

SPOUSES FACUNDO ARCULAR AND LILY ARCULAR, AND NALICION P. SABALO, PETITIONERS, VS. FORCIPEDA S. MAISOG, BELTRAN SABALO, AZUCENA S. CONSIGNA, EULEJARDO SABALO, FELICIDARIA S. LER...

Ponente: CAMELLO, J.

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CAMELLO, J.:

This land dispute reached the court below by means of respondents' verified complaint for Recovery of Possession, Quieting of Title, and Damages before the Municipal Circuit Trial Court of Socorro-Dapa[1] against the petitioners.

Reduced to essentials, the case antecedents are as follows:

The respondents (plaintiffs a quo), who are the heirs of Januaria Tomon, claim to be the owners, by way of succession, of the subject property allegedly in possession of the petitioners (defendants a quo). The disputed property is covered by Tax Declaration No. 1373 and described as follows:

A parcel of land situated in Songkoy, Socorro, Surigao del Norte, bounded on the N. by River, on the S, by Spring, on the E. by Padre Ramirez, and on the W. by Spring, containing an area of 2.000 has. More or less covered by Tax Dec. No. 1373 for the year 1969 in the name of Ramon Tomon and assessed at P440.00.[2]

Upon Ramon Tomon's death, ownership of the land passed on to his children Pablo, Mederio, Lodegario, and Januaria. When Januaria passed away, her share to the property was inherited by her children, the respondents, Forcipeda, Beltran, Azucena, Eulejardo, Felicidadaria, and Gleceria (plaintiffs a quo). The respondents alleged that they acquired the rest of the property through sale from the other co-owners.

In 1991, petitioners spouses Facundo and Lily Arcular requested Lodegario, that they be allowed to occupy his part of the property. Presumably, Lodegario acceded to the request. The other petitioner, Nalicion Sabalo, wife of Lodegario followed and occupied a separate portion of the property.[3]

Lodegario died in 1996. The respondents demanded for the return of the property, but the petitioners refused. Since demands to vacate fell on deaf ears, and subsequent efforts toward amicably settling the dispute through the Barangay Justice System proved futile,[4] respondents instituted on 30 April 1999 the complaint[5] for recovery of possession and quieting of title against the petitioners with the Municipal Circuit Trial Court [MCTC] of Dapa-Socorro. The case was docketed as Civil Case No. 226.

On 10 May 1999, petitioners filed a motion to dismiss[6] the complaint upon the grounds that indispensable parties were not joined as party plaintiffs and that the barangay certification was fictitious for the case has long been settled.

Respondents moved to declare petitioners in default reasoning that the grounds relied upon by the petitioners were not grounds for a motion to dismiss under Section 1, Rule 16 of the Rules of Court.[7] In addition, respondents

pointed out that the motion must be treated as a mere scrap of paper for its failure to set the date of hearing. Thus, the motion did not suspend the running of the period to file answer.

In an Order[8] dated 18 September 1999, petitioners were declared in default for failure to file an answer and respondents were allowed to present evidence ex parte.

On 11 March 2000,[9] the trial court, on motion of the petitioners, lifted the order of default and the petitioners filed their answer,[10] accordingly.

In their answer, petitioners denied the material allegations of the complaint and alleged that they are the actual owners and possessors of the disputed property for many years. To prove that they have been in actual possession of the disputed property, the petitioners submitted in evidence the following documents:

- 1. Tax Declaration No. 262[11] in the name of petitioner's predecessor-in-interest Onofre Arcular;
- 2. A photocopy of the agreement between Lodegario Sabalo and Facundo Arcular regarding the boundary line between their properties with a sketch of the area.¹²
- 3. Affidavit of one Nalecion Sabalo to the effect that she was returning to the respondents the subject property that was previously donated by the family of the respondents to Lodegario Sabalo.[13]

On 20 January 2010, the MCTC resolved the case in this wise:

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From the foregoing evidence presented by the plaintiffs and the defendants, it would show that plaintiffs have the right to the property in question having successfully established their possession and ownership as early as 1928. This fact was supported by their documentary evidence presented in Court and as stated in their testimonial evidence. While it is true that Onofre Arcular has a landholding adjacent to the plaintiffs, evidence suggests that some of their property or portion of it were already sold by the heirs of Arcular. Defendant Facundo Arcular who happened to apply and was issued a title in his name however cannot be disturbed in his possession having acquired title to the portion of Onofre Arcular's property. Excess to the titled property of Facundo will be turned over to the plaintiffs being the original owners and possessors of the excess portion of the property also claimed by the Arculars.

