

**ANDREA CAMPOSAGRADO, VIRGINIA CAMPOSAGRADO, ESTER CAMPOSAGRADO, REPRESENTED BY HER ATTORNEY-IN-FACT, FE C. MAGSAMBOL, AND GUILLERMA CAMPOSAGRADO, REPRESENTED BY HER ATTORNEY-IN-FACT...**

*G.R. NO. 143195. September 13, 2005*

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-143195/>

---

**AUSTRIA-MARTINEZ, J.**

Before this Court is a petition for review under Rule 45 of the Rules of Court seeking the reversal of the Resolution, dated June 17, 1999, issued by the Court of Appeals (CA) which reads as follows:

Considering the report, dated May 24, 1999, of the Judicial Records Division (page 1 of the Rollo) to the effect that the appellants failed to pay in full the required docket and other legal fees, this Court resolved to DISMISS the appeal, pursuant to Section 4, Rule 41 in relation to Section 1(c), Rule 50 of the 1997 Rules of Civil Procedure.

IT IS SO ORDERED.[1]

as well as the Resolution dated April 24, 2000, which reads:

Up for consideration is appellant's motion for reconsideration (pages 11-12 of the Rollo) of this Court's resolution of June 17, 1999 (page 10 of the Rollo) dismissing the appeal for the reason therein stated. Taking note of the report, dated February 24, 2000, of the Judicial Records Division (page 1 of the Rollo) to the effect that the appellant still failed to pay the full amount of the required docket fee, the same (motion) is hereby DENIED. The resolution of dismissal stands.

IT IS SO ORDERED.[2]

The factual background of the case is as follows:

Petitioners and private respondent Pablo Camposagrado are legitimate children of Antonina and Cresenciano Camposagrado. On April 16, 1975, Antonina died intestate leaving a parcel of land with an area of around 3,879 square meters situated in Gen. Trias, Cavite and covered by Transfer Certificate of Title No. (70-52) RT-6507. On August 26, 1975, Cresenciano sold one-half of the said property to private respondent Pablo allegedly without the knowledge of petitioners. On June 7, 1976, almost a year after Antonina's death, Cresenciano also died intestate.[3]

On September 10, 1991 or more than sixteen years after the death of Antonina, private respondent Pablo filed a complaint before the Regional Trial Court (RTC) of Cavite, Trece Martires City, against petitioners, docketed as Civil Case No. TM-329-A, for Partition, Recovery of Possession with Damages, on the basis of the Deed of Sale executed by Cresenciano in his favor. Private respondent Pablo prayed that one-half of the estate be transferred to him while the remaining half be divided among petitioners and himself.[4]

In their Answer, herein petitioners contend that the subject lot was paraphernal property of the late Antonina, thus Cresenciano cannot sell one-half portion thereof, his right thereto being inchoate, the same not having been settled and partitioned among all the forced heirs of Antonina.[5] They then prayed that the complaint be dismissed and that private respondent be ordered to pay damages.[6]

On October 30, 1998, the RTC rendered its decision the fallo of which reads:

ACCORDINGLY, let the property in dispute be partitioned between plaintiff and defendants so that Pablo Camposagrado will receive double the share of each of the defendants; ordering defendants to pay plaintiff the sum of P30,000.00 as attorney's fees and P50,000.00 as moral damages.

Costs against defendants.

SO ORDERED.[7]

Petitioners received said decision on December 28, 1998 and filed their Notice of Appeal the following day; the collection officer of the RTC of Cavite, Trece Martires City, demanded and collected from petitioners the appeal docket and other lawful fees as evidenced by Official Receipt Nos. 9557982, 10392031, 7541241-B and 308968-Z on the same date; on June 17, 1999, the CA dismissed the appeal filed by petitioners on the ground that they failed to pay in full the required docket and other legal fees; and on April 24, 2000, the CA denied petitioners' motion for reconsideration.[8]

Thus, the present petition, where the following issues are being raised:

- IN DISMISSING THE APPEAL FOR ALLEGED FAILURE TO PAY THE REQUIRED DOCKET AND OTHER LEGAL FEES PURSUANT TO SECTION 4, RULE 44 (sic) IN RELATION TO SECTION I (C), RULE 50 OF THE 1997 RULES OF CIVIL PROCEDURE, RESPONDENT COURT ACTED NOT IN ACCORD WITH THE LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT RENDERING ITS ORDERS, APPENDICES "A" AND "B" HEREON, CORRECTIBLE BY CERTIORARI.
- IN DISMISSING THE APPEAL FOR ALLEGED FAILURE TO PAY THE REQUIRED DOCKET AND OTHER LEGAL FEES, PAYABLE UNDER THE RULES, RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OF JURISDICTION, OR ACTED IN EXCESS OR WANT OF JURISDICTION RENDERING ITS ORDERS, APPENDICES "A" AND "B" HEREON, CORRECTIBLE BY CERTIORARI.[9]

Petitioners argue that: they should not be faulted or penalized for the oversight of the collection officer; when the collection officer asked from them to pay the amount indicated in the Official Receipts in the total sum of P415.00, petitioners paid said amount in good faith; as ordinary folks, they believed that the amount collected from them by the collection officer of the court is what is mandated under the Rules; appeal being an essential part of our judicial system, the CA should have proceeded with caution and notified petitioners that the amount collected from them by the collection officer is deficient; petitioners were deprived of their right to due process by the outright dismissal of their appeal; their appeal, being meritorious, must be considered and given legal significance by the CA before resorting to technicality; petitioners have no intention to delay the resolution of the case.[10]

