

SECOND DIVISION

[G.R. No. 158379, February 29, 2012]

**SPOUSES PONCIANO & PACITA DELA CRUZ, PETITIONERS, VS.
HEIRS OF PABLO SUNIA, ETC.,^[1] RESPONDENTS.**

D E C I S I O N

SERENO, J.:

Petitioners are assailing the twin Resolutions^[2] of the Court of Appeals^[3] (CA) in CA-G.R. CV No. UDK 0407 dated 6 January 2003 and 27 May 2003, respectively, dismissing the appeal filed before it.

On 24 April 1989, petitioners filed a Complaint with the Regional Trial Court (RTC), Branch 38, Daet, Camarines Norte for the cancellation of Original Certificate of Title (OCT) No. P-9681 under the name of Pablo Sunia. The contested property was a parcel of agricultural land with an area of 8,212 square meters located at Matnog, Basud, Camarines Norte.

Petitioners alleged that they had bought the property sometime in 1967 from spouses Ciriaco and Margarita Labaro and since then, religiously paid the corresponding real estate taxes. Subsequently, after the survey conducted by the then Bureau of Lands, the lot's area was plotted to be 8,078 square meters. Petitioners were also eventually issued a Certification in the name of Ponciano dela Cruz for a Free Patent dated 25 April 1983.

It was sometime in 1979 or 1980 that they learned that the property they were occupying was included in OCT No. P-9681 in the name of Pablo Sunia. It appears that the spouses Labaro sold a lot with an area of three hectares in favor of one Francisco Tambunting. Thereafter, Tambunting mortgaged this lot to Philippine National Bank (PNB). The property then became the subject of a foreclosure proceeding and was eventually sold to Pablo Sunia.

During trial, petitioners presented evidence that tended to show that 4,571 square meters of petitioners' property overlapped with the three-hectare property of Sunia.^[4] On the other hand, respondents presented a Deed of Reconveyance^[5] wherein petitioners reconveyed the contested property to the Labaros. Respondents alleged that the contested property was included in the three-hectare land Pablo Sunia bought from PNB.

On 27 March 2001, after trial on the merits, the RTC promulgated its Decision,^[6] the dispositive portion of which is as follows:

WHEREFORE, judgment is hereby rendered in favor of the defendants and against the plaintiff:

1. ordering the dismissal of the complaint;
2. declaring the plaintiffs without any right to the 8,078 square meters which they claim [sic] included in the defendants['] title, and ordering them to vacate and surrender the same to the defendants;
3. ordering plaintiffs jointly and severally to pay defendants by way of damages P25,000.00 for attorney's fees and P10,000.00 for litigation expenses[,] the latter having been compelled to litigate.

No Costs.

SO ORDERED.

On 8 May 2001, petitioners filed a Motion for Reconsideration. On 25 July 2001, the RTC issued an Order^[7] denying the motion.

Subsequently, on 9 August 2001, petitioners filed a Notice of Appeal via registered mail.^[8] It was received by the RTC on 14 August 2001. Thus, on 17 August 2001, the RTC issued another Order^[9] stating as follows:

The Notice of Appeal having been filed within the reglementary period, let, therefore, the entire records of this case be forwarded to the Court of Appeals for final determination.

SO ORDERED.

It appears that petitioners, through their son Roberto dela Cruz, exerted efforts to pay the docket fees for the appeal sometime in the second week of August 2001. However, the RTC personnel refused to accept the payment and insisted that petitioners instead pay at the CA in Manila. Petitioners tried to pay again sometime in October 2001, in November 2001, and on 23 April 2002, to no avail.^[10]

On 12 April 2002, petitioner received a CA Resolution dated 9 April 2002 directing the Branch Clerk of Court of the RTC to forward proof of payment of the docket fees.

On 24 April 2002, petitioners filed a Manifestation and Motion asking the CA to allow them to pay the docket fees, explaining why they were unable to do so within the period required by the Rules of Court.

On 4 October 2002, the CA issued a Resolution requiring petitioners to submit official receipts as proof of payment of the docket fees. Again, petitioners filed a Manifestation^[11] explaining to the court why they had failed to pay the required docket fees.

Eventually, on 6 January 2003, the CA issued the first assailed Resolution dismissing the appeal. It held that petitioners only had until 8 August 2001 to file their Notice of Appeal. In reaching this conclusion, it counted fifteen (15) days from 25 July 2001, the date when the RTC promulgated the Order denying the Motion for Reconsideration of petitioners. However, the CA considered 25 July 2001 as the first day in the counting. It held that since petitioners had filed their Notice of Appeal on

9 August 2001, they had filed out of time.

The CA also held that petitioners failed to pay the docket fees within the reglementary period. It apparently believed petitioners' allegations that the court personnel of the RTC refused the payment of docket fees. Nevertheless, the CA stated that since the payment had been made "sometime in the second week of August 2001," the payment was deemed likewise to have not been made on time:

There is no showing that the appeal[,] docket and other legal fees were paid within the time to file an appeal. The Affidavit of Roberto de la Cruz , the son of plaintiffs[,] averred that sometime in the second week of August 2001, he went to the court (RTC Branch 38) to pay the required appeal/docket fee. However, he was told by one of the court's staff that the appeal/docket fee should be paid at the Court of Appeals, Manila and not at the lower court. (p. 36, Rollo).

Sec. 4, Rule 41 of the 1997 Rules of Civil Procedure provides that "(W)ithin 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. xxx"

In the case at bench, note that plaintiffs did not file the appellate docket and other legal fees within the period to file an appeal but only "(s)ometime in the second week of August 2001," when Roberto De la Cruz went to the court to pay the docket fees. Records will show that the notice of appeal was mailed, and not personally filed.

In view thereof, the motion to dismiss is hereby **GRANTED**. Accordingly, the instant appeal is **DISMISSED** for being filed beyond the reglementary period provided for by law and failure to pay the appellate docket fees.

SO ORDERED.^[12]

Petitioners sought reconsideration of the Resolution of the CA, to no avail. In its 27 May 2003 Resolution, the CA explained that the right to appeal is not a natural right or a part of due process.

Petitioners are now before us, alleging that the CA erred in dismissing their appeal based on technicalities. They allege that had it applied a liberal interpretation of the Rules of Procedure, the case would have been given due course owing to the factual issues of the case – in particular, the contradictions apparent in the testimonial and documentary evidence.

In their Comment,^[13] respondents did not squarely address the lone issue raised by petitioners. Instead, the former insisted that the trial court did not commit any error in deciding the case in their favor.

Respondents' Comment triggered an exchange of factual allegations. Thus, by the time the parties were required to file a memorandum in support of their case,