

SECOND DIVISION

[G.R. NO. 142535, June 15, 2006]

CARME CASPE, PETITIONER, VS. COURT OF APPEALS AND SUSAN S. VASQUEZ, RESPONDENTS.

DECISION

CORONA, J.:

In this petition for certiorari under Rule 65 of the Rules of Court, petitioner charges respondent Court of Appeals with grave abuse of discretion amounting to lack of jurisdiction in rendering a resolution^[1] on September 14, 1999 which read:

For failure of defendants-appellants^[2] to pay the requisite docket and other lawful fees within the reglementary period, their appeal is DISMISSED pursuant to Sec. 1 (c), Rule 50, in relation to Sec. 4, Rule 41 of the 1997 Rules of Civil Procedure.

The facts follow.

Petitioner was one of the defendants in civil case no. 96-087,^[3] assigned to Branch 258, Regional Trial Court (RTC) of Parañaque. On February 19, 1999, Judge Raul E. de Leon issued a decision^[4] in favor of the plaintiff, now private respondent Susan Vasquez, and against the petitioner.

WHEREFORE, premises considered, judgment is hereby rendered ordering defendant Carme Caspe to pay plaintiff Susan Vasquez y Soriano, the following:

1. The amount of Php67,234.59 representing her medical expenses;
2. The amount of Php200,000 as and by way of moral damages;
3. The amount of Php100,000 as and by way of reasonable attorney's fees; and
4. The costs of suit.^[5]

On March 17, 1999, a notice of appeal^[6] was filed by petitioner's counsel but without paying the docket and other lawful fees.

On September 14, 1999, the Court of Appeals dismissed the appeal for failure to pay the docket and other fees within the period for taking an appeal.^[7]

On October 1, 1999, petitioner's counsel moved for reconsideration^[8] on the ground of excusable mistake in failing to pay the requisite fees. Petitioner was allegedly out of town and counsel had to wait for his return in order to get payment for the fees. However, due to counsel's workload, he overlooked the payment. Enclosed in the motion was the postal money order in the amount of P420 as docket fees.^[9]