

SPOUSES TEODORA AND WILFREDO BUENAFLOR, PETITIONERS, VS. HONORABLE COURT OF APPEALS, UNITED RURAL BANK OF PANAY ISLAND, INC., REPRESENTED BY ITS MANAGER RAUL BALANDRA, AND THE H...

G.R. No. 142021. November 29, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The principal issue before this Court is whether or not the appellate docket fees were duly paid within the period of appeal. The appellate docket fees in this case in the form of two postal money orders were seasonably received by the Clerk of Court of the Regional Trial Court which rendered the judgment appealed from, but one was addressed to the Clerk of Court of the Court of Appeals and the other to the Clerk of Court of the Supreme Court; by reason of which, the Regional Trial Court dismissed the complaint for failure to pay the docket fees pursuant to Section 4, Rule 41 of the Rules of Court.

This case has for its genesis an action for recovery of ownership and possession of realty filed with the RTC of Kalibo, Aklan by petitioners against respondent United Rural Bank of Panay Island, Inc. (respondent bank). After hearing, the trial court rendered its decision, which was received by petitioners on January 17, 1998, in favor of the respondent bank. On January 30, 1998, petitioners filed with the trial court a notice of appeal^[1] with postal money orders attached thereto as payment of the appellate docket fees. Postal Money Order No. J 0374905 in the amount of P352.00 was written as payable to the Clerk of Court of the Supreme Court, while Postal Money Order No J 0374096 in the amount of P68.00 was payable to the Clerk of Court of the Court of Appeals.

On February 26, 1998, counsel for petitioners filed with the trial court a Motion for Issuance of Formal Order, alleging therein that the Clerk of Court of the trial court returned petitioner's postal money orders to said counsel without mentioning the reasons for the return except to quote Section 4 of the Rule 41 of the 1997 Rules of Civil Procedure. Counsel, therefore, prayed for the trial court's formal ruling on the legality of the Clerk of Court's rejection of the payment. On March 4, 1998, the trial court issued an order denying petitioner's motion ruling that the appellate docket fee was allegedly not paid in accordance with Section 4, Rule 41 of the 1997 Rules of Civil procedure. The trial court declared that since the postal money orders were made payable to the Supreme Court and the Court of Appeals and not the Clerk of Court of the trial court, such omission shall be considered as failure of the petitioners to pay the appellate docket fee within the period for taking an appeal. The trial court likewise denied the motion for reconsideration filed by the petitioners.

Petitioners then sought relief with the Court of Appeals. Unfortunately for the petitioners, their resort to the Court of Appeals was futile. The Court of Appeals in its Resolution dated March 29, 1999 declared the petition as abandoned. Upon motion for reconsideration, the Court of Appeals denied the same on the ground that, inter alia, the payment of the appellate docket fees were not made in accordance with the requirement that appellate docket fee shall be "paid to the Clerk of Court of the court which rendered the judgment or final order appealed from,

xxx." Perforce, the payment is ineffectual and does not toll the period of appeal. On February 10, 2000, the Court of Appeals denied petitioners' motion for reconsideration. Hence, this petition for certiorari wherein petitioners contend that the Court of Appeals committed grave abuse of discretion in dismissing their appeal considering that the required docket fees were actually paid within the prescribed period, except that there was a minor error as to the payee thereof.

Section 4 of Rule 41 of the 1997 Rules of Civil Procedure, provides:

Sec. 4. Appellate court docket and other lawful fees. - Within the period for taking an appeal, the appellant shall pay to the clerk of 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.

In essence, the petitioners pray for the liberal construction of the Rules and consider the actual delivery of the postal money orders to the Clerk of Court of the Regional Trial Court as a valid and proper payment of the appellate docket fees.

In its Comment, respondent bank argues that the fact that the appellate docket fees were addressed to the clerks of court of the Court of Appeals and the Supreme Court, respectively, is a procedural lapse which constitutes a clear case of negligence of counsel the effects of which binds the client. The respondent bank argues that the defect prevented the perfection of the appeal; consequently, the appellate court acquired no jurisdiction to entertain the appeal.

The petition is meritorious.

The established rule is that the payment in full of the docket fees within the prescribed period is mandatory.[2] Nevertheless, this rule must be qualified, to wit: First, the failure to pay appellate court docket fee within the reglementary period allows only discretionary dismissal, not automatic dismissal, of the appeal;[3] Second, such power should be used in the exercise of the Court's sound discretion "in accordance with the tenets of justice and fair play and with great deal of circumspection considering all attendant circumstances." [4]

Admittedly, this Court has allowed the filing of an appeal in some cases where a stringent application of the rules would have denied it, only when to do so would serve the demands of justice and in the exercise of the Court's equity jurisdiction.[5] This is based on the rule of liberality in the interpretation of the Rules to achieve substantial justice. It may be recalled that the general rule is that the Rules of Court are rules of procedure and whenever called for they should be so construed as to give effect rather than defeat their essence.[6]

Section 6, Rule 1 of the 1997 Rules of Civil Procedure provides:

SEC. 6. Construction. - These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.

