RENE RAMOS, FRANK PILE, EDUARDO, PIOQUINTO, EDUARDO ESTALLO, ROBERT ITALIA, MARCITO QUIROG, CRISTY SARAS, DOMINADOR ROMULLINO, TANY PARAGUYA, TING TAHNGCO, JIMMY TAMAYO, PEPITO ...

G.R. NO. 133496. May 09, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Before the Court is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the decision[1] dated April 14, 1997 of the Court of Appeals in CA-G.R. SP No. 41304 and its Resolution[2] of March 17, 1998 denying the motion for reconsideration.

The instant proceedings stemmed from Civil Case No. 580 of the Regional Trial Court (RTC) at Cotabato City, Branch 14, an action for recovery of possession of real property with damages thereat filed by the herein respondents – the spouses Antonio Lim and Suspene Lim - against the herein petitioners, Rene Ramos, et al.

After the respondents, as plaintiffs a quo, rested their case, petitioners, as defendants, then represented by Atty. Didagen Dilangalen, commenced presenting their evidence. At the scheduled hearing of August 15, 1995, Atty. Dilangalen failed to appear, impelling one of the petitioners to seek a resetting. Apparently fed up with the numerous postponements previously sought by the petitioners, the trial court denied the desired resetting and instead issued an order on the same date declaring the case as submitted for decision on the basis of the evidence on record.

Two (2) weeks later, or on August 30, 1995, Atty. Arnel Datukon entered into the picture by filing, for the petitioners, a motion for reconsideration of the court's aforesaid order. In his motion, Atty. Datukon explained the reason for Atty. Dilangalen's absence in the August 15, 1995 hearing and manifested the difficulty petitioners were encountering in finding a new counsel to take over the case. Before the trial court could act on the motion, Atty. Jose Estaniel filed on September 27, 1995 an "Entry of Appearance" as counsel de parte for the petitioners "in substitution of Atty. Arnel Datukon".[3] Copies of the pleading were furnished Atty. Datukon and respondents' counsel, Atty. Mama Dalandag.

Subsequently, petitioners, assisted by Atty. Estaniel, conferred with the respondents at the trial judge's chamber to explore the possibility of an amicable settlement.

Apparently, no settlement was reached. For, on January 31, 1996, the trial court rendered a decision [4] ordering the petitioners to vacate the disputed premises and to demolish their houses thereon. Atty. Datukon was furnished with a copy of said decision on February 9, 1996. Atty. Estaniel was not.

On March 29, 1996, the respondents, on the premise that copies of the decision "had already been served upon [petitioners] through Rene Ramos and one of their counsel[s] of record", filed a motion for execution. Copy of the motion was furnished Atty. Datukon who reacted by filing a "MANIFESTATION" bearing date April 1, 1996 [5]

informing the trial court that he was no longer petitioners' counsel, having, according to him, earlier been "formally substituted by Atty. J.M. Estaniel as counsel for [petitioners] per the Entry of Appearance of even date filed by Atty. J.M. Estaniel . . . [and thus] the notice of the instant motion [for execution] served on him is not notice to the [petitioners]". Atty. Datukon furnished Atty. Estaniel a copy of the same Manifestation on April 1, 1996. As narrated in the assailed decision of the appellate court, the following undisputed events next transpired:

> - On May 20, 1996, Atty. Estaniel received a copy of the notice of hearing on the respondents' motion for issuance of a writ of execution;
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> - On May 21, 1996, Atty. Estaniel filed an Ex-parte motion, praying for a copy of the trial court's January 31, 1996 decision;
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> - On May 24, 1996, Atty. Estaniel, thru a member of his staff, obtained a copy of the January 31, 1996 decision of the trial court;
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> - On May 29, 1996, petitioners, through Atty. Estaniel, filed with the trial court a "Notice of Appeal", therein making known to the court that they are appealing to the Court of Appeals its January 31, 1996 decision, copy of which they received on May 24, 1996.

On June 26, 1996, the trial court issued an Order[6] denying petitioners' Notice of Appeal for having been filed out of time. Partly says the trial court in the same Order:

> " The records of the case further reveal that the notice of decision was received by Atty. Arnel Datukon on February 9, 1996. For all intents and purposes, therefore, the decision in the instant case has been legally received by defendants through counsel on February 9, 1996. The manifestation filed by Atty. Arnel Datukon . . . was filed before this Court on April 1, 1996, or a period of more than one (1) month after he received the decision. The manifestation . . . for the withdrawal has not been approved by the Court and therefore . . . Atty. Arnel Datukon is still counsel of record".

