

SECOND DIVISION

[G.R. No. 140162, November 22, 2000]

**AYALA LAND, INC., PETITIONER, VS. SPOUSES MORRIS CARPO
AND SOCORRO CARPO, RESPONDENTS.**

DECISION

MENDOZA, J.:

This is a petition for review of the resolution^[1] of the Court of Appeals, dated May 14, 1999, dismissing petitioner's appeal from the summary judgment of the Regional Trial Court, Branch 255, Las Piñas City in Civil Case No. 96-0082 for its failure to pay the full amount of docket fees as well as the appellate court's resolution, dated September 15, 1999, denying petitioner's motion for reconsideration.

The facts are undisputed.

On March 10, 1995, herein respondent spouses Morris and Socorro Carpo brought an action in the Makati Regional Trial Court against Ayala Land Corporation and Property Ventures Corporation for quieting of title. In their complaint, respondents claimed to be the true and lawful owners of a 171,309-square meter parcel of land in Las Piñas registered under Transfer Certificate of Title No. 296463 in their names. They sought the annulment of the following titles in the defendants' name: TCT Nos. T-125945, T-4366, T-4367, T-4368, and all other titles derived therefrom. Respondents later amended their complaint by changing the name of Ayala Land Corporation to that of Ayala Land, Inc. (ALI).

The case was subsequently transferred to the Regional Trial Court of Las Piñas where it was re-docketed as Civil Case No. 96-0082 and assigned to Branch 255.

On December 17, 1996, ALI moved for summary judgment. As its motion was denied, ALI filed a petition for certiorari with the Court of Appeals which, on September 25, 1997, rendered a decision ordering the trial court to render summary judgment. ALI took exception to the resolution of the Court of Appeals and asked that summary judgment be rendered by it but the appellate court denied ALI's motion.

ALI filed a petition for review^[2] with this Court assailing the Court of Appeals' refusal to render summary judgment. Respondents also filed a petition for review^[3] with this Court assailing the Court of Appeals' ruling that summary judgment was proper. Both petitions were dismissed by this Court.

Accordingly, on December 22, 1998, the trial court rendered summary judgment finding respondents' title superior to that of ALI because the latter was based merely on a survey plan which was not approved by the Director of the Bureau of

Lands. The dispositive portion of its decision reads:^[4]

WHEREFORE, in the light of the foregoing and the prevailing jurisprudence on the matter, judgment is hereby rendered:

(a) Declaring TCT No. 296463 in the name of the plaintiffs Spouses Morris G. Carpo and Socorro R. Carpio as valid and legal, and superior to that of defendant Ayala's TCT No. T-5333;

(b) Declaring TCT No. T-5333, TCT No. 125945, TCT No. T-6055, TCT No. 4266, TCT No. 4367 and TCT No. 4368 and their derivatives as null and void;

(c) Ordering the defendant Ayala Land, Inc. to pay the sum of P100,000.00 as attorney's fees;

(d) To pay the costs.

SO ORDERED.

On January 5, 1999, ALI filed with the trial court a notice of appeal. On the same date, it paid P415.00 for docket and other lawful fees as assessed by the cash clerk of the trial court.^[5]

On May 14, 1999, the Court of Appeals issued the first of its assailed resolutions dismissing ALI's appeal on the ground that it failed to pay the full amount of the required docket fee. It appears that per its computation, the amount paid by ALI was P5.00 short of the correct amount.

After paying P5.00 on June 7, 1999, ALI moved for reconsideration on June 8, 1999. But on September 15, 1999, the Court of Appeals denied ALI's motion.

ALI, therefore, filed the instant petition for review on October 13, 1999.

On November 17, 1999, this Court denied ALI's petition for review. The resolution denying the petition for review stated:^[6]

Petitioner contends that the dismissal of its appeal by the Court of Appeals is too harsh a sanction for the P5.00 deficiency in the payment of the required legal fees. The contention has no merit. It is settled that the perfection of an appeal within the reglementary period is not only mandatory but also jurisdictional. Failure to comply with the requirement for the timely payment of full appeal fees renders the decision final since appeal is only a statutory privilege and, therefore, it should be exercised in the manner provided by law. As correctly ruled by the Court of Appeals, §1 of Rule 50, in relation to §4 of Rule 41, of the 1997 Rules of Civil Procedure authorizes the dismissal of the appeal for failure to pay the full amount of the required docket and other lawful fees.

Moreover, even on the merits, the instant petition should be denied for failure to clearly show that the appeal from the decision of the trial court is meritorious. There is no showing that the trial court erred in nullifying petitioner's certificate of title over the subject parcel of land. In *Republic Cement Corp. v. Court of Appeals*, 198 SCRA 734 (1991), it was held that any title emanating from a survey plan, which is not approved by the Director of the Bureau of Lands, is irregular and void. In the instant case, the trial court found that petitioner had admitted in its answer to the complaint that its title and that of the respondents both originated from Decree No. 131141, issued on October 15, 1969, in the name of Apolonio Sabater. Petitioner, however, failed to show that its certificate of title is based on a survey plan duly approved by the Director of Bureau of Lands. The trial court also found that while respondents' title indicated that the survey of the subject parcel (of) land in their favor was made on January 4-6, 1927, petitioner's title showed July 28, 1930 as the date of survey. The trial court, therefore, rightly concluded that respondents' predecessor-in-interest had claimed ownership over the subject property earlier than petitioner's predecessor-in-interest.

. . . .

On December 13, 1999, ALI moved for a reconsideration arguing that (1) in similar cases where the error in computing the amount of docketing fees was committed by officers of the courts, such as the clerk of court, this Court allowed appeals on the principle that every citizen has the right to rely on the presumption of regularity in the performance by public officers of their duties; and (2) the only issue in this case is whether the Court of Appeals correctly dismissed its appeal on the ground that it failed to pay the required docket fees and not also the merits of the trial court's summary judgment in Civil Case No. 96-0082.

On January 19, 2000, this Court granted ALI's motion for reconsideration and reinstated its petition for review.

The sole issue in the present case is whether or not the Court of Appeals erred in dismissing ALI's appeal for failure to pay the correct amount of docket and other lawful fees.

In their Comment, respondents contend that payment of the full amount of the docket and other legal fees within the prescriptive period of appeal is mandatory and jurisdictional under Rule 41, §4 of the 1997 Rules of Civil Procedure.^[7] They contend that it is improbable for ALI's counsel not to be familiar with the computation of the appellate court's docket and other fees because it is a big law firm with a large clientele. It is thus patent error to blame the clerk of the trial court for ALI's failure to pay the full amount of the docket fees.^[8] They, therefore, pray that the instant petition for review be denied. On the other hand, ALI prays that

the 14 May 1999 and 15 September 1999 Resolutions of the Court of Appeals in CA-G.R. CV No. 61784, dismissing the appeal of petitioner from the 22 December 1998 Summary Judgment of the Regional Trial