

**MELENCIO CANTURNA, PETITIONER, VS. HON. COURT OF APPEALS,
ALEJANDRO CABERO AND LEONARDA CORBILLA, SPOUSES,
RESPONDENTS.**

G.R. No. L-40934. April 30, 1976

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sets aside respondent court's dismissal of petitioner's appeal for failure to include in the notice of appeal from the agrarian court's decision the material dates showing the timeliness of the appeal. Since the undisputed material dates as subsequently submitted under oath show the fact of timeliness of the appeal, it would subserve the ends of substantial justice and be in consonance with a sound and just exercise of judicial discretion to admit the supplemental data and give due course to the appeal rather than to apply the law literally and inflict upon petitioner the capital penalty of dismissal of the appeal for the fault and excusable neglect of his public counsel.

From an adverse judgment for ejectment and lease rentals rendered under date of October 7, 1974 by the Court of Agrarian Relations of Pangasinan at Tayug in favor of the private respondents-landowners as plaintiffs against petitioner-agricultural share tenant (lessee) as defendant, petitioner through his public counsel, the Bureau of Agrarian Legal Assistance (BALA) of the Department of Agrarian Reform represented by Aurora A. Gayapa, the trial attorney stationed at Urdaneta, Pangasinan, filed on December 18, 1975 a sworn notice of appeal interposing an appeal to the Court of Appeals without the required statement of material dates to show its timeliness.[1]

On March 25, 1975 respondent appellate court issued a resolution requiring Atty. Gayapa as petitioner's counsel to show cause why she should not be held in contempt of court for failure to comply with an earlier resolution of January 24, 1975 which required her to show cause why the appeal should not be dismissed "for failure to include in the notice of appeal such data as will show that the appeal was filed on time."

Petitioner's counsel duly filed on April 11, 1975 her verified Manifestation and Motion expressing her regrets at not having complied with the earlier resolution since she did not receive the copy thereof because their standard office procedure after the taking of an appeal is to forward the pertinent records and subsequent pleadings and processes to the control office at the DAR, Quezon City (and no longer to the field trial attorney who handled the trial, such as herself) which then takes full charge of the case through the Judicial Cases Division until termination of the appeal.

Counsel further stated the material dates showing the timeliness of the appeal as follows:

The lower court's decision was received on October 30, 1974;

Petitioner filed a motion for reconsideration on November 14, 1974 (within the 15-day period);

Counsel had not received a copy of the order denying the motion for reconsideration but on December 17, 1975 when she appeared in court for another case "she happened to glance at the order denying the motion for

reconsideration"; and

"The Notice of Appeal was filed on December 18, 1975 which is within the reglementary period provided by law" (10 days from notice of denial of the motion for reconsideration).

Counsel finally pleaded that her failure to include the above material dates in the Notice of Appeal was "never intentional and was merely due to inadvertence and mistake on account of lack of personnel, that aside from the numerous cases she attends to and the pleadings she prepares everyday, she had to do the typing job as what happened in the preparation of the notice of appeal, that after having typed the same, she immediately put the copies inside the envelope for mailing and that immediately thereafter the records were forwarded to the Judicial Cases Division in Quezon City." [2]

Counsel therefore prayed, as joined by the Judicial Cases Division of the BALA (which had taken over the appeal) in another Manifestation dated May 6, 1975 that respondent court's resolution of March 25, 1975 be deemed to have been satisfactorily complied with and that petitioner's appeal be given due course.

In its resolution of May 8, 1975, respondent court, while apparently satisfied with the explanations (for it made no further mention of its contempt citation) but likewise ignoring the material dates supplied by petitioner's counsel, dismissed the appeal "for failure to include in the Notice of Appeal such data as will show that the appeal was filed on time."

Reconsideration having been denied, the present petition was filed which the Court, after receiving respondents' comment, treated as a special civil action and declared submitted for decision in its resolution of October 13, 1975.

The petition is granted and respondent court is directed to give due course to petitioner's appeal.

While it is true that the material dates showing the timeliness of the appeal were not incorporated in the notice of appeal as required by law, [3] such omission owing to counsel's mistake, inadvertence and negligence considering the given circumstances of "confusion caused by heavy pressure of work aggravated by lack of personnel and equipment in the Bureau of Agrarian Legal Assistance, Urdaneta, Pangasinan, field office" [4] could not be deemed inexcusable and meted the capital penalty of dismissal of the appeal.

