

**DANNY M. TAPUZ, AURORA T. MADRIAGA, JOSIEL M. TAPUZ,
EXEQUIEL M. TAPUZ, ORLY M. TAPUZ, EDINA T. GAJISAN, NEMIA T.
CARMEN, EXPEDITO M. TAPUZ, JR., SUSITA T. MAGBANUA, MEDINA
T. E...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

On March 21, 2014, a Notice[1] to file Brief within forty-five (45) days from receipt of notice, was sent to counsel for plaintiff-appellant, Atty. Nelson A. Loyola.

On March 23, 2014, plaintiffs-appellants filed a Very Urgent Motion for Extension of Time to File Brief for the Plaintiffs-appellants[2], praying for an extension of thirty (30) days from May 19, 2014 or until July 3, 2014 within which to file Appellants' Brief.

On June 3, 2014, plaintiffs-appellants filed an Erratum[3], through their counsel of record.

On July 8, 2014, defendants-appellees spouses Maria Lourdes and Gregorio Sanson filed an Opposition to the Motion for Extension of Time[4] dated June 17, 2014.

On July 27, 2014, plaintiffs-appellants filed their Appellants' Brief[5], through their counsel of record.

On September 14, 2014, defendants-appellees filed an Entry of Appearance as Lead Counsel with Motion to Dismiss[6]. Defendants-appellees alleged that plaintiffs-appellants Brief is filed beyond the forty-five (45) day reglementary period and that appeal should be dismissed. Defendants-appellees further stressed that in case this Court admit the Appellants' Brief although filed out of time, the appeal should still be dismissed for failure of the Appellants' Brief to conform with Section 13, Rule 44 of the Rules of Civil Procedure.

On September 25, 2014, the Office of the Solicitor General filed a Motion for Extension[7], praying for an extension of sixty (60) days from August 21, 2014 or until October 20, 2014 within which to file Brief.

On October 1, 2014, plaintiffs-appellants filed an Opposition to Defendants-appellees' Motion to Dismiss Appeal[8]. Plaintiffs-appellants alleged that the grounds for dismissal an appeal which are provided under Section 1, Rule 50 of the 1997 Rules of Civil Procedure are only discretionary in nature. Plaintiffs-appellants also prayed that defendants-appellees motion to dismiss be denied.

A scrutiny of the records, reveals that Plaintiffs-Appellants' Brief did not have a subject index of the matter, "Statement of the Case", "Statement of Facts" and "Argument". In *De Liano v. Court of Appeals*[9], declared that the subject index functions like a table of contents, facilitating the review of appeals by providing ready reference. A "Statement of the Case", is a clear 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. While, "Statement of the Facts", constitute the backbone of a legal argument; they are determinative of the law and

jurisprudence applicable to the case, and consequently, will govern the appropriate relief[10]. Lastly, the “Argument”, which contains the appellant's argument on each assignment of error with page references to the record.

Section 13, Rule 44 of the 1997 Rules of Civil Procedure enumerates 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.

Under Section 1 (f), Rule 50, of the 1997 Rules of Civil Procedure, it states:

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

(f) Absence of specific assignment of errors in the appellant’s brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44.

The Supreme Court issued a categorical ruling in *Evangeline C. Bucad, v. Court of Appeals, Asilda Guanzon, et al.*, held that non-compliance of the contents of the Appellant's Brief under Section 13, Rule 44 of the Rules of Court warranted the dismissal of the appeal[11].

WHEREFORE, the appeal is DISMISSED pursuant to Section 1(f), Rule 50 in relation to Section 13, Rule 44 of the 1997 Rules of Civil Procedure.

SO ORDERED.

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

[1] Rollo, page 10.

[2] Rollo, pages 11-13.

[3] Rollo, pages 54-56.

[4] Rollo, pages 14-20.

[5] Rollo, pages 21-48.

[6] Rollo, pages 57-65.

[7] Rollo, page 66.

[8] Rollo, pages 70-79.

[9] 421 Phil. 1033 (2001).

[10] Id. at 1044.

[11] 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.

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