

SECOND DIVISION

[G.R. No. 142316, November 22, 2001]

**FRANCISCO A.G. DE LIANO, ALBERTO O. VILLA-ABRILLE, JR.,
AND SAN MIGUEL CORPORATION, PETITIONERS, VS. HON.
COURT OF APPEALS AND BENJAMIN A. TANGO, RESPONDENTS.**

DECISION

DE LEON, JR., J.:

Before us is a petition for review on certiorari praying for the reversal of the Resolution^[1] dated June 4, 1999 issued by the former Fourteenth Division of the Court of Appeals in CA-G.R. CV No. 60460, which dismissed the appeal of herein petitioners on procedural grounds as well as its Resolution of February 23, 2000 which denied their motion for reconsideration.

The relevant facts are:

On March 30, 1998, the Regional Trial Court of Quezon City, Branch 227 issued a Decision^[2] in Civil Case No. Q-95-24332,^[3] the dispositive portion of which is hereunder quoted:

WHEREFORE, premises considered, defendant San Miguel Corporation is hereby ordered

1. To release to the plaintiff the owner's duplicate copy of TCT No. 299551 in the same [sic] of Benjamin A. Tango;
2. To release to plaintiff the originals of the REM contracts dated December 4, 1990 and February 17, 1992 and to cause the cancellation of the annotation of the same on plaintiffs [sic] TCT No. 299551;
3. To pay the plaintiff the following sums:
 - 3.1.P100,000.00 as and by way of moral damages;
 - 3.2.P50,000.00 as and by way of attorney's fees;
 - 3.3.costs of suit.

SO ORDERED.

In brief, the case involved the cancellation of two (2) real estate mortgages in favor of petitioner San Miguel Corporation (SMC) executed by private respondent Benjamin A. Tango over his house and lot in Quezon City. The mortgages were third party or accommodation mortgages on behalf of the spouses Bernardino and

Carmelita Ibarra who were dealers of SMC products in Aparri, Cagayan. Other defendants in the case were Francisco A.G. De Liano and Alberto O. Villa-Abrille, Jr., who are senior executives of petitioner SMC.

SMC, De Liano and Abrille appealed the aforesaid decision to the Court of Appeals. In due time, their counsel, Atty. Edgar B. Afable, filed an Appellants' Brief^[4] which failed to comply with Section 13, Rule 44 of the Rules of Court. The appellee (herein private respondent) was quick to notice these deficiencies, and accordingly filed a "Motion to Dismiss Appeal"^[5] dated March 8, 1999. Required to comment,^[6] the appellants averred that their brief had substantially complied with the contents as set forth in the rules. They proffered the excuse that the omissions were only the result of oversight or inadvertence and as such could be considered "harmless" errors. They prayed for liberality in the application of technical rules, adding that they have a meritorious defense.

On June 4, 1999, the appellate court issued the first assailed resolution^[7] dismissing the appeal. The Court of Appeals held, as follows:

xxx xxx xxx

As pointed out by plaintiff-appellee, the Brief does not contain a Subject Index nor a Table of Cases and Authorities, with page references. Moreover, the Statement of the Case, Statement of Facts, and Arguments in the Brief has no page reference to the record. These procedural lapses justify the dismissal of the appeal, pursuant to Section 1 (f), Rule 50 of the 1997 Rules of Civil Procedure, as amended, which reads:

"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:

xxx xxx xxx

(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44;"

xxx xxx xxx

Finally, defendants-appellants, despite having been notified of such defects, still failed to amend their Brief to conform to the Rules, and instead, argues that these are mere "harmless errors." In the case of Del Rosario v. Court of Appeals, G.R. No. 113890, February 22, 1996, 241 SCRA 553 [1996], the Supreme Court, in sustaining the dismissal of the petitioner's appeal for non-compliance with the rule on the contents of the Appellant's Brief, ruled that:

"Long ingrained in our jurisprudence is the rule that the right to appeal is a statutory right and a party who seeks to avail of the right must faithfully comply with the rules. x x x These rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by

clogged dockets, these rules need to be followed by appellants with greater fidelity. Their observance cannot be left to the whims and caprices of appellants. x x x"

Having ruled as such, the Court need not resolve plaintiff-appellee's contention that the issues raised in the appeal are mere questions of law.

The appellants (herein petitioners) sought to have the foregoing resolution reconsidered. Simultaneously, through the same counsel, they filed a "Motion to Admit Amended Defendants-Appellants' Brief."^[8] The appellate court denied the consolidated motions in its Resolution^[9] of February 23, 2000.

