

VICENTE DELOS SANTOS, ROBERTO DELOS SANTOS, PACIFICO DELOS SANTOS, CORAZON DELOS SANTOS, CONSTANCIA DELOS SANTOS, JOINED BY HER HUSBAND ELEODORO PRADO; NORMA DELOS SANTOS, JOINE...

G.R. NOS. 141810 & 141812. February 02, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

Diligence is the mother of good fortune.

-Miguel De Cervantes

Parties should not leave the entire business of litigation solely to their counsels. Basic diligence requires that parties themselves should closely monitor the developments in their cases. They should provide full support to their lawyers and even work hand in hand with them to ensure the diligent pursuit and effective prosecution of their cases. Inevitably, their failure to do so could result in prejudicial consequences.

The Case

This Petition for Review on Certiorari under Rule 45 of the Rules of Court seeks to reverse and set aside the May 11, 1999 Decision[1] of the Court of Appeals (CA), dismissing petitioners' appeal based on a compromise agreement and considering their appeal as abandoned in CA-G.R. CV No. 54136 and CA-G.R. SP No. 48475; and the January 31, 2000 Resolution[2] of the CA, denying petitioners' Motion for Reconsideration.[3] The CA appeal stemmed from the Kalibo, Aklan Regional Trial Court (RTC), Branch VI April 29, 1996 Decision[4] in Civil Case No. 3683, declaring intervenors Jesus delos Santos and Rosita delos Santos-Flores as lawful owners of two-thirds (2/3) of the disputed land, and Fred and Joan Elizalde as owners of the remaining one-third (1/3) of the land.

The Facts

On December 15, 1986, petitioners filed a Complaint for Quieting of Title, Damages and Attorney's Fees before the Kalibo, Aklan RTC, involving four (4) adjoining lots designated as Lots 393-A, 393-B, 394-D, and 394-E, with areas of 1,515 square meters (sqm), 1,010 sqm, 5,764 sqm, and 6,482 sqm, respectively, for a total land area of 14,771 sqm, located in Boracay Island, Malay, Aklan.[5] An amended complaint was thereafter filed on May 8, 1991.

Petitioners claimed the aforementioned lots as their inheritance from the late Mariano delos Santos, their common ascendant, either by their own right or by right of representation. Petitioners alleged that the late Mariano delos Santos was the original owner of the lots. On the other hand, respondents spouses Fred and Joan Elizalde, the first set of intervenors before the trial court, claimed that they purchased the lots on June 18, 1974 from the heirs of Leonardo delos Santos, he being the rightful and exclusive owner of the said lots. Respondents Gloria Martin,

Domingo Casimero, Sergio Casimero, Abundio Casimero, and Teodoro Casimero, the second set of intervenors before the trial court, claimed ownership over Lots 393-B and 394-E, as heirs of Tomasa Prado, who also allegedly owned said lots. Respondents Rosita delos Santos-Flores and Jesus delos Santos, the third set of intervenors and two of the three legitimate children of the late Leonardo delos Santos, claimed 2/3 of the disputed lots as their rightful inheritance. Respondents delos Santos alleged that they did not sell nor assign their share in the property to anyone, including respondent Fred Elizalde.

After due hearing of the case, the trial court issued the April 29, 1996 Decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered as follows:

- (1.) Dismissing the complaint filed by the plaintiffs as well as the complaint in intervention filed by the second set of intervenors Casimeros, et al. for lack of merit;
- (2.) Declaring the two deeds of sale (Exhibits 29 and 30) as null and void insofar as they affect the two-thirds (2/3) share of intervenors Jesus and Rosita;
- (3.) Declaring intervenors Jesus delos Santos and Rosita delos Santos Flores as the lawful owners of the two-thirds portion of the land in question or 9,915 square meters on the northwest portion, representing as their shares in the intestate estate of Leonardo delos Santos;
- (4.) Declaring defendant Fred Elizalde as the rightful owner of one-third of the land in question or 4,957 square meters on the southeast portion, segregated by a boundary line running from the seashore to the inland or from the southwest to northeast;
- (5.) Ordering the cancellation or revision of Tax Declaration No. 4422 in the name of Fred Elizalde (Exhibit 26) and all tax declarations issued subsequent thereto to conform to paragraphs 3 and 4 hereof as well as the issuance of a new tax declaration to intervenors Jesus delos Santos and Rosita Flores covering their two-thirds (2/3) share;
- (6.) Ordering the plaintiffs or any persons claiming interest therein to deliver complete possession of the land to defendants and first set intervenors.

