

SPOUSES SUMIT KHANNA AND DOLORA KHANNA, SPOUSES PETER MARRS AND CHRISTINA VELORIA AND SAMUEL WILLIAMSON, PETITIONERS-APPELLANTS, VS. LUCAS C. LICERIO, AND ANY PERSON ACTING ON H...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

Assailed in this appeal interposed by petitioners-appellants is the Order[1] dated September 5, 2013 rendered by the Regional Trial Court (RTC), Branch 5, Kalibo, Aklan.

On August 1, 2014, a Notice[2] to file brief within forty-five (45) days from receipt thereof was sent to petitioners-appellants and their counsel on record, Atty. Niflem S. Meren. The Notice was received[3] by petitioners-appellants and their counsel on September 24, 2014 and September 22, 2014, respectively, with proof of service on record.

Upon verification, the Judicial Records Division (CA-JRD) made a report[4] that petitioners-appellants failed to comply with the Notice dated August 1, 2014 as per Cebu Civil docket dated January 12, 2015.

Section 7, Rule 44 of the 1997 Rules of Civil Procedure, provides:

SEC. 7. Appellant's brief. –It shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven(7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee.

Also, Section 1, Rule 50 of the 1997 Rules of Civil procedure 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

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time time provided by these Rules;

In the present case, we find no cogent reason to exempt the petitioners-appellants from the effects of its failure to comply with the Rules of Court. 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[5]. As in this case, petitioners-appellants neglected to file their brief within a reasonable period of time. They also failed to seek an extension of time to file their appellants' brief, before the expiration of the period to do so.

WHEREFORE, the appeal is deemed ABANDONED. Pursuant to Section 7, Rule 44 and Section 1(e), Rule 50 of the 1997 Rules of Civil Procedure, the appeal is hereby DISMISSED.

SO ORDERED.

Delos Santos, J., Chairperson, and Lopez, JJ., concur.

[1] Records, pages 238-241.

[2] Rollo, page 7.

[3] See Registry Return Receipts, rollo, dorsal portion of page 7.

[4] Rollo, dorsal portion of page 13.

[5] Dimarucot v. People of the Philippines, G.R. No. 183975, September 20, 2010, 630 SCRA 659.

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