

HEIRS OF DOLORES APAT SALIOT, PLAINTIFFS-APPELLANTS, VS. HEIRS OF PEDRO N. ABUTON AND PACIENCIA PALER DE ABUTON, DEFENDANTS-APPELLEES.

Ponente: BORJA, J.

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BORJA, J.:

On October 4, 2013, a Notice to File Brief was issued to Atty. Jose Allan N. Maglasang, counsel for the plaintiffs-appellants.[1]

Per Registry Return Receipt, Atty. Maglasang received the said Notice to File Brief on October 23, 2013.[2]

On January 30, 2014, the Court issued a Resolution stating that-

With the JRD verification report that no appellants' brief has been filed within the prescribed period to file the same, the Court RESOLVED to DIRECT the appellants to SHOW CAUSE within ten (10) days from notice, why the appeal should not be dismissed for non-filing of appellant's brief within the reglementary period pursuant to Sec. 1 (e), Rule 50 of the Revised Rules of Civil Procedure.[3]

On April 10, 2014, plaintiffs-appellants through counsel filed a Manifestation/Urgent Motion For Time to File Plaintiff-Appellants' Brief.[4]Therein, plaintiffs-appellants allege that –

1. Undersigned counsel received on April 1, 2014, the Resolution dated January 30, 2014, directing appellants to SHOW CAUSE why the above captioned appeal should not be dismissed for failure to file the appellants' brief within the 45-day period prescribed under the Rules counted from the time undersigned counsel received the Resolution of this Honorable Court directing him to do so which, according to the reply to the tracer sent by this Honorable Court, was received on October 23, 2013 by S/G Cullera. Undersigned counsel has not received the said Resolution, Your Honors.

2. Undersigned counsel makes it record, Your Honors, that his Secretary who receives communications from him is Cristina Aguilar and that he does not have a staff by the name of S/G Cullera. The designation of "S/G" most likely stands for "Security Guards"; however, undersigned counsel never employs any security guard in his office. S/G Cullera could be a security guard of the owner of the building, one of the rooms of which is rented by undersigned counsel as his law office. The security guards of the owner of the building are posted in the ground floor, not in the sixth floor where the office of undersigned counsel is located. Also, the office of undersigned counsel is just one of the many offices in the said building.

3. Undersigned counsel, therefore, is constrained to pray of this Honorable Court to give him time to file the Appellants' Brief by counting the 45-day period to do so from the time he received the Resolution, dated January 30, 2014, on April 1, 2014, or until May 16, 2014. [sic][5]

The Court finds the circumstances of the plaintiffs-appellants to be sufficiently persuasive to warrant the granting of the extension sought. It would have been prejudicial on the part of plaintiffs-appellants if the negligence of a certain S/G Cullera, who is not a staff of their counsel, were allowed to get in the way of their full access to this Court. It has been held that courts should not be so strict about procedural lapses that do not really impair the

proper administration of justice.[6] This ruling is in consonance with the enshrined policy that the ends of justice be served over technical objections.

ACCORDINGLY, plaintiffs-appellants are GRANTED an extension of forty-five (45) days from notice hereof within which to file their Appellants' Brief. Defendants-appellees are likewise given forty-five (45) days from receipt of the Appellants' Brief within which to file their Appellees' Brief with proof of service of two (2) copies thereof upon appellants to which the latter may file their Reply Brief within twenty (20) days from receipt of Appellees' Brief.[7]

SO ORDERED.

Badelles and Contreras,[*] JJ., concur.

[1] Rollo, p. 15.

[2] Id. (dorsal portion).

[3] Rollo, p. 19.

[4] Id., at pp. 20-22.

[5] Ibid.

[6] Spouses Lanaria vs. Planta, G.R. No. 172891, November 22, 2007.

[7] Sections 8 and 9, Rule 44 of the 1997 Rules of Civil Procedure, as amended.

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