WHEREFORE, in the light of the foregoing, judgment is hereby rendered for the defendants to:

a)

To limit their claim, cultivation, and possession to their titled landholdings under OCT No. 1589 with 2,858 sq. meters;

b)

To vacate and to turn over to the plaintiffs portion of the property occupied by the defendants in excess of their claim;

c)

To refrain from harvesting coconut and other fruit bearing trees in excess or beyond their titled lot; and

d)

To pay to the plaintiffs moral damages in the amount of P20,000.00 and Attorney's fee in the amount of P20,000.00 plus litigation expenses in the amount of P10,000.00

SO ORDERED.[14]

On 24 February 2011, petitioners appealed to the Regional Trial Court [RTC] of Dapa, Surigao del Norte, Branch 31.

In his order[15] dated 26 March 2012, Acting Presiding Judge Victor A. Canoy dismissed the petitioners' appeal and directed that the case be remanded to the city court for the execution of its judgment.

From that order of dismissal, on 12 April 2012, the petitioners filed an Entry of Appearance and very Urgent Motion for Reconsideration.[16]

On 24 April 2012, the RTC denied the petitioners' motion for reconsideration.¹⁷

Insisting on the validity of their cause, petitioners interposed this petition for review anchored on three assigned errors, to wit;

- 1. THE MUNICIPAL CIRCUIT TRIAL COURT WAS WITHOUT JURISDICTION TO TRY AND ADJUDICATE THE CASE;
- 2. THE CASE WAS ALREADY BARRED BY RES JUDICATA, AS THIS WAS ALREADY PREVIOUSLY SETTLED BY THE PARTIES BEFORE THE BARANGAY;
- 3. RESPONDENTS FAILED TO PROVE PRIOR POSSESSION OF THE SUBJECT PROPERTY; AND
- 4. INDISPENSABLE PARTIES WERE NOT FORMALLY INCLUDED AS PLAINTIFFS TO THE CASE AS THEY FAILED TO SIGN THE VERIFICATION AND CERTIFICATION AGAINST NON-FORUM SHOPPING.

The issue is whether the lower court properly dismissed petitioners' appeal for failure to file memorandum on appeal.

In their petition,[18] petitioners admitted their failure to submit an appeal memorandum within the period required by the rules, and pray that they be excused from filing it and added that it was not their fault. Petitioners plead for the relaxation of the rules in the interest of substantial justice and consistent with the "view" that the Court should decide cases on the merits and not on technicality.

In their comment,[19] respondents counter that petitioners' failure to file the memorandum required under the rules, compelled the RTC to dismiss the case. They point out that an appealed case cannot be decided on the merits without an appellant's memorandum, as the assignment of errors by the appellant is vital to the decision of the case. Moreover, the failure of the appellants to file a memorandum manifests lack of interest to pursue their appeal.

We deny the petition.

The appeal of the petitioners was dismissed by the RTC on 26 March 2012 for petitioners' failure to file memorandum on appeal.

Section 7 of Rule 40, which governs the procedure of an appeal in the Regional Trial Court, provides:

(a)

upon receipt of the complete record or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b)

Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.

(c)

Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed.

Here, the petitioners failed to comply with the order of the RTC to submit its appeal memorandum. Thus, in essence, petitioners failed to pursue their appeal in the manner and within the time prescribed by the quoted Rule.

Records show that almost one (1) year had lapsed from the filing of the Notice of Appeal on 24 February 2011 up to the order of dismissal of the lower appellate court on 26 March 2012. When the case was ordered dismissed, that was the time that petitioners filed a motion for reconsideration on 12 April 2012. But still, memorandum was actually filed by the petitioners.

