

**PRECY BUNYI-LABAO, PLAINTIFF-APPELLANT, VS. HONORABLE
PRESIDING JUDGE BRANCH 79 OF METROPOLITAN TRIAL COURT OF
LAS PIÑAS AND FE S. FACTOR, DEFENDANTS-APPELLEES.**

Ponente: CARANDANG, J.

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CARANDANG, J.:

Precy Bunyi-Labao (appellant) assails (1) the Order[1] of the Regional Trial Court Branch 71 of Las Piñas City (lower court) dated 17 October 2011 dismissing Civil Case No. LP 10-0046 for lack of jurisdiction, and (2) the Order[2] dated 1 February 2012 denying appellant's Motion for Reconsideration.

On 19 May 2010, the appellant filed the complaint a quo against Fe S. Factor (appellee) for quieting of title involving a parcel of land and its improvements located at No. 8 Antioch Street, Pilar Executive Village, Barangay Almanza 1, Las Piñas City (subject property). She also applied for a temporary restraining order and/or writ of preliminary injunction to enjoin the Metropolitan Trial Court Branch 79 of Las Piñas City from enforcing the judgment in the ejectment case, docketed as Civil Case No. 6758, in favor of the appellee and other respondents therein involving the subject property.

On 27 May 2010, the appellee filed its Motion to Dismiss Ad Cautelam with Opposition to TRO/Injunction on the grounds of failure to state a cause of action and lack of jurisdiction. She also assails the appellant's prayer for temporary restraining order and/or preliminary injunction contending that the judgment in the ejectment case is already final and executory.

On 29 May 2010, the appellant withdrew her prayer for the issuance of a temporary restraining order.

In an Order[3] dated 27 May 2011, the lower court denied appellant's application for the issuance of the writ of injunction. It likewise denied appellee's Motion to Dismiss Ad Cautelam with Opposition to TRO/Injunction. Accordingly, it ordered the appellee to file its Answer within ten (10) days from receipt thereof and the appellant to pay the deficiency of the docket fees within five (5) days from receipt of the reassessment to be made by the Office of the Clerk of Court of the Regional Trial Court of Las Piñas City.

On 17 October 2011, the lower court issued the first assailed order dismissing the complaint a quo for lack of jurisdiction. The dismissal stemmed from appellant's purported failure to furnish the Clerk of Court of the pertinent documents from the Bureau of Internal Revenue (BIR) which could serve as basis in reassessing the docket fees.

On 11 November 2011, the appellant filed her Motion for Reconsideration and Motion to Direct the Office of the Clerk of Court to Reassess the Filing Fees praying that the complaint a quo be reinstated because she is ready, willing, and able to pay the correct docket fees.

On 1 February 2012, the lower court issued the second assailed order denying the Motion for Reconsideration. Consequently, the appellant filed the instant appeal.

ISSUES

I. Whether or not the court a quo erred in dismissing the complaint in Civil Case No. LP 10-0046 for lack of jurisdiction.

II. Whether or not the court a quo erred in denying the motion for reconsideration of the dismissal of the complaint in Civil Case No. LP 10-0046.[4]

The appellant argues that the lower court erred in dismissing the complaint a quo on the ground of lack of jurisdiction because she paid the docket and other court fees, albeit insufficient, upon filing the same. She adds that the fact that the amount of docket fees paid is insufficient does not result in the dismissal of the complaint for lack of jurisdiction especially when the litigant has no intention to defraud the government.

This Court finds merit in the instant appeal.

The rule is that payment in full of the docket fees within the prescribed period is mandatory.[5] In *Manchester vs. Court of Appeals*[6], the Supreme Court ruled that jurisdiction over any case is acquired only upon the payment of the prescribed docket fee which is both mandatory and jurisdictional. This ruling, however, was relaxed in *Sun Insurance Office, Ltd., et al. vs. Hon. Maximiano Asuncion, et al.*[7] when the Supreme Court held, inter alia, that where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period. The ruling was echoed in *Heirs of Bertuldo Hinog vs. Hon. Achilles Melicor*,[8] to wit:

“Plainly, while the payment of the prescribed docket fee is a jurisdictional requirement, even its non-payment 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. Thus, when insufficient filing fees were initially paid by the plaintiffs and there was no intention to defraud the government, the Manchester rule does not apply.” (Underscoring Ours.)