No pronouncement as to costs.

SO ORDERED.[6]

Thus, petitioners and respondent Fred Elizalde filed their separate Notices of Appeal dated June 6, 1996[7] and May 16, 1996,[8] respectively. The cases were docketed as CA-G.R. SP No. 48475 for respondent Elizalde and CA-G.R. CV No. 54136 for petitioners. Subsequently, the CA issued the June 2, 1998 Notice to File Brief,[9] requiring petitioners and respondent Elizalde to file their briefs within forty-five (45) days from receipt of said notice.

On July 27, 1998, petitioners filed by registered mail a July 27, 1998 Motion for Extension of Time to File Brief for Plaintiffs-Appellants.[10] In their motion, petitioners admitted having received a copy of the Notice to File Brief on June 15, 1998; thus, they had until July 30, 1998 to file their brief, and prayed for an extension of forty-five (45) days from July 30, 1998 to September 13, 1998. On September 10, 1998, petitioners filed another motion for extension,[11] seeking another forty five (45)-day extension, or until October 27, 1998, within which to file their brief.

In the meantime, respondents Fred Elizalde, Jesus delos Santos, and Rosita delos Santos-Flores filed an October 6, 1998 Joint Manifestation and Motion,[12] whereby respondent Elizalde abandoned his appeal by virtue of an

amicable settlement between the parties through the May 27, 1997 Agreement.[13] They agreed to swap and re-adjust the areas adjudged by the trial court in their favor, without prejudice to a final judgment by the CA. In addition, Elizalde moved that his appeal be considered as withdrawn and that he be excused from filing an appellant's brief.

On October 27, 1998, petitioners filed an Ex-Parte Motion for Final Extension of Period to File Brief for Plaintiffs-Appellants,[14] seeking an extension of thirty (30) days, or until November 27, 1998, within which to file their brief. On November 27, 1998, petitioners filed another motion for extension,[15] asking for another thirty (30)-day extension. And yet again, on December 28, 1998, petitioners filed another motion for extension,[16] asking for another thirty (30)-day extension to file their brief, such that the period sought to file appellant's brief would be until January 27, 1999. In sum, petitioners had a total extension of one hundred eighty (180) days from July 27, 1998, when they filed a motion for extension before the CA for the first time.

Respondents delos Santos opposed the foregoing motions for extension and moved for the dismissal of the appeal for petitioners' failure to file the required appellants' brief.

However, on April 8, 1999, petitioners, through their former counsel Atty. Napoleon M. Victoriano, filed an Ex-Parte Motion to Withdraw Appeal.[17] Said motion sought the withdrawal of the appeal on the ground that petitioners and respondents delos Santos entered into an amicable settlement, denominated as an Undertaking executed on September 19, 1998,[18] whereby petitioners would be paid the amount of Four Million Pesos (PhP 4,000,000.00), in consideration of their leaving the disputed lots peacefully. Notably, the Undertaking was signed by 39 of the 46 petitioners,[19] and notarized by Atty. Edgar S. Calizo. More so, it was alleged in said motion that the counsel for respondents delos Santos, Atty. Romeo R. Robiso, executed a promissory note on October 15, 1998[20] on behalf of petitioners, for the amount of Four Million Pesos (PhP 4,000,000.00).

On May 11, 1999, the CA issued the assailed Decision dismissing CA-G.R. CV No. 54136 and SP No. 48475 and considering them withdrawn. It justified its Decision in this wise: "For failure to file their respective appellants' briefs, and in accordance with the prayer in the 'Joint Manifestation and Motion', and in the 'Ex-Parte Motion to Withdraw Appeal', the appeal should be dismissed, and considered as withdrawn." [21]

