

PANAY RAILWAYS INC., PETITIONER, VS. HEVA MANAGEMENT AND DEVELOPMENT CORPORATION, PAMPLONA AGRO-INDUSTRIAL CORPORATION, AND SPOUSES CANDELARIA DAYOT AND EDMUNDO DAYOT, RESPONDENTS.

G.R. No. 154061. January 25, 2012

Ponente: SERENO, J.

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SERENO, J.:

The present Petition stems from the dismissal by the Regional Trial Court (RTC) of Iloilo City of a Notice of Appeal for petitioner's failure to pay the corresponding docket fees.

The facts are as follows:

On 20 April 1982, petitioner Panay Railways Inc., a government-owned and controlled corporation, executed a Real Estate Mortgage Contract covering several parcels of lands, including Lot No. 6153, in favor of Traders Royal Bank (TRB) to secure P20 million worth of loan and credit accommodations. Petitioner excluded certain portions of Lot No. 6153: that already sold to Shell Co., Inc. referred to as 6153-B, a road referred to as 6153-C, and a squatter area known as 6153-D.[1]

Petitioner failed to pay its obligations to TRB, prompting the bank to extra-judicially foreclose the mortgaged properties including Lot No. 6153. On 20 January 1986, a Certificate of Sale was issued in favor of the bank as the highest bidder and purchaser. Consequently, the sale of Lot No. 6153 was registered with the Register of Deeds on 28 January 1986 and annotated at the back of the transfer certificates of title (TCT) covering the mortgaged properties.

Thereafter, TRB caused the consolidation of the title in its name on the basis of a Deed of Sale and an Affidavit of Consolidation after petitioner failed to exercise the right to redeem the properties. The corresponding TCTs were subsequently issued in the name of the bank.

On 12 February 1990, TRB filed a Petition for Writ of Possession against petitioner. During the proceedings, petitioner, through its duly authorized manager and officer-in-charge and with the assistance of counsel, filed a Manifestation and Motion to Withdraw Motion for Suspension of the Petition for the issuance of a writ of possession.[2] The pertinent portions of the Manifestation and Motion state:

3. That after going over the records of this case and the case of Traders Royal Bank vs. Panay Railway, Inc., Civil Case No. 18280, PRI is irrevocably withdrawing its Motion for Suspension referred to in paragraph 1 above, and its Motion for Reconsideration referred in paragraph 2 above and will accept and abide by the September 21, 1990 Order denying the Motion For Suspension;

4. That PRI recognizes and acknowledges petitioner (TRB) to be the registered owner of Lot 1-A; Lot 3834; Lot 6153; Lot 6158; Lot 6159, and Lot 5 covered by TCT No. T-84233; T-84234; T-84235; T-84236; T-84237, T-84238 and T-45724 respectively, free of liens and encumbrances, except that portion sold to Shell

Co. found in Lot 5. That Petitioner (TRB) as registered owner is entitled to peaceful ownership and immediate physical possession of said real properties.

5. That PRI further acknowledges that the Provincial Sheriff validly foreclosed the Real Estate Mortgage erected by PRI due to failure to pay the loan of ₱20,000,000.00. That TRB was the purchaser of these lots mentioned in paragraph 4 above at Sheriff's Auction Sale as evidenced by the Certificate of Sale dated January 20, 1986 and the Certificates of Titles issued to Petitioner;

6. That PRI further manifests that it has no past, present or future opposition to the grant of the Writ of Possession to TRB over the parcels of land mentioned in paragraph 4 above and subject of this Petition and even assuming "arguendo" that it has, PRI irrevocably waives the same. That PRI will even assist TRB in securing possession of said properties as witness against squatters, illegal occupants, and all other possible claimants;

7. That upon execution hereof, PRI voluntarily surrenders physical possession and control of the premises of these lots to TRB, its successors or its assigns, together with all the buildings, warehouses, offices, and all other permanent improvements constructed thereon and will attest to the title and possession of petitioner over said real properties. (Emphasis supplied)

TCT No. T-84235 mentioned in the quoted portion above is Lot No. 6153, which is under dispute.

It was only in 1994 that petitioner realized that the extrajudicial foreclosure included some excluded properties in the mortgage contract. Thus, on 19 August 1994, it filed a Complaint for Partial Annulment of Contract to Sell and Deed of Absolute Sale with Addendum; Cancellation of Title No. T-89624; and Declaration of Ownership of Real Property with Reconveyance plus Damages.[3]

It then filed an Amended Complaint[4] on 1 January 1995 and again filed a Second Amended Complaint[5] on 8 December 1995.

