

**PHILIPPINE SUBURBAN DEVELOPMENT CORPORATION,
PETITIONER, VS. COURT OF APPEALS, COURT OF FIRST INSTANCE
OF MANILA, BRANCH XIII (HON. JESUS MORFE, PRESIDING JUDGE),
DEPUTY PROVINC...**

G.R. No. L-33448. September 17, 1980

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sustains respondent Court of Appeals' questioned Order denying petitioner's motion to lift its previous resolution issued over eight months earlier (dismissing petitioner's appeal before it for failure to file appellant's brief within the reglementary period) and to set aside the entry of judgment. Counsel for petitioner had failed to file the appellant's brief since he did not receive the notice to file brief sent by respondent court to his address of record, as he transferred his law office without giving the proper notice thereof. The Court finds no grave abuse of discretion in respondent court's ruling that "it is inexcusable negligence for an attorney of record not to notify the Court of his change of address; attorneys are under obligation to adopt a system whereby they can always receive judicial notices and whenever they change their address, they should notify the Court."

In a decision rendered by the Court of First Instance of Manila on January 9, 1966 in Civil Case No. 59355, herein petitioner was sentenced to pay private respondent the amount of P50,000.00 as moral damages. Petitioner timely brought the case on appeal to the Court of Appeals.

In the Court of Appeals, petitioner's counsel gave No. 402 Trinity Bldg., T.M. Kalaw Street, Ermita, Manila as his address of record, the same address he used in the lower court, and where both petitioner and its counsel held office.[1] When required to file the printed record on appeal, he complied using the same address of record.

Meanwhile, petitioner's counsel transferred his law office to the 8[th] floor of the PLDT Building, Makati, but he did not file any formal notice with respondent court of his change of address so that all notices to him could be sent to his new address.

On January 21, 1970, respondent court sent by registered mail a notice to petitioner at its counsel's address of record requiring it to file brief within 45 days from receipt of said notice, but the same was not claimed. The period for the filing of petitioner's brief lapsed without counsel having filed the same nor having explained his failure to do so. Accordingly, the appeal was dismissed per respondent court's Resolution of June 27, 1970 and final judgment was entered thereon. Notices thereof were likewise sent to counsel's address of record, but they were also unclaimed. Under Rule 13, section 9 of the Rules of Court, service of said notices was deemed completed upon expiration of five days counted from the date of first notice of the postmaster. The record of the case was remanded on October 8, 1970 to the lower court, which issued on motion of private respondent the corresponding writ for execution of the judgment. On March 1, 1971, a copy of the writ of execution was served to petitioner's office at the 8[th] Floor, PLDT Building, Makati, the same address where counsel transferred his office and to which he was traced.

A motion to lift the order of dismissal, to set aside entry of judgment and reinstate appeal was promptly filed by petitioner's counsel, but it was denied by respondent court in its Resolution of March 30, 1971, as above stated.

Hence, the present special civil action for certiorari.

Petitioner's counsel maintains that some incidental pleadings filed by him with respondent court indicating in one pleading his residence address and in another his new office address constitute sufficient, if not substantial, compliance with the rules requiring notice of change of address of record of counsel.

Counsel claims that when he vacated his old office and transferred to the 8th Floor, PLDT Building, Makati, he filed several pleadings (an extension of time to file comment on March 14, 1969 and the comment filed on April 15, 1969) wherein he indicated his address to be at the 8th Floor, PLDT Building, Makati and contends that this should have put respondent court and adverse counsel on notice. This is untenable. We have held time and again that notices to counsel should properly be sent to his address of record in the absence of due notice to the court of a change of address. As held in *Lopez vs. de los Reyes*,^[2] the fact that counsel used a different address in later pleadings "should not be taken as notice to the court of either a change of address or of another address in addition to that which was already of record."

