

PEDRO BISNAR AND PETRONILA BISNAR, PETITIONERS, VS. HON. JUDGE JOSE G. ESTRADA, IN HIS CAPACITY AS REGIONAL TRIAL COURT JUDGE, BRANCH VI, MATI, DAVAO ORIENTAL, AND TIMIDINO INTI...

G.R. No. 63737. June 27, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

The petition for certiorari and mandamus in this case is against the order of respondent Judge of the Regional Trial Court of Davao, Branch VI, dated February 4, 1983 dismissing the petitioner's appeal from the decision rendered in Civil Case No. 613 of the Court of First Instance of Davao, Branch I, dated December 29, 1982, as well as the subsequent order of the respondent Judge herein denying petitioners' motion for reconsideration of the challenged order.

On September 8, 1977, a complaint for accounting and damages was filed by private respondent Timidino Inting against the petitioners herein, which was docketed as Civil Case No. 613 of the Court of First Instance of Davao Oriental, Branch I. After trial, judgment was rendered on December 29, 1982 in favor of the private respondent, copy of which was received by the petitioners through their original counsel on January 5, 1983. When petitioners' original counsel withdrew from the Antonio K. Cannon who then filed in the court below on February 4, 1983 petitioners' notice of appeal from the adverse decision rendered against them. However, on February 8, 1983, petitioners' appeal was dismissed by the respondent Presiding Judge of the Regional Trial Court, Branch VI, only on the ground that Section 39 of Batas Pambansa Blg. 129 which was implemented and made effective on January 17, 1983 prescribes the period of appeal to be fifteen (15) days from notice of the judgment or decision appealed from and on this consideration the petitioners' appeal was considered belated and filed out of time. On March 11, 1983, petitioners' motion for reconsideration of the dismissal of their appeal was also denied by respondent Judge. This led to the filing of the instant petition for certiorari and mandamus in order that petitioners' appeal may be given due course.

Respondents were required under the resolution of this Court dated February 13, 1983 to comment to the petition. The corresponding comment of the private respondent, dated March 21, 1985, submitted to this Court is treated as his answer to the petition.

The contention of the private respondent is that from January 5, 1983, when petitioners, through their original counsel received a copy of the decision, to January 17, 1983 — the date of the effectivity of Batas Pambansa Blg. 129, a period of twelve (12) days had elapsed. From January 17, 1983, petitioners would then have fifteen (15) days therefrom within which to register their appeal, or up to February 1, 1983. Petitioners, however, filed their notice of appeal only on February 4, 1983 which private respondent submits would be, therefore, three (3) days late. Aside from this, he claims that the appeal interposed by the petitioners is merely a dilatory tactic.

We resolve to give due course to the instant petition.

When a copy of the decision in the case was received by the petitioners on January 5, 1983, the law then prevailing afforded petitioners thirty (30) days from said date within which to register their appeal, or up to February 4, 1983. That in the meantime, Batas Pambansa Blg. 129 was implemented on January 17, 1983 which provides for a shorter period of fifteen (15) days within which to perfect an appeal will not serve to bar the petitioners' right to appeal.

Considering the factual background of this case, the appeal should be allowed if only on the general principle "that remedial laws should be construed liberally, in order that litigants may have ample opportunity to prove their respective claims, and possible denial of substantial justice due to legal technicalities, may be avoided." (Luzon Stevedoring Corporation vs. Court of Industrial Relations, 15 SCRA 660, citing Concepcion et al vs. Payatas Estate Improvement Company, Inc., L-11531-33, May 30, 1958).

Accordingly, the orders of respondent Judge dated February 8, 1983 and March 11, 1983, which dismiss petitioners' appeal in said Civil Case No. 613 are hereby SET ASIDE and respondent Judge is hereby ordered to give due course to the appeal and to forward the records of said case to the Intermediate Appellate Court for disposition on the merits.

No costs.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, Gutierrez, Jr., and De la Fuente, JJ. concur.

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