

## THIRD DIVISION

[ G.R. No. 137761, April 06, 2000 ]

**GABRIEL LAZARO AND THE HEIRS OF FLORENCIA PINEDA AND  
EVA VIERNES, PETITIONERS, VS. COURT OF APPEALS AND  
SPOUSES JOSE AND ANITA ALESNA, RESPONDENTS.**

### D E C I S I O N

**PANGANIBAN, J.:**

Failure to pay docket and other lawful fees within the prescribed period is a ground for the dismissal of an appeal. This rule cannot be suspended by the mere invocation of "the interest of substantial justice." Procedural rules may be relaxed only in exceptionally meritorious cases.

The Case

Before us is a Petition for Certiorari under Rule 65 assailing two Resolution, dated July 31, 1998 and December 28, 1998, both promulgated by the Court of Appeals<sup>[1]</sup> (CA) in CA-G.R. CV No. 60094. In the first Resolution, the CA ruled:

"For resolution is a motion to reconsider this Court's Resolution dismissing the appeal for failure of appellants [herein private respondents] to pay the prescribed docketing fees pursuant to Section 4, Rule 41 of the 1997 Rules on Civil Procedure.

"X X X X X X X X X

"Copy of the judgment appealed from was received by appellants on December 16, 1997 and their notice of appeal was filed on December 19, 1997.

"The motion for reconsideration of this Court's Resolution was filed on time, but the attached official receipt No. 2768290 evidencing payment of the required docketing fees was dated June 26, 1998, almost six (6) months after the last day to file notice of appeal. However, appellants prayed that this Court's June 17, 1998 resolution be set aside, lifted, and this appeal reinstated, citing 'interest of substantial justice.'

"In the light of the foregoing, appellants' June 26, 1998 motion is hereby *GRANTED*."<sup>[2]</sup>

In its second Resolution, the CA denied reconsideration in this wise:

"For all the foregoing, there being no cogent or compelling reason to warrant reconsideration of this court's resolution dated July 31, 1998, the motion of appellees is hereby ***DENIED.***"<sup>[3]</sup>

### **The Facts**

Before the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya (Branch 27), Spouses Jose and Anita Alesna, private respondents herein, filed a civil action for annulment of title, reconveyance and damages (with prayer for preliminary injunction)<sup>[4]</sup> against Petitioners Gabriel Lazaro and the heirs of Florencia Pineda and Eva Viernes.

After trial, the RTC rendered judgment in favor of the petitioners. Thereafter, the private respondents filed a Notice of Appeal before the trial court.<sup>[5]</sup>

In a Resolution dated June 17, 1998, the CA<sup>[6]</sup> dismissed the appeal for failure of herein private respondents to pay the required docket fees within the prescribed period. Thereafter, it issued its first assailed Resolution dated July 31, 1998 granting their Motion for Reconsideration and reinstating the appeal.

Subsequently, the petitioners also filed their own Motion for Reconsideration assailing the said Resolution. As earlier stated, the CA denied their Motion.

Hence, this Petition.<sup>[7]</sup>

### **Ruling of the Court of Appeals**

In reinstating the appeal despite the failure of herein private respondents to pay the docket fees within the prescribed period, the Court of Appeals invoked "the interest of substantial justice." It did not elaborate however. No specific circumstance or any other explanation was cited in support of its ruling.

### **Issue**

In their memorandum, petitioners submit for the consideration of the Court this lone question: "x x x [H]as the respondent appellate court acted without or in excess of jurisdiction, and/or with grave abuse of discretion in issuing the questioned Resolutions dated July 31, 1998 and December 28, 1998"?<sup>[8]</sup>

### **This Court's Ruling**

The Petition is meritorious.

### **Main Issue:** **Timely Payment of CA Docket Fees**

The Rules of Court, as amended, specifically provides that appellate court docket and other lawful fees should be paid within the period for taking an appeal. Hence, Section 4 of Rule 41 reads: