

LA SALETTE COLLEGE, REPRESENTED BY ITS PRESIDENT, FR. ROMEO GONZALES, MS; AND JESUS T. BAYAU, DEAN OF STUDENT SERVICES, PETITIONERS, VS. VICTOR C. PILOTIN, RESPONDENT.

G.R. No. 149227. December 11, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

An appeal is not perfected by the mere filing of a Notice of Appeal that has been served on the adverse party. The docket fees must likewise be paid within the reglementary period. Petitioners have failed to show why they merit an exception to these stringent rules.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to set aside the November 16, 2000[2] and the June 22, 2001 Resolutions[3] of the Court of Appeals (CA) in CA-GR CV UDK No. 0236C. The November 16, 2000 Resolution disposed as follows:

"In view of the foregoing, Appellee's 'Motion for Reconsideration' is GRANTED. The Resolution, dated March 14, 2000, is hereby RECALLED and SET ASIDE and the appeal is hereby DISMISSED."[4]

The June 22, 2001 Resolution denied reconsideration.

The Facts

The facts of the case are narrated by the trial court[5] as follows:

"[Respondent] is a bonafide student of [petitioner] College dating back [to] the school year 1988-1989 taking up the degree of Bachelor of Science in Commerce. In the enrollment period for the second semester held on October 22 to November 5, 1993, [respondent] was denied re-enrollment, despite repeated pleas by x x x himself and by other interested parties and his lawyer.

"On November 16, 1993, he filed his complaint and asked for the issuance of a writ of preliminary mandatory injunction to compel [petitioner college to] re-admit him. On December 28, 1993, an order was issued directing [petitioner college] to admit [respondent] for the second semester but still [petitioner college] refused to re-admit [respondent], despite implementation of said order and the pleas of [respondent] thru his counsel so that he could catch up with the bulk of the school days of the semester and could graduate.

"Because of the adamant refusal of [respondent] school in re-admitting him and his defiance to the order and because the period of the second semester [was] already about to close, [respondent] amended his complaint and concentrate[d] on damages, hence, this case.

"On the other hand, the [petitioner college] alleged that it opened its enrollment period for the second semester of school year 1993-1994 on 11 October 1993 up to 22 October, 1993 to 05 November, 1993. However, classes for the second semester of that school year commenced on 25 October, 1993. During these periods for

enrolment, [respondent] never enrolled with the x x x College and neither did he accomplish the basic requirements for enrolment. However, on 05 November, 1993, the x x x College was in receipt of a letter from Atty. Quirino L. Pilotin dated on that same date requesting for a reconsideration of an alleged decision denying enrolment to the [respondent]. Upon receipt of the said letter, it was endorsed to [Respondent] Bayaua who in turn wrote Atty. Pilotin explaining among others that was not denied enrolment but rather [the] latter did not enroll with the said College. Considering, however, that the x x x College started its regular classes on 25 October, 1993, in the event [respondent] was able to enroll on 6 November, 1993, he would have then exceeded the required absences for his supposed enrolled subjects.

"Since plaintiff failed to enrol on the last day for enrolment, there is no reason why the x x x College should relax its rules to accommodate [respondent]. The x x x College merely imposed its disciplining authority when it sets dates for the period to enrol and the matter of admission of students is within the ambit of academic freedom and beyond the province of the Courts to decide." [6]

On November 17, 1998, the trial court rendered judgment in favor of respondent. [7] Petitioners received the Decision on November 26, 1998. On the same date, they filed a Notice of Appeal, which the RTC approved on December 2, 1998.

Respondent moved for a reconsideration thereof on the ground of petitioners' failure to pay the docket fees within the reglementary period. The trial court, however, denied the Motion in its April 23, 1999 Order. [8]

Ruling of the Court of Appeals

In its November 29, 1999 Resolution, the CA dismissed the appeal of petitioners for their failure to pay "the required docketing fee within the period for filing an appeal." [9] But, upon their motion, the CA granted, in a Resolution dated March 14, 2000, reconsideration of their appeal, which it reinstated "in the interest of substantial justice and considering that [petitioners] already paid the docket fees." [10] Respondent moved for a reconsideration on March 29, 2000.

After reexamining the records of the case, the CA, in the challenged November 16, 2000 Resolution, dismissed the appeal filed by petitioners, because "the docket fees were only paid after one (1) year and eleven (11) months from the filing of the notice of appeal." [11] It deemed it imperative to reverse the March 14, 2000 Resolution "to conform with the law and long settled jurisprudence" [12] on the matter. Thus, in the June 22, 2001 Resolution, it denied their Motion for Reconsideration.

Hence, this Petition. [13]

Issues

Petitioners submit the following issues for our consideration:

"1. Whether or not the appeal was seasonably filed;

"2. With all due respect, the Court of Appeals did not have the authority to dismiss the appeal." [14]

In the main, the case revolves around the timeliness of the payment of the docket fees.

The Court's Ruling

The Petition has no merit.

