

**WENEFREDO AGUILLON, MARIBETH VENEZUELA AND NENITA YAPOC, PLAINTIFFS-APPELLANTS VS. TEODOCIO AND LOURDES, BOTH SURNAMED CATINDOY, ROBERTO, ROGELIO BOTH SURNAMED GERNALE, TRIGILDA...**

Ponente: LAGURA-YAP, J.

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**LAGURA-YAP, J.:**

Assailed in this appeal interposed by plaintiffs-appellants is the Order dated May 17, 2013 rendered by the Regional Trial Court (RTC) of Burauen, Leyte, Branch 15 in Civil Case No. B-11-04-648 for Recovery of Possession and Damages with Prayer for Issuance of a Writ of Preliminary Injunction with Temporary Restraining Order.

On February 26, 2014, a Notice[1] to file brief within forty-five (45) days from receipt of notice was sent to plaintiffs-appellants Wenefredo Aguillon, Maribeth Venezuela, Nenita Yapoc. The Notice was received[2] on March 20, 2014 with proof of service on record.

On May 13, 2014, plaintiffs-appellants filed a Motion for Extension of Time to File Appellant's Brief[3], praying for an extension of fifteen (15) days from April 28, 2014 or until May 12, 2014 within which to file their appellant's brief.

However, upon verification, the Judicial Records Division (CA-JRD) made a report[4] that plaintiffs-appellants failed to comply with the Notice dated February 26, 2014 as per Cebu Civil docket dated July 1, 2014.

Section 3, Rule 17 of the Revised Rules of Court provides:

Sec. 3. Dismissal due to fault of plaintiff. - if for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (emphasis supplied)

Likewise, Section 1, Rule 50 of the Revised Rules of Court 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:

xxx xxx xxx xxx

(g) Failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the court in its order.

For failure of the plaintiffs-appellants and neglect to comply with the Notice dated February 26, 2014, or to take any other action within a reasonable period of time, clearly manifests a lack of interest to pursue the appeal.

WHEREFORE, the appeal is deemed ABANDONED. Pursuant to Section 3 Rule 17 and Section 1(g) Rule 50 of the 1997 Revised Rules of Civil Procedure, the appeal is hereby DISMISSED.

**SO ORDERED.**

Delos Santos, and Lopez, JJ., concur.

[1] Rollo, page 10.

[2] See Registry Return Receipts, rollo, dorsal portion of page 10.

[3] Rollo, pages 11-14.

[4] Rollo, dorsal portion of page 15.

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