Private respondent in his Comment contends that: petitioners are represented by private counsel who is presumed to be competent and diligent in his task and is duty bound to know the correct and full amount of docket and other lawful fees to be exacted by court personnel; petitioners, acting through their agent, should exercise diligence in seeing to it that the full amount of docket fee is paid within the reglementary period of appeal, failure of which is fatal to their appeal in light of the proscription that the docket and other lawful fees should be paid in full; this

Court in *Lazaro vs. Court of Appeals*[11] held that the right to appeal is a statutory right and one who seeks to avail of that right must comply with the statute or rule; the CA in outrightly dismissing the appeal of petitioners acted within the bounds of law and exercised sound discretion; in any case, the present petition involves a pure question of fact, i.e., whether the duty of paying the correct and full amount of docket and other legal fees devolves upon petitioners, which this Court cannot take cognizance of.[12]

The sole issue that needs to be addressed in this petition is: Whether the CA correctly denied the appeal filed by petitioners for their failure to pay the full amount of the docket fee.

We answer in the negative.

The general rule is that payment of docket fees within the prescribed period is mandatory for the perfection of an appeal.[13] This is pursuant to Sec. 4, Rule 41 of the 1997 Rules of Court which provides that:

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.

There are instances however when the Court applied the rule with liberality.[14] This is in recognition of the importance of the remedy of appeal, which is an essential part of our judicial system and the need to ensure that every party litigant is given the amplest opportunity for the proper and just disposition of his cause freed from the constraints of technicalities.[15]

This Court on several occasions has pronounced that failure to pay the appellate docket fee does not automatically result in the dismissal of an appeal, dismissal being discretionary on the part of the appellate court.[16] A party's failure to pay the appellate court docket fee within the reglementary period confers only a discretionary and not a mandatory power to dismiss the proposed appeal.[17] Such discretionary power should be used in the exercise of the court's sound judgment in accordance with the tenets of justice and fair play with great deal of circumspection, considering all attendant circumstances and must be exercised wisely and prudently, never capriciously, with a view to substantial justice.[18]

The records of this case show that the deficiency in the docket fee paid by petitioners is only P5.00.[19] Petitioners claim that they merely relied on the assessment of the collecting officer as to the amount of dockets fees that should be paid. As shown by the records, the assessment made only totaled P415.00 which petitioners readily paid.[20] These circumstances suggest that petitioners never intended to circumvent the rules.[21] The Court therefore resolves the petition in their favor.

The Court takes note of the fact that petitioners, despite receipt of the Resolution dated June 17, 1999, still failed to remedy their mistake and failed to pay the deficiency in their docket fee. Under different circumstances, such inaction would have an adverse effect on petitioners. Considering however the meager amount which petitioners failed to pay in this case and more significantly, the principal issue on appeal from the RTC Decision, that is, whether the trial court committed a reversible error in ruling that private respondent Pablo is entitled to double the share of each of his co-heirs, we find that the ends of justice would be better served by allowing the appeal to proceed after due payment of the amount specified.

WHEREFORE, the petition is granted. The Resolutions of the Court of Appeals dated June 17, 1999 and April 24, 2000 are REVERSED and SET ASIDE. The Court of Appeals is ordered to give due course to petitioners' appeal UPON payment by petitioners of the amount of P5.00 which is the deficiency in their docket fee with said court, within five (5) days from finality of herein Decision.

Let the records be remanded to the Court of Appeals for further proceedings.

**SO ORDERED**

Reynato S. Puno (chairman), Romeo J. Callejo, Sr., Dante O. Tinga, Minita V. Chico-Nazario, JJ., concur.

---

[1] Rollo, p. 23; penned by Associate Justice Ramon Mabutas, Jr. and concurred in by Associate Justices Hilarion L. Aquino and Wenceslao I. Agnir, Jr.

[2] Rollo, p. 24.

[3] RTC Decision dated October 30, 1998, Records, pp. 528-530.

[4] Records, p. 7.

[5] Id., p. 31.

[6] Id., p. 35.

[7] Id., p. 540.

[8] Rollo, pp. 15-16.

[9] Id., p. 13.

[10] Rollo, pp. 16-21.

[11] G.R. No. 137761, April 6, 2000, 330 SCRA 208, 213.

[12] Rollo, pp. 37-39.

[13] Saint Louis University vs. Cordero, G.R. No. 144118, July 21, 2004, 434 SCRA 575; Yambao vs. Court of Appeals, G.R. No. 140894, November 27, 2000, 346 SCRA 141, 146; Gegare vs. Court of Appeals, G.R. No. 132264, October 8, 1998, 297 SCRA 587, 591.

[14] See Planters Products Inc. vs. Fertiphil Corporation, G.R. No. 156278, March 29, 2004; Yambao vs. Court of Appeals, supra; and Fajardo vs. Court of Appeals, G.R. No. 140356, March 20, 2001, 354 SCRA 736.

[15] Yambao vs. Court of Appeals, supra.

[16] Planters Products Inc. vs. Fertiphil Corporation, G.R. No. 156278, March 29, 2004, 426 SCRA 414; Yambao vs. Court of Appeals, supra; Fajardo vs. Court of Appeals, supra.

[17] Fajardo vs. Court of Appeals, supra.

[18] Ibid.

[19] CA Rollo, p. 1.

[20] Records, p. 541; Rollo, pp. 27-28.

[21] See Yambao vs. Court of Appeals, supra, p. 147.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.