Petitioners, through Atty. Estaniel, sought a reconsideration but the trial court, in its subsequent order of July 10, 1996, [7]denied the motion. Therefrom, petitioners went to the Court of Appeals on a petition for certiorari, thereat docketed as CA-G.R. SP NO. 41304.

In the herein assailed decision dated April 14, 1997,[8] the appellate court dismissed the petition and effectively affirmed, but for a different reason, the trial court's ruling that petitioners' Notice of Appeal filed by Atty. Estaniel was belatedly filed. In time, petitioners moved for a reconsideration but their motion was similarly rejected by the appellate court in its resolution of March 17, 1998.[9]

Hence, petitioners' present recourse centered on their argument that the filing of their Notice of Appeal on May 29, 1995 was, contrary to the appellate court's holding, within the reglementary period for appeal under the pertinent provisions of Rule 41 of the Rules of Court[10] because their counsel, Atty. Estaniel, obtained a copy of the trial court's January 31, 1996 decision only on May 24, 1996.

We DENY.

Should a party to a suit appear by counsel, service of every judgment, order, or pleading subsequent to the complaint, written motion, notice or similar papers shall be made upon his counsels or one of them.[11] Accordingly, notices of all kinds and all orders of the court must be sent to the counsel. While notice to counsel is an effective notice to the client,[12] notice to a client and not to his counsel is not notice in law.[13]

Corollary to the foregoing postulates on attorney-client relationship is the rule that the client is bound by the action or inaction, as the case may be, of his counsel.

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In its assailed decision and resolution, the Court of Appeals, disagreeing with the trial court's holding on representation, ruled that neither Atty. Datukon nor Atty. Dilangalen can be considered as petitioners' counsel de parte at the time the trial court issued its January 31, 1996 decision and thereafter. Such status, the appellate court added, pertained exclusively to Atty. Estaniel whose appearance, made as it were through the medium of formally delivering to the clerk of court his Entry of Appearance, did not require, for its validity, court approval.[14]

The foregoing notwithstanding, the Court of Appeals ruled, and rightly so, that although Atty. Estaniel was not officially sent a copy of the trial court's January 31, 1996 decision, he was however, put on effective official notice thereof on April 1, 1996. He must, therefore, be made accountable for his failure to seek, within the reglementary period counted from April 1, 1996, a review of said decision. Wrote the appellate court:

> "However, while Atty. Estaniel is the counsel of record of the petitioners, We sustain the order of the respondent court that the notice of appeal was filed out of time. x x x As counsel for petitioners, it was incumbent upon him, consistent with his duty to serve his client with competent and diligence, to inquire from the respondent court about the status of the case or to obtain a copy of the decision at the earliest possible time (Canon 18, Code of Professional Responsibility)
>
> xxx xxx xxx
>
> The earliest possible time for him to have known that there was already a decision in the case was when he was furnished a copy of the manifestation filed by Atty. Datukon on 1 April 1996, wherein the latter informed the respondent court that he was no longer the lawyer of petitioners as of 22 September [should be 27 September] 1995 since he had already been formally substituted by Atty. J.M. Estaniel as counsel for defendants as of said date xxx.
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> Then, having known of the decision, he (i,e., Atty Estaniel) should have filed a motion for reconsideration, or seek quashal of the motion for execution. He did not do so. It was only on 24 May 1996 when Atty. Estaniel instructed his paralegal staff to get a copy of the decision of the respondent court. He was remiss as counsel for petitioners. It is for this reason that the denial of the notice of appeal must be sustained." (Emphasis supplied).

The foregoing disposition and the premises holding it together commend themselves for concurrence. In particular, we agree with the designation of April 1, 1996 as the controlling date when Atty. Estaniel is considered to have effectively been put on notice of the trial court's decision and whence the period of appeal should accordingly be reckoned.

There can be no quibbling that Atty. Estaniel received a copy of Atty. Datukon's April 1, 1996 "MANIFESTATION" on the same date. Said manifestation carried all the basic earmarks of a proper pleading or like papers filed in court. It carried the precise case number and title. The exact branch of the handling RTC was particularly identified, the lawyers involved in the litigation were named and the specific subject covered by the manifestation, i.e., motion for execution of the decision in Civil Case No. 580, was clearly discernible. Atty. Estaniel, therefore, cannot plausibly feign ignorance as to what decision the motion for execution was about. As aptly observed by the appellate court in its assailed decision of April 14, 1997:

> "Atty. Estaniel's disclaimer that:
>
> '19. That before May 20, 1996, the date Atty. J.M. Estaniel was in receipt of the aforestated notice of hearing, he does not know to what decision was the motion for execution about because up to that point in time, he has not been furnished with a copy of the decision dated January 31, 1996 : . . .'
>
> is too shallow to be believed".

