

ARTURO SANTOS, DELFIN GRANADA, RENE JULIO, DANTE ZOTOMAYOR, JESSE ACAPULCO, NENE JULIO, DELY JULIO, RONALDO CATINDIG AND RENATO CATINDIG, PETITIONERS, VS. COURT OF APPEALS, HON....

G.R. No. 114726. February 14, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Will the failure to pay the appeal fee automatically cause the dismissal of an appeal from the municipal trial court to the regional trial court? This is the main question resolved in this petition for review on certiorari of the Decision[1] of the Court of Appeals[2] promulgated on March 8, 1994 in CA-G.R. SP No. 32698 affirming the dismissal by the Regional Trial Court, Branch 17, Santa Cruz, Laguna of petitioners' appeal for failure to pay the corresponding appeal fee.

After the respondent municipality filed its two-page comment[3] and noting the motion of said municipality for early resolution,[4] the Court gave due course to the petition and deemed the matter submitted for decision. On October 25, 1995, the First Division transferred this case, along with several others, to the Third Division, which, after due deliberation, assigned the writing of this Decision to the undersigned ponente.

In November 1992 (exact date not shown in the records), respondent Municipality of Santa Cruz, Laguna, represented by Mayor Rodolfo S. San Luis, filed with the Municipal Trial Court of Santa Cruz, Laguna (MTC) a complaint for unlawful detainer with damages (Civil Case No. 2322) against herein petitioners.

In said complaint, the municipality averred that it was "the registered owner" of two (2) parcels of land under Tax Declaration Nos. 12065 and 13088, on which premises petitioners were allowed to build their houses by its tolerance.

On various dates, the municipality sent to petitioners demands to vacate, stating that the said parcels were needed for road-widening, the extension of a street and the construction of the new municipal public market. However, petitioners refused to vacate said lots.

In answer to the complaint, petitioners alleged that the municipality was never the registered owner of the two parcels of land. They claimed that they had been in possession and occupation of the premises in the concept of owner for more than fifty (50) years. Petitioners questioned the jurisdiction of the trial court to take cognizance of the case, urging that the issue raised was the ownership of the land in question. They also claimed that they had filed a complaint with the Regional Trial Court, Santa Cruz, Laguna for quieting of title over the lands.

On June 24, 1993, the MTC ordered petitioners to vacate the lots in question and "each of them to pay plaintiff rentals at the rate of FIVE HUNDRED (P500.00) pesos a month from the time the complaint was filed until they finally vacate the premises x x x."

After petitioners filed their notice of appeal and supersedeas bond, the MTC issued an order dated July 20, 1993, directing the Clerk of Court to transmit to the Clerk of Court of the Regional Trial Court, Sta. Cruz, Laguna, the original records of the case, including the transcripts and exhibits pursuant to paragraph 21 of the Interim Rules and Guidelines relative to the implementation of B.P. Blg. 129.

On September 15, 1993, the Regional Trial Court, Branch 27, Santa Cruz, Laguna issued the questioned order dismissing the appeal for failure to pay the corresponding appeal fee. Petitioners' motion for reconsideration was denied in an order dated October 27, 1993.

On November 25, 1993, petitioners filed a petition for certiorari with the Court of Appeals alleging grave abuse of discretion on the part of the trial court in dismissing their appeal. On March 8, 1994, the Court of Appeals issued the assailed Decision dismissing the petition.

Hence, this recourse.

Petitioners contend that the amendments to Rule 141 of the Revised Rules of Court on Legal Fees, as approved and made effective on November 2, 1990, do not provide for the payment of an appeal fee for an appeal taken from the municipal trial court to the regional trial court.

Petitioners are in error. Rule 141, as amended, provides:

"Sec. 8. Judges of Metropolitan and Municipal Trial Courts. -

"(a)xxx xxx xxx

"6. For appeals in all actions or proceedings, including forcible entry and detainer cases, taken from the Metropolitan and Municipal Trial Courts, one hundred fifty (P150.00) pesos";

It is therefore clear that an appeal fee is required to be paid to the judges of the metropolitan or municipal trial courts, as the case may be.

Having said that, we now address and resolve the issue of whether the non-payment of an appeal fee will automatically result in the dismissal of the appeal.

The provisions of Section 2, Rule 40 of the Revised -Rules of Court have been modified by Section 20 of the Interim Rules and Guidelines issued by this Court on January 11, 1983 relative to the implementation of the Judiciary Reorganization Act of 1981 (B.P. Blg. 129) and insofar as the requirement for taking an appeal from an inferior court to the regional trial court is concerned. Under said Section 20, "the only requirement for taking an appeal from the judgment or order of the metropolitan trial courts, municipal trial courts or municipal circuit courts to the regional trial courts, in cases where no record on appeal is required, is the filing of a notice of appeal. Said appeal is deemed perfected upon the expiration of the last day to appeal by any party." [5]

Section 21[6] of the Interim Rules and Guidelines also provides for the procedure to be followed after the perfection of the appeal to the regional trial courts. Nothing is stated therein about the payment of appellate docket fees.