In the case at bar, the appellant initially paid the amount of P4,430.00 to the Office of the Clerk of Court of the Regional Trial Court of Las Piñas City upon the filing of the complaint a quo based on the assessment made by the latter.[9] The said amount was however deemed insufficient when the lower court, in its 27 May 2011 Order, ruled that the docket fees should be based on the fair market value of the property in litigation stated in the current tax declaration or current zonal valuation of the BIR, whichever is higher, or if there is none, the stated value of the property in litigation as alleged by the claimant. Since nothing was stated in the complaint a quo, the lower court directed the Clerk of Court to reassess the docket fees to conform to the above ruling and ordered the appellant to pay the reassessed docket fee within five (5) days from receipt thereof from the Clerk of Court.

Still, the lower court dismissed the complaint a quo for lack of jurisdiction on the ground that the appellant failed to furnish the Clerk of Court with the data from the BIR or the City Assessor's Office of Las Piñas City upon which the reassessment was to be based.

Clearly, the lower erred when it dismissed the complaint a quo for lack of jurisdiction. A perusal of the records shows that the appellant was not yet in delay in paying the correct docket fees. Neither was she in bad faith or had intention to defraud the government. The lower court's 27 May 2011 Order states in part:

“On the other hand, the Office of the Clerk of Court is directed to reassess the docket fees based on fair market value of the real property in litigation stated in the current zonal valuation of the Bureau of Internal Revenue. Upon reassessment, the plaintiff is ordered to pay the deficiency within five (5) days from receipt thereof. Otherwise, the instant action will be dismissed for lack of jurisdiction.” (Underscoring Ours.)

The appellant was given a period of five (5) days to be counted from her receipt of the reassessment to be made by the Office of the Clerk of Court to pay for the balance of the docket fees. To date, however, the Office of the Clerk of Court has yet to furnish the appellant a copy of such reassessment. Hence, the five-day period as set by the lower court has not yet lapsed. She explained in her Motion for Reconsideration that both the BIR and the City Assessor's Office of Las Piñas City informed her that the subject property has not yet been declared for taxation purposes. The Office of the Clerk of Court admitted this fact when it manifested that "there is no available tax declaration or any document for [it] to base the reassessment of the docket fees." [10] In such case, however, the Office of the Clerk of Court is not without recourse. Section 7, paragraph (a), Rule 141 of the Rules of Court provides that if no current tax declaration or current zonal valuation of the BIR is available, the stated value of the property in litigation as alleged by the claimant should be the basis of the docket fees. Thus:

SEC. 7. Clerks of Regional Trial Courts.--

(a) For filing an action xxx, if the total sum claimed, INCLUSIVE OF INTERESTS, PENALTIES, SURCHARGES, DAMAGES OF WHATEVER KIND, AND ATTORNEY'S FEES, LITIGATION EXPENSES AND COSTS, and/or in cases involving property, the FAIR MARKET value of the REAL property in litigation STATED IN THE CURRENT TAX DECLARATION OR CURRENT ZONAL VALUATION OF THE BUREAU OF INTERNAL REVENUE, WHICHEVER IS HIGHER, OR IF THERE IS NONE, THE STATED VALUE OF THE PROPERTY IN LITIGATION xxx AS ALLEGED BY THE CLAIMANT." (Underscoring Ours.)

