

THIRD DIVISION

[G.R. NO. 147776, July 10, 2007]

**SPS. GUILLERMO MALISON AND AMELITA MALISON,
PETITIONERS, VS. HON. COURT OF APPEALS, SPS. MELCHOR
MARANAN, JR. AND VIRGINIA MARANAN, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

In a Decision dated April 12, 2002, the Regional Trial Court (RTC) of Dumaguete City, Branch 40, dismissed the complaint for Annulment of Document, Quieting of Title and Damages filed by petitioners against respondents.^[1] Petitioners received a copy of the Decision on April 19, 2002. Instead of filing a Notice of Appeal, petitioners filed on April 29, 2002, a Manifestation/Motion alleging that they received a copy of the Decision on April 19, 2002, but pages 1 to 5 thereof cannot be read. Thus, petitioners requested for another copy of the Decision, stating that "until this moment, the plaintiffs cannot be said to have been validly served with a copy of the Decision."^[2] On May 10, 2002, the RTC issued an Order directing its Clerk of Court to furnish petitioners with certified xerox copies of the Decision,^[3] which petitioners received on May 20, 2002.

On May 24, 2002, petitioners filed their Notice of Appeal with the RTC.^[4]

On a motion to dismiss filed by respondents, the Court of Appeals (CA), in a Resolution dated March 18, 2003,^[5] dismissed petitioners' appeal for having been filed out of time. Petitioners filed a motion for reconsideration but it was denied by the CA in a Resolution dated July 8, 2003.^[6]

Hence, the present petition for review attributing the following errors committed by the CA:

(a) THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN TOWING THE LINE WITH THE DEFENDANTS RESORTING TO TECHNICALITY AND ESPOUSING FRAUD AT THE EXPENSE OF SUBSTANTIAL JUSTICE, EQUITY AND FAIR PLAY; AND

(b) FOR UPHOLDING THE GRAVE MISAPPREHENSION BY THE RTC OF THE FACTS AND THE LAW, WHICH IF PROPERLY CONSIDERED WILL SURELY CHANGE THE OUTCOME OF THIS CASE.^[7]

The crux of herein petition is the determination of the timeliness of petitioners' appeal to the CA.

The CA ruled:

In the instant case, although plaintiffs-appellants received an unreadable copy of the decision, it appears that they were fully aware that their complaint was dismissed since the dispositive portion of the decision which they even quoted in the Manifestation/Motion was very clear. From the alleged date of receipt of the decision which contained unreadable pages, it took them ten (10) days, or on April 29, 2002, to file a written request for a clear copy. It took the lower court another eleven (11) days, or on May 10, 2002, to act on the request and another ten (10) days, or on May 20, 2002, to be furnished with a clear copy.

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When plaintiffs-appellants received a copy of the alleged unreadable decision on April 19, 2002, the fifteen (15)-day reglementary period to appeal started to run and was not interrupted by the mere fact that the copy of the decision was unreadable. It was admitted that plaintiffs-appellants already knew that their complaint was dismissed at the time of the receipt of the decision. Hence, during that time, they should have decided whether to appeal the decision which only requires the filing of a one-page notice of appeal. If only plaintiffs-appellants' counsel exercised due diligence in handling the case, he should not have waited for ten (10) days before requesting for a clear copy.^[8]

Petitioners insist that their receipt of the "unreadable copy" of the RTC Decision did not toll the running of the reglementary period within which to appeal. They argue that the Manifestation/Motion^[9] filed before the RTC was actually a motion for reconsideration, and the RTC order directing the Clerk of Court to furnish them a copy of its Decision is an acknowledgment that the "unreadable copy" was not a correct copy of the Decision, and the approval of their notice of appeal meant that the same was filed on time; and that the CA's dismissal of their appeal is a "resurrection" of the lack of due process initially committed by the RTC.^[10]

The petition is impressed with merit.

The right to appeal is neither a natural right nor 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. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.^[11] Nevertheless, it is an essential part of our judicial system and courts should proceed with caution so as not to deprive a party of the right to appeal, but rather, ensure that every party-litigant has the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities.^[12]

Herein petitioners received a copy of the RTC Decision on April 19, 2002, and the reglementary period within which to file the Notice of Appeal started to run on said date, giving petitioners until May 4, 2002 within which to do so. But since May 4, 2002 fell on a Saturday, petitioners had until May 6, 2002 within which to appeal. It appears, however, that the copy of the RTC Decision received by petitioners is illegible, except for the dispositive portion. Thus, petitioners requested for another copy from RTC, which in turn, issued an Order dated May 10, 2002, directing its