Under the Interim Rules and Guidelines, the payment of the appeal fee is not a prerequisite for the perfection of an appeal. On the other hand, while Section 8, Rule 141 of the Revised Rules of Court imposes an appeal fee in cases of appeals from the municipal trial courts and specifies the persons to whom the appeal fee shall be paid, said provision does not specify when said payment shall be made.

In the case of *Fontanar vs. Bonsubre*, [7] this Court reiterated the rule previously laid down in *NAWASA vs. Secretary of Public Works and Communications*, [8] that in appealed cases, the failure to pay the appellate court

docket fee does not automatically result in the dismissal of the appeal, much less affect the court's jurisdiction, the dismissal being discretionary on the part of the appellate court. In arriving at this conclusion, this Court applied by analogy Section 3 (now Section 5) of Rule 141 of the Rules of Court on payment of appellate docket fees in appeals from the regional trial court to the Court of Appeals and the Supreme Court. Said section provides in part:

"x x x If the fees are not paid, the court may refuse to proceed with the action until they are paid and may dismiss the appeal or the action or proceeding."

Case after case,[9] this Court stressed the rule that failure to pay the appellate court docket fee within the reglementary period confers a discretionary, and not mandatory, power to dismiss the proposed appeal, and that such power should be used in the exercise of the court's sound judgment in accordance with the tenets of justice and fair play and with a great deal of circumspection considering all attendant circumstances.[10] Said "discretion must be exercised wisely and prudently, never capriciously, with a view to substantial justice." [11]

While there is a crying need to unclog court dockets on the one hand, there is on the other a greater demand for resolving genuine disputes fairly and equitably. In this case, it appears from the records - particularly from the answer - that there are substantial questions raised by the petitioners in the court a quo which would not be ruled upon should their appeal be dismissed peremptorily. Without in any way prejudging such questions, we believe that it is in keeping with the oft-repeated axioms of social justice for the poor and the weak to provide them ample opportunity for the proper ventilation of their causes, lest they give up on having their disputes adjudicated under the rule of law.

In *Siguenza vs. Court of Appeals*, [12] we reemphasized the importance and purpose of the remedy of appeal as an essential part of our judicial system and advised the courts "to proceed with caution so as not to deprive a party of the right to appeal," but instead, afford every party-litigant "the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities." This is especially so since the payment of the appellate court docket fee is not a requirement for the protection of the prevailing party and non-compliance therewith within the time prescribed causes no substantial prejudice to anyone. [13]

Accordingly, petitioners should have been given ample opportunity to pay the appeal fee.

WHEREFORE, the petition is GRANTED. The assailed Decision of the Court of Appeals is hereby REVERSED and SET ASIDE and the respondent Regional Trial Court is DIRECTED to reinstate petitioners' appeal in Civil Case No. SC-3129, upon proof of payment of the appeal fee, which shall be paid within ten (10) days from finality of this Decision.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 21-25.

[2] Ninth Division, composed of J. Salome A. Montoya, ponente, and JJ. Pedro A. Ramirez, chairman, and Eubulo G. Verzola, member.

[3] Rollo, pp. 84-85.

[4] Rollo, pp. 132, et seq.

[5] Interim Rules, Sec. 23. See *Fontanar vs. Bonsubre*, 145 SCRA 663 (November 25, 1986); C.J. Marcelo B. Fernan, ponente.

[6] Sec. 21 of the Interim Rules and Guidelines provides in part as follows -"(b) Within five (5) days from the perfection of the appeal it shall be the duty of the clerk of court to transmit the original record, or the record on appeal as the case may be, to the appropriate regional trial court.

"(c) Upon receipt of the original record, or of the record on appeal, and of the transcripts and exhibits, the clerk of court of the regional trial court shall notify the parties of such fact.

"(d) Within fifteen (15) days from receipt by the parties of the notice referred to in the preceding paragraph, they may submit memoranda and/or briefs, or be required by the regional trial court to do so. After the submission of such memoranda and/or briefs, or upon the expiration of the period to file the same, the regional trial court shall decide the case on the basis of the entire records of the proceedings had in the court of origin and such memoranda and/or briefs, as may have been filed."

[7] Supra.

[8] 16 SCRA 536 (March 31, 1966).

[9] Favis vs. Municipality of Sabangan 27 SCRA 92 (February 27, 1969); Lopez vs. Court of Appeals, 75 SCRA 401 (February 28, 1977); Panes vs. Court of Appeals, 120 SCRA 509 (January 31, 1983); Del Rosario & Sons Logging Enterprises, Inc. vs. National Labor Relations Commission, et al., 136 SCRA 669 (May 31, 1985).

[10] Lopez vs. Court of Appeals, supra.

[11] San Andres vs. Court of Appeals, 212 SCRA 1 (August 3, 1992), citing Cucio vs. Court of Appeals, 57 SCRA 64 (May 24, 1974).

[12] 137 SCRA 570 (July 16, 1985).

[13] Lopez vs. Court of Appeals, supra, cited in Fontanar vs. Bansubre, supra.

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