

PACIFIC UNION INSURANCE COMPANY, PETITIONER, VS. CONCEPTS & SYSTEMS DEVELOPMENT, INCORPORATED AND COURT OF APPEALS (FIFTEENTH DIVISION), RESPONDENTS.

G.R. No. 183528. February 23, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

This petition for certiorari under Rule 65 of the Rules of Court seeks the annulment of the Court of Appeals (CA) Resolution dated May 7, 2008,[1] dismissing petitioner's appeal for failure to pay the docket fees. Likewise assailed is CA Resolution dated June 12, 2008,[2] denying the motion for reconsideration.

A brief factual background of the case:[3]

Concepts & Systems Development, Inc. (private respondent) and a certain Pedro Perez (Perez) entered into an Amended Construction Agreement on February 11, 1997, whereby the latter undertook to construct, build, and complete the civil, architectural, and plumbing works of the former's condominium project. The project was divided into three (3) stages and, in consideration of Perez's undertaking, respondent paid him down payments in the following amounts:

STAGE 1 - P5,690,292.14

STAGE 2 - P4,985,062.92

STAGE 3 - P6,135,974.12

To secure these amounts in case Perez fails to make good his part of the contract, respondent required him to post, as he did post, surety bonds.

Twenty percent (20%) of the payments for Stages 1 and 2 were secured by a surety bond issued by Philippine Phoenix Surety and Insurance Inc. (Phoenix), while the payment for Stage 3 was secured in full by Surety Bond No. 00054 G (16) 015342 issued by herein petitioner Pacific Union Insurance Company (petitioner) on March 19, 1997.

On even date, petitioner also issued Performance Bond No. 00157 G (13) 015341 for the same amount of P6,135,974.12 to secure the full and faithful performance of Perez's undertaking under the Amended Construction Agreement.

Perez failed to complete his work; thus, on July 15, 1998, private respondent filed a civil action for Breach of Contract and Damages with Preliminary Attachment against petitioner, Phoenix, and Perez before the Regional Trial Court (RTC), Branch 58, Makati City.

In its Answer with Counterclaims and Cross-claims,[4] petitioner averred that it issued the surety bonds upon the understanding that the construction for stage 3 of the condominium project was just being started when the Amended Construction Agreement was executed in February 1997, but at the time that the applications for the

bonds were filed in the middle part of March 1997, Perez was already in delay. This essential fact was, however, fraudulently concealed and/or withheld by Perez. The bonds issued on March 19, 1997 were intended to secure the performance of the obligor's undertaking as called for in the contract with the obligee, therefore, prospective in character. The bonds were not issued to secure the payment of whatever liabilities the obligor had already incurred or was already subject to on account of its failure to perform its undertaking under the contract.

On February 17, 2007, the RTC rendered a decision^[5] in favor of private respondent.^[6] Petitioner was ordered to pay P12,271,948.24 with a right to claim reimbursement from Perez.

When its motion for reconsideration^[7] was denied,^[8] petitioner appealed to the CA. On July 9, 2007, petitioner filed its notice of appeal^[9] with the RTC. On July 10, 2007, the RTC issued an Order granting the notice of appeal upon the finding that the same was filed and the appeal docket fee therefor was paid within the reglementary period allowed by law.^[10]

In its first assailed resolution, the CA dismissed petitioner's appeal for failure to pay the docket and other legal fees per the April 23, 2008 report of its Judicial Records Division (JRD).^[11]

Petitioner moved for reconsideration,^[12] averring that it failed to pay the appellate docket fees due to serious financial reverses. To convince the CA to grant the motion, petitioner expressed its willingness to pay the docket fees, albeit belatedly. The motion was denied;^[13] hence, the instant petition arguing that the CA committed grave abuse of discretion in dismissing petitioner's appeal.^[14]

Petitioner contends that the dismissal of its appeal has no legal basis because, as shown in the July 10, 2007 RTC Order, petitioner paid the appellate court docket fees within the reglementary period. Petitioner explains that it overlooked the RTC Order during the preparation of the motion for reconsideration of the CA Resolution, and that it only came upon the RTC Order when the present petition was being written. Petitioner also pleads for a liberal application of the rules on perfection of appeal on the ground that it has a meritorious defense against the claim of respondent.