Petitioners patently violated Section 7 of Rule 40 of the Rules of Court. To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. Petitioners urge a less rigid application of procedural rules to give way for the resolution of the case on its merits. The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse.

In the case of *Enriquez v. Court of Appeals*,^[20] the Supreme Court discussed the importance of a memorandum on appeal, to wit:

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Rule 40, Section 7 of the 1997 Rules of Civil Procedure is a new provision. Said section is based on Section 21 (c) and (d) 17 of the Interim Rules Relative to the Implementation of the Judiciary Reorganization Act of 1980 (B.P. Blg. 129) with modifications. These include the following changes: (a) the appellant is required to submit a memorandum discussing the errors imputed to the lower court within fifteen (15) days from notice, and the appellee is given the same period counted from receipt of the appellant's memorandum to file his memorandum; (b) the failure of the appellant to file a memorandum is a ground for the dismissal of the appeal.

Rule 40, Section 7 (b) provides that, "it shall be the duty of the appellant to submit a memorandum" and failure to do so "shall be a ground for dismissal of the appeal." The use of the word "shall" in a statute or rule expresses what is mandatory and compulsory. Further, the Rule imposes upon an appellant the "duty" to submit his memorandum. A duty is a "legal or moral obligation, mandatory act, responsibility, charge, requirement, trust, chore, function, commission, debt, liability, assignment, role, pledge, dictate, office, (and) engagement." Thus, under the express mandate of said Rule, the appellant is duty-bound to submit his memorandum on appeal. Such submission is not a matter of discretion on his part. His failure to comply with this mandate or to perform said duty will compel the RTC to dismiss his appeal.

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We have always emphasized that the bare invocation of "the interest of substantial justice" line is not some magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights.[21] Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.[22]

To merit liberality, petitioners must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the appeal would defeat the administration of substantive justice. This, the petitioners failed to do when they did not submit their memorandum of appeal in Civil Case No. 226 as required by Rule 40, Section 7 of the Rules of Court. The rationale for this strict attitude is not difficult to appreciate. These rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by clogged dockets, these rules need to be followed by appellants with greater fidelity. The Court does not close its eyes to special cases when for compelling reasons, we have disregarded similar procedural defects in order to correct a patent injustice made. Petitioners failed, however, to demonstrate any gripping reason for a liberal application of the rules. That they lost their appeal is not due to the trial court's fault but theirs.

In sum, we find that the Regional Trial Court committed no reversible error of law when in obedience to Rule 40 of the Rules of Court, it (a) dismissed petitioners' appeal in Civil Case No. 226, and (b) denied reconsideration of that ruling.

FOR THE REASONS STATED, the petition for review is DENIED.

SO ORDERED.

Inting and Perez, JJ., concur.

[1] Branch 8, Judge Rolando T. Literato, presiding; case docketed as Civil Case No. 226.

[2] Rollo, p. 43.

[3] Rollo, 43-44.

[4] Rollo, p. 46.

[5] Rollo, pp. 43-45.

[6] Rollo, pp. 47-49.

[7] Rollo, p. 50.

[8] Rollo, p. 51.

[9] Rollo, pp. 62-63.

[10] Rollo, pp. 64-66.

[11] Rollo, p. 59.

[12] Rollo, p. 60.

[13] Rollo, p. 61.

[14] Rollo, pp.71-72.

[15] Rollo, p. 38.

[16] Rollo, pp. 35-37.

[17] Rollo, pp. 33-34.

[18] Rollo, p. 18.

[19] Rollo, pp. 94-102.

[20] G.R. No. 140473. January 28, 2003.

[21] Land Bank of the Philippines v. Ascot Holdings and Equities, Inc., G.R. No. 175163, October 19, 2007, 537 SCRA 396, 406.

[22] Torres v. Abundo, G.R. No. 174263, January 24, 2007, 512 SCRA 556, 565; citing Castillo v. Court of Appeals, G.R. No. 159971, March 25, 2004, 426 SCRA 369, 375.

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