

SPOUSES FORTUNATA V. BANIQUED AND TEOFILO BANIQUED, PETITIONERS, VS. TERESITA S. RAMOS AND THE REGISTER OF DEEDS OF MANILA, RESPONDENTS.

G.R. NO. 158615. March 04, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari seeking to set aside the Decision[1] of the Court of Appeals in CA-G.R. SP. No. 65631 dismissing the petition of Spouses Fortunata V. Baniqued and Teofilo Baniqued for the nullification of the April 30, 2001 Resolution[2] of the Regional Trial Court (RTC) of Manila, Branch 31, in Civil Case No. 97-85314 which denied the elevation of the records of the said case to the CA.

The antecedents are as follows:

On September 29, 1997, respondent Teresita S. Ramos filed a Complaint,[3] with the RTC of Manila, Branch 31, against the petitioner Spouses Baniqued for annulment of Transfer Certificate of Title (TCT) No. 197229 registered in the name of Fortunata V. Baniqued. The case was docketed as Civil Case No. 97-85314.

The petitioners received the summons and a copy of the complaint. Despite several extensions granted to them by the trial court, their counsel, Atty. Diosdado C. Sebrío, Jr., failed to file their answer to the complaint. Eventually, the petitioners were declared in default. Respondent Ramos adduced her evidence *ex parte*.

On May 25, 1998, the trial court rendered a Decision[4] in favor of respondent Ramos. The decretal portion of the decision reads:

WHEREFORE, viewed from all the foregoing, judgment is rendered in favor of plaintiff and against defendants as follows:

- Declaring as null and void Transfer Certificate of Title No. 197229 covering Lot 2-G-1-B registered in the name of Fortunata V. Baniqued, married to Teofilo Baniqued.
- Ordering defendants Fortunata V. Baniqued and Teofilo Baniqued to surrender the owner's duplicate of TCT No. 197229 to the Register of Deeds of Manila for cancellation.
- The Register of Deeds of Manila is ordered to cancel Transfer Certificate of Title No. 197229 and to issue a new title in the name of Teresita S. Ramos covering the same property.
- Ordering defendants Fortunata V. Baniqued and Teofilo Baniqued to pay plaintiff the amount of P20,000.00 as and for attorney's fees, P10,000.00 as moral damages and P10,000.00 as exemplary damages plus costs of suit.

SO ORDERED.[5]

The petitioners' counsel was served with a copy of the decision on June 5, 1998. Since June 20, 1998 was a Saturday, they filed a Motion for New Trial on June 23, 1998, which was set for hearing at 9:00 a.m. of July 1,

1998.[6] Respondent Ramos, through counsel, received a copy of the said motion on June 29, 1998, and opposed the same, contending that the petitioner spouses were bound by the negligence of their counsel. It was also averred that the decision had become final and executory because of the petitioners' failure to set the motion for hearing at least three days before receipt of a copy thereof by the respondent through counsel.[7] Before the trial court could resolve the motion, the petitioners filed a "Manifestation and Notice of Appeal," quoted infra:

DEFENDANTS SPOUSES FORTUNATA & TEOFILO BANIQUED, through the undersigned counsel, most respectfully manifest that they have only one (1) day left within which to appeal the decision should their motion for new trial be denied by the Honorable Court. Hence, time being of the essence and in order to avoid any delay which may deprive DEFENDANTS of their right to appeal, DEFENDANTS are appealing the DECISION dated May 25, 1998 and any adverse Order of the Honorable Court to the Honorable Court of Appeals, on the ground that the judgment is contrary to law and existing jurisprudence.

Copy of said Decision was received by DEFENDANTS' previous counsel on June 5, 1998.[8]

In their rejoinder,[9] the petitioners prayed that their motion for new trial be granted.

On September 22, 1999, the trial court issued an Order[10] denying petitioners' motion for new trial for lack of merit.

On November 15, 1999, the petitioners filed an Urgent Ex Parte Motion[11] praying that the records of the case be elevated to the CA, as they had already paid the docket fees for appeal. Respondent Ramos opposed the motion, contending that the petitioner spouses did not file any notice of appeal after the denial of their motion for new trial; hence, the decision of the trial court had become final and executory. Respondent Ramos moved for the issuance of a writ of execution.[12]

On April 30, 2001, the trial court issued a Resolution[13] denying the Ex Parte Motion of the petitioners to elevate the records of the case to the CA, and granted the issuance of a writ of execution as prayed for by respondent Ramos. The trial court ruled that the Notice of Appeal filed by the petitioners on July 27, 1998 while their motion for new trial was pending resolution was premature; hence, inefficacious.

