

THIRD DIVISION

[G.R. No. 136477, November 10, 2004]

**M.A. SANTANDER CONSTRUCTION, INC., PETITIONER, VS.
ZENAIDA VILLANUEVA, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Is non-payment of the docket fees and other legal fees a valid ground to dismiss an appeal? This is the only issue in the instant case presented for our resolution.

Challenged in this petition for review are the Resolutions^[1] of the Court of Appeals dated November 5, 1998 and December 4, 1998 in CA-G.R. CV No. 60439. The Appellate Court dismissed the appeal taken by M.A. Santander Construction, Inc., petitioner, from the adverse Decision of the Regional Trial Court (RTC), Branch 15, San Mateo, Rizal in Civil Case No. 1153-95 for non-payment of docket and other lawful fees.

The instant case stemmed from a complaint for a sum of money filed with the RTC of San Mateo, Rizal on April 11, 1995 by respondent Zenaida Villanueva against petitioner, docketed as Civil Case No. 1153-95. After hearing the case on the merits, the trial court rendered an undated Decision in favor of respondent.

On March 9, 1998, petitioner interposed an appeal to the Court of Appeals.

As earlier mentioned, the Court of Appeals dismissed the appeal for petitioner's failure to pay the required appeal fees.

In its motion for reconsideration, petitioner, through counsel alleged:

"II

With deepest apology to this Honorable Tribunal, herein undersigned counsel **admits that he failed to pay the corresponding docket and other fees** before the Clerk of Court of the Regional Trial Court of San Mateo, Rizal, **for reason that still entertains in his mind the old procedure of waiting from this Honorable COURT for an order/directive to pay the fee before this Honorable COURT OF APPEALS pursuant to the then old standing procedure.**"^[2]

On November 13, 1998, petitioner paid the required fees.

On December 4, 1998, the Court of Appeals denied petitioner's motion for reconsideration, thus:

"Attached to defendant's Motion for Reconsideration dated November 17, 1998 are xerox copies of OR Nos. 8128693, 3078792, and 7403620, showing its payments of the appellate docket and other lawful fees on November 13, 1998. Obviously, such payments were made only after defendant's receipt of the resolution of November 5, 1998. Not being in accord with Section 4 of Rule 41, which requires payment of the docket and other lawful fees within the period to appeal, the payments made by defendant on November 13, 1998 did not cure the failure to perfect an appeal.

WHEREFORE, the motion for reconsideration is hereby DENIED for lack of merit.

SO ORDERED."^[3]

Hence, the instant recourse to this Court.

Petitioner contends that an appeal is perfected by the mere filing of a Notice of Appeal. The payment of the docket fee, not being necessary for its perfection, payment should be made only when directed by the court concerned. The Court of Appeals should have liberally interpreted the Rules in keeping with the principle of procedural due process.

Respondent counters that the Court of Appeals did not err when it dismissed petitioner's appeal considering that an appeal fee must be paid within the time for perfecting an appeal.

Petitioner's contention is bereft of merit.

The right to appeal is not a natural right or a part of due process; it is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law.^[4] Thus, one who seeks to avail of the right to appeal must strictly comply with the requirements of the rules,^[5] and failure to do so leads to the loss of the right to appeal.

Rule 41, Section 4 of the 1997 Rules of Civil Procedure, as amended, provides:

"SEC. 4. *Appellate court docket and other lawful fees.* – **Within the period for taking an appeal**, the appellant shall pay to the clerk of the 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.

Failure to pay the appellate court docket and other lawful fees on time is a ground to dismiss the appeal."

The "period for taking an appeal" is fixed by both statute and procedural rules. Batas Pambansa Blg. 129, as amended, provides:

"SEC. 39. *Appeals.* – The period for appeal from final orders, resolutions, awards, judgments, or decisions of any court in all cases shall be **fifteen**