Rules of procedures are intended to promote, not to defeat, substantial justice and, therefore, they should not be applied in a very rigid and technical sense.[7] The exception is that, while the Rules are liberally construed, the provisions with respect to the rules on the manner and periods for perfecting appeals are strictly applied. As an exception to the exception, these rules have sometimes been relaxed on equitable considerations.[8] Also, in some cases the Supreme Court has given due course to an appeal perfected out of time where a stringent application of the rules would have denied it, but only when to do so would serve the demands of substantial justice and in the exercise of equity jurisdiction of the Supreme Court.[9]

The underlying consideration in this petition is that the act of dismissing the notice of appeal, if done in excess of

the trial court's jurisdiction, amounts to an undue denial of the petitioners' right to appeal. The importance and real purpose of the remedy of appeal has been emphasized in *Castro v. Court of Appeals*[10] where this Court ruled that an appeal is an essential part of our judicial system and trial courts are advised to proceed with caution so as not to deprive a party of the right to appeal and instructed that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities.[11]

It cannot be denied that there was actual delivery of the postal money orders to the Clerk of Court of the trial court intended to be used to pay for the appellate docket fees. However, the question remains whether or not there was proper payment of the appellate docket fees. We believe so. The concept of payment should not be construed in the strict or technical sense. In its general sense, payment has been defined as a delivery of money or its equivalent in either specific property or services by one person from whom it is due to another person to whom it is due.[12] Delivery is the act by which the res or substance thereof is placed within the actual or constructive possession or control of another.[13]

In the civil law sense, it means not only the delivery of money but also the performance, in any manner, of the obligation.[14] The Civil Code enunciates a counterpart principle to the rule on liberal construction under Section 6, Rule 1 of the 1997 Rules of Civil Procedure. Article 1234 of the Civil Code allows substantial performance in the payment of obligations. In order that there may be substantial performance of an obligation, there must have been an attempt in good faith to perform, without any willful or intentional departure therefrom.[15] This concept of substantial performance may be applied by analogy in the determination of question on the proper payment of the appellate docket fees. In this case, there is good faith attempt to comply with the requirements of the Rules regarding the manner of appeal from the decision of the Regional Trial Court, without any willful or intentional departure therefrom. The postal money orders which were intended for the payment of the appellate docket fees were actually sent to the trial court. They were filed within the reglementary period and received by the trial court. The petitioners clearly intended to file an appeal.

In the case at bar, the delivery of the appellate docket fees to the proper Clerk of Court should be interpreted to mean as the proper payment thereof or, at least, substantial performance of the obligation to pay the appellate docket fees. The fact that the postal money orders were addressed to the clerks of court of the Court of Appeals and the Supreme Court, respectively, is a minor technicality, which if treated too rigidly would run counter to the spirit of the Rules and thwart the ends of justice. At worst, there is a mere defective payment which may be cured by a simple amendment of the notice of appeal. Considering the special circumstances of the case, it cannot be said, without running afoul with the ends of substantial justice, that there is a failure to pay the docket fees.

IN VIEW OF THE FOREGOING, the petition for certiorari is hereby GRANTED. The assailed resolutions are SET ASIDE and the Clerk of Court of the Regional Trial Court of Aklan, Branch 8, Kalibo Aklan, is ordered to transmit the records to the Court of Appeals in accordance with Section 10, Rule 41 of the Rules of Court.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Santiago, JJ., concur.

[1] Petition, Annex K, p. 1; Rollo, p. 99. The full text of the Notice of Appeal is as follows:

Notice of Appeal

The undersigned counsel for the plaintiffs in the above-entitled case to this Honorable Court most respectfully gives notice of appeal to the Court of Appeals over the 29 December 1997 Decision, copy whereof received by the

undersigned on 17 January 1998 being contrary to proven facts and law.

Attached herewith are two (2) postal money orders in the total amount of P420.00 as follows:

PMO No. J 0374905 in the amount of P352.00 payable to the clerk of the Supreme Court,

PMO No. J 0374906 in the amount of P68.00 payable to the Clerk of the Court of Appeals;

22 January 1998 at Quezon City for Kalibo, Aklan.

[2] *Gegare v. Court of Appeals*, 297 SCRA 588, 591 (1998).

[3] *Fontanar v. Bonsubre*, 145 SCRA 663, 666 (1986); *San Andres v. Court of Appeals*, 212 SCRA 1 (1992); *Arambulo v. Court of Appeals*, 226 SCRA 589 (1993); *Santos v. Court of Appeals*, 253 SCRA 632 (1996).

[4] *Fontanar v. Bonsubre*, 145 SCRA 663, 667 (1986) citing *PNB v. Philippine Milling Co.*, 26 SCRA 712, 715 (1969); *Gregorio v. Court of Appeals*, 72 SCRA 120 (1976); *Maqui & Maqui v. Court of Appeals*, 69 SCRA 368 (1976); *Lopez v. Court of Appeals*, 75 SCRA 401 (1977).

[5] *Siquenza v. Court of Appeals*, 137 SCRA 570, 576 (1985).

[6] *Philippine National Construction Company v. Court of Appeals*, 228 SCRA 565 (1993).

[7] *Javier v. Court of Appeals*, 183 SCRA 171 (1990).

[8] F.B. REGALADO, REMEDIAL LAW COMPENDIUM (Vol. 1, 6th ed.) citing *Bagalanon, et al. v. Court of Appeals, et al.*, (March 31, 1977); *Pimentel, et al., v. Court of Appeals, et al.*, (June 27, 1975).

[9] *Ibid.*, citing *Siquenza, et al. v. Court of Appeals, et al.*, (July 16, 1985).

[10] 132 SCRA 782 (1984).

[11] See *Siquenza v. Court of Appeals*, 137 SCRA 570 (1985).

[12] BLACK'S LAW DICTIONARY, 5th ed.

[13] *Ibid.*

[14] NEW CIVIL CODE, Art. 1232.

[15] A.M. TOLENTINO, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 278 (Vol. IV, 1986).

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