

SPS. ULYSSES F. MACATO AND DELIA MACATO, PETITIONERS, VS. EMILIANA N. DELA CRUZ, RESPONDENT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

In Our Resolution[1] dated April 19, 2013, We directed the Division Clerk of Court to:

- “SEND a copy of this Resolution and SEND ANEW the Minute Resolutions dated May 16, 2011 and September 25, 2012 to petitioners' counsel Atty. Wilfredo T. Pascua to his address at Block 21 Lot 8 Imelda Village, Brgy. 36-A, Tacloban City 6500; and
- SEND copies of the aforesaid Resolutions also to petitioners Sps. Ulysses & Delia Macato in order to expedite the proceedings of this case.”

To recall, the Minute Resolution dated May 16, 2011[2] considered herein respondent to have waived her right to file a comment to the petition for review and directed the parties to file their respective memoranda simultaneously within fifteen (15) days from notice.

However, on June 18 2011, respondent's counsel filed a Manifestation[3] wherein he stated that he had not received a copy of the petition for review of herein petitioners.

Hence, We issued another Minute Resolution dated September 25, 2012[4], which directed the petitioners to submit within five (5) days from notice proof of receipt by the respondent of their petition for review.

The above Minute Resolutions, however, were returned to this Court with the annotation “Moved RTS”. [5] We noted that the address of petitioners' counsel were incorrectly written in these Resolutions.[6]

Considering this incorrectly written address, We ordered the resending of these Resolutions in our April 19, 2013 Resolution as above-stated .

On May 6, 2013, petitioners received the copies of our April 19, 2013 Resolution and the attached Minute Resolutions as appearing on the Registry Return Card.[7]

Meanwhile, since there was no registry return card on the service of such Resolutions to petitioners' counsel, We issued a tracer-letter[8] to the Postmaster of Tacloban City on January 14, 2014. The postmaster replied on February 24, 2014 that “his office can no longer provide the Court with the delivery particulars of the registered letter addressed to Atty. Wilfredo Pascua of Block 12 Lot 8 Imelda Village, Brgy. 36-A, Tacloban City since Tacloban Central Post Office and the Tacloban Sub Distribution Center were submerged by the flood which accompanied typhoon Yolanda last November 8, 2013.” He also certified that “records of mail dispatches and record of mail received and delivered by Letter Carriers xxx were damaged as a result of muddy waters.”[9]

To date, no compliance with the May 16, 2011 and September 25, 2012 Minute Resolutions by the petitioners per docket entry[10] despite their receipt of the April 19, 2013 Resolution, which attached therein the said Minute Resolutions.

As a general rule, Section 2, Rule 13 of the Rules of Court states that “every order required by its terms to be served, every pleading subsequent to the complaint, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected thereby, if any of such parties has appeared by an attorney or attorneys service upon him shall be made upon his attorneys or one of them.”[11] Hence, it has been held that “notice to counsel is notice to the client. On the other hand, notice to the client does not amount to notice to counsel.”[12] Thus, “when a party is represented by his counsel in a particular case, notice of proceedings must be served upon the counsel to constitute valid notice.”[13]

However, the rule is not without exception. The same Section 2, Rule 13 states that if “any of [the] parties has appeared by an attorney or attorneys service upon him shall be made upon his attorneys or one of them, unless service upon the party himself is ordered by the court.”[14] Consequently, when service upon the party himself is ordered by the court, though he appears through an attorney, such notice is considered valid and effective.

Considering that the Court ordered the subject Resolutions be served to the petitioners themselves in order to expedite the proceedings and were, in fact, received by the petitioners, and considering further that the registry records, which can prove receipt of petitioners' counsel, have been destroyed, We therefore hold that the notice upon the petitioners themselves of the subject Resolutions constitutes valid notice in law, as an exception to the general rule.

Our very own Supreme Court has consistently ruled that parties, though represented by counsels, should also take initiative “of making the proper inquiries from its counsel and the ... court as to the status of its case”and of extending to him the “necessary assistance.”[15] The Highest Court noted that the “litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client’s duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case.”[16]

As in this case, prudence and diligence dictate that petitioners should have informed their counsel on their receipt of the subject Resolutions as soon as they received the same especially that their counsel was not able to receive the previous Resolutions as indicated in the April 19, 2013 Resolution, which was directly sent to and received by them. But this they failed to do so.

In view of petitioners' non-compliance of the Minute Resolutions dated May 16, 2011 and September 25, 2012, We dismiss the instant petition in accordance with Section 1(h) of Rule 50 of the Revised Rules of Court sanctioning the dismissal of an appeal due to petitioners' failure to comply with the order or directive of the Court without justifiable cause.

Accordingly, this case is hereby DISMISSED.

SO ORDERED.

Hernando, and Azcarraga-Jacob, JJ., concur.

[1] Rollo, p. 70.

[2] Rollo, p. 60.

[3] Rollo, pp.63-65.

[4] Rollo, p. 67.

[5] Rollo, pp. 62 and 68.

[6] See Resolution dated April 19, 2013, Rollo, p. 71.

[7] Rollo, p. 69 (dorsal portion).

[8] Rollo, p. 73.

[9] Rollo, p. 74.

[10] Per Judicial Records Division Report dated June 2, 2014.

[11] Section 2, Rule 13 of the Rules of Court.

[12] Zoleta v. Hon. Secretary of Labor, G.R. No. 77242, October 18, 1988.

[13] Ibid.

[14] Supra, note 2.

[15] Air Phils. Corp. v. International Business Aviation Services Phils. Inc., G.R. No. 151963, September 9, 2004.

[16] Bejarasco, Jr. v. People of the Philippines, G.R. No. 159781, February 2, 2011.

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