Meanwhile, respondents filed their respective Motions to Dismiss on these grounds: (1) petitioner had no legal capacity to sue; (2) there was a waiver, an abandonment and an extinguishment of petitioner's claim or demand; (3) petitioner failed to state a cause of action; and (4) an indispensable party, namely TRB, was not impleaded.

On 18 July 1997, the RTC issued an Order[6] granting the Motion to Dismiss of respondents. It held that the Manifestation and Motion filed by petitioner was a judicial admission of TRB's ownership of the disputed properties. The trial court pointed out that the Manifestation was executed by petitioner's duly authorized representative with the assistance of counsel. This admission thus operated as a waiver barring petitioner from claiming otherwise.

On 11 August 1997, petitioner filed a Notice of Appeal without paying the necessary docket fees. Immediately thereafter, respondents filed a Motion to Dismiss Appeal on the ground of nonpayment of docket fees.

In its Opposition,[7] petitioner alleged that its counsel was not yet familiar with the revisions of the Rules of Court that became effective only on 1 July 1997. Its representative was likewise not informed by the court personnel that docket fees needed to be paid upon the filing of the Notice of Appeal. Furthermore, it contended that the requirement for the payment of docket fees was not mandatory. It therefore asked the RTC for a liberal interpretation of the procedural rules on appeals.

On 29 September 1997, the RTC issued an Order[8] dismissing the appeal citing Sec. 4 of Rule 41[9] of the Revised Rules of Court.

Petitioner thereafter moved for a reconsideration of the Order[10] alleging that the trial court lost jurisdiction over the case after the former had filed the Notice of Appeal. Petitioner also alleged that the court erred in failing to

relax procedural rules for the sake of substantial justice.

On 25 November 1997, the RTC denied the Motion.[11]

On 28 January 1998, petitioner filed with the Court of Appeals (CA) a Petition for Certiorari and Mandamus under Rule 65 alleging that the RTC had no jurisdiction to dismiss the Notice of Appeal, and that the trial court had acted with grave abuse of discretion when it strictly applied procedural rules.

On 29 November 2000, the CA rendered its Decision[12] on the Petition. It held that while the failure of petitioner to pay the docket and other lawful fees within the reglementary period was a ground for the dismissal of the appeal pursuant to Sec. 1 of Rule 50 of the Revised Rules of Court, the jurisdiction to do so belonged to the CA and not the trial court. Thus, appellate court ruled that the RTC committed grave abuse of discretion in dismissing the appeal and set aside the latter's assailed Order dated 29 September 1997.

Thereafter, respondents filed their respective Motions for Reconsideration.

It appears that prior to the promulgation of the CA's Decision, this Court issued Administrative Matter (A.M.) No. 00-2-10-SC which took effect on 1 May 2000, amending Rule 4, Sec. 7 and Sec. 13 of Rule 41 of the 1997 Revised Rules of Court. The circular expressly provided that trial courts may, *motu proprio* or upon motion, dismiss an appeal for being filed out of time or for nonpayment of docket and other lawful fees within the reglementary period. Subsequently, Circular No. 48-2000[13] was issued on 29 August 2000 and was addressed to all lower courts.

By virtue of the amendment to Sec. 41, the CA upheld the questioned Orders of the trial court by issuing the assailed Amended Decision[14] in the present Petition granting respondents' Motion for Reconsideration.

The CA's action prompted petitioner to file a Motion for Reconsideration alleging that SC Circular No. 48-2000 should not be given retroactive effect. It also alleged that the CA should consider the case as exceptionally meritorious. Petitioner's counsel, Atty. Rexes V. Alejano, explained that he was yet to familiarize himself with the Revised Rules of Court, which became effective a little over a month before he filed the Notice of Appeal. He was thus not aware that the nonpayment of docket fees might lead to the dismissal of the case.

On 30 May 2002, the CA issued the assailed Resolution[15] denying petitioner's Motion for Reconsideration.

Hence, this Petition.

