



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

HEIRS OF TEOFILO PACAÑA
and PEREGRINA APOSTOL,
namely: OLGA A. PACAÑA,
ESTER P. MARCAIDA,
CARMELO P. MARCAIDA,
JR., CARLO P. MARCAIDA,
LIBERTY P. MARCAIDA,
LANA M. MAGHIRANG, and
GRACE V. PACAÑA,

Petitioners,

G.R. No. 215761

Present:

PERLAS-BERNABE, *S.A.J.*,
 Chairperson,
 INTING,
 M. LOPEZ,*
 GAERLAN, and
 ROSARIO,** *JJ.*

- versus -

SPOUSES FLORENTINO
MASALIHIT and ANITA
MASALIHIT,

Respondents.

Promulgated:

SEP 13 2021

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ assailing the Resolutions dated December 19, 2012² and October 27, 2014³ of the Court of Appeals, Cebu City (CA) in CA-G.R. CV UDK No. 0028, which dismissed petitioners Heirs of Teofilo Pacaña and Peregrina Apostol, namely: Olga A. Pacaña, Ester P. Marcaida, Carmelo P. Marcaida, Jr., Carlo P. Marcaida, Liberty P. Marcaida, Lana M. Maghirang, and Grace V.

* Designated Additional Member per Raffle dated August 2, 2021 vice Hernando, *J.* who took no part due to prior action in the Court of Appeals.

** Designated Additional Member per Special Order No. 2835 dated July 15, 2021.

¹ *Rollo*, pp. 13-41.

² *Id.* at 50-51. Penned by Associate Justice Edgardo L. Delos Santos (now a retired Member of this Court) with Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap, concurring.

³ *Id.* at 53-60.

Pacaña's (petitioners) appeal from the Decision⁴ dated December 13, 2005 of the Regional Trial Court of Caibiran, Naval, Biliran, Branch 37 (RTC) in Civil Case No. CB-99-045, for failure to pay the docket and other lawful fees as provided in Section 5, Rule 40 and Section 4, Rule 41 of the Rules of Court (Rules).

The Facts

The instant controversy stemmed from an Amended Complaint⁵ for quieting of title, recovery of ownership and possession, annulment of documents, and damages filed by the Heirs of Teofilo Pacaña and Peregrina Apostol, namely: Anesia, Natividad, Olga, Manrico and Pedro, all surnamed Pacaña (Pacaña heirs) against Tining, Elvira, Nonito, Elnor, Romulo, Florentino, Jr., and Prescila, all surnamed Masalihit (Masalihit heirs) before the RTC involving a portion of the parcel of land designated as Lot No. 1368, Cad. 641-D, situated at Brgy. Palengke, Caibiran, Biliran covered by Tax Declaration No. 04-002-00107⁶ in the name of the Heirs of Teofilo Pacaña, which is allegedly occupied by the Masalihit heirs.

After due proceedings, the RTC rendered a Decision⁷ dated December 13, 2005 dismissing the complaint for lack of merit, and ordering the Pacaña heirs to pay the Masalihit heirs moral damages and attorney's fees, and to pay the costs. The Pacaña heirs received a copy of the said Decision on December 14, 2005, and filed their Notice of Appeal,⁸ through counsel, Atty. Sergio C. Sumayod (Atty. Sumayod), via registered mail on December 28, 2005, attaching therewith five (5) Postal Money Order Nos. B 081 0011314 to 17, and J 085 0020823⁹ amounting to ₱4,040.00 (subject PMOs), as docket and filing fees.

The CA Proceedings

When the original records of the case were transmitted to the CA, no receipt evidencing proof of payment of the docket and filing fees were attached. Thus, in a Resolution¹⁰ dated March 15, 2006, the CA directed: (a) the Pacaña heirs to submit the original or certified true copies of the Official Receipt or other proof evidencing complete payment of the docket and other lawful fees; and (b) the RTC Branch Clerk of Court to submit a Certification attesting that the records forwarded to the CA are the true, original and entire records of the case on appeal. In their Manifestation,¹¹ the Pacaña heirs

⁴ Id. at 169-176. Penned by Executive Judge Pepe P. Domael.

⁵ Id. at 112-115.

⁶ Id. at 136.

⁷ Id. at 169-176.

⁸ Id. at 177-178.

⁹ Id. at 179-180.

¹⁰ Id. at 183.

¹¹ Id. at 184-185.

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stated that when they filed their Notice of Appeal, they already attached the subject PMOs, all in the name of the payee, "The Clerk of Court, Court of Appeals," with address in Cebu City. They appended photocopies of the subject PMOs as well as a Certification¹² dated March 23, 2006 issued by Postmaster Cesar Noli C. Espos (Postmaster Espos) of the Tacloban Central Post Office, affirming Atty. Sumayod's remittance of the subject PMOs amounting to ₱4,040.00.

