

ANDRES VALLECERA, PLAINTIFF-APPELLANT, VS. JULIO MORALES, DEFENDANT-APPELLEE.

Ponente: TIJAM, J.

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TIJAM, J.:

In a Resolution dated June 16, 2014[1] Plaintiff-Appellant was directed to show cause within 10 days from notice why the appeal should not be dismissed outright for failure to file the required Appellant's Brief. He was likewise directed to inform Us of the current and complete address of his counsel considering that copy of the notice to file an Appellant's Brief sent to him (counsel) was returned unclaimed with postal notation "rts" moved out.

The registry return receipt[2] indicates that a certain Amiel Vallecera received the said Resolution on July 15, 2014. The CMIS Verification indicates that no compliance to the Resolution dated June 16, 2014 has been filed.

Upon verification, the notice to file Appellant's Brief[3] was received by Amiel Vallecera on December 20, 2013. We have likewise noted that Plaintiff-Appellant failed to comply with the directives in Our August 4, 2011, January 31, 2012, October 4, 2012, and February 12, 2013 Resolutions.

Section 1 (e), Rule 50 of the Rules of Court succinctly provides that:

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:

x x x

(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; x x x

In a long line of cases, it has been held that the Court of Appeals' authority to dismiss an appeal for failure to file the appellant's brief is a matter of judicial discretion. Furthermore, the right to appeal is a statutory right and the party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.[4]

Considering the Plaintiff-Appellant's failure to comply with any of the directives of this Court, as well as his failure to file his Appellant's Brief within the required period, despite being duly notified thereof, We are constrained to DISMISS the Appeal.

SO ORDERED.

Baltazar-Padilla, and Reyes-Carpio, JJ., concur.

[1] Rollo, p.69.

[2] Ibid (dorsal side).

[3] Rollo, p. 61.

[4] Sps. David Bergonia and Luzviminda Castillo vs. CA, G.R. No. 189151, January 25, 2012.

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