Thereafter, an Entry of Appearance[22] was filed on June 17, 1999 by Atty. Cesar T. Verano, allegedly in representation of petitioners. The entry contained the solitary conformity of petitioner Vicente delos Santos. On the same day, petitioners filed a Motion for Reconsideration of Decision with Prayer for Reinstatement of Appeal,[23] which was verified solely by petitioner Vicente delos Santos. In their Motion for Reconsideration, petitioners alleged that: (1) they did not have any knowledge of the promulgation of the assailed Decision of the CA; (2) they never entered into any amicable settlement with respondents delos Santos; (3) their alleged signatures in the May 27, 1997 Agreement were forged; and (4) they never authorized their former counsel, Atty. Victoriano, to withdraw their appeal. Thus, petitioners prayed that: (1) their Motion for Reconsideration be considered as filed on time; (2) the said Agreement allegedly entered into by petitioners and respondents delos Santos be considered as invalid; (3) the portion of the assailed Decision dismissing their appeal be reconsidered; (4) their appeal be reinstated; and (5) they be granted a period of ninety (90) days within which to file their appellants' brief.

On July 16, 1999, respondents delos Santos then filed an Opposition to Motion for Reconsideration.[24] The opposition was based on the following: (1) that petitioners' motion should be considered as mere scrap of paper for not containing any notice of hearing; (2) that the appeal was validly dismissed for petitioners' failure to file their appellants' brief; and (3) that the Agreement was valid.

Petitioners subsequently filed a Reply (To Opposition) on July 30, 1999,[25] refuting the allegations made by

respondents delos Santos; and attached to the reply a handwritten note in Filipino,[26] stating that: (1) the signatories did not sign the alleged Agreement; (2) they did not receive a single centavo of the money alleged in the Agreement; (3) they did not authorize Atty. Victoriano to withdraw their appeal; and (4) Atty. Victoriano did not furnish them a copy of the Decision of the CA. The note was purportedly signed by Vicente delos Santos, Constanca delos Santos, Terry Ann S. Carnacete, Greta delos Santos, Daisy delos Santos, Jose delos Santos, Herminigildo delos Santos, Peter delos Santos, Vivar delos Santos, Ibarra delos Santos, Rosemarie Tuazon, Natividad Prado, Lito Prado, Felisa Casidsid, Ricardo Fernando, Jesus Fernando, Rogelio Lacandula, Mergie C. Nieves, Anita C. Baltazar, and Claire S. Lacandula. Of the signatories, only eight (8) are among the forty-six (46) petitioners before the appellate court.

On January 31, 2000, the CA issued the assailed Resolution, wherein it was ruled that:

The "Motion for Reconsideration With Prayer for the Reinstatement of Appeal" filed on June 17, 1999 by the said new counsel for plaintiffs-appellants, to which an Opposition has been filed by the first set of intervenors-appellees, is DENIED admission for being late by nine (9) days. The records show that plaintiffs-appellants' counsel of record, Atty. Napoleon M. Victoriano, who has not filed any notice of withdrawal as counsel as per report of the Judicial Records Division, received copy of the Court's Decision dated May 11, 1998, on May 24, 1999. Thus, appellants had only until June 8, 1999 to file their Motion for Reconsideration.[27]

Hence, this petition is before us.

The Issues

Petitioners raise the following issues:

I.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN DENYING ADMISSION TO PETITIONERS' MOTION FOR RECONSIDERATION WITH PRAYER FOR THE REINSTATEMENT OF APPEAL FILED BY THEIR NEW COUNSEL FOR HAVING BEEN FILED NINE (9) DAYS LATE, OVERLOOKING AND DISREGARDING THE FACT:

- THAT PETITIONERS LEARNED OF THE DECISION OF THE COURT OF APPEALS DATED MAY 11, 1999 ONLY ON JUNE 2, 1999, AND ON JUNE 17, 1999, OR WITHIN THE FIFTEEN (15)-DAY REGLEMENTARY PERIOD THEY FILED THEIR AFORESAID MOTION FOR RECONSIDERATION;

- THAT PETITIONERS' FORMER COUNSEL, ATTY. NAPOLEON M. VICTORIANO, DID NOT FILE A MOTION FOR RECONSIDERATION WITHIN THE FIFTEEN (15)-DAY REGLEMENTARY PERIOD FROM HIS RECEIPT OF A COPY OF THE COURT OF APPEALS' DECISION ON MAY 24, 1999, SAID COUNSEL WAS CLEARLY AT FAULT AND/OR GROSSLY NEGLIGENT IN THE PERFORMANCE OF HIS DUTIES TO HIS CLIENTS. MOREOVER, THE COUNTING OF THE 15-DAY PERIOD TO FILE MOTION FOR RECONSIDERATION SHOULD BE COUNTED FROM PETITIONERS' KNOWLEDGE OF THE DECISION ON JUNE 2, 1999, AND NOT ON ATTY. VICTORIANO'S RECEIPT OF A COPY THEREOF; AND

