

SECOND DIVISION

[G.R. No. 122860, April 30, 1999]

**ASTA MOSKOWSKY, PETITIONER, VS. COURT OF APPEALS,
ANTONIO C. DORIA, EDGARDO L. ALCARAZ, AND EVANGELINE E.
DORIA, RESPONDENTS.**

R E S O L U T I O N

QUISUMBING, J.:

Subject of the present petition for review on *certiorari* is the decision of the Seventh Division of the Court of Appeals^[1] in CA-G.R. CV-30210, dismissing petitioner's appeal *motu proprio* for non-payment of docket fees in the trial court.

Petitioner herein Asta Moskowsky, a German national, is seeking to recover her investments in an alleged joint venture with private respondents Antonio C. Doria, Edgardo L. Alcaraz, and Evangeline E. Doria. The procedural antecedents of her case are as follows:

On August 10, 1984, petitioner filed a complaint for collection of sum of money and damages^[2] against private respondents, docketed as Civil Case No. 51369, and raffled to the Regional Trial Court of Pasig City, Branch 161.^[3] The complaint filed before the court *a quo* had for its prayer the following:

"WHEREFORE, it is respectfully prayed of this Honorable Court that after trial on the merits, judgment be rendered in favor of the plaintiff and against the defendants, ordering the defendants:

- 1) To return the amount of US\$6,000.00 plus accrued interest to the plaintiff or the equivalent thereof in Philippine currency at the time of payment;
- 2) To reimburse the plaintiff for telephone expenses incurred by her for unauthorized calls between Doria and his patients in the amount of US\$1,016.19 or the equivalent thereof in Philippine currency at the time of payment;
- 3) To reimburse the plaintiff for expenses incurred in connection with the business transactions of Doria at the latter's behest in the amount of US\$724 or the equivalent thereof in Philippine currency at the time of payment;
- 4) To pay the plaintiff moral damages in an amount left to the sound discretion of this Honorable Court;
- 5) To pay the plaintiff exemplary damages in an amount left to the sound

discretion of this Honorable Court;

6) To pay the plaintiff attorney's fees, costs of suit and expenses of litigation in such amount proved at the trial.

On November 16, 1989, after a protracted trial on the merits, the trial court rendered a decision^[4] in favor of petitioner, the dispositive portion of which reads:

"In view of the foregoing, judgment is hereby rendered as follows, ordering the defendants:

1. To pay or refund to the plaintiff the sum of US\$5,400.00 or its equivalent - Philippine peso, plus interest in the amount of 14% p.a. until fully paid;
2. To reimburse the plaintiff the amount of \$724.00 or its equivalent - Philippine peso;
3. To pay damages in the amount of P50,000.00.

To pay the costs.

SO ORDERED."

From that decision, private respondents appealed to the Court of Appeals, raising both factual and legal issues.^[5] The Court of Appeals, however, rendered a decision dated May 5, 1995^[6] dismissing the appeal solely on the ground of plaintiff-appellee's (petitioner's) alleged non-payment of docket fees in violation of the ruling in *Manchester Development Corporation v. Court of Appeals*^[7] as modified in the cases of *Sun Insurance Office Ltd. v. Asuncion*^[8] and *Tacay v. Regional Trial Court*^[9] with the additional finding that petitioner can no longer pay the docket fees since prescription of the action has already set in.

On May 25, 1995, petitioner duly filed a Motion for Clarification and/or Reconsideration^[10] in order to clarify whether the dispositive portion of the decision was referring to the appeal fee or the docket fees payable to the trial court, and in case of the latter, petitioner humbly submitted that the dismissal for non-payment of docket fees is erroneous because plaintiff already paid the docket fees in the trial court, as evidenced by a xerox copy of the official receipt issued by the clerk of court attached to the Motion.

In a Resolution dated November 29, 1995,^[11] the Court of Appeals held that:

"It appearing that the arguments raised in the Motion for Reconsideration submitted by plaintiff-appellee were sufficiently discussed and passed upon in our Decision of May 5, 1995, said Motion for Reconsideration dated May 25, 1995, is DENIED.

Nonetheless, considering that the aforesaid decision dealt with non-payment of docketing fees pursuant to the ruling in *Pantranco North Expressway, Inc. v. C.A. (224 SCRA 477 [1993])*, the dispositive portion of the May 5, 1995 decision is clarified such that what is being ordered