

**SPOUSES ELY BATO AND MARIVIC BATO, PETITIONERS, VS.
EMERCIANA DE SILVE, RESPONDENT.**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

On December 19, 2014, petitioners filed a Motion for Extension of Time to File Petition for Review.[1] Petitioners said that they received the Decision of the Regional Trial Court, Branch 19, Catarman, Northern Samar, affirming the decision of the Municipal Circuit Trial Court of Mondragon-San Roque, on November 30, 2014 and they have until December 15, 2014 within which to file their Petition for Review. In the Motion for Extension of Time to File Petition for Review, petitioners asked for an extension of fifteen (15) days, or until December 30, 2014 within which to file their petition. However, upon verification, the Judicial Records Division made a report,[2] dated January 12, 2015, that no compliance was made by the petitioner.

Furthermore, petitioners failed to comply with the payment of docket fee in the amount of P4,530.00 despite Motion for Extension filed. The requirement of an appeal fee is not a mere technicality of law or procedure and should not be disregarded without the most compelling of reasons.[3] It is held in the case of Gabriel Lazaro, et al, vs. Court of Appeals, et al[4], that failure to pay docket and other lawful fees within the prescribed period is a ground for the dismissal of an appeal.

Also, the Rules of Court, as amended, specifically provides that appellate court docket and other lawful fees should be paid within the period for taking an appeal. Hence, Section 4 of Rule 41 reads:

Sec. 4. Appellate court docket and other lawful fees. — Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

Payment in full of docket fees within the prescribed period is mandatory. Non-compliance therewith may cause the dismissal of the appeal pursuant to Sec. 1, Rule 50 of the Rules of Court, which reads:

Sec. 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 . . . (c) Failure of the appellant to pay the docket and other lawful fees as provided in section 5 of Rule 40 and section 4 of rule 41.

WHEREFORE, in view of the foregoing, the petition is DISMISSED for failure to file petition and failure to pay the required docket fees.

SO ORDERED.

De Los Santos J., Chairperson, and Lopez, JJ., concur.

[1] Rollo, pp. 3-5

[2] Rollo, p. 5 (back portion).

[3] Samuel Julian, represented by his attorney-in-fact, Roberto Dela Cruz, vs. Development Bank of the Philippines and the City Sheriff, G.R. No. 174193 December 7, 2011.

[4] G.R. No. 137761, April 6, 2000

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