On July 16, 2001, the petitioner spouses filed a petition for the nullification of the trial court's Resolution dated April 30, 2001, and for the issuance of a writ of mandamus to compel the latter to elevate the records of Civil Case No. 97-85314 to the CA.

The petitioners made the following allegations:

Public respondents acted capriciously and whimsically by [deliberately] neglecting the elevation of the records in Civil Case No. 97-85314, which the law specifically enjoins as a ministerial duty, despite the timely or seasonable filing of the notice of appeal, in derogation of petitioners' right and to be heard on appeal.

Indeed, the non-elevation of the records, respondent court only magnified its arbitrariness by its issuance of a resolution and completely foreclosing the right to appeal, committed grave abuse of discretion amounting to lack or excess of jurisdiction. Thus, leaving petitioners no adequate remedy as appeal is not plain and speedy remedy under the circumstances obtaining and in the course of law, equity demands that the resolution in question dated April 30, 2001 be set aside being patently rendered whimsically as to call for the power of supervision and ordering respondent court to elevate the records of the case to this Honorable Court.[14]

The CA rendered judgment[15] on January 20, 2003 dismissing the petition. It ruled that the notice of appeal filed by the petitioners on July 27, 1998 was premature and uncalled for, since their motion for new trial was still pending with the trial court. The petitioners' motion for reconsideration thereof was denied by the appellate court on May 30, 2003.[16]

In the present recourse, the petitioners aver that –

THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION AND DENYING RECONSIDERATION THEREOF, THE DECISION HAVING BEEN MADE IN VIOLATION AND IN CONTRAVENTION OF THE RULING LAID DOWN BY THIS HONORABLE COURT IN CALTEX PHILIPPINES INCORPORATED V. INTERMEDIATE APPELLATE COURT, G.R. NO. 72703, 13 NOV. '92, THE SAME SET OF FACTS OBTAINS IN THE CASE OF PETITIONERS. THE COURT OF APPEALS [RESORTED] TO TECHNICALITIES AND RIGID APPLICATION OF THE 1997 RULES OF CIVIL PROCEDURE LIKEWISE IN CONTRAVENTION OF APPLICABLE RULINGS OF THIS HONORABLE COURT IN DEROGATION OF JUDICIAL HIERARCHY.[17]

Thus, the sole issue is whether or not the petitioners perfected their appeal from the decision of the trial court to the CA within the period and in the manner provided for by the Rules of Court.

The petitioners maintain that they seasonably filed their notice of appeal from the decision of the RTC, and that it was the ministerial duty of the trial court to elevate the records of Civil Case No. 97-85314 to the CA. They contend that the appellate court should have relaxed the application of the provisions of the Rules of Court and liberally construed the same to promote its objectives.

The petition is denied for lack of merit.

Section 1, Rule 41 of the Rules of Court provides that an appeal may be taken only from a judgment that completely disposes of the case, while Section 3 of the same Rule states that an appeal to the CA shall be taken by filing a notice of appeal with the court which rendered the judgment and serving a copy thereof upon the adverse party. The aggrieved party then has fifteen (15) days from notice of the judgment within which to appeal. The period of appeal shall be interrupted by a timely motion for new trial or reconsideration.[18] Section 4, Rule 41 of the Rules of Court further requires the appellant to pay the full amount of the appellate court docket and other lawful fees to the clerk of the court which rendered the judgment appealed from, within the period for taking an appeal. Section 5 thereof likewise provides what should be indicated in the notice of appeal:

SEC. 5. Notice of appeal.-The notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal.

In this case, the petitioners received a copy of the decision of the trial court on June 5, 1998, a Friday. They had until June 22, 1998 within which to perfect their appeal by filing their notice of appeal and paying the required docket and other lawful fees; within such period, they could also file a motion for reconsideration of the decision or a motion for new trial.[19] The petitioners opted to file a motion for new trial, alleging their counsel's inexcusable negligence as a ground therefor, and asserting that they had a good defense to the respondent's action.