Sole Issue:

Timeliness of Payment of

Appellate Court Docket Fees

The payment of docket fees is not a trivial matter. These fees are necessary to defray court expenses in the handling of cases.[15] For this reason, and to secure a just and speedy disposition of every action and proceeding,[16] the Rules on Civil Procedure[17] mandates the payment of docket and other lawful fees within the prescribed period. Otherwise, the jurisdiction of the proper court to handle a case is adversely affected.[18]

The above rule applies squarely to this case, in which the judgment issued by the RTC, in the exercise of its original jurisdiction, was elevated to the CA for review. Rule 41 of the Rules on Civil Procedure provides the essential requirements for making such an appeal, as follows:

"SEC. 2. Modes of appeal.—

"(a) Ordinary appeal.— The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. x x x.

"x x x x x x x x x

"SEC. 3. Period of ordinary appeal. – The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. x x x.

"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.

"SEC. 9. Perfection of appeal; effect thereof. — A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

"x x x x x x x x x

"In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

"x x x x x x x x x

Accordingly, in order to perfect an appeal from a decision rendered by the RTC in the exercise of its original jurisdiction, the following requirements must be complied with. First, within 15 days, a notice of appeal must be filed with the court that rendered the judgment or final order sought to be appealed; second, such notice must be served on the adverse party; and third, within the same 15-day period, the full amount of appellate court docket and other legal fees must be paid to the clerk of the court that rendered the judgment or final order.

It should be noted that full payment of the appellate docket fees within the prescribed period is mandatory,[19] even jurisdictional,[20] for the perfection of the appeal. Otherwise, the appellate court would not be able to act on the subject matter of the action,[21] and the decision or final order sought to be appealed from would become final and executory.[22]

In the present case, petitioners insist that they seasonably paid the docket fees. After resolving thrice the timeliness of the payment of the docket fees, the CA finally found that these had been paid one (1) year and 11 days from the filing of their notice of appeal.

To recapitulate, on November 26, 1998, petitioners received the November 17, 1998 RTC Decision. Consequently, they had 15 days to file their Notice of Appeal. They did so on November 26, 1998, but failed to pay the docket fees. A review of the records shows that they paid these only on July 8, 1999,[23] or after almost

seven (7) months from the mandated last day for payment, which was December 11, 1998. Clearly, the November 17, 1998 RTC Decision, which petitioners sought to appeal, had long become final and executory.

Relaxation of the Rule on Nonpayment of Docket Fees

Notwithstanding the mandatory nature of the requirement of payment of appellate docket fees, we also recognize that its strict application is qualified by the following: first, failure to pay those fees within the reglementary period allows only discretionary, not automatic, dismissal; second, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances.[24]

In *Mactan Cebu International Airport Authority v. Mangubat*,[25] the payment of the docket fees was delayed by six (6) days, but the late payment was accepted, because the party showed willingness to abide by the Rules by immediately paying those fees. *Yambao v. Court of Appeals*[26] saw us again relaxing the Rules when we declared therein that "the appellate court may extend the time for the payment of the docket fees if appellant is able to show that there is a justifiable reason for x x x the failure to pay the correct amount of docket fees within the prescribed period, like fraud, accident, mistake, excusable negligence, or a similar supervening casualty, without fault on the part of the appellant." [27]

In the present case, petitioners have not shown any satisfactory reason to warrant the relaxation of the Rules. In fact, the manner in which they presented their case before us leaves too much to be desired. Indeed, we are almost tempted to say that they tried to mislead -- nay, deceive -- this Court as well as the appellate court.

The present case calls for the adjudication of whether petitioners paid the docket fees on time. Hence, it is essential that they specify the exact dates when they filed their notice of appeal and paid the corresponding docket fees. But nowhere in their pleadings did they do so. All they said was that the appeal had been seasonably filed.

In accordance with the requisites for the perfection of an appeal as enumerated earlier, petitioners should have (1) filed a notice of appeal with the RTC of Santiago, Isabela, within 15 days from the issuance of the trial court Decision being appealed; (2) paid the docket fees within the same period; and (3) served the notice to the adverse party.

True, petitioners filed their Notice of Appeal within the prescribed period, but they paid the docket fees only seven (7) months thereafter. They adamantly insisted on page 6 of their Petition[28] that "the appeal was seasonably filed," but later said that the "the appeal fee was paid immediately after 23 April 1999 when the court a quo denied the respondent's motion for reconsideration and approved the appeal. x x x. With the foregoing therefore, the notice of appeal was seasonably filed with the payment of docket fees on time." [29]

They admitted, though, that because of the "excusable negligence or mistake" of their counsel, the official receipts for the Notice of Appeal had not been attached. They reasoned that they had failed to transmit the proof of payment of the docket fees to the CA, because such "provision of civil procedure was relatively new x x x at that time." [30] At any event, respondent denies being served such notice.[31]

Assuming arguendo that the period of appeal was interrupted by respondent's motion for reconsideration of the RTC's approval of petitioners' notice of appeal, the required docket fees for the latter were still not paid on time. From November 23, 1998, when petitioners filed their Notice of Appeal, until April 23, 1999, when the trial court approved it with finality, they made no effort to pay those fees. It took them more than two (2) months to "immediately pay" the docket fees after being informed of the April 23, 1999 Order denying respondent's motion for reconsideration of the RTC Order approving petitioners' Notice of Appeal. This lapse of time hardly reflected

sincere willingness to abide by the Rules, especially when respondent had raised the very issue of nonpayment of docket fees as early as December 28, 1998.

