafting of pleadings, briefs, and other papers to be filed in court. The subject index makes readily available at one's fingertips the subject of the contents of the brief so that the need to thumb through the brief page after page to locate a party's arguments, or a particular citation, or whatever else needs to be found and considered,

is obviated.

Likewise, the Appellant's Brief filed has no table of cases or authorities cited, with page references. It must be pointed out that this requirement is not just a trivial technicality. It is designed to provide ready and easy reference so that the reviewing court does not have to go over the Brief page after page to locate a particular citation.[12]

Significantly, the statement of facts and case,[13] as well as the arguments[14] in the Appellant's Brief lacked page references to the record. Section 13, Rule 44 of the Revised Rules of Civil Procedure specifically requires that one's statements of case and facts, and also the arguments should be supported by page references to the record. Indeed, disobedience therewith has been punished by dismissal of the appeal.[15]

Under Section 1(f), Rule 50 of the Revised Rules of Civil Procedure, one of the grounds for the dismissal of appeals filed with this Court is absence of page references in the following: subject index, table of cases and authorities cited, Statement of Facts, Statement of the Case, and Arguments, thus:

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 xxx xxx

(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44.

ACCORDINGLY, the instant Motion to Dismiss is hereby GRANTED. For failure to comply with Section 13, Rule 44 of the Revised Rules of Civil Procedure, this Appeal is DISMISSED pursuant to Section 1(f), Rule 50 of the said Rules.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Rollo, pp. 46-74.

[2] Id., p. 45.

[3] Id., p. 77.

[4] Id., dorsal portion.

[5] Id., pp. 47-48.

[6] Boardwalk Business Ventures, Inc. v. Villareal, G.R. No. 181182, April 10, 2013, citing Fenequito v. Vergara, Jr., G.R. No. 172829, July 18, 2012

[7] Id.

[8] De Liano v. Court of Appeals, G.R. No. 142316, November 22, 2001.

[9] Cf. Enriquez, et al., v. Enriquez, et al., G.R. No. 139303, August 25, 2005.

[10] Mendoza v. United Coconut Planters Bank, Inc., G.R. No. 165575, February 2, 2011.

[11] Supra.

[12] De Liano v. Court of Appeals, supra.

[13] Rollo, pp. 16-17.

[14] Id., pp. 18-20.

[15] De Liano v. Court of Appeals, supra.

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