From the denial of their motion for reconsideration, only petitioner SMC interposed the instant petition.^[10] As grounds for allowance, petitioner contends that:

A

THE COURT OF APPEALS ERRED IN DISMISSING SMC's APPEAL ON THE BASIS OF PURE TECHNICALITIES AND EVEN AFTER SMC HAS CORRECTED THE TECHNICAL DEFECT OF ITS APPEAL.

B

THE COURT OF APPEALS ERRED IN DISMISSING SMC's APPEAL WITHOUT CONSIDERING ITS MERITS.

1. There are valid grounds to reverse the RTC's award of damages in favor of Tango. The award of damages has no basis in fact or in law.
2. The appeal involves a question of substance which should have been resolved by the Court of Appeals, to wit: whether a third party mortgagor can unilaterally withdraw the mortgage without the consent of the debtor and creditor.

The petition has no merit.

The premise that underlies all appeals is that they are merely rights which arise from statute; therefore, they must be exercised in the manner prescribed by law. It is to this end that rules governing pleadings and practice before appellate courts were imposed. These rules were designed to assist the appellate court in the accomplishment of its tasks, and overall, to enhance the orderly administration of justice.

In his definition of a brief, Justice Malcolm explained thus:

xxx[L]et it be recalled that the word "brief" is derived from the Latin brevis, and the French briefe, and literally means a short or condensed statement. The purpose of the brief, as all law students and lawyers know, is to present to the court in concise form the points and questions in controversy, and by fair argument on the facts and law of the case to assist the court in arriving at a just and proper conclusion. *The brief should be so prepared as to minimize the labor of the court in the*

examination of the record upon which the appeal is heard and determined.^[11] [italics supplied]

Relative thereto, Section 13, Rule 44 of the Revised Rules of Court governs the format to be followed by the appellant in drafting his brief, as follows:

Contents of appellant's brief. -- The appellant's brief shall contain, in the order herein indicated, the following:

- (a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;
- (b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;
- (c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;
- (d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;
- (e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;
- (f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;
- (g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks; and
- (h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from.

This particular rule was instituted with reason, and most certainly, it was not intended to become "a custom more honored in the breach than in the observance." It has its logic, which is to present to the appellate court in the most helpful light, the factual and legal antecedents of a case on appeal.

The first requirement of an appellant's brief is a subject index. The index is intended to facilitate the review of appeals by providing ready reference, functioning much

like a table of contents. Unlike in other jurisdictions, there is no limit on the length of appeal briefs or appeal memoranda filed before appellate courts. The danger of this is the very real possibility that the reviewing tribunal will be swamped with voluminous documents. This occurs even though the rules consistently urge the parties to be "brief" or "concise" in the drafting of pleadings, briefs, and other papers to be filed in court. The subject index makes readily available at one's fingertips the subject of the contents of the brief so that the need to thumb through the brief page after page to locate a party's arguments, or a particular citation, or whatever else needs to be found and considered, is obviated.

An assignment of errors follows the subject index. It is defined in this wise:

An assignment of errors in appellate procedure is an enumeration by appellant or plaintiff in error of the errors alleged to have been committed by the court below in the trial of the case upon which he seeks to obtain a reversal of the judgment or decree; it is in the nature of a pleading, and performs in the appellate court the same office as a declaration or complaint in a court of original jurisdiction. Such an assignment is appellant's complaint, or pleading, in the appellate court, and takes the place of a declaration or bill; an appeal without an assignment of errors would be similar to a suit without a complaint, bill, or declaration. The assignment is appellant's declaration or complaint against the trial judge, charging harmful error, and proof vel non of assignment is within the record on appeal.

xxx xxx xxx

The object of such pleadings is to point out the specific errors claimed to have been committed by the court below, in order to enable the reviewing court and the opposing party to see on what points appellant or plaintiff in error intends to ask a reversal of the judgment or decree, and to limit discussion to those points. The office of an assignment of errors is not to point out legal contentions, but only to inform the appellate court that appellant assigns as erroneous certain named rulings; the function of the assignment is to group and bring forward such of the exceptions previously noted in the case on appeal as appellant desires to preserve and present to the appellant.^[12]

It has been held that a general assignment of errors is unacceptable under the rules. Thus, a statement of the following tenor: that "the Court of First Instance of this City incurred error in rendering the judgment appealed from, for it is contrary to law and the weight of the evidence," was deemed insufficient.^[13] The appellant has to specify in what aspect of the law or the facts that the trial court erred. The conclusion, therefore, is that the appellant must carefully formulate his assignment of errors. Its importance cannot be underestimated, as Section 8, Rule 51 of the Rules of Court will attest:

Questions that may be decided.--No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an