

**ROSALINDA A. VILLAMAYOR, MARLON A. VILLAMAYOR, JACKSON A. VILLAMAYOR AND PEDERSON A. VILLAMAYOR, PETITIONERS, VS. HON. NARMO P. NOBLEJAS, AS PRESIDING JUDGE OF RTC-BRANCH 69, BI...**

Ponente: BARZA, J.

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**BARZA, J.:**

This is a petition for certiorari filed by Rosalinda Villamayor, Marlon Villamayor, Jackson Villamayor and Pederson Villamayor seeking to annul and set aside the Order[1] dated August 31, 2012 of Branch 69 of the Regional Trial Court of Binangonan, Rizal, granting additional period of 30 days for respondents Rosa Villamayor-Mosqueda, Carmelita Villamayor-Calingo, Perfecto Villamayor and Ma. Nancy Villamayor-Picones, to pay the deficiency filing fee.

Petitioners are the defendants before the court a quo in a case for Partition, Reconveyance and Damages docketed as SCA No. 11-008.

The factual antecedents as culled from the record:

Respondents filed before the court a quo a case for Partition, Reconveyance and Damages docketed as SCA No. 11-008, against petitioners.

For failure of petitioners to file their answer to the complaint, an order of default was issued by the court a quo on December 7, 2011. Petitioners elevated the order of default to the Eight Division of this Court under docket no. CA-G.R. No. 124737 via a petition for certiorari.

Petitioners thereafter learned upon verification from the Office of the Clerk of Court of Binangonan, Rizal, that when respondents filed the case in SCA No. 11-008, they were not able to pay in full the filing fee and docket fee which was assessed to be in the amount of P406,827.57. Out of this amount, only P61,148.00 was paid, leaving the deficiency in the amount of P325,462.50.

On March 30, 2012,[2] petitioners filed before the court a quo a Manifestation relative to the insufficient docket fees paid by respondents. On April 2, 2012,[3] the court a quo issued an Order directing respondents to pay the balance of P325,462.50 for the filing fee.

For failure of respondents to pay the aforesaid balance, the court a quo issued an Order dated May 10, 2012,[4] dismissing the case pursuant to Section 3, Rule 17[5] in relation to Rule 141 of the Revised Rules of Court.

Respondents filed a motion for reconsideration of the order dated May 10, 2012. In the Order of the court a quo dated June 15, 2012, it set aside the order of dismissal giving respondents final additional period within which to pay the deficiency in the filing fee.

On July 9, 2012, respondents filed an Ex-Parte Motion or Clarification and for Additional Time[6] praying that a re-computation be made on the filing fee and that they be given additional period of thirty (30) days to pay the

deficiency in the filing fee.

In the Order dated July 18, 2012, the court a quo reduced the amount of the deficiency in the filing fee from P325,462.50 to P264,314.05, giving respondents additional period of thirty days or until August 18, 2012 to pay the said amount. Petitioners assailed the Order dated July 18, 2012 to the Court of Appeals by way of a petition for certiorari, docketed under CA-G.R. SP No. 126139.

On August 3, 2012, petitioners filed a Manifestation[7] asking the court a quo to make the August 18, 2012 as the final deadline for the respondents to pay the deficiency filing fee.

On August 22, 2012, respondents filed a Manifestation with Motion[8] stating that in partial compliance to the order of the court a quo, they paid the amount of P50,314.05 to the Office of the Clerk of Court. They further stated that the money which they expected to receive from a relative who committed to help in paying the deficiency filing fee has not yet arrived. Respondents then asked for another additional thirty days from August 22, 2012 to pay the remaining deficiency filing fee of P214,000.00.

On August 23, 2012, petitioners filed a Manifestation[9] expressing their strong opposition to the extension being prayed for by respondents. Petitioners alleged that the total deficiency in the amount of P214,000.00 can easily be raised by all the respondents if they would only contribute their respective shares thereto. Apparently, it is only Rosa Villamayor-Mosqueda who is interested in pursuing the case and her siblings (the other respondents) are merely included to add pressure if not to publicly humiliate petitioners. Petitioners further alleged that the partial payment of P50,314.05 should not be considered compliance to the Order dated July 18, 2012. Petitioners contended that the Office of the Clerk of Court should not have accepted the partial payment without the prior order of the court a quo allowing partial payment because the July 18, 2012 Order required that respondents must make a full payment. According to petitioners, the authority of the Office of the Clerk of Court to receive payment is limited to what has been directed by the court a quo pursuant to its Order.

On August 31, 2012, the court a quo issued the assailed order which contains, to wit:

Before this Court is a Manifestation with Motion, dated August 22, 2012, filed by the plaintiffs through counsel manifesting that they already paid P50,314.00 as partial payment of docket fee and prayed that they be given another extension of thirty (30) days or up to September 21, 2012 to pay the remaining deficiency filing fee of Php 214,000.00.