Per Judicial Records Division reports, however, the subject PMOs were not included in the original records forwarded on appeal and in the transmittal.¹³ Thus, in a Resolution¹⁴ dated June 29, 2011, the CA required Postmaster Espos to manifest any information as to the paper trail of the subject PMOs. In a Letter¹⁵ dated July 27, 2011, Postmaster Espos clarified that he merely certified as to Atty. Sumayod's application to purchase the subject PMOs but he had no knowledge as to whether or not they were mailed or transmitted.¹⁶ In a Resolution¹⁷ dated April 20, 2012, the CA required the Pacaña heirs, for the last time, to submit proof of complete payment of the docket and other lawful fees, otherwise, the case shall be dismissed.

In their Manifestation of Compliance,¹⁸ the Pacaña heirs reiterated that when they filed their Notice of Appeal, they already remitted the subject PMOs, which was confirmed by Postmaster Espos' March 23, 2006 Certification. To bolster the claim, they attached copies of the PMO stubs.¹⁹

In a Resolution²⁰ dated December 19, 2012, the CA dismissed the appeal, finding that no payment had been made per Judicial Records Verification Report. Aggrieved, the Pacaña heirs moved for reconsideration.²¹

In a Resolution²² dated October 27, 2014, the CA denied the motion for reconsideration. While it found that the subject PMOs were indeed attached to the Notice of Appeal and duly received by the RTC, it noted that the same were erroneously made payable to the CA Clerk of Court, and not to the RTC Clerk of Court. It thus held that since the Pacaña heirs failed to pay to the proper court the docket and other lawful fees within the

¹² Id. at 188.

¹³ See id. at 54.

¹⁴ Id. at 190-191. Penned by Associate Justice Edgardo L. Delos Santos (now a retired Member of this Court) with Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Victoria Isabel A. Paredes, concurring.

¹⁵ Not attached to the *rollo*.

¹⁶ See *rollo*, p. 54.

¹⁷ Id. at 193-194. Penned by Associate Justice Edgardo L. Delos Santos (a retired Member of this Court) with Associate Justices Nina G. Antonio-Valenzuela and Abraham B. Borreta, concurring.

¹⁸ Dated May 12, 2012. Id. at 195-198.

¹⁹ See id. at 200.

²⁰ Id. at 50-51.

²¹ Dated January 23, 2013. Id. at 203-207.

²² Id. at 53-60.

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reglementary period, the appeal was not perfected, as the place of payment is not optional but a mandatory requirement for the appellant,²³ citing the case of *Saint Louis University v. Cordero*.²⁴ Consequently, it ruled that the appealed decision had become final and executory.

Hence, the instant petition, essentially praying for the liberal construction of the Rules to consider the actual delivery of the subject PMOs to the Clerk of Court of the RTC as a valid and proper payment of the appellate docket fees.

Issue Before the Court

The core issue for the resolution of the Court is whether or not the CA erred in ruling that the appeal was not perfected despite the timely filing of the Notice of Appeal as the PMOs intended as appellate docket and filing fees attached therewith were addressed to an incorrect payee.

The Court's Ruling

The petition is meritorious.

The established rule is that the payment in full of the docket fees within the prescribed period is mandatory.²⁵ However, notwithstanding the mandatory nature of such requirement, the Court had also recognized that its strict application is qualified by the following: *first*, the failure to pay appellate court docket fees within the reglementary period allows only discretionary, not automatic, dismissal; and *second*, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances.²⁶

In the present case, it is undisputed that the subject PMOs representing payment of the appellate docket and filing fees were attached to the Notice of Appeal filed with the RTC within the reglementary period, leading to the transmittal of the case records to the CA in January 2006. In their Manifestation²⁷ dated March 22, 2006 in compliance with the CA's March 15, 2006 Resolution²⁸ requiring them to submit proof of complete payment of the docket and other lawful fees, the Pacaña heirs had already disclosed that when they filed their Notice of Appeal, they attached the

²³ See *id.* at 56-57.

²⁴ 478 Phil. 739 (2004).

²⁵ See *Ku v. RCBC Securities, Inc.*, G.R. No. 219491, October 17, 2018, citing *The Heirs of the Late Ruben Reinoso, Sr. v. Court of Appeals*, 669 Phil. 272 (2011).

²⁶ *Spouses Buenaflor v. CA*, 400 Phil. 395, 401-402 (2000).

²⁷ *Rollo*, pp. 184-185.

²⁸ *Id.* at 183.

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subject PMOs, all in the name of the payee, “The Clerk of Court, Court of Appeals,” with address in Cebu City, appending therewith photocopies of the subject PMOs.²⁹ It even subsequently submitted the corresponding stubs to prove such remittance. Despite the same, it took the CA over eight (8) years, however, to notice such error in the payee of the PMOs, and dismiss the appeal on the ground of non-perfection.

The CA’s reliance on *Saint Louis University v. Cordero*³⁰ in ruling that the appeal was not perfected due to the Pacaña heirs’ failure to pay to the proper court the docket and other lawful fees within the reglementary period, was misplaced as the facts are not on all fours. In that case, the Notice of Appeal was filed with the trial court within the reglementary period, but the same was *not* accompanied with any payment. It was only *after* the reglementary period had lapsed when they received notice of the order directing the forwarding of the case records to the CA that counsel for the appellants filed a Motion to Admit Docket and Filing Fees before the CA, attaching therewith PMOs as payment.

