

MEDEL RAMONES, PLAINTIFF-APPELLANT, VS. MARK ADRIAN BARBA A.K.A. MACKY BARBA, DEFENDANT-APPELLEE.

Ponente: GARCIA, R.R., J.

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GARCIA, R.R., J.:

On July 30, 2014, the Judicial Records Division of this Court required plaintiff-appellant Medel Ramones to submit an Appellant's Brief within forty-five (45) days from receipt of the notice.[1] The said notice was duly received by plaintiff-appellant as shown in the registry return receipt[2] attached to the records of the case.

Instead of filing an Appellant's Brief as directed by this Court, plaintiff-appellant, through counsel, opted to file a Memorandum[3] on October 10, 2014.

We resolve to dismiss outright the instant appeal.

Section 7, Rule 44 of the Rules of Court clearly requires plaintiff-appellant to file with this Court an Appellant's Brief, not a Memorandum, within forty-five (45) days from his receipt of the notice. Even if We are to treat the instant Memorandum as an Appellant's Brief, We still find that the same does not comply with the form and contents of an Appellant's Brief as prescribed under the Rules.

Section 13, Rule 44 of the 1997 Rules of Court provides:

Sec. 13. Contents of appellant's brief. - The appellant's brief shall contain, in the order herein indicated, the following:

- (a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;
- (b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;
- (c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;
- (d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;
- (e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;
- (f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;
- (g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks; and

(h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from.

Here, We find that the Memorandum lacked the required subject index. In the case of *De Liano, et al. v. Court of Appeals, et al.*[4], the importance of a subject index was underscored in that the same is intended to facilitate the review of appeals by providing a ready reference, functioning much like a table of contents. The subject index makes readily available at one's fingertips the contents of the brief so that the need to thumb through the brief page after page to locate a party's arguments, or a particular citation, or whatever else needs to be found and considered, is obviated.

The Memorandum also lacked an assignment of errors wherein the appellant has to specify in what aspect of the law or the facts that the trial court erred.[5] The importance of an assignment of errors cannot be underestimated considering that Section 8, Rule 51 of the Rules of Court clearly provides:

Sec. 8. Questions that may be decided.--No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

Moreover, the Memorandum does not contain a statement of the case. The rules require that an appellant's brief must contain both a statement of the case and a statement of facts. The purpose of the statement of the case is to give the appellate tribunal an overview of the judicial antecedents of the case, providing material information regarding the nature of the controversy, the proceedings before the trial court, the orders and rulings elevated on appeal, and the judgment itself. These data will enable the appellate court to have a better grasp of the matter entrusted to it for its appraisal.[6]

Then too, the Memorandum lacked page references to the record in its statement of the facts and arguments. Page references to the record are not empty requirements. If a statement of fact is unaccompanied by a page reference to the record, it may be presumed to be without support in the record and may be stricken off or disregarded altogether.[7] Section 1 (f), Rule 50 of the 1997 Rules of Civil Procedure provides that the failure to provide page references to records in the statement of facts and argument is a fatal error and is a ground for dismissal of the appeal, thus:

SECTION 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: x x x

(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44.

In fine, the right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. An appeal being a purely statutory right, the appealing party must strictly comply with the requisites laid down in the Rules of Court.[8] Hence, plaintiff-appellant's failure to comply with the aforementioned rules cannot be tolerated considering that these rules are designed to facilitate the orderly disposition of appealed cases.[9]

WHEREFORE, the instant appeal is hereby DISMISSED. Accordingly, this case is deemed CLOSED and TERMINATED

SO ORDERED.

Salazar-Fernando, R.A., (Chairperson) and Bueser, D.Q., JJ., concur.

[1] Rollo, p. 18.

[2] Rollo, back of p. 18.

[3] Rollo, pp. 19- 28

[4] G.R. No. 142316, November 22, 2001.

[5] De Liano, et al. v. Court of Appeals, supra.

[6] De Liano, et al. v. Court of Appeals, supra.

[7] De Liano, et al. v. Court of Appeals, supra.; Mendoza v. UCPB, G.R. No. 165575, February 2, 2011.

[8] Mendoza v. UCPB, G.R. No. 165575, supra.

[9] Estate of Tarcila Vda. De Villegas v. Gaboya, G.R. No. 143006, July 14, 2006; Casim v. Flordeliza, G.R. No. 139511, January 23, 2002.

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