

SOLID EARTH DEVELOPMENT CORPORATION, APPLICANT-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

To recall, on September 26, 2011, applicant-appellee who filed a Motion to Dismiss Appeal[1], alleged that oppositor-appellant failed to state the Statement of Facts in its Appellant's Brief. Applicant-appellee alleged that non-compliance with the required contents of appellant's brief is a basis for the dismissal of appeal.

On August 2, 2012, this Court issued a Minute Resolution[2] directing the Office of the Solicitor General to file a Comment on the Motion to Dismiss Appeal and for Execution.

The oppositor-appellant filed several Motions for Extension of Time to File Comment dated August 29, 2012[3], October 1, 2012[4], October 30, 2012[5] asking for an extension of thirty (30), thirty (30), and twenty (20) days, respectively.

On December 12, 2012, oppositor-appellant filed a Comment[6], stating that contrary to the allegation of applicant-appellee, a reading of its Appellant's Brief would readily show a clear and concise statement in a narrative form of the facts of the case. Oppositor-appellant alleged also that although it was not incorporated under a separate heading, statement of facts, the same is included in the statement of the case.

The right to appeal is neither a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law.[7] An appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court.[8]

In regard to ordinary appealed cases to the Court of Appeals, such as this case, Section 13, Rule 44 of the Rules of Court provides for the contents of an Appellant's Brief, thus:

Sec. 13. Contents of appellant's brief.—The appellant's brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

(b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;

(c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;

(d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts

admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;

(e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;

(f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;

(g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks; and

(h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from.

In this case, the Appellant's Brief of oppositor-appellant did not have a statement of facts. Oppositor-appellant claims that its statement of the case includes their statement of facts. This is not entirely true. Its Appellants Brief is only a summary of the proceedings and the nature of the controversy. The oppositor-appellant failed to show the importance of a statement of facts. This should not be underestimated. A statement of facts is a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy in which the oppositor-appellant did not incorporate in its Appellant's Brief.[9]

The Supreme Court issued a categorical ruling in *Evangeline C. Bucad, v. Court of Appeals, Asilda Guanzon, et al.*, that non-compliance of the contents of the Appellant's Brief under Section 16 Rule 46 of the Rules Court warranted the dismissal of the appeal. Oppositor-appellant's failure to make page references to the record to support their factual allegations together with their failure to make a separate statement of facts warrant the dismissal of its appeal.[10]

WHEREFORE, the appeal is DISMISSED pursuant to Section 13, Rule 44 in relation to Section 1(g) Rule 50 of the Rules of Court.[11]

SO ORDERED.

Hernando[*], (Chairperson) and Quijano-Padilla[*], JJ., concur.

[*] Vice J. Ingles per Office Order No. 05-14-ELDF dated Feb. 26, 2014.

[*] Acting Junior Member per Office Order No. 472-12-ABR dated December 12, 2013.

[1] Rollo, pages 52-58.

[2] Rollo, page 61.

[3] Rollo, pages 62-64.

[4] Rollo, pages 66-68.

[5] Rollo, pages 55-57.

[6] Rollo, pages 59-62.

[7] *Mejillano v. Lucillo*, G.R. No. 154717, June 19, 2009, 590 SCRA 1, 9-10.

[8] *Boardwalk Business Ventures vs. Elvira A. Villareal, et al.*, G.R. No. No. 181182, April 10, 2013.

[9] See *Remedial Law Vol. II* by Oscar M. Herrera 2007 edition, page 720.

[10] *Genobiagon vs. Court of Appeals*, L-44323, March 2, 1977, 76 SCRA 37, 39, cited in 2 *Moran's Comments on the Rules of Court*, 1979 Ed., p. 509.

[11] See *Remedial Law Vol. II* by Oscar M. Herrera 2007 edition, citing *Bucad vs. Court of Appeals*, 216 SCRA 423, G.R. No. 93783, December 11, 1992.

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