The innocent party who would thus be penalized in this case and deprived of the right to appeal what he believes to be a just cause would be the very agricultural tenant, tiller or lessee to whom the law has sought to extend all legal protection and assistance because of his disadvantaged position in our society, to the extent of extending him free legal assistance and representation through the BALA and all the rights and privileges of a pauper and indigent litigant without need of further proof. [5]

The very procedure for filing of appeals from decisions of the Court of Agrarian Relations has thus been simplified by just requiring the filing of a notice of appeal with a statement under oath of the material dates to show that it was filed within the statutory period. Since the undisputed material dates as subsequently submitted under oath show the fact of timeliness of petitioner's appeal, it would subserve the ends of substantial justice and be in consonance with a sound and just exercise of judicial discretion to admit such supplemental data and give due course to the appeal rather than to apply the strict letter of the law and punish with dismissal of appeal the petitioner for the fault or mistake of his counsel.

The whole purpose of such statutory and reglementary requirements is to establish the timeliness of the appeal or petition for review, since otherwise the appealed decision would already be final and executory and the appellate or reviewing court would be rendered without jurisdiction, where there exist no valid grounds to seek relief from

the final judgment.

Accordingly, while the Court, in the application of similar rules requiring a statement of the Material dates to show the timeliness of the filing of appeals by petition for review on certiorari of judgments of inferior courts under Republic Act 5440,[6] has initially denied the petitions for non-compliance with the Rule, it has consistently and invariably granted in the interest of substantial justice motions for reconsideration upon petitioner's subsequent compliance and submittal therewith of the material dates showing the timeliness of filing of the petition (without prejudice to meting the proper penalty in appropriate cases to offending counsel) and has proceeded to consider and act on the merits of the petition, granting or denying due course thereto as the case warranted.

As already indicated; there is no dispute that the material dates as submitted show that petitioner's appeal was timely filed (on the first day after petitioner's counsel learned of the denial of his motion for reconsideration, although counsel had not received a formal copy of the denial order – which is well within the 10-day reglementary period).

Respondents, aside from technically invoking the "fatal defect" of the notice of appeal for not stating therein the material dates, make no claim or pretense against the correctness of the dates and the timeliness in fact of the appeal. Their claim that by petitioner's filing of a notice of appeal "without waiting for the resolution of his motion for reconsideration dated November 14, 1974, he was deemed to have abandoned his motion for reconsideration," and that the decision therefore retroactively became final on the day after November 14, 1974 is manifestly untenable - since the motion was actually acted upon and denied by the lower court and petitioner simply considered having received his notice thereof on the day his counsel actually learned in court of the denial order and chose not to wait to be formally served with the same.

ACCORDINGLY, respondent court's resolution of May 8, 1975 is set aside and the case is remanded back to it for proper determination on the merits of the appeal. With costs against private respondents.

SO ORDERED.

Makasiar, Esguerra, Muñoz Palma, and Aquino,[*] JJ., concur.

Martin, J., took no part.

[*]Designated vice Justice Ruperto G. Martin, who took no part.

[1] R.A. 5434 governing such appeals provides in sec. 3 that "Sec. 3. How appeals taken – Appeals shall be taken by filing a notice of appeal with the Court of Appeals and with the court, officer, board, commission or agency that made or rendered the ruling, award, order, decision or judgment appealed from, serving a copy thereof on all other interested parties. The notice of appeal shall state, under oath, the material dates to show that it was filed within the period fixed in this Act. (R.A. 5434)"

Sec. 2 of the same Act provides for a period of 15 days from notice of the order, decision or judgment or in case a motion for reconsideration is filed within the said period, for another period of 10 days from notice of denial of the motion, within which to file the appeal.

[2] Rollo, page 28.

[3] Rep. Act 5434, supra, fn. 1.

[4] Rollo, page 34.

[5] Rep. Act 6389, section 30.

[6] Rule 45, sec. 1 provides that the petition should contain "a verified statement of the date when notice of judgment and denial of the motion for reconsideration, if any, were received." Rule 43, sec. 2 (prior to its being superseded pro tanto by Rep. Act 5434) likewise provides that "The petition shall be under oath and shall show, by mention of the specific material dates, that it was filed within the period fixed in this rule."

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