However, even before the trial court could resolve their motion for new trial, the petitioners filed on July 27, 1998 a "Manifestation and Notice of Appeal" ex abundancia cautelam, wherein they declared that they were appealing the decision and any adverse order of the court to the CA. The notice of appeal was filed by the petitioners only in anticipation of the adverse ruling of the trial court on their motion for new trial. The petitioners did not even pay the requisite docket and other lawful fees.

Instead of perfecting their appeal by filing a notice of appeal and paying the requisite docket and other lawful fees upon receipt of the trial court's Order dated September 22, 1999, which denied their motion for new trial, the petitioners filed an Ex Parte Motion for the trial court to elevate the records to the CA on November 15, 1999. They merely alleged that they had paid the docket and other lawful fees for their appeal to the clerk of the court

on February 25, 1999.

Indubitably, the petitioners had the right to appeal the decision of the trial court by filing their notice of appeal not later than one day from service of the trial court's September 22, 1999 Order, and paying the docket and other lawful fees therefor within the same period. The petitioners thus failed to perfect their appeal as mandated by the Rules of Court. The clerk of court in the RTC could not be compelled to elevate the records to the CA, because under Section 10, Rule 41 of the Rules of Court, he or she is bound to do so only if the appellants perfected their appeal as required by the Rules.

In a catena of cases,[20] the Court has ruled that the right to appeal is neither a natural right nor a part of due process. It is merely a procedural remedy of statutory origin, a remedy that may be exercised only in the manner prescribed by the provisions of law authorizing such exercise. Hence, the legal requirements must be strictly complied with. It would be incorrect to consider the requirements of the rules on appeal as merely harmless and trivial technicalities that can be discarded. Indeed, deviations from the rules cannot be tolerated. In these times when court dockets are clogged with numerous litigations, such rules have to be followed by parties with greater fidelity, so as to facilitate the orderly disposition of cases. After a judgment has become final, vested rights are acquired by the winning party. If the proper losing party has the right to file an appeal within the prescribed period, then the former has the correlative right to enjoy the finality of the resolution of the case. Thus, we agree with the Court of Appeals that the trial court did not commit any grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the petitioners' motion to elevate the records to the CA.

The petitioners' reliance on the ruling of the Court in *Caltex (Philippines) Incorporated v. Intermediate Appellate Court*[21] is misplaced. The only issue in the said case was whether non-extension of the 15-day period for appeal or for filing a motion for reconsideration should be given a prospective application. The Court made the pronouncement that "beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court. Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in its sound discretion either grant or deny the extension requested."

IN LIGHT OF ALL THE FOREGOING, the petition is hereby DENIED for lack of merit. The Decision of the Court of Appeals in CA-G.R. SP. No. 65631 is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Bernardo P. Abesamis (retired) with Associate Justices Juan Q. Enriquez, Jr. and Edgardo F. Sundiam, concurring.

[2] Penned by Judge Leonardo P. Reyes.

[3] CA Rollo, p. 13.

[4] Penned by then Acting Presiding Judge Wilfredo D. Reyes.

[5] CA Rollo, pp. 140-141.

[6] Id. at 142-149.

[7] Id. at 156-195.

[8] Id. at 196.

[9] Id. at 197-202.

[10] Id. at 245-247.

[11] Id. at 248.

[12] Id. at 250.

[13] Id. at 258-260.

[14] Id. at 7-8.

[15] Id. at 323-328.

[16] Id. at 373.

[17] Rollo, p. 7.

[18] Section 3, Rule 41, Rules of Court.

[19] Section 1, Rule 37, Rules of Court.

[20] Philippine Rabbit Bus Lines, Inc. v. People of the Philippines, G.R. No. 147703, April 14, 2004, citing Neplum, Inc. v. Orbeso, 384 SCRA 466 (2002); Oro v. Diaz, 361 SCRA 108 (2001); Mercury Drug Corp. v. CA, 390 Phil. 902 (2000); Ortiz v. Court of Appeals, 299 SCRA 708 (1998); Pedrosa v. Hill, 257 SCRA 373 (1996); Del Rosario v. Court of Appeals, 241 SCRA 553 (1995); Casim v. Flordeliza, 374 SCRA 386 (2002); People v. Marong, 119 SCRA 430 (1982); Videogram Regulatory Board v. Court of Appeals, 265 SCRA 50 (1996).

[21] 215 SCRA 580 (1992).

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