



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **30 June 2021** which reads as follows:*

**“G.R. No. 219930 (Spouses Manuel Casador and Raquel Casador v. Spouses Juan B. Bacar, Jr. and Joie Zendel Bacar). –**

**Antecedents**

This case stemmed from a complaint for recovery of ownership filed by respondents Spouses Juan and Joie Zendel Bacar (Spouses Bacar) against petitioners Spouses Manuel and Raquel Casador (Spouses Casador). The case was raffled to the Regional Trial Court (RTC) – Branch 198, Las Piñas City.<sup>1</sup>

Spouses Bacar essentially averred that Spouses Casador, then owner of subject property (280 square-meter lot located in B.F. Resort Village, Las Piñas City) obtained a loan from United Coconut Planters Bank (UCPB), for which, a mortgage on subject property was constituted. For failure of Spouses Casador to pay the loan, the property eventually got foreclosed. At the foreclosure sale, UCPB emerged as the highest bidder in whose favor a certificate of sale was issued. In due time, ownership of the property was consolidated in the name of UCPB. The corresponding Transfer Certificate of Title (TCT) No. T-76457 was also issued in its name.<sup>2</sup>

On July 4, 2011, Spouses Bacar purchased the property from UCPB for a consideration of ₱2,200,000.00.<sup>3</sup>

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<sup>1</sup> *Rollo*, p. 54.

<sup>2</sup> *Id.* at 54.

<sup>3</sup> *Id.* at 84.

On September 15, 2011, Spouses Bacar sent Spouses Casador a letter of demand to vacate the property within fifteen (15) days from notice.<sup>4</sup> Spouses Casador refused. Thus, on October 24, 2011, Spouses Bacar were constrained to sue Spouses Casador for recovery of ownership docketed as Civil Case No. LP-11-0086.<sup>5</sup>

For their part, Spouses Casador, through Atty. Renecio Espiritu, countered that on March 22, 2011, the parties here (Spouses Casador and Spouses Bacar) entered into a Memorandum of Agreement<sup>6</sup> supposedly granting Spouses Casador the right to repurchase the property from Spouses Bacar for ₱3,068,000.00. But since the title remained in the name of UCPB, it became impossible for Spouses Casador to repurchase the property without mortgaging it anew with another banking institution.<sup>7</sup>

### **The Ruling of the RTC**

By Decision<sup>8</sup> dated December 19, 2013, the trial court ruled in favor of Spouses Bacar. It noted that the property was foreclosed and UCPB had consolidated its ownership over the same. UCPB therefore had the right to sell the property to Spouses Bacar who, as the new owner, had acquired the right to the possession of the property<sup>9</sup> as against Spouses Casador who had refused to vacate the same.<sup>10</sup>

The subsequent motion for reconsideration of Spouses Casador was denied under Order<sup>11</sup> dated April 8, 2014.

Aggrieved, Spouses Casador, this time, through Atty. Dioscoro Peligro (Atty. Peligro) filed a Notice of Appeal to the Court of Appeals.<sup>12</sup>

### **Proceedings before the Court of Appeals**

On October 21, 2014,<sup>13</sup> Spouses Casador received a directive from the Court of Appeals to file their Appellants' Brief within forty-five (45) days from notice or until December 5, 2014. On December 5, 2014, they filed a motion for extension of fifteen (15) days or until December 20, 2014 to file their Appellants' Brief. The Court of Appeals granted the motion. But despite the lapse of the extended period, Spouses Casador failed to file their Appellants' Brief.

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<sup>4</sup> *Id.* at 81.

<sup>5</sup> *Id.* at 79-82.

<sup>6</sup> *Id.* at 96.

<sup>7</sup> *Id.* at 101.

<sup>8</sup> *Id.* at 54-59.

<sup>9</sup> *Id.* at 56.

<sup>10</sup> *Id.* at 58.

<sup>11</sup> *Id.* at 60-63.

<sup>12</sup> *Id.* at 33.

<sup>13</sup> *Id.* at 9.

