



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SPOUSES EDMOND LEE and
HELEN HUANG,

Petitioners,

G.R. No. 218867

Present:

- versus -

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 JARDELEZA, *JJ.*

LAND BANK OF THE
PHILIPPINES,

Respondent.

Promulgated:

FEB 17 2016

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated January 28, 2015 and the Resolution³ dated June 5, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 133533 finding grave abuse of discretion on the part of the Regional Trial Court of Balanga City, Bataan, Branch 1 (RTC), sitting as a Special Agrarian Court (SAC) in Civil Case No. 7171, for dismissing the appeal filed by respondent Land Bank of the Philippines (respondent) for failure to prosecute.

The Facts

Petitioners-spouses Edmond Lee and Helen Huang (petitioners) are the registered owners of parcels of land with an aggregate area of 5.4928 hectares (has.) situated in Mambog, Hermosa, Bataan and covered by Transfer Certificate of Title (TCT) No. T-26257 of the Register of Deeds of

¹ *Rollo*, pp. 12-31.

² *Id.* at 36-42. Penned by Associate Justice Socorro B. Inting with Associate Justices Hakim S. Abdulwahid and Priscilla J. Baltazar-Padilla concurring.

³ *Id.* at 44-45.

Bataan (subject property). The subject property was compulsorily acquired by the Department of Agrarian Reform (DAR) in accordance with Republic Act No. (RA) 6657,⁴ as amended, otherwise known as the “Comprehensive Agrarian Reform Law of 1988.”⁵

DAR offered the sum of ₱109,429.98 as just compensation for the 1.5073-ha. portion of the subject property. Rejecting the valuation, petitioners instead filed the present petition for determination of just compensation against Provincial Adjudicator Erasmo SP. Cruz of the Department of Agrarian Reform Adjudication Board (DARAB) and herein respondent before the RTC, docketed as Civil Case No. 7171.⁶

In defense, respondent claimed that its valuation was based on DAR Administrative Order (AO) No. 11, series of 1994,⁷ as amended by DAR AO No. 5, series of 1998.⁸ It also contended that petitioners’ appraisal was biased.⁹

The RTC Ruling and Subsequent Proceedings

After due proceedings, the RTC, sitting as a SAC, rendered a Decision¹⁰ dated January 17, 2002 rejecting the valuation given by respondent and setting the just compensation for petitioners’ 1.5073 has. at ₱250.00 per square meter, or a total amount of ₱3,768,250.00. It took judicial notice of the fact that the lots within the vicinity of the subject property are valued between ₱200.00 to ₱500.00 per square meter.¹¹

Respondent’s motion for reconsideration¹² was denied in an Order¹³ dated June 14, 2002.

Several years later, or sometime in September 2006,¹⁴ petitioners filed a motion for execution of the RTC’s January 17, 2002 Decision, alleging that while they received a copy of respondent’s Notice of Appeal dated June 19, 2002, upon verification, no such appeal was actually filed before the

⁴ Entitled “AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES,” approved on June 10, 1988.

⁵ See *rollo*, p. 55.

⁶ See *id.* at 55-56.

⁷ Entitled “REVISING THE RULES AND REGULATIONS COVERING THE VALUATION OF LANDS VOLUNTARILY OFFERED OR COMPULSORILY ACQUIRED AS EMBODIED IN ADMINISTRATIVE ORDER NO. 06, SERIES OF 1992,” dated September 13, 1994.

⁸ Entitled “REVISED RULES AND REGULATIONS GOVERNING THE VALUATION OF LANDS VOLUNTARILY OFFERED OR COMPULSORILY ACQUIRED PURSUANT TO REPUBLIC ACT NO. 6657,” dated April 15, 1998.

⁹ See *rollo*, p. 57.

¹⁰ *Id.* at 55-60. Penned by Judge Benjamin T. Vianzon.

¹¹ See *id.* at 59-60.

¹² Not attached to the *rollo*.

¹³ *Rollo*, p. 61.

