

## FIRST DIVISION

[ G.R. No. 144118, July 21, 2004 ]

**SAINT LOUIS UNIVERSITY AND ENGR. CHRISTINE O. BAUTISTA,  
PETITIONERS, VS. WINSTON JOSEPH Z. CORDERO AND SPS.  
LUCIO CORDERO, AND EVELYN CORDERO, RESPONDENTS.**

### D E C I S I O N

**DAVIDE JR., J.:**

This case stemmed from an accident that occurred during an experiment in the Organic Chemistry class at Saint Louis University (SLU), Baguio City, when chemicals known as anhydrous sodium acetate and barium hydroxide burst from a hard test tube and hit the face and eyes of a student, herein respondent Winston Joseph Z. Cordero, causing his right eye to be totally blind.

On 3 August 1995 at about 1:00 p.m. at the College of Chemical Engineering in SLU, Winston was doing a laboratory experiment on Hydrocarbons-Alkanes Methane during his class in Organic Chemistry under his teacher petitioner Engr. Christine Bautista. Although the textbook used in class recommended the use of goggles for the experiment, there were none available and the students were directed to proceed with the experiment without them.<sup>[1]</sup> In the course of the experiment, the chemicals, particularly anhydrous sodium acetate and barium hydroxide, popped out of the hard test tube and hit Winston's face and eyes. His classmates then brought him to SLU hospital where he stayed for two days.

Feeling that the medical facilities at SLU Hospital were inadequate, Winston's parents, respondents spouses Lucio Cordero and Evelyn Cordero, chartered a plane to bring him to Manila. He was confined at St. Luke's Medical Center, Quezon City, for five days. Despite medical attendance, Winston's right eye became smaller, slitted, and totally blind. He could see with his left eye but with great discomfort.<sup>[2]</sup> Subsequently, or on 5 October 1995, he was operated upon and was implanted with an artificial right eye.

On 24 January 1996, the Corderos filed a complaint<sup>[3]</sup> for damages against SLU; its President Fr. Joseph Van Den Dailen; the Chairman of the Chemical Engineering Department Engr. Josephine Aries Dulay; the Dean of the College of Engineering and Architecture Eufracio de los Reyes; and the Instructor in Winston's class, Engr. Bautista. The complaint was anchored on gross negligence on the part of the defendants resulting in the infliction of injuries on Winston. It was assigned to Branch 24 of the Regional Trial Court of Echague, Isabela.

All the defendants, through their counsel Atty. Galo R. Reyes, the Dean of the SLU College of Law, filed a joint answer<sup>[4]</sup> denying liability.

On 30 May 1998, after a full-blown trial, a judgment<sup>[5]</sup> was rendered declaring petitioners SLU and Engr. Bautista guilty of gross negligence and ordering them to pay Winston the following:

- A. P48,915.32 for his medical treatment, costs of medicines and necessary transportation expenses;
- B. P40,000 for his loss of right eye and injury to the left eye;
- C. P3,000 for cost of artificial right eye;
- D. P50,000 for hospitalization and doctor's fee to fit the artificial eye;
- E. P500,000 as moral damages;
- F. P500,000 as exemplary damages; and
- G. P20,000 as attorney's fee.

It, however, absolved the rest of the SLU officers from any liability and dismissed the complaint as far as the Cordero spouses are concerned.

On 25 June 1998, the Corderos filed a Motion for Reconsideration asking the trial court to increase the amount of damages awarded to Winston and to include an award to the Cordero spouses. On the same day, the petitioners filed a Notice of Appeal and opposed the Motion for Reconsideration of the Corderos for having been filed out of time.

On 17 December 1998, the trial court, now acting through a different judge, issued an order<sup>[6]</sup> granting the motion for reconsideration of the Corderos by increasing the award of exemplary damages from P500,000 to P1 million, and specifying the amount of attorney's fees as "20% of all the judgment in favor of the plaintiffs." In addition, the trial court ordered Engr. Bautista and SLU to pay the Cordero spouses the amount of P1 million as moral damages.

On 12 January 1999, the petitioners filed their notice of appeal with the trial court. While noting that the docket and other lawful fees had not been paid, the trial court nevertheless ruled that the petitioners had filed the notice of appeal on time. It ordered the entire records of the case to be forwarded to the Court of Appeals.<sup>[7]</sup> The petitioner received this order on 2 February 1999.

