

FJR GARMENTS INDUSTRIES, PETITIONER, VS. COURT OF APPEALS AND KAPISANANG MAGKAKAPIT-BAHAY DAMAYAN AT ABULUYAN, INC., RESPONDENT.

G.R. No. L-49320. June 29, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

The issue in this case is whether the lessee should be allowed to pay the docket fee and file an appeal bond after the 15-day period.

The city court of Pasay City on March 11, 1978 rendered a decision ordering Kapisanang Magkakapit-bahay Damayan at Abuluyan, Inc. to vacate the lots located at the corner of Leveriza Street and Buendia Avenue, Pasay City, to restore the owner, FJR Garments Industries, to the possession thereof and to pay the accumulated back rentals as of November, 1977 in the sum of P87,110.55 and the monthly rental of P2,250 from December, 1977 until the lots are vacated and P5,000 as attorney's fees (p. 29, CA Rollo).

That decision was served on Kapisanan on July 6, 1978. Nine days thereafter, or on July 15, 1978, Kapisanan filed a notice of appeal but it did not pay the docket fee of P20 and the appeal bond of P50 and post the supersedeas bond of P107,860, as required by sections 2 and 3, Rule 40 in relation to section 8, Rule 70 and section 5(12), Rule 141, Rules of Court.

On August 3, 1978, or 28 days after service of the decision, the city court "disapproved" Kapisanan's appeal. Without filing any motion for reconsideration, Kapisanan filed the next day in the Court of First Instance of Pasay City a petition for relief from judgment on the ground of mistake and excusable negligence consisting of the alleged mis-interpretation made by a member of Kapisanan in paying only the postage stamps for the notice mailed to adverse counsel instead of the docket fee and appeal bond.

The lower court in its order of August 25, 1978 dismissed the petition for relief because of its finding that Kapisanan's failure to appeal was due to its inexcusable neglect (p. 50, CA Rollo).

Kapisanan filed on August 28, 1978 a petition for certiorari in the Court of Appeals to annul the lower court's order of August 25 (p. 8, CA Rollo). It may be argued that, as only a legal issue is involved, it should have appealed to this Court under Republic Act No. 5440 which superseded Rule 42 of the Rules of Court. The Appellate Court reversed the lower court's decision and directed the city court to allow Kapisanan to perfect its appeal within ten days from the finality of its judgment.

We hold that the failure of Kapisanan to perfect its appeal was not a pardonable oversight. It is not entitled to relief from judgment because there was no fraud or excusable neglect which prevented it from seasonably appealing to the Court of First Instance. Moreover, its petition had no affidavit of merits.

Furthermore, its failure to file a supersedeas bond rendered the city court's judgment immediately executory.

The fact that even before the expiration of the 15-day period the city court declared Kapisanan's appeal "moot and academic" is of no moment since the fact is that during that period the lessee did not attempt to pay the docket fee and appeal bond.

The Appellate Court's reference to liberality in the interpretation of the Rules of Court in the matter of appeals refers to the material data rule found in section 6 of Rule 41. This case does not involve the material data rule.

Rules of court prescribing the time within which certain acts must be done, or certain proceedings taken, are absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. Strict compliance with such rules is mandatory and imperative. (*Shioji vs. Harvey*, 43 Phil. 333, 341; *Alvero vs. De la Rosa*, 76 Phil. 428).

WHEREFORE, the decision of the Court of Appeals is reversed and set aside with costs against respondent Kapisanan.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, Escolin, and Cuevas, JJ., concur.

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