

VICENTE TIOZON, ET AL., PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, ET AL., RESPONDENTS.*G.R. No. L-41928. March 31, 1976*

Ponente: MARTIN, J.

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On January 31, 1975, the Court of Appeals issued a resolution dismissing the appeal of the petitioners in CA-G.R. No. Undocketed 8899, entitled Catalina Cabana vs. Vicente Tiozon, et al. for failure to pay the corresponding docket fee. Petitioners prayed the respondent Court of Appeals to reinstate their appeal on the ground that their failure to pay the required docket fee is due to the fact that their counsel did not receive the notice to pay the same because it was sent not to the address on record of the latter in Tacloban City but to the P.O. Box address of the Citizens Legal Assistance Office in Manila. The respondent Court denied the motion to reinstate appeal filed by petitioners. A motion to reconsider the order denying their motion to reinstate their appeal was likewise denied in a resolution of the respondent Court dated September 25, 1975.

On October 17, 1975 petitioners with proper leave of court filed a second motion for reconsideration of the resolution dismissing their appeal alleging this time that since they have filed with the trial court a motion to appeal as pauper and the trial court approved their amended record on appeal and gave due course to their appeal, without requiring them to post an appeal bond, such approval of their amended record on appeal is tantamount to the granting of their motion to litigate as pauper litigants and therefore there was no need for them to pay the legal fees in prosecuting their appeal. The respondent Court denied the second motion for reconsideration on the ground that there was no specific order of the lower court authorizing petitioners to appeal as pauper and that the resolution of the respondent Court dated January 31, 1975 dismissing the appeal has long become final and executory as a result of which the records of the case have already been remanded to the lower court.

There is no dispute that petitioners were represented by their attorney of record – the Citizens Legal Assistance Office (Regional Office) stationed at Tacloban City represented by Atty. Carmelita Cuares. Pursuant to Section 5, Rule 7 of the Rules of Court, Atty. Carmelita Cuares signed every pleading in the aforesaid case for the Citizens Legal Assistance Office (Regional Office) and gave her office address at Tacloban City as the place where all pleadings, orders and notices pertinent to the case should be sent. There is nothing to show that she has manifested to respondent Court that she has changed her address. There is therefore no legal and factual basis for the respondent Court to send the notice to pay the docket fee in the instant case to the Citizens Legal Assistance Office in Manila. No less than the Court of Appeals itself ruled that notices of all kinds emanating from the Court should be sent to the attorney's address of record in the absence of a proper and adequate notice to the court of a change of address.[1] Since the respondent Court sent the notice to pay docket fee to a wrong address, petitioners could not have made a valid receipt of the same and therefore were not bound by it. Said notice bearing a wrong address is not and cannot be a notice within the contemplation of the Rules of Court.

Besides it is worth observing that petitioners filed before the trial court a motion to appeal as pauper. Although there is nothing in the record on appeal to show that said motion to appeal as pauper was granted the fact is that

the trial court approved their amended record on appeal and gave due course to their appeal without requiring petitioners to file an appeal bond. This Court believes that the approval of the amended record on appeal and the giving of due course to the appeal of petitioners amount to a tacit approval of their motion to appeal as pauper and therefore are exempted from payment of legal fees * * * pursuant to Section 22, Rule 3 of the Rules of Court.[2] Petitioners have called the attention of the Court of Appeals to the fact that the trial court has approved their record on appeal without requiring them to give an appeal bond and that this could mean the approval of their motion to litigate as pauper litigants but the respondent Court refused to listen to petitioners' claim and to reinstate their appeal. The respondent Court has thus acted in such a capricious and whimsical exercise of judgment which is equivalent to lack of jurisdiction as it refused to perform the duty enjoined, or to act at all in contemplation of law, hence, a clear abuse of discretion.[3] Petitioners have exercised their right to appeal in accordance with the provisions of law and they should not be denied this right. An appeal being an essential part of our judicial system, courts are enjoined to facilitate its being given due course.[4] The rules should be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding.[5] If a technical and rigid enforcement of the rules is made, their end would be defeated.[6] The general object of procedure is "to facilitate the application of justice to the rival claims of contending parties",[7] bearing always in mind that procedure is created "not to hinder and delay but to facilitate and promote the administration of justice." [8] By dismissing the appeal of the petitioners and refusing to reinstate the same, the respondent Court has failed in this respect.

WHEREFORE, in view of all the foregoing, the resolution of the respondent Court dated January 31, 1975 dismissing the appeal of petitioners and its other resolutions relative thereto are hereby declared null and void and the respondent Court is hereby ordered to recall the record of the case from the court of origin and to give due course to the appeal. No pronouncement as to costs.

SO ORDERED.

Teehankee Chairman), Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] De los Reyes vs. Lopez, CA-G.R. No. 34181-R, Sept. 26, 1964.

[2] "Sec. 22. Pauper litigant. – Any court may authorize a litigant to prosecute his action or defense as a pauper upon a proper showing that he has no means to that effect by affidavits, certificate of the corresponding provincial, city or municipal treasurer, or otherwise. Such authority once given shall include an exemption from payment of legal fees and from filing appeal bond, printed record and printed brief. The legal fees shall be a lien to any judgment rendered in the case favorably to the pauper unless the court otherwise provides."

[3] Police Commission vs. Bello, 37 SCRA 231; Chemplex vs. Pamatian, 57 SCRA 408; Palma and Ignacio vs. Q & S. Inc., 17 SCRA 97; Vda. de Bacaling vs. Laguda, 54 SCRA 243.

[4] Republic vs. Gomez, 115 Phil. 361.

[5] Sec. 2, Rule 1, Rules of Court.

[6] Manila Railroad Co. vs. Attorney General, 20 Phil. 523, 530.

[7] Udan vs. Amon, 23 SCRA 837; McEntee vs. Manotok, 3 SCRA 272.

[8] Moran, Comments on the Rules of Court, Vol. 1, p. 103, 1970 Ed.

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