

SALVADOR NEBRAN, SR., NIEVES SIBIDA, RODING MABUTI, ROGELIO DOLIENTE, MELVIN NEBRAN, THEIR SUCCESSOR-IN-INTEREST AND ALL OTHER PERSONS CLAIMING RIGHTS UNDER THEM, PETITIONERS, V...

Ponente: CORALES, J.

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CORALES, J.:

This is a Petition for Review[1] under Rule 42 of the Rules of Court assailing the May 10, 2012 Decision[2] and March 18, 2013 Order[3] of the Regional Trial Court (RTC), Branch 78, Morong, Rizal in Civil Case No. 11-2272-M entitled “Divina Peralta v. Salvador Nebran, Sr., Nieves Sebida, Roding Mabuti, Rogelio Doliente, Melvin Nebran, their successor-in-interest and all other persons claiming rights under them”. The assailed Decision reversed the August 22, 2011 Decision[4] of the Municipal Trial Court, Tanay, Rizal dismissing the complaint for unlawful detainer while the questioned Order denied the Motion for Reconsideration.

On June 20, 2013, this Court issued a Resolution[5] granting petitioners' Motion for Extension of Time to file Petition for Review[6] (motion for extension) filed on June 7, 2013. On June 28, 2013 and July 11, 2013, respondent Divina Peralta (Peralta) filed a Motion for Leave of Court to Comment and Oppose the Motion for Extension of Time to file Petition for Review under Rule 42 of the Rules of Court with Notice of Change of Address[7] and Motion to Recall Resolution dated June 20, 2013 (motion to recall),[8] respectively alleging that petitioners' motion for extension of time was belatedly filed. The questioned March 18, 2013 Order of the RTC was received by their counsel, Atty. Zenon S. Suarez (Atty. Suarez), on May 2, 2013 and not on May 18, 2013 as evidenced by the registry return receipt.[9] Hence, petitioners had until May 17, 2013 to file the appropriate remedy. Since the motion for extension of time was filed 20 days late, there was nothing more to extend and the questioned March 18, 2013 Order of the RTC became final and executory on June 20, 2013.[10]

On the other hand, petitioners filed on July 10, 2013 their Comment on the Opposition of Plaintiff-Appellee[11] arguing that the Rules of Court give preference to the service of pleadings, order or judgment to all the parties and in the alternative, to the counsel on record. According to petitioners, only one of the parties, Salvador Nebran, was sent a copy of the assailed Order, hence, there was no full compliance with the requirement under the Rules. Moreover, they alleged that contrary to Peralta's assertion, Atty. Suarez did not receive a copy of the questioned Order because at the purported date of receipt by a certain Maegan Relles, the former had transferred to another office.

We find the motion to recall filed by Peralta meritorious. It must be stressed that in granting petitioners' motion for extension of time to file petition, We emphasized that the same was conditioned on its timeliness. Under Section 1, Rule 42 of the Rules of Court, a petition for review shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. A perusal of the records

show that when Atty. Suarez filed the motion for extension, the same was beyond the reglementary period. As shown by the registry return receipt, he was furnished with a copy of the March 18, 2013 Order on May 2, 2013, thus, he has until May 17, 2013 to file the petition or motion for extension of time. For failure to file the appropriate remedy within the reglementary period, the March 18, 2013 Order became final and executory on June 20, 2013.[12]

However, petitioners insist that Atty. Suarez never received a copy of the March 18, 2013 Order on May 2, 2013 because during the said period he was confined at the hospital and had transferred to another office. Notably, they notified this Court of the new address of Atty. Suarez but failed to prove that they had informed the RTC of the said change in address. Well-settled is the rule that if counsel moves to another address without informing the court of that change, such omission or neglect is inexcusable and will not stay the finality of the decision.[13] Moreover, as between the bare denial of an attorney of his receipt of the notice of judgment and the positive assertion of a postal official whose duty it is to send such notices, the choice is not difficult, for the attorney's denial certainly cannot prevail over the contrary statement of postal officials based on official records. For one thing, postal officials enjoy the presumption, without clear and convincing evidence to the contrary, to have regularly performed their official duty and that they have acted in good faith. All things are presumed to have been done correctly and with due formality until the contrary is proved. For another reason, mails are presumed to have been properly delivered and received by the addressee "in the regular course of the mail." These *juris tantum* presumptions stand even against the most well-reasoned allegations pointing to some possible irregularity or anomaly. It is petitioners' burden to overcome the presumptions by sufficient evidence, and so far We have not seen anything in the record to support their charges of anomaly beyond their bare allegations.[14]

Furthermore, service of the March 18, 2013 Order to Atty. Suarez is considered notice to all the petitioners. The ruling in *Ramos v. Lim*[15] is instructive, viz.:

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Should a party to a suit appear by counsel, service of every judgment, order, or pleading subsequent to the complaint, written motion, notice or similar papers shall be made upon his counsels or one of them. Accordingly, notices of all kinds and all orders of the court must be sent to the counsel. While notice to counsel is an effective notice to the client, notice to a client and not to his counsel is not notice in law.

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Noteworthy, when a decision is already final and executory, the same can no longer be the subject of an appeal. Thus, petitioners in this case are already bound by the final and executory May 10, 2012 Decision and March 18, 2013 Order of the RTC and can no longer impugn the same.[16]

It has been repeatedly enunciated that a client is bound by the action of his counsel in the conduct of a case and cannot be heard to complain that the result might have been different had he proceeded differently. A client is bound by the mistakes of his lawyer. If such grounds were to be admitted as reasons for reopening cases, there would never be an end to a suit. It must be borne in mind that the right to appeal is not a natural right or a part of due process, but is merely a statutory privilege that may be exercised only in the manner prescribed by the law.[17]

WHEREFORE, the Motion to Recall Resolution dated June 20, 2013 is hereby GRANTED. Accordingly, the instant Petition for Review is hereby DISMISSED.

SO ORDERED.

Villon (Chairperson) and Macalino, JJ., concur.

[1] See Amended Petition for Review, rollo, pages 92-107. The parties are referred to in the petition and in the rollo as defendants/appellants and plaintiff-appellee. In accordance with the Rule 42 of the Rules of Court, they are referred to in this Resolution as petitioners and respondent.

[2] Penned by Presiding Judge Gina F. Cenit-Escoto, *ibid.*, pages 28-39.

[3] *Ibid.*, pages 40-47.

[4] Penned by Acting Presiding Judge Ma. Socorro Almazan Vista, *ibid.*, pages 172-175.

[5] *Ibid.*, page 12.

[6] *Ibid.*, pages 3-5.

[7] *Ibid.*, pages 67-68.

[8] *Ibid.*, pages 77-79.

[9] *Ibid.*, page 70.

[10] *Ibid.*, page 71.

[11] *Ibid.*, pages 73-76.

[12] *Supra*, at note 10.

[13] *Karen and Kristy Fishing Industry v. The Honorable Court of Appeals*, G.R. Nos. 172760-61. October 15, 2007.

[14] See *Gold Line Transit v. Ramos*, G.R. No. 144813. August 15, 2001.

[15] G.R. No. 133496. May 09, 2005.

[16] See *Dominic Griffith v. Estur*, G.R. No. 161777. May 7, 2008.

[17] See *Lagua v. Court of Appeals*, G.R. No. 173390. June 27, 2012.

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