¹⁴ See *id.* at 17.

RTC. Respondent denied petitioners' claim and asserted that it filed a Notice of Appeal in accordance with the rules and has, therefore, perfected its appeal. As such, the RTC's January 17, 2002 Decision was not yet final and executory.¹⁵

Finding that respondent had perfected its appeal and based on equitable considerations and the highest interest of justice, the RTC, in an Order¹⁶ dated June 7, 2007, gave due course to respondent's appeal and directed that the entire records thereof be transmitted to the CA.

Petitioners moved for reconsideration,¹⁷ which the RTC denied in an Order¹⁸ dated August 27, 2008. The RTC clarified that respondent was able to file its Notice of Appeal within the prescribed period and that a postal money order in the amount of ₱520.00 had been issued by respondent in favor of the Clerk of Court of the RTC of Balanga City, Bataan, representing the payment of the appeal fee.¹⁹

Almost five (5) years later, or on April 26, 2013, petitioners filed a motion to dismiss²⁰ the appeal of respondent for failure to prosecute, asseverating that from the time the RTC gave due course to its appeal in 2008, respondent had not made any further action on its appeal, particularly with regard to the payment of the prescribed appeal fees. In its defense, respondent argued that the RTC no longer had jurisdiction to entertain petitioners' motion after its Notice of Appeal had been given due course. It maintained that petitioners' motion should have been filed not before the RTC, but before the CA.²¹

In its assailed Order²² dated July 5, 2013, the RTC, through Judge Angelito I. Balderama (Judge Balderama), granted petitioners' motion and accordingly, dismissed respondent's appeal for failure to prosecute. Upon a meticulous inspection of the records, the RTC found that respondent failed to pay the prescribed appeal fees. While it is true that Postal Money Order No. J8353389-390 had been issued by respondent as purported payment therefor, records show that the amount pertaining thereto had not been remitted or credited to the account of the Office of the Clerk of Court of the RTC. According to the Officer-in-Charge (OIC) Clerk of Court of the RTC, Mr. Gelbert Argonza (Mr. Argonza), respondent's failure to pay the appeal fees was the reason why the records of the case were not transmitted to the

¹⁵ See *id.* at 62.

¹⁶ *Id.* at 62. Penned by Judge Vianzon.

¹⁷ Not attached to the *rollo*.

¹⁸ *Rollo*, pp. 63-65. Penned by Judge Angelito I. Balderama.

¹⁹ See *id.*

²⁰ Not attached to the *rollo*.

²¹ *Rollo*, p. 67.

²² *Id.* at 66-69A.

CA, explaining that proof of payment of the appeal fees is a required attachment that forms part of the records to be transmitted to the CA.²³

As payment of docket and other legal fees within the prescribed period is both mandatory and jurisdictional, the RTC, therefore, held that respondent's appeal was not duly perfected. As such, it did not lose jurisdiction over the case and, accordingly, pursuant to Section 5,²⁴ Rule 141 on Legal Fees of the Rules of Court, dismissed respondent's appeal for failure to prosecute.²⁵

Respondent's motion for reconsideration²⁶ was denied in an Order dated December 11, 2013; hence, the matter was elevated before the CA *via* a petition for *certiorari*, imputing grave abuse of discretion on the part of the RTC in dismissing its appeal.

The CA Ruling

In a Decision²⁷ dated January 28, 2015, the CA found grave abuse of discretion on the part of the RTC in dismissing respondent's appeal for failure to prosecute, holding that the validity of the latter's appeal had already been passed upon in the RTC's earlier Orders dated June 7, 2007 and August 27, 2008 that gave due course to the appeal and directed the transmittal of the records to the CA. It also ruled that upon the perfection of respondent's appeal, the RTC had already lost jurisdiction over the case. Thus, any orders subsequently issued by the RTC after the filing of respondent's Notice of Appeal on June 19, 2002 were of no force and effect.²⁸

Aggrieved, petitioners filed a motion for reconsideration,²⁹ which the CA denied in a Resolution³⁰ dated June 5, 2015; hence, this petition.

