CARME CASPE, PETITIONER, VS. COURT OF APPEALS AND SUSAN S. VASQUEZ, RESPONDENTS.

G.R. NO. 142535. June 15, 2006

Ponente: CORONA, J.

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CORONA, J.:

In this petition for certiorari under Rule 65 of the Rules of Court, petitioner charges respondent Court of Appeals with grave abuse of discretion amounting to lack of jurisdiction in rendering a resolution[1] on September 14, 1999 which read:

> For failure of defendants-appellants[2] to pay the requisite docket and other lawful fees within the reglementary period, their appeal is DISMISSED pursuant to Sec. 1 (c), Rule 50, in relation to Sec. 4, Rule 41 of the 1997 Rules of Civil Procedure.

The facts follow.

Petitioner was one of the defendants in civil case no. 96-087,[3] assigned to Branch 258, Regional Trial Court (RTC) of Parañaque. On February 19, 1999, Judge Raul E. de Leon issued a decision[4] in favor of the plaintiff, now private respondent Susan Vasquez, and against the petitioner.

> WHEREFORE, premises considered, judgment is hereby rendered ordering defendant Carme Caspe to pay plaintiff Susan Vasquez y Soriano, the following:
>
> - The amount of Php67,234.59 representing her medical expenses;
>
> - The amount of Php200,000 as and by way of moral damages;
>
> - The amount of Php100,000 as and by way of reasonable attorney's fees; and
>
> - The costs of suit.[5]

On March 17, 1999, a notice of appeal[6] was filed by petitioner's counsel but without paying the docket and other lawful fees.

On September 14, 1999, the Court of Appeals dismissed the appeal for failure to pay the docket and other fees within the period for taking an appeal.[7]

On October 1, 1999, petitioner's counsel moved for reconsideration[8] on the ground of excusable mistake in failing to pay the requisite fees. Petitioner was allegedly out of town and counsel had to wait for his return in order to get payment for the fees. However, due to counsel's workload, he overlooked the payment. Enclosed in the motion was the postal money order in the amount of P420 as docket fees.[9]

On February 9, 2000, the Court of Appeals denied the motion.[10] Hence, this petition.

Appeal is not a right but a mere statutory privilege. It must be exercised strictly in accordance with the provisions

set by law.[11] Rule 41 of the Rules of Court provides that an appeal to the Court of Appeals from a case decided by the regional trial court in the exercise of the latter's original jurisdiction shall be taken within 15 days from the notice of judgment or final order appealed from. Such appeal is made by filing a notice thereof with the court that rendered the judgment or final order and by serving a copy of that notice on the adverse party. Furthermore, within the same period, appellant should 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 fees.

Payment of docket and other fees within this period is mandatory for the perfection of the appeal. Otherwise, the right to appeal is lost. In short, the payment of appellate docket fees is not a mere technicality of law or procedure. It is an essential requirement, without which the decision or final order appealed from becomes final and executory[12] as if no appeal was filed.

Petitioner received a copy of the RTC decision on March 4, 1999.[13] From this period, he had 15 days to file a notice of appeal and to pay the docket and other fees. The mere filing of the notice of appeal within the prescribed period was not enough. It should have been accompanied by the payment of the docket and other fees, an indispensable step for the perfection of the appeal.

Although admitting inadvertence, petitioner argued that the Court of Appeals gravely abused its discretion when it denied a liberal application of the rules on the payment of docket fees which were paid "within a reasonable time." However, the undisputed fact is that there was a delay of almost seven months. This, to us, was far from reasonable. Hence, when the period lapsed without petitioner paying the required fees, he lost his right to appeal and the judgment of the trial court became final and executory.

While it is true that, in exceptional cases and for compelling reasons, this Court in the past relaxed the Rules to correct a patent injustice, petitioner failed to present sufficient justification to merit an exception from the rule. Despite petitioner's valiant attempt to reason out with this Court, there is no other conclusion but that both petitioner and counsel were negligent in paying the required fees on time.

Based on the foregoing, we find petitioner's charge of grave abuse of discretion without merit. The Court of Appeals resolution dismissing the appeal was well justified.

WHEREFORE, premises considered, the petition is hereby DISMISSED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Associate Justice Edgardo P. Cruz, and concurred in by Associate Justices Eugenio S. Labitoria and Marina L. Buzon of the 17[th] Division of the Court of Appeals; rollo, p. 23.[2] Herein petitioner was one of the defendants-appellants.[3] Susan Vasquez y Soriano v. Carme Caspe and Ben Hur Tamondong y Calugay.[4] Rollo, pp. 12-20.[5] Id., p. 19.[6] Id., p. 21.[7] Id., p. 23.[8] Rollo, pp. 24-27.[9] Id., p. 28.[10] Id., pp. 30-31.[11] Badillo v. Tayag, 448 Phil 606 (2003), quoting Manalili v. de Leon, 422 Phil 214 (2001).[12] Manalili v. de Leon, 422 Phil 214 (2001).[13] Rollo, p. 3.

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