

**ENRIQUE D. MANABAT AND RUFINA S. MANABAT, PETITIONERS, VS.
THE HON. BERNABE DE AQUINO, JUDGE OF FIRST INSTANCE OF
TARLAC, AND ALEJANDRA L. DE ROXAS AND CLAUDIO ROXAS,
RESPONDENTS.**

G. R. No. L-5558. April 29, 1953

Ponente: BENGZON, J.

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BENGZON, J.:

The case: This is a petition for mandamus to require the respondent judge of first instance to give due course to, and hear the petitioners' appeal from the decision of a justice of the peace which he dismissed believing it had not been perfected in due time.

The facts: Sued on a promissory note in the peace court of Tarlac, Tarlac, Enrique S. Manabat and his wife, denied liability, alleging usury. Having failed to appear and present evidence at the hearing, they were ordered to pay the amount of P1,261.74 plus interest, upon the proofs introduced by the plaintiffs, Alejandra L. de Roxas and her husband Claudio Roxas.

Notified of the decision on September 7, 1951, the Manabats sent on September 22, 1951 their notice of appeal by registered mail together with a postal money order payable to the justice of the peace for P16 as docket fees and a surety bond in the sum of P30 as appeal bond. These papers were actually received at the peace court of Tarlac, Tarlac, on September 24, 1951.

Forwarded to the court of first instance, the appeal was docketed as civil case No. 638. Subsequently, however, the Roxas couple submitted a motion to dismiss the appeal of the Manabats on the grounds: (a) that the appeal documents had been received by the inferior court of Tarlac, on September 24, i.e., two days after the expiration of the time prescribed by law for appeals from that court and (b) because the appeal was frivolous, interposed obviously for delay.

Noting that the 15-day period expired on September 22, and that the appeal papers were actually received on September 24, the judge of first instance declared the appeal was late and dismissed it for lack of jurisdiction. He expressly refused to apply Section 1 Rule 27 of the Rules of Court on which the Manabats relied to sustain the timeliness of their move. That section provides that "the date of the mailing" of the court papers "as shown by the post-office registry receipt shall be considered as the date of their filing" in court. His honor opined that his section does not regulate inferior courts, since it is found only among rules governing courts of first instance, and unlike other rules, it is not extended to inferior courts—and therefore excluded—by section 19 Rule 4, which for convenience is quoted hereunder:

"Sec. 19. Application of certain rules.—Rules 10, 12, 13, 14, 18, 28, 29, 30, and 39 are applicable in inferior courts in cases falling within their jurisdictions and in so far as they are not inconsistent with the provisions of this rule."

Hence this petition for mandamus, appeal being inadequate, because the defendants in the case, (petitioners herein) have not introduced evidence.

The question is whether the appeal had been perfected within fifteen days as required by Section 2 Rule 40 of the Rules of Court. If it was, this petition should be granted.^[1] Otherwise it will be denied. That question, in turn, depends upon the issue whether the appeal papers are deemed filed in court on September 22 when they were deposited in the mails by registered mail, or on September 24 when they were actually received. If the first, the appeal was timely; otherwise it was belated.

Discussion: If section 1 Rule 27 is applied, the appeal papers would be deemed filed on September 22, and therefore the appeal would have been seasonably perfected. His Honor, however, and the other respondents, maintain that Rule 27 is not applicable because it is not mentioned in Section 19 Rule 4 hereinbefore quoted, and *inclusio unius est exclusio alterius*, enumeration of certain rules, excludes others.

That legal maxim is well-known, and respondents' position seems at first blush tenable. But the maxim is no more than an auxiliary rule of interpretation to be ignored where other circumstances indicate the enumeration was not intended to be exclusive.

Now, if section 19, Rule 4 is exclusive, justices of the peace may disregard, (a) the principles of evidence prescribed in Rule 123, (b) Rule 131 as to costs and (c) the fundamental principles about splitting or joinder of causes of action in Rule 2, and the theories about parties in interest, necessary parties, married women etc. in Rule 3.

These undesirable consequences could not have been overlooked by the framers of the Rules. They could not have intended, therefore, to make the enumeration in section 19 Rule 4 as all-inclusive and exclusive.

As a matter of fact this Court applied to litigations in inferior courts Rules other than those enumerated in Rule 4, section 19. Thus in *Viola Fernando vs. Aragon*,[*] 43 Off. Gaz., 145 we applied Rule 17 to a municipal court saying "Although Rule 17 has not been made applicable to justice of the peace courts, such omission (from the enumeration in section 19 Rule 4), can not be interpreted as a prohibition to apply it."

In *Beltran vs. Cabrera* (73 Phil., 666), Rule 124 was considered applicable to the Manila municipal court.

In *Co Tiamco vs. Diaz* (75 Phil., 672), Rules 8, 16, 17, 20, 21, 22, and the appendix of forms after Rule 133 were deemed binding on inferior courts, over the objection that they were excluded by section 19 Rule 4.

Consequently, there can be no legal obstacle to the application of Rule 27 section 1 to the justice of the peace court of Tarlac. And it should be applied, to uphold the uniform principle that "the date of deposit in the post-office by registered mail" of court papers is "the date of filing" not only in the Supreme Court, the appellate court, and the superior courts but also in inferior courts. Uniformity of rules is to be desired to simplify procedure (Cf. *Henning vs. Western Equipment*, 62 Phil., 886).

Conclusion: Hence, this Court's opinion is that the Manabats appealed on time.

The Roxas spouses interpose here two other points: (a) instead of delivering a certificate of the municipal treasurer showing deposit of the docket fees, the Manabats sent only a postal money order payable to the justice of the peace; and (b) the appeal was unmeritorious and merely for delay.

The first objection was not raised in the court of first instance, wherein the time of the appeal-not the form-was discussed. Any way there was substantial compliance of the deposit requirement.^[2]

The second point was ignored by the respondent judge. Rightly, we believe, because at this stage we are not

prepared to deprive the Manabats of their day in court, usury being contrary to the policies of our system of legislation.

Judgment: Wherefore, the writ will be issued for the respondent judge to hear and thereafter decide the appeal interposed by herein petitioners. Costs against the Roxases. So ordered.

Paras, C. J., Pablo, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

[1] Go Kim Cham vs. Valdez, 42 Off. Gaz., 1515; 75 Phil., 113, 371.

[*] 76 Phil., 609.

[2] Cf. National Bank vs. National City Bank, 63 Phil., 715.

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