The petition is meritorious.

The right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so inevitably leads to the loss of the right to appeal.^[15] Nonetheless, the emerging trend in our jurisprudence is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause free from the constraints of technicalities. While it is desirable that the Rules of Court be faithfully and even meticulously observed, courts should not be so strict about procedural lapses that do not really impair the administration of justice.^[16] This is based, no less, on the Rules of Court which itself calls for a liberal construction of its provisions, with the objective of securing for the parties a just, speedy, and inexpensive disposition of every action and proceeding.^[17]

The dismissal of petitioner's appeal was based on the absence of the proof of payment of docket fees from the records transmitted by the RTC clerk of court.^[18] This procedural lapse is too inconsequential to prejudice the administration of justice, considering that the required fees were actually paid, as shown in the July 10, 2007 RTC Order granting the notice of appeal which explicitly declares that the "appeal docket fee therefor was paid within the reglementary period allowed by law." That petitioner's counsel mistakenly thought that no payment was made, and thus prayed, in her motion for reconsideration, for the chance to pay the fees belatedly, is of no moment. The fact is, there was actual payment.

The courts' discretionary power in dismissing an appeal for failure to comply with the Rules should be used in the

exercise of sound judgment in accordance with the tenets of justice and fair play with a great deal of circumspection, considering all attendant circumstances, and must be exercised wisely and ever prudently, never capriciously, with a view to substantial justice.[19]

Here, the CA gravely abused its discretion in disregarding the RTC Order and in giving premium to a technical requirement which is too trifling to prevail over petitioner's right to an opportunity to be heard. The RTC Order convincingly established that petitioner paid the appellate court

docket fees; the proof of payment missing from the transmitted records merely detailed the breakdown of the payment and, hence, would be too trivial as to justify the CA's refusal to exercise jurisdiction over the appeal.

We have, in numerous instances, relaxed the Rules when an appellant altogether fails to pay the docket fees; with greater reason should a liberal stance be taken in this case considering that the appellate docket fees were actually paid and the only detail lacking is a specific breakdown of the fees settled.

Moreover, the duty of transmitting the proof of payment, together with the original records, is lodged with the RTC clerk of court.[20] Certainly, it would be unjust to chastise an appellant for an error not of his doing by dismissing his appeal.

This notwithstanding, it is still imperative for petitioner to submit proof of payment of docket fees - through a copy of the official receipt issued by the clerk of the RTC or a certification to that effect - to enable the CA to assess whether the docket fees paid were the full and correct amounts required.

WHEREFORE, premises considered, the petition is hereby GRANTED. The Court of Appeals is DIRECTED to give due course to the appeal of Pacific Union Insurance Company upon its submission of a copy of the official receipt evidencing its payment of appellate court docket fees or a certification from the RTC clerk of court confirming such payment and specifying the details thereof.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, p. 87.

[2] Id. at 91.

[3] As alleged in the complaint filed by respondent before the Regional Trial Court, Branch 58, Makati City, docketed as Civil Case No. 98-1631; id. at 21-32.

[4] Id. at 50-57.

[5] Id. at 59-72.

[6] The dispositive portion of the decision reads:

WHEREFORE, foregoing considered, judgment is rendered in favor of plaintiff as follows:

1. Ordering defendant Perez to pay plaintiff the total amount of P28,317,723.00 as of June 30, 1997, exclusive of penalties and other damages incurred by plaintiff after said date as a result of delays in the completion of the Projects;
2. Ordering defendant Phoenix and Pacific to pay plaintiff the total amount of P5,317,040.32 for defendant Phoenix and P12,271,948.24 for defendant Pacific;

3. Ordering defendants, jointly and solidarily, to pay plaintiff the amount of P200,000.00 as and for attorney's fees; and

4. On the cross-claims of defendants Pacific and Phoenix, defendant Perez is ordered to reimburse them on the amounts adjudicated against them.