Counsel likewise insists that respondent court could have ordered that the notice to file brief be delivered to his place of residence since respondent court was already aware of his residence, because when he filed an Urgent Motion for Extension of Time to File Printed Record on Appeal, he used as his address his residence at 114 Scout Fernandez, Quezon City. Counsel cannot presume that respondent court will take cognizance of any other addresses that he may use in his pleadings, or assume that a given address is his residence, for unless he files a notice of change of address, his official address remains to be that of his address of record. It may well be a temporary address or just one of the many offices maintained by counsel. At most, it merely indicates (as was held in *Lopez*, supra) that the pleading was prepared in and mailed from said place and therefore does not supersede his address of record. Moreover, notices of court processes are ordinarily taken care of by clerks, who are naturally guided by addresses of record. To require the court and its personnel before sending out the notices, to be continuously checking the record and the various addresses from which a counsel may have filed his pleadings and sending them to such address(es) instead of his address of record which is duly recorded on the cover of the Rollo is to sow confusion and add an intolerable burden which is not permitted by the Rules of Court.^[3]

Counsel pleads for a liberal interpretation of the Rules of Court to allow the reinstatement of his appeal. The failure of counsel to file brief within the reglementary period and the dismissal of his appeal was of his own doing. He failed to receive the notice to file brief because he transferred his law office without giving the proper notice therefor, or making the necessary arrangements to assure that notices sent to his old address (which was likewise that of his client, the petitioner) would be forwarded to his new address. There was also an apparent failure to check periodically, as an act of prudence, the status of the pending case before the Court of Appeals. The frequency of such cases which needlessly clog the court dockets and would render meaningless the guidelines set by the Rules of Court and jurisprudence for an orderly and expeditious procedure in the determination of lawsuits, constrains us to reiterate the Court's admonition in *Juane vs. Garcia*,^[4] thus:

"The time has come, we believe, for this Court to remind the members of the Bar that it is their inescapable duty to make of record their correct address in all cases in which they are counsel for a suitor. For, instances there have been in the past when, because of failure to inform the court of the change of address, litigations were delayed. And this, not to speak of inconvenience caused the other parties and the court. Worse still, litigants have lost their cases in court because of such negligence on the part of their counsel. It is painful enough for a litigant to suffer a setback in a legal battle. It is doubly painful if defeat is occasioned by his

attorney's failure to receive notice because the latter has changed the place of his law office without giving the proper notice therefor. It is only when some such situation comes about that the negligent lawyer comes to realize the grave responsibility that he has incurred to his client and to the cause of justice. It is then that the lawyer is reminded that in his oath of office he solemnly declared that he 'will conduct' himself 'as a lawyer accordingly to the best of his knowledge and discretion.' Too late. Experience indeed is a good teacher. To a lawyer, though, it could prove very expensive."

The Court, therefore, finds that respondent Court of Appeals committed no grave error or abuse of discretion in dismissing the appeal which would justify the exercise of this Court's supervisory power. Suffice it to state, finally, that even as of this late hour, petitioner has not submitted any pertinent pleading nor copy of the questioned decision nor tendered an appellant's brief that would show a lawful and valid defense and compelling reasons that would justify the issuance of the corrective writ of certiorari.

ACCORDINGLY, the petition is dismissed. The writ of preliminary injunction heretofore issued is dissolved effective immediately upon promulgation hereof.

Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[*] Special Seventh Division composed of Justices Jesus Y. Perez, chairman, and Cecilia Muñoz Palma and Jose N. Leuterio, members.

[1] Paragraph 12, petition.

[2] 31 SCRA 214 (1970), per former Chief Justice Querube C. Makalintal; Marquez and Noza vs. Panganiban, 109 Phil. 1121 (1960); and People vs. Manangan, 56 SCRA 817 (1974), per now Chief Justice Fernando.

[3] Juane vs. Garcia, 25 SCRA 801 (1968), per Sanchez, J. (retired); see Rule 7, sec. 5; Rule 13, sec. 5.

[4] Idem.

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