By Resolution<sup>14</sup> dated March 13, 2015, the Court of Appeals, pursuant to Section 1 (e) Rule 50 of the 1997 Rules of Civil Procedure,<sup>15</sup> considered the appeal abandoned, and consequently, dismissed.<sup>16</sup>

In their motion for reconsideration, Spouses Casador cited as reason for their failure to file the Appellants' Brief the so called attack on the house of their counsel Atty. Peligro on January 5, 2015.<sup>17</sup>

Per Resolution<sup>18</sup> dated July 16, 2015, the Court of Appeals denied the motion for reconsideration. It noted that apart from the original 45 days, it also granted Spouses Casador additional fifteen (15) days from December 5, 2014 or until December 20, 2014 to file the brief, and yet, Spouses Casador still failed to file it. Their failure to do so could not have been caused by the supposed attack on their counsel's house considering that the period to file the Appellants' Brief had already lapsed sixteen (16) days ago before the so called unfortunate event happened on January 5, 2015.<sup>19</sup>

### The Present Petition

On August 5, 2015, Spouses Casador received the Resolution dated July 16, 2015.<sup>20</sup> On August 20, 2015, they sought an extension of thirty (30) days or until September 19, 2015 within which to file a petition for review on *certiorari*. But as it turned out, the intended petition was not filed within the extended period.

After more than three (3) months, however, on December 28, 2015, they filed a *Motion for Leave to File Petition for Review*<sup>21</sup> with the attached petition for review on *certiorari*, through yet another counsel Atty. Bernardino P. Salvador, Jr., stating that their former counsel, Atty. Peligro had been negligent, thus:<sup>22</sup>

As may be observed, the Court of Appeals focused its disposition on the procedural imbroglia committed by Atty. Dioscoro G. Peligro, petitioners' former counsel, which unduly caused the subject property to be served upon respondents on a silver platter.

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<sup>14</sup> *Id.* at 33.

<sup>15</sup> Rule 150, Section 1. *Grounds for dismissal of appeal.* — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

x x x

<sup>16</sup> *Rollo*, p. 33

<sup>17</sup> *Id.* at 17.

<sup>18</sup> *Id.* at 16-19.

<sup>19</sup> *Id.* at 18.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *Id.* at 21-29.

<sup>22</sup> *Id.* at 21-26.

In the present case, it is now beyond dispute that Atty. Peligro, petitioners' former counsel, had really put petitioners in grave danger by [her] miserable failure to file the required appellants' brief despite moving of an extension of time to file the same.

x x x x

For said reason, petitioners, on bended knees most respectfully beg this honorable Court to suspend its own Rules in the pursuit of justice.

To support their prayer to have their appeal reinstated before the Court of Appeals, they now cite in their petition for review on *certiorari* a different reason for their failure to file the Appellants' Brief, *i.e.*, it is no longer because of the supposed attack on the house of Atty. Peligro, but the alleged negligence of Atty. Peligro herself.<sup>23</sup>

By Resolution<sup>24</sup> dated April 6, 2016, the Court noted the motion for leave but denied the petition for late filing.

Nonetheless, per Resolution<sup>25</sup> dated August 22, 2016, the Court granted the subsequent motion for reconsideration of Spouses Casador, directed the reinstatement of the petition, and required Spouses Bacar to comment on the petition.

In their Comment<sup>26</sup> dated July 15, 2016, Spouses Bacar maintain that the multiple procedural lapses incurred by Spouses Casador were truly intended to delay the execution of the case.<sup>27</sup> They are clearly abusing the rules and judicial processes. As such, they do not deserve any consideration from the Court.<sup>28</sup> Besides, they cannot blame their counsels' purported negligence which actually is binding on them.<sup>29</sup> Finally, they themselves are not faultless as they showed indifference towards their case. Should the present petition be eventually denied, they, more likely than not, again blame their new counsel as they are wont to do.<sup>30</sup>

## RULING

The petition is utterly devoid of merit.

The Court of Appeals declared the appeal of Spouses Casador abandoned, and consequently, dismissed for their failure to file the Appellants' Brief in accordance with Section 1 (e), Rule 50 of the Rules of Civil Procedure, *viz.*:

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<sup>23</sup> *Id.* at 35.

<sup>24</sup> *Id.* at 163.

<sup>25</sup> *Id.* at 166.

<sup>26</sup> *Id.* at 168-182.

<sup>27</sup> *Id.* at 168.

<sup>28</sup> *Id.* at 169.

<sup>29</sup> *Id.* at 177.

