

**ABS REALTY ESTATE DEVELOPMENT CORPORATION,  
PLAINTIFF-APPELLEE, V. STANLEY WHITE AND TANYA HOLMANN,  
DEFENDANTS-APPELLANTS.**

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**GALAPATE-LAGUILLES, J:**

On July 6, 2013 We issued a Resolution directing the Postmaster to submit to this Court the Registry Return Receipt for this Court's Resolution dated May 3, 2013, addressed to Atty. Manuel W. Quijano of Suite 122 Alpha Bldg. Subic International Hotel, Subic Bay Free Port Zone.[1]

Meanwhile, Atty. Maria Rosario Cesa, counsel for plaintiff-appellee, filed a Manifestation dated August 13, 2013, stating in part that they received the May 3, 2013 Resolution on May 15, 2013. According to her, since the recorded address of defendants-appellants' counsel and her office is within the same area, the defendants-appellants' law office should have received their copy of the said May 3, 2013 Resolution also on or about the same date.[2]

On December 4, 2013, We issued another Resolution requiring the Postmaster of Olongapo City, to show cause why no administrative sanctions should be meted out for failing to comply with our July 26, 2013 Resolution[3] directing him to submit the Registry Return Receipt of Our May 3, 2013 Resolution.

In his undated handwritten Motion for Extension to File Compliance, Virgil M. Adamos, Postmaster of Subic Free Port Zone, prays for a five (5) day extension from January 2, 2014 within which to comply with this Court's December 4, 2013 Resolution. According to him, the said Resolution was addressed to the Postmaster of Olongapo City; that the Olongapo City Post Office is independent from the Subic Bay Free Port Zone Post Office; that the said show cause Order was forwarded by the Postmaster of Olongapo to the Postmaster of Subic Bay Free Port only on December 19, 2013 and that he was unable to comply with Our directive immediately because of the successive holidays; and that he personally went to the Court of Appeals to verify the Show Cause Order and requested for the pertinent documents in support of his show cause compliance.[4]

In his letter dated January 3, 2014, attaching thereto a photocopy of the proof of delivery, Postmaster Virgil M. Adamos states that according to their records, registered letter no. MDS-3649 bearing this Court's May 3, 2013 Resolution and addressed to Atty. Manuel Quijano (Suite 122 Alpha Bldg. Subic International Hotel, Subic Bay Free Port Zone), was received by one Mr. Michael Intal on May 21, 2013.[5]

From the foregoing, it is obvious that upon the filing of their Memorandum of Appeal dated April 2, 2013 last June 5, 2013[6], defendant-appellants were already in possession of the May 3, 2013 Resolution dismissing their appeal for failing to file their appeal brief within the reglementary period.[7] It must be noted that this Court's Notice to File Brief dated November 12, 2012 was received by the defendants-appellants' counsel last December 7, 2012.[8] And per Certification by this Court's Judicial Records Division, defendants-appellants failed to file their appellants' brief as of last March 25, 2013.[9] Clearly, the Memorandum of Appeal, although dated April 2, 2013, but filed last June 5, 2013, was already 135 days late.

We also noticed that the defendants-appellants, thru counsel, failed to proffer any explanation as to why the said

Memorandum was filed way beyond the reglementary period, despite receipt of the Notice to File Brief last December 7, 2012. Instead, they merely filed the said Memorandum, unwary of the possible legal ramifications, or, worse, attempting to mislead this Court into believing that their Brief was still seasonably filed. This Court thus affirms its earlier Resolution dated May 3, 2013 dismissing the instant appeal in view of the defendants-appellants' failure to file their appeal brief within the reglementary period. [10]

ACCORDINGLY, the Memorandum of Appeal dated April 2, 2013 of defendants-appellants is hereby ordered EXPUNGED from the Records.

**SO ORDERED.**

Diamante (Acting Chairperson)[\*] and Bueser,\*\*] JJ., concur.

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[\*] Vice J. Mariflor P. Punzalan Castillo per Office Order No. 188-14-ABR dated May 6, 2014

[\*\*] Vice J. Amy C. Lazaro-Javier per Office Order No. 185-14-ABR dated May 5, 2014

[1] Rollo, p. 128

[2] Id at 130

[3] Id at 134

[4] Id at 135

[5] Id at 136-137

[6] Id at 17-67

[7] Last day to file Appellants' Brief was last January 21, 2013; See Rule 22 and Rule 44(Section 7), Rules of Court

[8] Id at 11 and dorsal of p. 11

[9] Id, dorsal of p. 12

[10] See Rule 50, Section 1, Rules of Court which provides:

Section 1. Grounds for dismissal of appeal. -

An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

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(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules. (emphasis Ours)

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