

RAMON L. BLANCO, PETITIONER, VS. JOSE BERNABE, JUDGE OF THE MUNICIPAL COURT OF MANILA, AND THE LAWYERS COOPERATIVE PUBLISHING CO., RESPONDENTS.

G. R. No. 44970. March 31, 1936

Ponente: RECTO, J.

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RECTO, J.:

In civil case No. 105831 of the municipal court of Manila, "The Lawyers Cooperative Publishing Co.," plaintiff, vs. Ramon L. Blanco, defendant, judgment was entered against the latter on September 12, 1935, of which he was notified on the 25th of said month. On October 7, 1935, there was received in the clerk's office of said court the notice of appeal of the defendant, together with a money order for the sum of p16 and a copy of the communication addressed by the attorney for the defendant to the Collector of Internal Revenue of the following tenor:

"Enclosed money order No. 358098 in the amount of P25 in your name, by way of bond to answer for the payment of any judgment for costs which may be awarded against the appellant by the appellate court in civil case, entitled, Lawyers Coop. Publishing Co., plaintiff, vs. Ramon Blanco, defendant, civil case No. 105831 of the Municipal Court. (Sgd.) Vicente Pelaez, attorney for the defendant Ramon Blanco."

The money order referred to in the preceding communication was returned to the sender by the Collector of Internal Revenue, the latter alleging that he had no authority, under the law, to be its depositary, whereupon, the defendant caused the same to be attached to the record of the case.

Section 76 of Act No. 190, which sets out the procedure to perfect an appeal from a judgment of a justice of the peace court or of the municipal court of Manila, as amended by Act No. 3615, reads:

"SEC. 76. Appeals, how perfected.—An appeal in civil causes shall be filed within fifteen days after notification of the party of the judgment complained of, and shall be perfected (a) by filing with the justice of the peace a notice that the party intends to appeal; (b) by delivering a certificate of the municipal treasurer showing that the appellant has deposited the sum of sixteen pesos as appellate court docket fee, or, in Manila, by the delivery of said sum to the clerk of the court; and (c) by giving bond. It shall be the duty of the clerk of the Court of First Instance, upon receipt of the record, to deliver the deposit certificate within five days to the provincial treasurer, who shall immediately pay said sum of sixteen pesos, and the clerk, as soon as said sum shall be in his possession, shall enter the appeal upon the docket of the clerk's office. The bond to be given by the appellant shall be filed with the justice of the peace and shall be in the sum of fifty pesos, executed to the adverse party, with at least one sufficient surety, conditioned that the appellant will pay all costs which the Court of First Instance may award against him. In lieu of such a bond, the appellant may file with the justice a certificate of the proper official that the appellant has deposited twenty-five pesos with the municipal treasurer (in Manila with the Collector of Internal Revenue) and that said sum is available for the satisfaction of any judgment for costs that may be rendered against appellant by the Court of First Instance in said cause. In case judgment is rendered in appellant's favor the sum deposited in lieu of appeal bond shall be returned to him by the official with whom it was deposited. The expense of notification of the judgment appealed from shall be

assessed as part of the costs."

The respondents concede that all the requisites enumerated in this section 76 have been complied with by the petitioner, except that the latter failed to present to the court from whose judgment he appealed the deposit certificate referred to in the last portion of said section. It also appears that the non-presentation of this certificate was not due to petitioner's failure or omission but to the refusal of the Collector of Internal Revenue to receive the deposit tendered by said petitioner.

The only purpose of the law in requiring the presentation of the certificate in question is to evidence duly that the deposit required by law has been made. If the deposit has in fact been effected in the form and time prescribed, the fact that the corresponding receipt therefor has not been issued, or has been destroyed or mislaid, or the failure to present the same in due time, should not affect the remedy.

To interpret the law otherwise is to sacrifice the ends of justice to technicalities. It is true that procedural laws are no other than technicalities in their entirety, but they were adopted not as ends in themselves for the compliance with which courts have been organized and function, but as means conducive to the realization of the administration of the law and of justice. The provisions of the Code of Procedure should be liberally construed in order to promote the purpose of the legislator, which is to assist the parties in obtaining speedy justice (section 2, Code of Civil Procedure). It is the general and constant practice of courts to give every opportunity to the parties to have exceptions and appeals from reviewable rulings and decisions taken before the superior court, unless such action is manifestly contrary to the law. (*Garcia vs. Ambler and Sweeney*, 4 Phil., 81.) Technicalities, when they are not an aid to justice, deserve scant consideration from the courts. (*Alonso vs. Villamor*, 16 Phil., 315.)

The respondents contend that mandamus does not lie in the present case because there is a more speedy remedy under the law, which is that provided in section 148 of the Code of Civil Procedure. We are of the opinion that this section applies, among other cases, to one where a party is barred from taking an appeal from a decision rendered by a justice of the peace, but not to a case where, as in the present, the appeal has been duly taken and the justice of the peace refuses, without reason, to accept the same and to comply with a duty clearly required of him by law.

It appearing that the appeal taken by the petitioner from the judgment rendered by the municipal court of Manila in civil case No. 105381 of said court has been duly taken, we hold that the respondent judge is under a duty, according to section 77 of the Procedural Law, to certify the same to the corresponding Court of First Instance; wherefore, we rule to grant the remedy prayed for, with the costs of the present proceeding to be assessed against the respondent, "The Lawyers Cooperative Publishing Co."

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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