<sup>30</sup> *Id.*

Section 1. *Grounds for dismissal of appeal.* — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

x x x x

Although failure to file the appellant's brief is not a jurisdictional flaw, it results in the abandonment of the appeal and ultimately its dismissal. For the right to appeal is not a natural right but a mere statutory privilege. The party who seeks to avail of the same must comply with the requirements of the rules. Otherwise, the right to appeal is lost, as in this case.<sup>31</sup>

The Court has invariably held that the authority of the Court of Appeals to dismiss an appeal for failure to file the appellant's brief is a matter of judicial discretion. In the exercise of this discretion, however, the Court of Appeals still adheres to the fundamentals of justice and fairness, bearing in mind the peculiar circumstances attendant to each case.<sup>32</sup>

Here, Spouses Casador failed to file their Appellants' Brief despite the original 45 days and additional 15 days or a total of 60 days given them by the Court of Appeals within which to do so. They reasoned though that they failed to file the Appellants' Brief because the house of their counsel supposedly got attacked. But as aptly noted by the Court of Appeals, the purported attack on their counsel's house, albeit unfortunate, could not have been the reason why they failed to file the Appellants' Brief. For in truth, the extended period of fifteen (15) days had already expired sixteen (16) days ago before the alleged attack took place on January 5, 2015.

In view of the foregoing circumstances, we cannot fault the Court of Appeals for denying the subsequent motion for reconsideration of Spouses Casador. The latter miserably failed to show that they were deserving of the court's special consideration or liberal application of the rules.<sup>33</sup> What amply appears on record is their lack of candor and respect toward the Court of Appeals and the rules they conveniently ignored.<sup>34</sup> The most telling though is when they subsequently filed their motion for reconsideration which still did not bear the required Appellants' Brief as an attachment. This fatal omission speaks volumes of sheer lack of interest in pursuing their appeal<sup>35</sup> if not sheer lack of an honest to goodness intention to abide by the governing period for appeal.

<sup>31</sup> See *Sibayan v. Costales*, 789 Phil. 1, 9 (2016).

<sup>32</sup> See *Sps. Bergonia v. Court of Appeals*, 680 Phil. 334, 341 (2012), as cited in *Cator v. Sps. Jayag*, G.R. No. 220786 [Formerly UDK No. 14943] (Notice), November 25, 2015.

<sup>33</sup> See *Cator v. Sps. Jayag*, supra.

<sup>34</sup> See *Republic v. Nellas*, G.R. No. 195279 (Notice), January 25, 2016.

<sup>35</sup> See *Sps. Bergonia v. Court of Appeals*, supra at 337.

In any event, while Spouses Casador continue to justify here their failure to file their Appellant's Brief, they now tell us it was all because of the negligence of their former counsel Atty. Peligro. They have obviously abandoned their tale of a supposed attack on the house of Atty. Peligro.

For one, the varying reasons presented by Spouses Casador readily convey dishonesty and lack of candor toward this Court, no less. For another, they cannot repudiate the binding effect upon them of their counsel's negligence<sup>36</sup> since they were not shown to have been in any way deprived of due process by reason thereof. Clearly, they were given several opportunities to file their Appellants' Brief before the Court of Appeals both within the original and extended periods granted them.<sup>37</sup> While their exercise of ordinary diligence could have guarded against such imputed negligence,<sup>38</sup> they simply sat back, relaxed, and passively waited for the outcome of their case. They failed to diligently monitor the progress of their case and render necessary assistance to their counsel, albeit what is at stake is ultimately their interest.<sup>39</sup> In the end, therefore, they have no one to blame but themselves.

In fine, Spouses Casador have not shown that they rightly deserve liberal application of the rules to warrant the reinstatement of their appeal. Nor have they demonstrated that their appeal is meritorious or that they have a better right to remain in possession of the property than Spouses Bacar who are the lawful owners thereof. And one last point. Spouses Casador have exhibited their habitual infraction of procedural rules. Not only did they do it before the Court of Appeals. They unabashedly repeated it here when they filed the present petition more than three (3) months after the expiration of the extended period granted. As they are wont to do, they again blamed their former counsel for another delayed filing of the present petition.

Verily, therefore, we find and hold that the Court of Appeals judiciously acted when it: a) considered the appeal of Spouses Casador abandoned, and consequently, dismissed, for failure to file Appellants' Brief; and b) denied their subsequent motion for reconsideration.

**WHEREFORE**, the petition is **DENIED** for utter lack of merit. The Resolutions dated March 13, 2015 and July 16, 2015 of the Court of Appeals in CA-G.R. CV No. 103051 are **AFFIRMED**.

**SO ORDERED.**" (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021.)

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> See *Sindophil, Inc. v. Republic*, G.R. No. 204594, November 7, 2018.

<sup>39</sup> See *Foculan-Fudalan v. Sps. Ocial*, 760 Phil. 815, 830 (2015).

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

28 JUL 2021

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HON. PRESIDING JUDGE (reg)  
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Las Piñas City  
( Civil Case No. LP-11-0086)

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