- THAT THE NON-ADMISSION OF PETITIONERS' MOTION FOR RECONSIDERATION FOR HAVING BEEN FILED NINE (9) DAYS LATE IS MANIFESTLY UNJUST AND INEQUITABLE BECAUSE IT GIVES PREMIUM TO TECHNICALITIES RATHER ON SUBSTANTIAL JUSTICE.

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DISMISSING PETITIONERS' APPEAL FROM THE TRIAL COURT'S DECISION AND CONSIDERING THE APPEAL WITHDRAWN

AS PRAYED FOR BY COUNSEL FOR PETITIONERS CONSIDERING THAT THE ALLEGED AGREEMENT BETWEEN PETITIONERS AND FIRST SET [OF] INTERVENORS THROUGH THEIR COUNSEL IS NULL AND VOID AND WITHOUT FORCE AND EFFECT BECAUSE THEIR ALLEGED SIGNATURES THEREIN WERE FORGED, [AND BESIDES,] THEY NEVER RECEIVED A SINGLE CENTAVO OF THE ALLEGED CONSIDERATION OF THE AGREEMENT. MOREOVER, PETITIONERS' APPEAL FROM THE TRIAL COURT'S DECISION IS MERITORIOUS AS THEIR CLAIM THAT THEY ARE OWNERS OF THE DISPUTED PROPERTIES ARE SUPPORTED BY SUSBTANTIAL AND COMPETENT EVIDENCE.[28]

The Ruling of the Court

The petition must be denied.

Petitioners argue that their Motion for Reconsideration was filed on time as the reglementary period for the filing of it should be counted from the time when petitioners themselves obtained a copy of the assailed Decision of the CA on June 2, 1999, and not from the time that their former counsel, Atty. Victoriano, received a copy of said Decision on May 24, 1999.

However, petitioners' allegation is incorrect.

Reglementary period for filing a Motion for Reconsideration

Section 1 of Rule 37, in conjunction with Section 3 of Rule 41 of the Rules of Court, provides for the period within which a Motion for Reconsideration may be filed, to wit:

Section 1. Grounds of and period for filing motion for new trial or reconsideration.-Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

x x x x

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

Section 3. Period of ordinary appeal.-The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed. (Emphasis supplied.)

The abovementioned fifteen (15)-day period begins to run upon receipt of notice of the decision or final order appealed from. Such period has been considered to begin upon receipt of notice by the counsel of record, which is considered notice to the parties.[29] Service of judgment on the party is prohibited and is not considered the official receipt of the judgment.[30]

Thus, the fifteen (15)-day period should run from May 24, 1999, when Atty. Victoriano received a copy of the assailed Decision of the CA, and not from June 2, 1999, when petitioners claimed to have been informed of the CA decision.[31]

To reiterate, service upon the parties' counsels of record is tantamount to service upon the parties themselves, but service upon the parties themselves is not considered service upon their lawyers. The reason is simple-the parties, generally, have no formal education or knowledge of the rules of procedure, specifically, the mechanics of an

appeal or availment of legal remedies; thus, they may also be unaware of the rights and duties of a litigant relative to the receipt of a decision. More importantly, it is best for the courts to deal only with one person in the interest of orderly procedure—either the lawyer retained by the party or the party him/herself if s/he does not intend to hire a lawyer.

Even assuming that petitioners had replaced Atty. Victoriano prior to his receipt of the assailed Decision, the reglementary period for filing a Motion for Reconsideration would still be reckoned from his receipt of the Decision.

Section 26 of Rule 138 of the Rules of Court requires that "[i]n case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party."

