

**MERCEDES T. CASILAN, PLAINTIFF AND APPELLANT, VS. J. C. V. CHAVEZ AND QUEZON CITY EXPORT & #038; IMPORT INC., DEFENDANTS. EQUITABLE BANKING CORPORATION, DEFENDANT AND APPELLEE.**

*G. R. No. L-17334. February 28, 1962*

Ponente: LABRADOR, J.

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**LABRADOR, J.:**

This is an appeal from an order of the Court of First Instance of Manila, denying the petition for relief filed by petitioner in Civil Case No. 30802, entitled "Mercedes T. Casilan, plaintiff-appellant, versus J. C. V. Chavez and Quezon City Export & Import, Inc., defendants and Equitable Banking Corporation, defendant-appellee.

The circumstances leading to the filing of the petition for relief previously stated are as follows:

Civil Case No. 30802 was instituted by Mercedes T. Casilan to recover the sum of P25,000.00 from the defendants J. C. V. Chavez and Quezon City Export and Import Inc., and the Equitable Banking Corporation. The record does not reproduce the pleading in the above case, but only the decision rendered by the Court, dated October 25, 1957. From the decision, it appears that the plaintiff and defendants entered into a compromise agreement to settle the case, under the term of which, the plaintiff Mercedes T. Casilan was to receive from the Clerk of Court the amount of P20,556.05, deposited with the Clerk of Court, or from the depository thereof, the Equitable Banking Corporation, as well as the balance of P4,443.95, representing the balance of plaintiff's claim of P25,000.00, per Deed of Assignment of Letter of Credit, dated September 21, 1956, as executed by J. C. V. Chavez and Mercedes T. Casilan, from the Equitable Banking Corporation. Under the terms of the compromise agreement, the said balance of P4,443.95 is to be collected by Casilan from the Equitable Banking Corporation.

After the decision was rendered by the lower court on the said compromise agreement, the Equitable Banking Corporation moved to amend the decision, praying that movant be discharged from paying the amount of P4,443.95 to plaintiff Casilan, on the ground that said Bank has not yet collected the said amount from the party concerned and on the further ground that the said Bank was not a party to the compromise agreement.

Plaintiff filed an opposition to the motion to amend, but the court overruled the opposition and modified the judgment rendered on the compromise agreement, in the following terms:

"The Clerk of Court is hereby authorized to pay plaintiff the sum of P20,499.66 deposited with him by the Equitable Banking Corporation in accordance with an order of this Court dated November 10, 1956. Said amount shall be applied in partial satisfaction of this judgment. Should the Equitable Banking Corporation succeed in collecting the 5% of the Letter of Credit No. C-11592 before the defendants pay plaintiff the entire balance of P4,500.34 of this judgment, said unpaid balance of this judgment shall be satisfied out of the amount so collected by the Equitable Banking Corporation." (p. 52, Amended Record on Appeal)

A motion to reconsider the order was presented by the attorneys for the plaintiff, and after an answer to the

opposition and a reply to the answer were filed, the Court entered an order in the following terms:

"Denied for lack of merits, the motion for reconsideration of order, motion dated Feb. 14, 1958." (p. 84, Record on Appeal)

The above-quoted order dated February 24, 1958, having been received, plaintiff filed a notice of appeal from the court's order of January 16, 1958, amending the original decision dated October 25, 1957. At about the same time, on March 4, 1958, plaintiff filed an urgent motion to extend the time for filing the Record on Appeal, which motion was granted on March 8, 1958. Plaintiff filed her Record on Appeal but its approval was opposed by the Bank on the ground that the 30 day period within which to appeal had elapsed. The Court found that the opposition was well-taken and disapproved the Record on Appeal.

Having failed to secure the approval of the Record on Appeal, petitioner filed a petition for relief alleging among other things that the delay was due to excusable negligence on the part of the employee of her counsel, and that the judgment was unfair and unjustified because the plaintiff cannot enforce it against the defendants. The petition was accompanied with affidavits, Annexes "A", "B" and "C", justifying the supposed excusable negligence. Upon the filing of the petition, an opposition thereto was filed, alleging that knowing that the motion for extension of Time to File the Record on Appeals would not stop the period to appeal, plaintiff neglected to have the motion granted. On the same day it was filed, and thus, said motion was only granted on March 8, 1958, that is, five (5) days later than the expiration date for the perfection of her appeal. The Court denied the petition for relief in the following language:

"Denied for lack of merit, the Petition for relief from order, motion dated April 22, 1958." (p. 28, Rec. on Appeal)

Against the above denial, plaintiff presented, the present appeal to the Court of Appeals, and the latter forwarded the case to Us on the ground that the appeal involves purely questions of law.

The brief for the plaintiff-appellant is extended on 5 pages in print. The only assignment of error made is that the lower court erred in denying, without first hearing plaintiff-appellant, the latter's petition for relief. It is contended that the petition being sufficient in form and substance and filed on time, the court committed an error and/or grave abuse of discretion when it dismissed the petition without observing the procedure laid down under Secs. 4 and 6 of Rule 38.

We find that the brief of the appellant is defective. In a very important particular, because although it states that the lower court erred in denying the petition for relief, the brief fails to point out appellant's reasons for claiming that the petition for relief was sufficient in substance; it should have pointed out to this Court why the petitioner was entitled to the relief and to have the decision set aside and the new trial granted. In describing what should be contained in a brief former Chief Justice Moran makes the following comment, quoting from *Bell vs. Germain*, 167 P. 620, 631—

"The word 'brief' is derived from the Latin word *brevis*, and the French *brief*, and literally means a short or condensed statement. The purpose of the brief is to present to the court in concise form the point and questions in controversy, and by fair argument on the facts and law of the case, to assist the court in arriving at a just and proper conclusion. The brief should be so prepared as to minimize the labor of the court in the examination of the record upon which the appeal is heard and determined. It is, certainly, 'the vehicle of counsel to convey to the court the essential facts of his client's case, a statement of the questions of law involved, the law he would have applied, and the application he desires made of it by the court.'" (Comments on the Rules of Court, Vol. I, 1957 ed., p. 711)

The appellant can not expect this Court, with the numerous cases pending before it, to read the whole record on

appeal, which in this case contains 97 pages in small print, and glean therefrom why the order appealed from should be set aside and the relief demanded granted. The appellant is required to help the Court in its laborious duty in the examination of the alleged errors to point out where and in what respect said errors are committed.

We are, therefore, constrained to deny the petition for failure of the brief of the appellant to show the merits of the appeal, point out the errors committed, the merits of the appellant's case, and the justice of the remedy prayed for.

Before closing this decision, however, we take this opportunity to explain the practice of the courts, the Supreme Court included, in framing very brief orders like the order subject of appeal, which reads as follows: "denied for lack of merits." The volume of work done by the courts, in resolving motions of similar nature to the subject of the present appeal, justifies the use of such short order. Were the courts required to point out in all cases why a motion is devoid of merits, when the absence of merit is quite evident, a great amount of their time would be spent, which time could be more profitably employed in trials and in the formulation of decisions and orders of important or difficult nature and character. Lawyers know more or less whether a petition is meritorious and consequently entitled to approval.

The practice of making orders like the one appealed from has been very general here and abroad, being a practical device for the prompt dispatch of the work of judges. Without the court pointing their reasons for their short or abbreviated rulings, attorneys are supposed to know the cause or reasons for the rulings; if they do not understand why their petitions were denied, it is not the fault of the courts but the failure of the lawyers themselves to understand the facts and circumstances and the law determinative of the issues.

Going now to the merits of the appeal, it can be seen from the facts pointed out in the beginning of this decision that the reason for the appeal is to evade the effect of the failure of the appellant herein to perfect his appeal in due time.

Going now into the justness of the case for the appellant, we find that the Equitable Banking Corporation was not absolutely relieved from the obligation in relation to the payment to plaintiff-appellant of the sum of P4,500.34. A remedy was still afforded the plaintiff against the Equitable Banking Corporation, because the latter was not absolved from the complaint. According to the dispositive part of the decision plaintiff is granted the right to collect the sum of P4,500.34 from the Equitable Banking Corporation as soon as the latter may be able to collect it the same. Obviously plaintiff-appellant has not been left without a remedy. If said remedy exists, certainly it does not lie in the present petition for relief but in some other.

For the foregoing considerations the order appealed from is affirmed, with costs against plaintiff-appellant.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, and De Leon, JJ., concur.

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