On this point, petitioners' counsel is reminded of the role that lawyers play in the dispensation of justice. *Bayas v. Sandiganbayan*[32] held thus:

"Lawyers are not merely representatives of the parties but, first and foremost, officers of the court. As such, one of their duties -- assisting in the speedy and efficient administration of justice -- is more significant than that of [the cause of] their client, rightly or wrongly. x x x. We stress that candor in all dealings is the very essence of membership in the legal profession. Lawyers are obliged to observe rules of procedure in good faith, not to misuse them to defeat the ends of justice." [33]

We stress that the payment of docket fees is not a mere technicality of law or procedure, but an essential requirement for the perfection of an appeal.[34] Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the action, and the decision or final order sought to be appealed from becomes final and executory.[35] As laid down in *Barangay 24 of Legazpi City v. Imperial*: [36]

"The right to appeal is not a natural right or a part of due process. It is purely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. Well-rooted is the principle that perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory, and deprives the appellate court of jurisdiction to alter the final judgment much less to entertain the appeal." [37]

WHEREFORE, the Petition is hereby DENIED and the assailed Resolutions AFFIRMED. Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 4-15.

[2] *Id.*, pp. 16-17. Former Third Division. Penned by Justice Candido V. Rivera, with the concurrence of Justices Cancio C. Garcia (Division chairman) and Edgardo P. Cruz (member).

[3] *Id.*, pp. 18-19.

[4] *Id.*, p. 17.

[5] Judge Demetrio D. Calimag Jr. of the Regional Trial Court (RTC) of Santiago City (Branch 35).

[6] See RTC Decision, pp. 1-2; rollo, pp. 26-27.

[7] *Id.*, pp. 10-11 & 35-36.

[8] Rollo, p. 37.

[9] *Id.*, p. 38.

[10] *Id.*, p. 39.

[11] P. 2; rollo, p. 17.

[12] *Id.*, pp. 1 & 16.

[13] This case was deemed submitted for resolution on July 30, 2002, upon this Court's receipt of petitioners' Memorandum signed by Atty. Jezarene C. Aquino. Respondent's Memorandum, signed by Atty. Quirico L. Pilotin, was received by this Court on July 5, 2002.

[14] Petitioners' Memorandum, p. 3; rollo, p. 105.

[15] *Emnace v. Court of Appeals*, 370 SCRA 431, November 23, 2001.

[16] §6 of Rule 1 of the Rules of Court.

[17] Effective July 1, 1997.

[18] See *Sun Insurance Office, Ltd. (SIOL) v. Asuncion*, 170 SCRA 274, 285, February 13, 1989; *Pedrosa v. Spouses Hill*, 327 Phil. 153, June 14, 1996.

[19] *Alfonso v. Spouses Andres*, GR No. 139611, October 4, 2002; *Manalili v. De Leon*, 370 SCRA 625, November 27, 2001; *Buenaflor v. Court of Appeals*, 346 SCRA 563, November 29, 2000.

[20] *Alfonso v. Spouses Andres*, supra; *Siy Chin et al. v. Court of Appeals*, 345 SCRA 673, November 23, 2000; *Ayala Land, Inc. v Spouses Carpo*, 345 SCRA 579, November 22, 2000; *Pedrosa v. Spouses Hill*, supra.

[21] Section 1 (c) of Rule 50 of the Rules of Court provides:

"Section 1. Grounds for dismissal of appeal – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x x x x x

"(c) Failure of the appellant to pay the docket and other lawful fees as provided in section 4 of Rule 41;

x x x x x x x x"

[22] *Alfonso v. Spouses Andres*, supra; *Yambao v. Court of Appeals*, 346 SCRA 141, November 27, 2000.

[23] Official Receipt Nos. 8340852 and 8341474; CA rollo, pp. 13 & 14.

[24] *Buenaflor v. Court of Appeals*, supra.

[25] 371 Phil. 393, August 16, 1999.

[26] Supra.

[27] Id., p. 147, per Gonzaga-Reyes, J.

[28] Rollo, p. 9.

[29] Id., pp. 9-10.

[30] Petitioners' Memorandum, p. 4; rollo, p. 106.

[31] Comment, p. 2; rollo, p. 58.

[32] GR Nos. 143689-91, November 12, 2002.

[33] Pp. 19-20, per Panganiban, J.

[34] *Alfonso v. Spouses Andres*, supra; *Siy Chin et al. v. Court of Appeals*, supra; *Ayala Land, Inc. v Spouses Carpo*, supra;

[35] Ibid.

[36] 338 SCRA 694, August 24, 2000.

[37] Id., p. 702, per Gonzaga-Reyes, J.

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