In a very real sense, Atty. Datukon's "MANIFESTATION" was an alerting medium that a final ruling has been

issued by the trial court, which should have thus prodded Atty. Estaniel – and any prudent counsel for that matter - to act accordingly. Canon 18 of the Code of Professional Responsibility imposes upon a lawyer the duty to "serve his client with competence and diligence". Subsumed in this imposition, which commences from the time a lawyer is retained until his effective release from the case or final disposition of the whole subject of the litigation, [15] is the duty to safeguard his client's interest with the vigilance and attention of a good father of the family.[16] In line with his duty as defined in Canon 18 of the Code, it behooved Atty. Estaniel, upon receipt of Atty. Datukon's manifestation, to posthaste inquire from the trial court or even from Atty. Datukon himself, about the status of petitioner's case since the manifestation, a copy of which he has thus been furnished, already made specific reference to a motion for execution filed by the counsel of his clients' adversary. Atty. Estaniel must thus be held to task for his failure to exercise due diligence in the discharge of his duties as counsel. Petitioners, too, must suffer the consequence of such failure because a client is bound by the conduct, negligence or mistakes of his counsel.[17]

To be sure, the above disposition is not without jurisprudential support. In Arambulo vs. Court of Appeals [18] involving an otherwise defective service of notice to perfect an appeal effected on a previous counsel instead of the new counsel of record, this Court [19] upheld the dismissal of the appealed case for the new counsel's neglect in inquiring, in breach of his obligation to serve his client with diligence, as to the status of the appeal. Some pertinent excerpts of the holding in Arambulo:

> "Nevertheless, the appeal can be dismissed, not on the basis of the respondent Court of Appeals' error but on a different ground for which Atty. Pineda must answer. As the new counsel for the petitioners, it was incumbent upon him, consistent with his duty to serve his client with competence and diligence, to inquire either from the trial court or the appellate court about the status of the appeal since he had not received any notice to pay the docketing and other fees despite the lapse of several months from the time he entered his appearance. While he had every reason to expect that the office of the Clerk of Court of the Court of Appeals would comply with . . . [the rules] on notice to the parties to pay the docketing and other fees, his failure to receive the notice for so long a time should have alarmed him to the possibility that something must have gone awry somewhere.
>
> xxx As we see it then, the failure of Atty. Pineda and the petitioners to exercise due diligence with respect to the appeal was either done deliberately to delay the execution of judgment, which we cannot tolerate, or caused by negligence, in which case the settled rule that the negligence of counsel binds the client should be applied".

Like Atty. Pineda in Arambulo, Atty. Estaniel in the present case failed to measure up to the minimum standards of care and diligence expected of him in the prosecution of his clients' cause. As it were, Atty. Pineda's clients in Arambulo were prejudiced by his failings. We see no reason why petitioners as Atty. Estaniel's clients should be treated differently.

WHEREFORE, the instant petition is DENIED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by then Associate Justice, later a member of this Court but now retired, Antonio M. Martinez, with then Associate Justices Lourdes Tayao-Jaguros and Romeo Brawner, now Presiding Justice, concurring.

[2] Rollo, p. 51.

[3] Annex "D", Petition, Rollo, p. 54.

[4] As may be inferred from the assailed decision, p. 2 of the CA

[5] Annex "F", Petition, Rollo, p. 57.

[6] Rollo, p. 157.

[7] Rollo, p. 76.

[8] Rollo, pp. 40-48.

[9] Rollo, p. 51.

[10] Sec. 2 (a) Ordinary appeal. - The appeal to the Court of Appeals in cases decided by the [RTC] in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the [trial] court . . . No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require.

Sec. 3. Period of ordinary appeal, appeal in habeas corpus cases. – The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for a new trial or reconsideration. x x x

[11] Section 2 in relation to Section 4, Rule 13 of the Rules of Court; (Cortez vs. Court of Appeals, 83 SCRA 31 [1978].

[12] Lincoln Gerard, Inc. vs. NLRC, 187 SCRA 701 [1990].

[13] Mancenido vs. Court of Appeals, 330 SCRA 419 [2000], citing Riego vs. Riego, 18 SCRA 93 [1966].

[14] Flores vs. Zurbito, 37 Phil. 746 [1918].

[15] Gamalinda vs. Alcantara, 206 SCRA 468 [1992].

[16] Parinas vs. Paguinto, 434 SCRA 179 [2004].

[17] Bernardo vs. Court of Appeals, 275 SCRA 413 [1997]; Espinosa vs. Court of Appeals, 430 SCRA 96 [2004].

[18] 226 SCRA 589 [1993].

[19] Per the ponencia of Associate, now Chief, Justice Hilario G. Davide, Jr.

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