

THIRD DIVISION

[G.R. No. 148510, July 21, 2004]

ALBERTO LOPEZ A.K.A. CESAR A. LOPEZ, PETITIONER, VS. HON. COURT OF APPEALS, HON. BENJAMIN ANTONIO, PRESIDING JUDGE OF RTC, BRANCH 170, MALABON, METRO MANILA AND CHERRY PIE LOPEZ, RESPONDENTS.

R E S O L U T I O N

CARPIO MORALES, J.:

Sought to be nullified via petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure are the March 19, 2001, April 26, 2001, and June 8, 2001 Resolutions of the Court of Appeals in CA-G.R. CV No. 6014-UDK, "*Cherry Pie Lopez v. Alberto Lopez a.k.a. Cesar Lopez*".

The antecedents of the case are as follows:

The Regional Trial Court (RTC) of Malabon rendered on June 15, 2000 a decision in Civil Case No. 3023-MN declaring the nullity of marriage between Cherry Pie Lopez and Alberto Lopez a.k.a Cesar Lopez (petitioner). The decision became final and executory based on a certification^[1] dated January 5, 2001.

Petitioner moved to reconsider^[2] the support aspect of the decision but was denied by Order of January 26, 2001.^[3]

On February 8, 2001, the RTC, acting on petitioner's Notice of Appeal^[4] filed on February 7, 2001, gave it due course and directed the transmittal of the records of the case to the Court of Appeals "as soon as possible."

On February 12, 2001, petitioner paid before the RTC a total of Sixty (P60.00) Pesos as docket fees as shown by Official Receipt Nos. 12968987 and 13536702.^[5]

For petitioner's failure to pay the full amount of P520.00 docket fees, the Court of Appeals, by Resolution of March 19, 2001,^[6] dismissed his appeal.

Petitioner filed a Motion for Reconsideration^[7] of the appellate court's March 19, 2001 Resolution, but it was denied by Resolution of April 26, 2001^[8] on the grounds that the motion did not contain an affidavit or proof of service and that it did not state on its face the material dates determinative of its timeliness.

Petitioner filed a Motion for Reconsideration of the April 26, 2001 Resolution which was denied by Resolution^[9] of June 8, 2001 on the ground that no second motion by the same party can be entertained.