On 23 February 1999, the petitioners filed a Motion to Admit Docket and Filing Fees<sup>[8]</sup> in the Court of Appeals. The motion was accompanied by two postal money orders dated 19 February 1999. To explain the delay, petitioner's counsel stated that he did not know the amount to be paid or the manner in which to pay it. The motion rationalizes in this wise:

1. The Defendants, Saint Louis University and Engr. Christine O. Bautista filed their Notice of Appeal with the Regional Trial Court, Branch 24, Echague, Isabela as of June 6, 1999;

2. At the time of the filing of the notice of Appeal, Defendants and even counsel did not know the amount to be paid;
3. Furthermore, because of the distance between Baguio City and Echague, Isabela, herein counsel was unsure of the manner of payment to the Regional Trial Court of the docket and filing fees;
4. As of February 2, 1999, herein counsel received the order of the Regional Trial Court, Branch 24, Echague, Isabela ... .
5. At this time, upon inquiry with the Office of the Clerk of Court of Regional Trial Court of Baguio City, it is determined that the amount P420.00 shall be paid....<sup>[9]</sup>

In a Resolution dated 21 September 1999,<sup>[10]</sup> the Court of Appeals denied petitioners' motion to admit docket and filing fees. Their motion for reconsideration from the aforesaid resolution was likewise denied.<sup>[11]</sup>

In this petition for *certiorari*, the petitioners argue that (1) the gross negligence of counsel that results in the denial of due process, as in this case, cannot bind the client; and (2) the Court of Appeals gravely abused its discretion when it dismissed petitioners' appeal on a technicality contrary to the jurisprudential stricture against applying technicalities to frustrate the ends of substantial justice.

The petitioners aver that the failure of their former counsel to pay the docket fees on time, which resulted in the dismissal of the appeal, constituted gross negligence. Considering that their counsel was a retired law dean with decades of law practice, the reasons he offered for the delay showed a reckless abandon of the case that can only be characterized as gross negligence.

Moreover, the petitioners assert that since technical rules are intended to serve, not to frustrate, the ends of justice, their case calls for bending the rules in their favor. To bolster their claim, they invoke the Court's pronouncements in *Amil v. Court of Appeals*,<sup>[12]</sup> which applied the exception to the principle that a client is bound by the gross negligence of his lawyer; thus:

In the instant case, petitioner was likewise declared in default because of the failure of his former counsel, Atty. Piñero, to file within the reglementary period an answer to private respondents' petition for consolidation of ownership. Atty. Piñero likewise failed to take any action to protect the interests of petitioner in subsequent proceedings before the trial court, such as by filing an opposition to the motion to declare him in default or by moving to set aside the order of default. It was Atty. Saleto J. Eramas, the present counsel of petitioner, who filed the motion for new trial after a judgment by default had been rendered against him. As a consequence of his former counsel's gross negligence, petitioner was deprived of his day in court.

Secondly, as we have emphasized, trial courts should be liberal in setting aside orders of default and granting motions for new trial if the defendant appears to have a meritorious defense. Parties must be given every opportunity to present their sides. The issuance of orders of default

should be the exception rather than the rule, to be allowed only in clear cases of obstinate refusal by the defendant to comply with the orders of the trial court.

Thirdly, petitioner appears to have a meritorious defense. Indeed, it would appear that the contract between petitioner and private respondents is an equitable mortgage rather than a *pacto de retro* sale.

[13]

Based on the foregoing, the petitioners argue that their case is similar to *Amil* because they have a meritorious defense sufficient to justify the relaxation of procedural rules.

For their part, the respondents cite jurisprudence enforcing the principle that the act, mistake, or negligence of counsel is binding on his client. They point out the attempts of the petitioners to mislead the Court of Appeals when they claimed to have "sent two postal money orders directly to the Court of Appeals two days later," thereby implying that they substantially complied with the requirement to pay docket fees, while at the same time refusing to cite a date of reference from which the "two days" would run. The respondents, therefore, maintain that the dismissal by the Court of Appeals was not whimsical because it was based on the reasonable application of the Rules of Court.

In sum, this Court is called upon to rule on the basic question of whether the dismissal by the Court of Appeals of the appeal was proper when it relied upon the failure of petitioners to abide by the procedural rule regarding the payment of docket fees.[14]

The general rule is that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal.[15] The ruling is based on Section 4, Rule 41 of the 1997 Rules of Civil Procedure, which states:

Sec. 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.

Under the 1997 Rules of Civil Procedure, a notice of appeal must be filed within the 15-day reglementary period reckoned from receipt of the decision or order appealed from; the docket and other lawful fees must also be paid within the same period. Such docket fees shall be paid with the clerk of the court which rendered the judgment or decision appealed from. The place of payment is not optional but a mandatory requirement for the appellant.[16]

In this case, the petitioners were able to take advantage of two opportunities to file a notice of appeal. The first notice of appeal filed on 25 June 1998 manifested their desire to appeal the original decision of the trial court dated 30 May 1998. The second notice of appeal dated 6 January 1999[17] expressed petitioners' intent to appeal the trial court's order dated 17 December 1998, which increased the total amount of damages due the respondents from ₱1,161,915.32 to ₱3,170,298.28. In