

**GUADALUPE DE GUIA, PETITIONER, VS. THE COURT OF APPEALS,
HONORABLE HERMOGENES CONCEPCION, JR., HONORABLE
EULOGIO SERRANO, AND HON. LOURDES P. SAN DIEGO, ASSOCIATE
JUSTICES OF TH...**

G.R. No. L-33101. July 30, 1971

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Petitioner's appeal from a decision of the Court of First Instance of Bulacan was, on December, 1970, dismissed by the Court of Appeals upon motion of respondents-appellees claiming that the Record on Appeal did not comply with Sections 5, 7 and 9 of Rule 41 of the 1964 Revised Rules of Court, in that the Record on Appeal did not contain sufficient data to show that the appeal was perfected in due time. Specifically respondents-appellees pointed out to the Court of Appeals that herein petitioner-appellant's Record on Appeal (a) did not contain copy of the order of the trial court denying petitioner's motion for a new trial; (b) contained no mention of the filing of the appeal bond nor of the date the bond was filed; and (c) did not contain copy of the order approving the record on appeal.

The appellate court having refused to reconsider the dismissal of the appeal, petitioner resorted to this Court on certiorari, averring abuse of discretion.

The dismissal of the appeal must be sustained. Since 1964, when the Revised Rules of Court became operative, Section 6 of Revised Rule 41 (governing appeals from the Courts of First Instance to the Court of Appeals) explicitly prescribes that the record on appeal -

"shall include the order or judgment from which the appeal is taken and, in chronological order, copies of only such pleadings, petitions, motions and interlocutory orders as are related to the appealed order or judgment from and necessary for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected in time." (Emphasis supplied)

Since the record on appeal of petitioner is bereft of any mention or reference to the filing of the appeal bond, that under Section 3 of the same Rule 41 ("How Appeal is taken") must be filed with the trial court within 30 days from notice of the order or judgment appealed from (deducting the time during which a motion to set aside or for new trial has been pending), it is evident that the record on appeal submitted by appellant does not show on its face the timely perfection of the appeal and does not comply with Section 6, Rule 41, aforementioned. Incontestably, the Court of Appeals acted correctly in dismissing the appeal. Time and again since 1965 has this court ruled that non-compliance with the requirements of Section 6 of Rule 41 justifies the dismissal of the appeal; and with particular regard to the omission of the date on which the appeal bond was filed, our ruling in Reyes vs. Carrasco and Court of Appeals, G. R. No. L-28782, promulgated 31 March 1971, is squarely in point, and analyzes the jurisprudence on the matter, which would be superfluous to restate here.

This Court notes with regret that although these requirements on the contents of a record on appeal have been in

effect since 1964, there are still lawyers and litigants who do not comply with the same: either they have not perused the Revised Rules, or choose not to comply therewith. Liberality in this regard is by now unwarranted, and would be unjust to numerous litigants or counsel who exercise diligence in observing the Rules of Court.

It avails nothing to herein petitioner that she now attaches to her petition copy of the Clerk of Court's receipt for her appeal bond dated 17 October 1969 within the appeal period. This belated effort can not cure the patent omission of the fact in her record on appeal. For the rule in question was adopted precisely to obviate such side inquiries, that a strict observance of Rule 41 would have made unnecessary, and would have enabled appellate courts to proceed to examine the merits of the appeal without loss of time. It was precisely in answer to the prevalent clamor against unnecessary delays in the dispatch of cases that Rule 41, and others of similar nature, were promulgated, and strictly enforced.

IN VIEW OF THE CONCLUSIONS REACHED, We deem it pointless to discuss the other defects raised by respondents-appellees.

The petition for a writ of certiorari is denied, with costs against petitioner.

SO ORDERED.

Concepcion, C.J., Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.
Ruiz Castro and Dizon, JJ., on official leave.

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