On August 23, 2012, this Court received a copy of the petition filed by the defendants docketed as CA-G.R. No. 126139 assailing the Orders of this Court dated June 15, 2012 and July 18, 2012.

Considering the amount of the filing fee, it would be in the interest of substantial justice to allow the plaintiffs an unextendible period of thirty (30) days to pay the balance of the filing fee in the amount of Php 214,000.00 but subject to the outcome of the said petition.

WHEREFORE, the Manifestation with Motion, dated August 22, 2012, filed by the plaintiffs through counsel is GRANTED, subject to the outcome of the said petition filed by defendants with the Court of Appeals.

Accordingly, the plaintiffs are given additional unextendible period of thirty (30) days from August 22, 2012 or up to September 21, 2012 within which to pay the remaining deficiency filing fee of P214,000.00.[10]

Hence, this petition.

Petitioners raised that:

The lower court committed grave abuse of discretion, amounting to having acted without or in excess of its jurisdiction when it took cognizance and gave due course to the Manifestation with Motion of herein private

respondents dated August 22, 2012, without good and justifiable reasons.[11]

Petitioners reiterate their arguments before the court a quo and herein aver that although the Manifestation with Motion was set for hearing, respondents did not present evidence to support their claim that “the money which the plaintiffs expected to receive from relatives committed to help in paying the deficiency filing fee has not yet arrived”, to warrant and justify the grant of an extension. Petitioners further aver that respondents should have disclosed in their Complaint the true and real value of the property subject of the case before the court a quo. According to petitioners, respondents maliciously and in utter bad faith concealed the true value of the properties by deliberately not attaching in their Complaint the tax declarations.

Petitioners also impute partiality to the court a quo when it denied their Motion for Reconsideration to the denial of the Motion to Lift Order of Default and to Admit Answer. Petitioners argue that despite good and justifiable reasons, the lower court did not give merit to their invocation of substantial justice.

There is no merit in the petition.

We cannot ascribe grave abuse of discretion to the court a quo when it issued the Order dated August 31, 2012, granting respondents another extension of thirty (30) days to pay the remaining deficiency filing fee of P214,000.00.

As a rule, docket fees should be paid upon the filing of the initiatory pleadings. However, for cogent reasons to be determined by the trial judge, staggered payment thereof within a reasonable period may be allowed. Unless grave abuse of discretion is demonstrated, the discretion of the trial judge in granting staggered payment shall not be disturbed.[12]

It is well-settled that a petition for certiorari against a court which has jurisdiction over a case will prosper only if grave abuse of discretion is manifested. The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave. The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.[13]

Petitioners offer no sufficient support for its allegation that the court a quo committed grave abuse of discretion. The petition contains no explanation of how the court a quo exercised its judgment capriciously or whimsically or in an arbitrary or despotic manner. Other than the assertion that the court a quo was lenient to respondents and allegedly partial to petitioners, there is no discussion of the acts and circumstances that would aptly characterized as grave abuse of discretion.

It is apparent too that respondents are willing to pay the filing fee. In fact, to comply with the order of the court a quo dated July 18, 2012, respondents made a partial payment in the amount of P50,314.05 from the total deficiency of P214,000.00. Undoubtedly, respondents were able to show their willingness to pay but considering the amount of filing fee which they have to raise, they needed to ask for an extension from the court a quo to come up with the required filing fee.

Plainly, while the payment of the prescribed docket fee is a jurisdictional requirement, even its nonpayment at the time of filing does not automatically cause the dismissal of the case, as long as the fee is paid within the applicable prescriptive or reglementary period; more so when the party involved demonstrates a willingness to abide by the rules prescribing such payment. [14]

It has been the constant ruling of this Court that every party-litigant should be afforded the amplest opportunity

for the proper and just disposition of his cause, free from constraints of technicalities. Rules of procedure are mere tools designed to expedite the resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote justice must be avoided.[15] Considering that what the subject of litigation before the court a quo is a property, the parties should be given the opportunity to have an adjudication on the merits after they have completed the payment of the filing fee as required by the court a quo.

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

**SO ORDERED.**

Abdulwahid (Chairperson) and Cruz, JJ., concur.

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[1] p. 96, rollo.

[2] p. 6, rollo.

[3] p. 40, rollo.

[4] id.

[5] Sec. 3. Dismissal due to the 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 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 separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

[6] p. 42, rollo.

[7] pp. 40-41, rollo.

[8] pp. 45-47, rollo.

[9] pp. 50-52, rollo.

[10] p. 96, rollo.

[11] p. 14, rollo.

[12] Gregorio Go vs. Johnson Tong, et al., G.R. No. 151942, November 27, 2003.

[13] Ceferina Lopez Tan vs. Sps. Apolinar Antazo, G.R. No. 1872078, February 23, 2011.

[14] Supra at note 12.

[15] Del Monte Philippines, Inc. Employers Agrarian Reform Beneficiaries vs. Jesus Sangunay, G.R. No. 180013, January 31, 2011.

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