In *GCP-Manny Transport Services, Inc. v. Principe*, the Court ruled that unless the change of attorneys is carried out properly, the counsel of record shall still be considered as the party's counsel, and the notice sent to such counsel shall be considered as notice to the party represented.[32]

In the present case, the assailed CA Decision was rendered on May 11, 1999, and the notice of it was received by Atty. Victoriano on May 24, 1999. Petitioners' current counsel, Atty. Verano, filed his appearance only on June 17, 1999, with the sole conformity of Vicente delos Santos. The CA correctly served a copy of the Decision on Atty. Victoriano, which is considered notice to petitioners themselves. Therefore, May 24, 1999 is the correct reckoning point for the reglementary period of filing a Motion for Reconsideration to the assailed Decision which ended on June 8, 1999. Hence, petitioners' Motion for Reconsideration filed on June 17, 1999 was belatedly filed and correctly rejected by the CA.

Liberal application of the period for filing a Motion for Reconsideration

Even assuming that, indeed, their Motion for Reconsideration was filed out of time, petitioners further allege that a delay of nine (9) days in the filing of their Motion for Reconsideration cannot justify why the CA did not admit it. In support of such contention, petitioners cite *Republic v. Court of Appeals*,[33] and *Ramos v. Bagasao*,[34] where this Court allowed the filing of an appeal six (6) and four (4) days beyond the reglementary period, respectively.

In *Neypes v. Court of Appeals*, the Court stressed that "[s]eldom have we condoned late filing of notices of appeal, and only in very exceptional instances to better serve the ends of justice"; and also emphasized that the liberal application of the rules is confined to "situations where technicalities were dispensed with, our decisions were not meant to undermine the force and effectivity of the periods set by law. But we hasten to add that in those rare cases where procedural rules were not stringently applied, there always existed a clear need to prevent the commission of a grave injustice (emphasis supplied)."[35]

In *Republic*,[36] cited by petitioners, We ruled that the CA should have admitted the Motion for Reconsideration filed by petitioners to prevent gross miscarriage of justice, as the government stood to lose close to three hundred (300) hectares of prime sugar land already titled in its name and devoted to educational purposes; while in *Ramos*, it was enunciated that a four (4)-day delay "in filing a notice of appeal and a motion of extension of time to file a record on appeal can be excused on the basis of equity and considering that the record on appeal is now with the respondent judge." [37]

In the instant case, there is no exceptional circumstance to justify the disregard of the reglementary period for filing a motion for reconsideration. Hence, petitioners' position is devoid of merit.

Furthermore, petitioners contend that despite their Motion for Reconsideration had been filed out of time, this should have been admitted on the ground of equity. However, equitable grounds cannot be sought when the party is guilty of negligence. Thus, We ruled in *Mesina v. Meer* that "this Court will not allow petitioners, in guise of equity, to benefit from their own negligence." [38]

Petitioners' are guilty of inexcusable negligence

Petitioners attribute the dismissal of their appeal and their failure to file a motion for reconsideration within the reglementary period to their former counsel's negligence, Atty. Victoriano. Thus, petitioners seek the liberal application of the rules, citing *Ginete v. Court of Appeals*, wherein the counsel of record did not file an appellant's brief within the prescribed period and continued with the case for fear of reprisal from respondents who were judges. In said case, We ruled that the negligence of the clients' counsel does not bind them. The departure from the rule was explained, thus:

[T]he lawyer's negligence without any participatory negligence on the part of petitioners is a sufficient reason to set aside the resolutions of the Court of Appeals. Aside from matters of life, liberty, honor or property which would warrant the suspension of the rules of the most mandatory character and an examination and review by the appellate court of the lower court's findings of fact, the other elements that should be considered are the following: (1) the existence of special or compelling circumstances, (2) the merits of the case, (3) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (4) a lack of any showing that the review sought is merely frivolous and dilatory, (5) the other party will not be unjustly prejudiced thereby. [39] (Emphasis supplied.)

However, the *Ginete* case is not a precedent to the case at bar because in said case, the party had no participatory negligence, while in the case at bar, petitioners were negligent in not monitoring the developments in their case. Petitioners' acts are considered inexcusable negligence in line with our ruling in *Bernardo v. Court of Appeals* (Special Sixth Division), where we explicated the vital participation of the parties in the effective handling of the case by their lawyers, thus:

Worth mentioning is the fact that petitioner was likewise not entirely blameless in his alleged deprivation of his day in court. In a recent case, this Court enunciated:

"Litigants, represented by counsel, should not expect that all they need to do is sit back, relax and await the outcome of their case. They should give the necessary assistance to their counsel for what is at stake is their interest in the case."

