

**NATIONAL POWER CORPORATION, PLAINTIFF-APPELLANT, VS.
EQUITABLE PCI BANK, AS TRUSTEE FOR CEAP RETIREMENT FUND,
REPRESENTED HEREIN BY ITS PRESIDENT, MR. DEGRACIAS VISTAN,
DEFENDAN...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This is an appeal by record on appeal from the October 31, 2006 Decision, rendered by the Regional Trial Court, Branch 49, Bacolod City, in Civil Case No. 01-11482 for Eminent Domain.

An examination of the records of the case shows that the appeal was filed out of time and that it suffers from infirmities.

Rule 41, Section 3 of the Rules of Court provides:

Sec. 3. Period of ordinary appeal. The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

x x x

The Rules provide a 30-day period for perfecting the appeal by record on appeal. Within that 30-day period a party aggrieved by a judgment or final order issued in special proceedings should perfect an appeal by filing both a notice of appeal and a record on appeal in the trial court, serving a copy of the notice of appeal and a record on appeal upon the adverse party within the period; in addition, the appealing party shall pay within the period for taking an appeal to the clerk of the court that rendered the appealed judgment or final order the full amount of the appellate court docket and other lawful fees. A violation of these requirements for the timely perfection of an appeal by record on appeal, or the non-payment of the full amount of the appellate court docket and other lawful fees to the clerk of the trial court may be a ground for the dismissal of the appeal.[1]

Appellant received the assailed decision on December 19, 2006,[2] although it filed a notice of appeal on December 22, 2006, within the 15-day period, it submitted the amended record on appeal only on February 23, 2007, or more than 60 days after.[3] Therefore, its appeal was not perfected because its filing of the record on appeal happened beyond the reglementary period.[4]

The perfection of an appeal within the period laid down by law is mandatory and jurisdictional, because the failure to perfect the appeal within the time prescribed by the Rules causes the judgment or final order to become final as to preclude the appellate court from acquiring the jurisdiction to review the judgment or final order. The failure of the appellant and its counsel to file its record on appeal on time rendered the orders of the RTC final and unappealable. Thereby, this Court had lost the jurisdiction to review the assailed decision, and We have no other recourse but to dismiss the appeal.

We are not unaware that what was filed on February 23, 2007 was the amended record on appeal. However, there is no showing that the original record on appeal was likewise filed on time. Section 1 (a) of Rule 50 of the Rules provide:

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:

(a) Failure of the record on appeal to show on its face that the appeal was taken within the period fixed by these Rules.

We find that the amended record on appeal does not show on its face that the appeal was perfected on time. Thus, it is dismissible on this ground alone.

Moreover, it appears that copies of relevant court documents were not attached to the record on appeal, in violation of Rule 41, Section 6 of the Rules of Court, thus:

Sec. 6. Record on appeal; form and contents thereof. The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the judgment or final order from which the appeal is taken and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed judgment or final order for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time. If an issue of fact is to be raised on appeal, the record on appeal shall include by reference all the evidence, testimonial and documentary, taken upon the issue involved. The reference shall specify the documentary evidence by the exhibit numbers or letters by which it was identified when admitted or offered at the hearing, and the testimonial evidence by the names of the corresponding witnesses. If the whole testimonial and documentary evidence in the case is to be included, a statement to that effect will be sufficient without mentioning the names of the witnesses or the numbers or letters of exhibits. Every record on appeal exceeding twenty (20) pages must contain a subject index.

WHEREFORE, the appeal is DISMISSED.

SO ORDERED.

Ingles,[*] and Lopez, JJ., concur.

[*] Acting Chairperson, in lieu of Justice Edgardo delos Santos (who is on wellness leave), per Office Order No. 13-14-GTI dated June 14, 2014.

[1] Spouses Lebin v. Mirasol, et al., G.R. No. 164255, September 07, 2011.

[2] Record on appeal, p. 51.

[3] Record on appeal, cover page.

[4] Spouses Lebin, supra.

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