Petitioner alleges that the CA erred in sustaining the RTC's dismissal of the Notice of Appeal. Petitioner contends that the CA had exclusive jurisdiction to dismiss the Notice of Appeal at the time of filing. Alternatively, petitioner argues that while the appeal was dismissible for failure to pay docket fees, substantial justice demands that procedural rules be relaxed in this case.

The Petition has no merit.

Statutes and rules regulating the procedure of courts are considered applicable to actions pending and unresolved at the time of their passage. Procedural laws and rules are retroactive in that sense and to that extent. The effect of procedural statutes and rules on the rights of a litigant may not preclude their retroactive application to pending actions. This retroactive application does not violate any right of a person adversely affected. Neither is it constitutionally objectionable. The reason is that, as a general rule, no vested right may attach to or arise from procedural laws and rules. It has been held that "a person has no vested right in any particular remedy, and a litigant cannot insist on the application to the trial of his case, whether civil or criminal, of any other than the existing rules of procedure." [16] More so when, as in this case, petitioner admits that it was not able to pay the docket fees on time. Clearly, there were no substantive rights to speak of when the RTC dismissed the Notice of

Appeal.

The argument that the CA had the exclusive jurisdiction to dismiss the appeal has no merit. When this Court accordingly amended Sec. 13 of Rule 41 through A.M. No. 00-2-10-SC, the RTC's dismissal of the action may be considered to have had the imprimatur of the Court. Thus, the CA committed no reversible error when it sustained the dismissal of the appeal, taking note of its directive on the matter prior to the promulgation of its Decision.

As early as 1932, in *Lazaro v. Endencia*,^[17] we have held that the payment of the full amount of the docket fees is an indispensable step for the perfection of an appeal. The Court acquires jurisdiction over any case only upon the payment of the prescribed docket fees.^[18]

Moreover, the right to appeal is not a natural right and is not part of due process. It is merely a statutory privilege, which may be exercised only in accordance with the law.^[19]

We have repeatedly stated that the term "substantial justice" is not a magic wand that would automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may result in prejudice to a party's substantive rights. Like all other rules, they are required to be followed, except only for the most persuasive of reasons when they may be relaxed to relieve litigants of an injustice not commensurate with the degree of their thoughtlessness in not complying with the procedure prescribed.^[20]

We cannot consider counsel's failure to familiarize himself with the Revised Rules of Court as a persuasive reason to relax the application of the Rules. It is well-settled that the negligence of counsel binds the client. This principle is based on the rule that any act performed by lawyers within the scope of their general or implied authority is regarded as an act of the client. Consequently, the mistake or negligence of the counsel of petitioner may result in the rendition of an unfavorable judgment against it.^[21]

WHEREFORE, in view of the foregoing, the Petition is DENIED for lack of merit.

SO ORDERED.

Carpio, (Chairperson), Perez, Reyes, and Perlas-Bernabe, JJ.[*], concur.

[*] Designated as acting Member of the Second Division vice Associate Justice Arturo D. Brion per Special Order No. 1174 dated January 9, 2012.

[1] CA rollo, pp. 126-139.

[2] Id. at 95-97.

[3] Id. at 44-53.

[4] Id. at 111-125.

[5] Rollo, pp. 99-112.

[6] Id. at 86-98.

[7] Id. at 133-137.

[8] Id. at 96.

[9] SECTION 4. Appellate Court Docket and Other Lawful Fees. -- Within the period for taking an appeal, the

appellant shall 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 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.

[10] Id. at 138-153.

[11] Id. at 97-98.

[12] Id. at 185-188.

[13] A.M. No. 00-2-10-SC, Re: Amendments to Section 4, Rule 7 and Section 13, Rule 41 of the 1997 Rules of Civil Procedure.

[14] Penned by Associate Justice Juan Q. Enriquez, Jr. with Associate Justices Conrado M. Vasquez, Jr. and Elvi John S. Asuncion concurring; rollo, pp. 78-81.

[15] Id. at 83-85.

[16] *Spouses Calo v. Spouses Tan*, 512 Phil. 786, 797-798.

[17] 57 Phil. 552 (1932).

[18] *Manchester Development Corp. v. Court of Appeals*, 233 Phil. 579 (1987).

[19] *Dimarucot v. People*, G.R. No. 183975, 20 September 2010, 630 SCRA 659.

[20] *Far Corporation v. Magdaluyo*, 485 Phil. 599, 610-611.

[21] *Salonga v. Court of Appeals*, 336 Phil. 514.

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