In his concurring opinion in *Republic vs. Sandiganbayan*, Mr. Justice Teodoro R. Padilla emphasized the value and significance of the party's presence and diligence in the advancement of his cause, thus:

"x x x An almost lifetime of experience in litigation is the best witness to the indispensability of party's presence (aside from his lawyer, in case he has the assistance of counsel) in order to litigate with any reasonable opportunity of success. x x x especially during the cross-examination of adverse party's witnesses-where the truth must be determined-every counsel worth his salt must have the assistance and presence of his client on the spot, for the client invariably knows the facts far better than his counsel. In short, even in civil cases, the presence of party (as distinguished from his lawyer alone) is essential to due process."

True enough, the party-litigant should not rely totally on his counsel to litigate his case even if the latter expressly assures that the former's presence in court will no longer be needed. No prudent party will leave the fate of his case entirely to his lawyer. Absence in one or two hearings may be negligible but want of inquiry or update on the status of his case for several months (four, in this case) is inexcusable. It is the duty of a party-litigant to be in contact with his counsel from time to time in order to be informed of the progress of his case. Petitioner simply claims that he was busy with his gravel and sand and trading businesses which involved frequent traveling from

Manila to outlying provinces. But this was not a justifiable excuse for him to fail to ask about the developments in his case or to ask somebody to make the query for him. Petitioner failed to act with prudence and diligence; hence, his plea that he was not accorded the right to due process cannot elicit this Court's approval or even sympathy.[40] (Emphasis supplied.)

Concurrently, petitioners did not even know that Atty. Victoriano failed to file an appellants' brief on their behalf during the more than one hundred eighty (180)-day extension that he sought from the CA, aside from their failure to learn of the Decision of the appellate court. Ordinary prudence would dictate that petitioners must give utmost importance to the case considering that it involves their residences, presumably their most valued material possession, and considering further that they had already lost at the trial court. Petitioners' failure to apprise themselves of the status of the case from the time that Atty. Victoriano received a copy of the notice to file brief on June 15, 1998 up to June 2, 1999, when petitioners allegedly obtained a copy of the assailed Decision from the CA, is unjustified. Petitioners cannot be shielded from the repercussions of their counsel's and their own negligence. Petitioners themselves are as much to blame in losing their appeal.

The Supreme Court is not a trier of facts

Finally, petitioners claim that the Undertaking or Agreement allegedly entered into by them and respondents delos Santos is invalid considering that their purported signatures in it were forged. They argue that the motion to withdraw is likewise invalid; therefore, there is no basis for the withdrawal of the appeal. In other words, petitioners question the authenticity of said documents, raising a question of fact.

There is a "question of fact" when "the doubt or controversy arises as to the truth or falsity of the alleged facts." [41] This is distinguished from a question of law when the doubt or difference arises as to what the law is on a certain state of facts, and which does not call for an examination of the probative value of the evidence presented by the parties-litigants.

Furthermore, in *Sampayan v. Court of Appeals*, this Court ruled, thus:

[S]ettled is the rule that this Court is not a trier of facts and does not normally embark on a re-examination of the evidence adduced by the parties during trial. Of course, the rule admits of exceptions. So it is that in *Insular Life Assurance Company, Ltd. vs. CA*, we wrote:

"[i]t is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties' during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion." [42]

A perusal of the exceptions enumerated above reveals that the instant case does not fall under any of them. Thus, this Court cannot entertain the factual issues raised in the petition, which include the issue of authenticity of the Undertaking or Agreement, as well as the issue of non-payment of the amount mentioned, particularly, in the

Undertaking.

Failure to file appellants' brief

Assuming arguendo that the withdrawal of the appeal was groundless, the CA still did not commit a reversible error in dismissing the appeal for petitioners' failure to file an appellant's brief.