Thus, instead of outrightly dismissing the complaint a quo, the lower court should have allowed the appellant, on motion, a reasonable time for the amendment of the complaint a quo so as to allege the stated value of the subject property and accept payment of the requisite fees therefor. [11] It bears to stress that the actuations of the appellant demonstrate her willingness to abide by the rules and to pay the correct docket fees. She made efforts to ascertain the fair market value of the subject property for the purpose of computing the correct docket fees. She even provided a photocopy of the BIR's list of zonal valuation of the properties near the subject property. It cannot be deduced, therefore, that she intended to evade the payment of the correct docket fees and defraud the government, as what the ruling in *Manchester* intended to penalize. In *Fedman Development Corporation vs. Federico Agcaoili*, [12] the Supreme Court ruled:

If the amount of docket fees paid is insufficient in relation to the amounts being sought, the clerk of court or his duly authorized deputy has the responsibility of making a deficiency assessment, and the plaintiff will be required to pay the deficiency. The non-specification of the amounts of damages does not immediately divest the trial court of its jurisdiction over the case, provided there is no bad faith or intent to defraud the Government on the part of the plaintiff.

The prevailing rule is that if the correct amount of docket fees are not paid at the time of filing, the trial court still acquires jurisdiction upon full payment of the fees within a reasonable time as the court may grant, barring prescription. The "prescriptive period" that bars the payment of the docket fees refers to the period in which a specific action must be filed, so that in every case the docket fees must be paid before the lapse of the prescriptive period, as provided in the applicable laws, particularly Chapter 3, Title V, Book III, of the Civil Code, the principal law on prescription of actions.

In *Rivera v. Del Rosario*, the Court, resolving the issue of the failure to pay the correct amount of docket fees due to the inadequate assessment by the clerk of court, ruled that jurisdiction over the complaint was still validly acquired upon the full payment of the docket fees assessed by the Clerk of Court. Relying on *Sun Insurance Office, Ltd., (SIOL) v. Asuncion*, the Court opined that the filing of the complaint or appropriate initiatory pleading and the payment of the prescribed docket fees vested a trial court with jurisdiction over the claim, and although the docket fees paid were insufficient in relation to the amount of the claim, the clerk of

court or his duly authorized deputy retained the responsibility of making a deficiency assessment, and the party filing the action could be required to pay the deficiency, without jurisdiction being automatically lost.

Even where the clerk of court fails to make a deficiency assessment, and the deficiency is not paid as a result, the trial court nonetheless continues to have jurisdiction over the complaint, unless the party liable is guilty of a fraud in that regard, considering that the deficiency will be collected as a fee in lien within the contemplation of Section 2, Rule 141 (as revised by A.M. No. 00-2-01-SC). The reason is that to penalize the party for the omission of the clerk of court is not fair if the party has acted in good faith. (Underscoring Ours.)

In sum, the lower court erred when it dismissed the complaint a quo for lack of jurisdiction. While there is a crying need to unclog court dockets on the one hand, there is, on the other, a greater demand for resolving genuine disputes fairly and equitably, for it is far better to dispose of a case on the merit which is a primordial end, rather than on a technicality that may result in injustice.[13]

WHEREFORE, in view of the foregoing, the instant appeal is GRANTED. The Orders of lower court dated 17 October 2011 and 1 February 2012 are hereby REVERSED and SET ASIDE and Civil Case No. LP 10-0046 is hereby REINSTATED.

SO ORDERED.

Gaerlan,[*] and Sempio Diy,**] JJ., concur.

[*] Vice Justice Marlene Gonzales-Sison per Office Order No. 450-14-ABR dated October 29, 2014.

[**] Vice Justice Edwin D. Sorongon per Office Order No. 444-14-ABR dated October 27, 2014.

[1] Rollo, at 34-35.

[2] Id., at 36-37.

[3] Id., at 341-351.

[4] Id., at 25.

[5] The Heirs of the Late Ruben Reinoso, Sr., vs. Court of Appeals, et al., G.R. No. 116121, 18 July 2011.

[6] 149 SCRA 562 (1987)

[7] G.R. Nos. 79937-38, February 13, 1989.

[8] G.R. No. 140954, April 12, 2005.

[9] Exhibit "I", Id., at 1.

[10] Id., at 361.

[11] Tacay vs. Regional Trial Court of Tagum, Davao del Norte, 180 SCRA 433, 443.

[12] G.R. No. 165025. August 31, 2011.

[13] The Heirs of the Late Ruben Reinoso, Sr., vs. Court of Appeals, et al., supra, Footnote No. 7.

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