SO ORDERED. (Id. at 72.)

[7] Id. at 74-81.

[8] Id. at 82.

[9] Id. at 84.

[10] Id. at 86.

[11] Supra note 1.

"Considering:

April 23, 2008 - JRD updated report;

"No payment of docketing fee for defendant Pacific Union Insurance Company P3,030 + P1,000.00 Mediation fee. Notice of Appeal filed July 9, 2007.

the Court RESOLVED:

In the light of the JRD report, the appeal of defendant-appellant Pacific Union Insurance Co. is DISMISSED for failure to pay the requisite docketing and other legal fees [Sec 1[c], Rule 50 of the 1995 Revised Rules of Civil Procedure, as amended]."

[12] Id. at 88-89.

[13] Supra note 2.

[14] I. PUBLIC RESPONDENT HONORABLE COURT OF APPEALS OF THE FIFTEENTH DIVISION ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION AND PALPABLE MISTAKE IN DISMISSING THE PETITIONER'S APPEAL TO THE COURT'S (sic) A QUO'S DECISION DATED FEBRUARY 17, 2007 FOR FAILURE TO PAY THE REQUISITE DOCKET AND OTHER LEGAL FEES[;]

II. PUBLIC RESPONDENT HONORABLE COURT OF APPEALS OF THE FIFTEENTH DIVISION ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION AND PALPABLE MISTAKE IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION AND ARBITRARILY DISREGARDED THE MOTION;

III. PETITIONER HAS A VALID AND STRONG DEFENSE IN THE MAIN COMPLAINT. (Id. at 8-9.)

[15] Anadon v. Herrera, G.R. No. 159153, July 9, 2007, 527 SCRA 90, 95, citing Neypes v. Court of Appeals, 506 Phil. 613, 621 (2005).

[16] Anadon v. Herrera, supra, at 96-97, citing Cando v. Olazo, G.R. No. 160741, March 22, 2007, 518 SCRA 741, 749.

[17] Edillo v. Dulpina, G.R. No. 188360, January 21, 2010, 610 SCRA 590, 598; 1997 RULES OF CIVIL PROCEDURE, Rule 1, Sec. 6.

[18] Under Rule IV, Section 4 of the 2002 Internal Rules of the Court of Appeals,* the JRD is tasked to process civil cases under ordinary appeal by initially checking the proof of payment of docket fees in the records. The specific provision reads:

"Section 4. Processing of Ordinary Appeals -

(a) In Civil Cases

1. Upon receipt of the original, whether by personal or [sic] delivery, or by mail, the Civil Cases Section of the Judicial Records Division shall immediately;

(1.1) Check proof of payment of the full amount of the appellate court docket and other lawful fees and deposits for costs to the clerk of court of the court which rendered the appealed judgment or order."

*The prevailing internal rules are the 2010 Internal Rules of the Court of Appeals but the facts of the petition at bar occurred during the effectivity of the 2002 Internal Rules of the Court of Appeals.

[19] See *Andrea Camposagrado v. Pablo Camposagrado*, 506 Phil. 583, 589 (2005).

[20] RULES OF CIVIL PROCEDURE, Rule 41, SEC.12. Transmittal. - The clerk of the trial court shall transmit to the appellate court the original record or the approved record on appeal within thirty (30) days from the perfection of the appeal, together with the proof of payment of the appellate court docket and other lawful fees, a certified true copy of the minutes of the proceedings, the order of approval, the certificate of correctness, the original documentary evidence referred to therein, and the original and three (3) copies of the transcripts. Copies of the transcripts and certified true copies of the documentary evidence shall remain in the lower court for the examination of the parties. (Emphasis supplied.)

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