Contrary to petitioners' allegation, the assailed Decision did not dismiss the case solely on the basis of the motion to withdraw filed by their former counsel. To reiterate, the Decision stated that "[f]or failure to file their respective appellants' briefs, and in accordance with the prayer in the 'Joint Manifestation and Motion', and in the 'Ex-Parte Motion to Withdraw Appeal', the appeal should be dismissed, and considered as withdrawn (emphasis supplied)."[43]

Section 7 of Rule 44 of the Rules of Court provides forty-five (45) days from receipt of notice within which to file an appellant's brief, while Section 12 declares that an extension of time for filing of briefs shall not be allowed except for a good and sufficient cause.

The general rule is that motions for extension of time to file an appellant's brief shall not be granted except for a good cause. No such justification is present in this case. Petitioners' failure to apprise themselves of the status of their case during its pendency before the CA is inexcusable. Moreover, their former counsel's failure or neglect to file the required appellant's brief shall bind them.

No meritorious cause

With the loss of their right of appeal to the CA, we see no need to resolve the issue of ownership. Such issue should have been first resolved by the CA, but it was not able to do so because of the dismissal of the appeal. Thus, the claim of ownership is a non-issue before this Court.

WHEREFORE, We DENY the petition and AFFIRM the May 11, 1999 Decision and the January 31, 2000 Resolution of the CA in CA-G.R. CV No. 54136 and SP No. 48475, with no costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Tinga, JJ., concur.

[1] Rollo, pp. 85-99. The Decision was penned by Associate Justice Artemon D. Luna (Chairperson), and concurred in by Associate Justices Conchita Carpio Morales and Bernardo P. Abesamis.

[2] Id. at 123.

[3] Id. at 108-120

[4] Id. at 264-288.

[5] Id. at 14.

[6] Supra note 4, at 287-288.

[7] CA rollo, p. 143.

[8] Id. at 144-145.

[9] Id. at 277.

[10] Id. at 328-330.

[11] Id. at 333-335.

[12] Id. at 337-346.

[13] Id. at 340-344.

[14] Id. at 352-354.

[15] Id. at 357-358.

[16] Id. at 383-385.

[17] Id. at 402-405.

[18] Rollo, pp. 153-156.

[19] The petitioners who did not sign the Undertaking are: Corazon delos Santos, Ludovico delos Santos, Vicente Sualog, Cesar Serrano, Violeta Serrano, Romeo Serrano, and Efren Serrano.

[20] CA rollo, p. 406.

[21] Supra note 1, at 96.

[22] CA rollo, pp. 426-429.

[23] Id. at 430-442.

[24] Id. at 459-464.

[25] Id. at 467-477.

[26] Id. at 478.

[27] Supra note 2.

[28] Rollo, pp. 24-25.

[29] See *Government Service Insurance System v. Bengson Commercial Buildings, Inc.*, G.R. No. 137448, January 31, 2002, 375 SCRA 431, 446; *People's Homesite and Housing Corporation v. Tiongco*, G.R. No. L-18891, November 28, 1964, 12 SCRA 471, 474-476.

[30] See *De Leon v. Court of Appeals*, G.R. No. 138884, June 6, 2002, 383 SCRA 216, 228; *Ramos v. Court of Appeals*, G.R. No. 124354, December 29, 1999, 321 SCRA 584, 598; and *Rural Bank of Alaminos Employees Union v. National Labor Relations Commission*, G.R. Nos. 100342-44, October 29, 1999, 317 SCRA 669, 682-683.

[31] Rollo, pp. 28-29.

[32] G.R. No. 141484, November 11, 2005, 474 SCRA 555, 568-569.

[33] G.R. Nos. L-31303-04, May 31, 1978, 83 SCRA 453.

[34] G.R. No. L-51552, February 28, 1980, 96 SCRA 395.

[35] G.R. No. 141524, September 14, 2005, 469 SCRA 633, 642-643.

[36] Supra note 33.

[37] Supra note 34, at 397.

[38] G.R. No. 146845, July 2, 2002, 383 SCRA 625, 635.

[39] G.R. No. 127596, September 24, 1998, 296 SCRA 38, 53.

[40] G.R. No. 106153, July 14, 1997, 275 SCRA 413, 429-430.

[41] Cucueco v. Court of Appeals, G.R. No. 139278, October 25, 2004, 441 SCRA 290, 298.

[42] G.R. No. 156360, January 14, 2005, 448 SCRA 220, 228-229.

[43] Supra note 1, at 96.

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