

PEDRO BABALA, PETITIONER, VS. HON. COURT OF APPEALS AND PATRICIO CANELA, RESPONDENTS.

G.R. No. L-23065. February 16, 1970

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Pursuant to defendant's appeal from the judgment in Civil Case No. 317 of the Court of First Instance of Camarines Norte, entitled "Patricio Canela, Plaintiff vs. Pedro Babala, Defendant" the Court of Appeals issued a notice by registered mail for defendant to pay the docket fee in 15 days and to file the printed record on appeal in 60 days, from notice thereof.

The first registry notice coming from the postmaster addressed to defendant's counsel, Attorney Edmundo A. Narra, and covering the registered mail was received by Nicolas Lamadrid, a bookkeeper, on February 13, 1964, and the second by Rebecca B. Abilgos, an assistant manager, on February 24, 1964, both of the Rural Bank of Daet, Inc. where said defendant's counsel had his office. In both instances, counsel was out of the office. The registered matter was not taken from the post office.

On April 8, 1964, the Court of Appeals resolved to dismiss the appeal "for failure to pay the docketing fee". A motion for reconsideration was denied by the appellate court in its resolution of May 6, 1964. On May 26, 1964, a second motion was likewise overruled.

Defendant comes to this Court on petition for certiorari to overturn the Court of Appeals' resolutions of April 8, May 6 and May 26, 1964, and mandamus to compel reinstatement of the appeal.

We affirm.

A rule long familiar to practitioners in this jurisdiction is that "it is the duty of counsel to adopt and strictly maintain a system that efficiently takes into account all court notices sent to him." [1] Controlling here is *Enriquez vs. Bautista*, 79 Phil. 220, 222. There, petitioners' former counsel allegedly failed to receive any of the three registry notices of the registered letter sent to him by the clerk of the Court of First Instance of Bataan addressed "c/o House of Representatives, Manila." This registered mail contains the third order of the court denying petitioners' intervention in Special Proceedings No. 1645 of the said court. It was intimated that said attorney failed to get the notices because the House of Representatives was not then in session and he stayed either in Manila or Bataan. We dismissed this excuse as without merit. We said: "It is noteworthy that the registered letter of the Clerk of the Court of First Instance of Bataan containing a copy of the order in question was sent to the very address given by petitioners' attorney in the petition for intervention, and there is no showing that the clerk of court was ever notified by him of any change of address. The excuse that the attorney did not stay in one place permanently, cannot be accepted inasmuch as an attorney owes it to himself and to his clients to invariably adopt a system whereby he can be sure of receiving promptly all judicial notices during his absence from his address of record."

Atty. Edmundo A. Narra, petitioner's counsel, admits that he has not made provision for a regular clerk in his office. His excuse that he was "a small practitioner" is unacceptable. The facts that he holds his office at the Rural Bank of Daet, Inc. and that the two persons who at different times received the two registry notices in question both hold responsible positions in the bank, do not sit well with his claim that the registry notices were not turned over to him. Counsel's negligence was inexcusable. No grave abuse of discretion there was on the part of the Court of Appeals in dismissing the appeal and in refusing to reconsider its resolution of dismissal.

FOR THE REASONS GIVEN, the resolutions under review are hereby affirmed.

No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Baring vs. Cabahug, L-23229, July 20, 1967, 20 SCRA 696, 699; Colcol vs. Philippine Bank of Commerce, L-21137, November 17, 1967, 21 SCRA 890, 892.

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