The Court finds *Spouses Buenaflor v. Court of Appeals*³¹ to be the applicable jurisprudence on the matter. The said case similarly involves the delivery to the Clerk of Court of the trial court of PMOs that were erroneously addressed to the Clerk of Court of the appellate court. The Court ruled that the delivery of the PMOs intended for the payment of the appellate docket fees to the proper Clerk of Court should be interpreted to mean as the proper payment thereof or, at least, substantial performance of the obligation to pay the appellate docket fees, despite the fact that said PMOs were erroneously addressed to the wrong payee, thus:

It cannot be denied that there was actual delivery of the postal money orders to the Clerk of Court of the trial court intended to be used to pay for the appellate docket fees. However, the question remains whether or not there was proper payment of the appellate docket fees. We believe so. The concept of payment should not be construed in the strict or technical sense. In its general sense, payment has been defined as a delivery of money or its equivalent in either specific property or services by one person from whom it is due to another person to whom it is due. Delivery is the act by which the *res* or substance thereof is placed within the actual or constructive possession or control of another. In the civil law sense, it means not only the delivery of money but also the performance, in any other manner, of the obligation. **The Civil Code enunciates a counterpart principle to the rule on liberal construction under Section 6, Rule 1 of the 1997 Rules of Civil Procedure. Article 1234 of the Civil Code allows substantial performance in the payment of obligations. In order that there may be substantial performance of an obligation, there must have been an attempt in good faith to perform, without any willful or intentional departure therefrom. This concept of substantial performance may be applied by analogy in the determination of**

²⁹ Id. at 179-180.

³⁰ Supra note 24.

³¹ Supra note 26.

question on the proper payment of the appellate docket fees. In this case, there is good faith attempt to comply with the requirements of the Rules regarding the manner of appeal from the decision of the Regional Trial Court, without any willful or intentional departure therefrom. The postal money orders which were intended for the payment of the appellate docket fees were actually sent to the trial court. They were filed within the reglementary period and received by the trial court. The petitioners clearly intended to file an appeal.

In the case at bar, the delivery of the appellate docket fees to the proper Clerk of Court should be interpreted to mean as the proper payment thereof or, at least, substantial performance of the obligation to pay the appellate docket fees. The fact that the postal money orders were addressed to the clerks of court of the Court of Appeals and the Supreme Court, respectively, is a minor technicality, which if treated too rigidly would run counter to the spirit of the Rules and thwart the ends of justice. At worst, there is a mere defective payment which may be cured by a simple amendment of the notice of appeal. Considering the special circumstances of the case, it cannot be said, without running afoul with the ends of substantial justice, that there is a failure to pay the docket fees.³² (Emphases supplied)

In the present case, there was good faith attempt to comply with the requirements of the Rules regarding the manner of appeal from the RTC's decision. The subject PMOs which were intended for the payment of the appellate docket fees were actually sent to the RTC within the reglementary period to appeal, and duly received by the RTC which thereafter transmitted the case records to the CA. Thus, it cannot be disputed that petitioners clearly intended to file an appeal.

Admittedly, this Court has allowed the filing of an appeal in some cases where a narrow and stringent application of the rules would have denied it. Indeed, the allowance thereof would fully serve the demands of substantial justice in the exercise of the Court's equity jurisdiction. The emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.³³ The importance and objective of the remedy of appeal has been emphasized in *Castro v. Court of Appeals*,³⁴ to wit:

An appeal is an essential part of our judicial system. We have advised the courts to proceed with caution so as not to deprive a party of the right to appeal x x x and instructed that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities x x x.

³² Id. at 403-405.

³³ See *Sarmiento v. Dizon*, G.R. No. 235424, February 3, 2021.

³⁴ 208 Phil. 691 (1983).



The rules of procedure are not to be applied in a very rigid and technical sense. The rules of procedure are used only to help secure, not override substantial justice x x x.³⁵

After all, court litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth.³⁶ Hence, it would be more in accord with justice and equity to allow the appeal by the Pacaña heirs to enable the CA to review the RTC's decision.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated December 19, 2012 and October 27, 2014 of the Court of Appeals, Cebu City (CA) in CA-G.R. CV UDK No. 0028 are hereby **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the CA which is directed to give due course to the appeal and conduct further proceedings.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

WE CONCUR:


HENRI JEAN PAUL B. INTING
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice



RICARDO R. ROSARIO
Associate Justice

³⁵ Id. at 696.

³⁶ See *Sarraga, Sr. v. Banco Filipino Savings and Mortgage Bank*, 442 Phil. 55, 66 (2002).

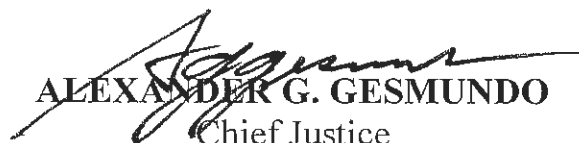
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. BERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice