

SKI ENERGY RESOURCES, INC., PETITIONER, VS. BAUER FOUNDATIONS PHILIPPINES INC., RESPONDENT.

Ponente: CORALES, J.

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CORALES, J.:

On October 29, 2014, pending resolution of petitioner's Motion for Reconsideration,[1] We directed Atty. Maria Isabel M. Pattugalan-Madarang, Division Clerk of Court, to investigate the alleged filing and service of petitioner's Motion to Admit Attached Bond (Motion to Admit). Furthermore, We observed that respondent failed to indicate its written conformity to the Entry of Appearance filed by its purported new counsels.[2]

On November 19, 2014, respondent filed a Manifestation emphasizing its earlier compliance with the requirement of conformity.[3]

This Court's assiduous inquiries found no support for petitioner's claims that it in fact filed its bond, attached to the above-mentioned Motion to Admit, by registered mail on September 27, 2013.[4] The well-entrenched rule is that, failing its existence in the records, proof of filing of a pleading or paper consists of the corresponding registry receipt as well as an affidavit of the facts surrounding the act of mailing.[5] However, petitioner presented only a photocopy of Registry Receipt No. 10840, attached to the photocopy of the Motion to Admit annexed to its Motion for Reconsideration.[6] The following disquisition of the Supreme Court in *American Express v. Sison*[7] thus finds relevance:

x x x Based on the proof required under Sec. 12 above, the registry receipt presented by Amex does not suffice as proof of payment of the docket fee in this case. For one, filed with the Court are mere photocopies of the letter and the registry receipt and even if the original of the registry receipt was submitted, there is no indication therein that it refers to the letter or the alleged docket fee payment. For another, Amex should have also submitted in evidence the affidavit of the person who did the mailing, containing a full statement of the details of mailing. As the party to whom the burden of proof to show that the letter was mailed and received by the addressee lay, Amex could have easily presented the affidavit of its messenger to satisfy the requirement of the Rules of Court. Unfortunately, Amex offered no explanation for its failure to discharge its burden.

Thus, we agree with the appellate court that no grave abuse of discretion attended the trial court's denial of Amex's Notice of Appeal. The Court acknowledges that appeal is an essential part of our judicial system and every party litigant must be afforded the opportunity for the proper and just disposition of his cause. However, the force and effect of procedural rules, such as those that prescribe the period and manner by which appeals should be perfected, or those that detail the means by which the filing of pleadings, notices or similar papers is proved, should not be undermined without the most compelling of reasons. We find no such compelling reason to warrant a liberal application of the rules.

WHEREFORE, petitioner's Motion for Reconsideration is DENIED for lack of merit. In this light, respondent's Manifestation and the Entry of Appearance of its new counsels are NOTED.

SO ORDERED.

Castillo, M., Chairperson and Lazaro-Javier, A., JJ., concur.

[1] Rollo, pages 1048-1050.

[2] See October 29, 2014 Resolution, *ibid.*, pages 1122-1124.

[3] See Manifestation, *ibid.*, pages 1125-1135.

[4] See Motion for Reconsideration, *supra*, at note 1.

[5] Rules of Court, Rule 13, Sec. 12. Proof of filing. – The filing of a pleading or paper shall be proved by its existence in the record of the case. If it is not in the record, but is claimed to have been filed personally, the filing shall be proved by the written or stamped acknowledgment of its filing by the clerk of court on a copy of the same; if filed by registered mail, by the registry receipt and by the affidavit of the person who did the mailing, containing a full statement of the date and place of depositing the mail in the post office in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if not delivered.

[6] See Registry Receipt, Annex “A” of the Motion for Reconsideration, rollo, page 1051.

[7] G.R. No. 172901. October 29, 2008.

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