²³ See *id.* at 67-68.

²⁴ Section 5. *Fees to be paid by the advancing party.* – The fees of the clerk of the Court of Appeals, Sandiganbayan and Court of Tax Appeals or of the Supreme Court shall be paid to him at the same time of the entry of the action or proceeding in the court by the party who enters the same. The clerk shall in all cases give a receipt for the same and shall enter the amount received upon his book, specifying the date when received, person from whom received, name of action in which received and the amount received. If the fees are not paid, the court may refuse to proceed with the action until they are paid and may dismiss the action or proceedings.

²⁵ See *rollo*, pp. 68-69A.

²⁶ Not attached to the *rollo*.

²⁷ *Rollo*, pp. 36-42.

²⁸ See *id.* at 39-41.

²⁹ Not attached to the *rollo*.

³⁰ *Rollo*, pp. 44-45.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in finding grave abuse of discretion on the part of the RTC when it dismissed respondent's appeal for failure to prosecute.

The Court's Ruling

The petition has merit.

Section 4, Rule 41 of the Rules of Court provides:

Section 4. *Appellate court docket and other lawful fees.* – Within the period for taking an appeal, the appellant shall pay to the clerk of court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

In *Gipa v. Southern Luzon Institute*,³¹ citing *Gonzales v. Pe*,³² the Court clarified the requirement of full payment of docket and other lawful fees under the above-quoted rule in this wise:

[T]he procedural requirement under Section 4 of Rule 41 is not merely directory, as the payment of the docket and other legal fees within the prescribed period is both mandatory and jurisdictional. It bears stressing that an appeal is not a right, but a mere statutory privilege. An ordinary appeal from a decision or final order of the RTC to the CA must be made within 15 days from notice. And within this period, the full amount of the appellate court docket and other lawful fees must be paid to the clerk of the court which rendered the judgment or final order appealed from. **The requirement of paying the full amount of the appellate docket fees within the prescribed period is not a mere technicality of law or procedure. The payment of docket fees within the prescribed period is mandatory for the perfection of an appeal. Without such payment, the appeal is not perfected. The appellate court does not acquire jurisdiction over the subject matter of the action and the Decision sought to be appealed from becomes final and executory.** Further, under Section 1 (c), Rule 50, an appeal may be dismissed by the CA, on its own motion or on that of the appellee, on the ground of the non-payment of the docket and other lawful fees within the reglementary period as provided under Section 4 of Rule 41. The payment of the full amount of the docket fee is an indispensable step for the perfection of an appeal. In both original and appellate cases, the court acquires jurisdiction over the case only upon the payment of the prescribed docket fees.³³ (Emphasis and underscoring supplied)

³¹ G.R. No. 177425, June 18, 2014, 726 SCRA 559.

³² 670 Phil. 597 (2011).

³³ *Gipa v. Southern Luzon Institute*, supra note 31, at 570, citing *Gonzales v. Pe*, id. at 610-611.

In relation thereto, Section 9, Rule 41 of the Rules of Court states:

Section 9. *Perfection of appeal; effect thereof.* – A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

A party's appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.

In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of appeals filed in due time and the expiration of the time to appeal of the other parties.

In appeals by record on appeal, the court loses jurisdiction only over the subject matter thereof upon the approval of the records on appeal filed in due time and the expiration of the time to appeal of the other parties.

In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with section 2 of Rule 39, and allow withdrawal of the appeal. (Emphasis supplied)

After a punctilious review of the records of this case, the Court finds that respondent failed to perfect its appeal before the RTC by not paying the full amount of the prescribed appellate docket fees. Consequently, the RTC did not lose jurisdiction over the case and, as a matter of discretion, properly dismissed the appeal for failure to prosecute.

The Court gives credence to the statement given by the OIC Clerk of Court of the RTC, Mr. Argonza, who, upon meticulous inspection of the records, found that while respondent had indeed issued a postal money order in favor of the Office of the Clerk of Court of the RTC, the amount pertaining thereto was never remitted or received by the court. There being no proof of payment of the required appellate fees, Mr. Argonza explained that the case records cannot be transmitted to the CA and therefore, remained with the RTC. This fact sheds light and lends credibility to petitioners' allegation that they originally attempted to file their motion to dismiss appeal before the CA, which was unsurprisingly rejected, there being no case docket and court records pertaining to respondent's appeal.³⁴

Further militating against respondent's cause is the fact that almost five (5) years had already lapsed from the time its Notice of Appeal had been originally given due course by the RTC up to the time the petitioners moved for its dismissal. And yet, respondent failed to pursue its case. In fact,

³⁴ See *rollo*, p. 23.

had petitioners not taken any action, the instant case would have continued to languish in the RTC dockets. Besides, even if it were true that respondent had paid the required appellate docket fees in this case, it still failed to exercise diligence and prudence in ascertaining that the records of the case had been transmitted to the CA and that its appeal had been given due course. As it is, respondent miserably neglected its case and may, thus, be considered to have abandoned its appeal.³⁵ Clearly, the RTC, through Judge Balderama, cannot be faulted for dismissing the appeal for failure to prosecute.

That the RTC retained jurisdiction to dismiss the appeal is beyond cavil, as provided under Section 9, Rule 41 above-quoted. As a result of respondent's failure to perfect an appeal within the period fixed by law, no court could exercise *appellate* jurisdiction to review the RTC decision.³⁶ To reiterate, perfection of an appeal within the period and in the manner prescribed by law is jurisdictional and non-compliance with such requirements is considered fatal and has the effect of rendering the judgment final and executory.³⁷ It bears to stress that the right to appeal is a statutory right and the one who seeks to avail that right must comply with the statute or rules.³⁸

In the light of the foregoing, the CA erred when it found that the RTC committed grave abuse of discretion when it dismissed respondent's appeal for failure to prosecute. While it is true that the RTC previously gave due course to respondent's Notice of Appeal and declared that the latter had issued a postal money order in payment of the required appellate docket fees, the RTC, however, is not precluded from perusing the records a second or a third time, if only to ensure that all the requirements for perfecting an appeal have been complied with. The Court further notes that if it were true that respondent actually paid the appellate docket fees, it could have easily produced proof of payment if only to dispel any doubts thereon and consequently, prove compliance with the rules on the perfection of appeals. Unfortunately, no such evidence was forthcoming. Indubitably, the dismissal of respondent's appeal was in order, and the RTC's January 17, 2002 Decision, as a result, had attained finality.

WHEREFORE, the petition is **GRANTED**. The Decision dated January 28, 2015 and the Resolution dated June 5, 2015 of the Court of Appeals in CA-G.R. SP No. 133533 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Orders dated July 5, 2013 and December 11, 2013 of the Regional Trial Court of Balanga City, Bataan, Branch 1, sitting as a Special Agrarian Court, are **AFFIRMED**.

³⁵ See *Pepsi Cola Products (Phils.) v. Patan, Jr.*, 464 Phil. 517, 522-524 (2004).

³⁶ See *National Power Corporation v. Sps. Laohoo*, 611 Phil. 195, 217 (2009).

³⁷ *Yalong v. People*, G.R. No. 187174, August 28, 2013, 704 SCRA 195, 204.

³⁸ *De Leon v. Hercules Agro Industrial Corporation*, G.R. No. 183239, June 2, 2014, 724 SCRA 309, 316.

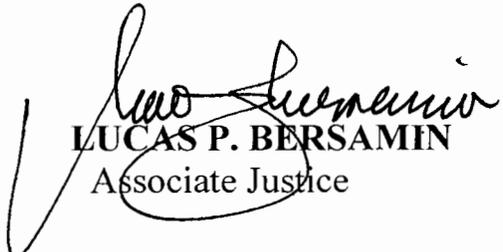
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice