

FIRST DIVISION

[G.R. No. 120804, June 14, 1996]

FLORENTINO PEDROSA, PETITIONER, VS. SPOUSES EVELYN AND REX HILL, AND THE COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

This petition for certiorari provides an occasion to revisit the doctrine that perfection of an appeal within the reglementary period is not only mandatory but also jurisdictional so that failure to do so renders the questioned decision final and executory, and deprives the appellate court of jurisdiction to alter the final judgment much less to entertain the appeal.

Petitioner Florentino Pedrosa filed a complaint for sum of money against respondent spouses Evelyn and Rex Hill.^[1] On 8 April 1994 the trial court rendered judgment ordering respondent spouses to pay petitioner the sum of P148,153.24 with legal interest plus costs of the suit.

The Hill spouses elevated the case to the Court of Appeals. On 8 December 1994 they were required by the appellate court to pay the docket fees within fifteen (15) days from notice thereof with a warning that non-compliance therewith would necessarily warrant the abandonment and dismissal of their appeal. Respondent spouses failed to pay the docket fees within the fifteen-day (15-day) period prescribed by the Court of Appeals.

On 7 April 1995 counsel for the Hill spouses filed a *Motion for Admission of Payment of Docket Fee* admitting inadvertence on his part as he failed to take note of the period to pay the docket fees and for having completely forgotten the appealed case. Pedrosa filed not only an *Opposition to Appellants' Motion for Admission of Payment of Docketing Fee* but also a *Motion to Dismiss Appeal*.

On 19 May 1995 the appellate court denied petitioner Pedrosa's *Motion to Dismiss Appeal* and granted instead the *Motion for Admission of Payment of Docket Fee* filed by the Hill spouses. Hence, this petition for certiorari.

On 7 August 1995 we required respondents Evelyn and Rex Hill to comment on the petition until 9 September 1995. But respondent spouses did not still take advantage of this accommodation by the Court. Consequently for failure to file their comment we required their counsel to explain why he should not be disciplinarily dealt with or held in contempt.

By way of explanation Atty. Ignacio Moleta averred that he misplaced the resolution of the Court requiring them to file comment. As regards the favorable resolution on the admission of the payment of the docket fees despite the delay he maintained

that the appellate court did not abuse its discretion.

We disagree. In *Republic v. Register of Deeds of Quezon*^[2] we held-

Appeal is an essential part of our judicial system. As such, courts should proceed with caution so as not to deprive a party of the right to appeal, particularly if the appeal is meritorious. Respect for the appellant's right, however, carries with it the corresponding respect for the appellee's similar rights to fair play and justice. Thus, appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court.

Section 5 of Rule 46 of the Rules of Court emphasizes the duty of appellant upon receipt of the notice to pay docket fees-

It shall be the duty of the appellant, within fifteen (15) days from the date of the notice referred to in the preceding section, to pay to the clerk of the Court of Appeals the fee for the docketing appeal x x x

Payment in full of docket fees within the prescribed period is mandatory. Non-compliance therewith may cause the dismissal of the appeal pursuant to Sec. 1, Rule 50 of the Rules of Court-

Sec. 1. *Grounds for dismissal of appeal.*-An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds x x x (d) Failure of the appellant to pay the docketing fee as provided in section 5 of Rule 46 x x x

Squarely in point is *Guevarra v. Court Appeals*.^[3] In that case docket fees were not paid within fifteen (15) days as required by the Court of Appeals. Instead, they were paid forty-one (41) days late allegedly due to "inadvertence, oversight and pressure of work." The appeal was dismissed by the Court of Appeals. When the case was elevated to us, we said-

It is the "duty of the appellant" in the Court of Appeals," "within fifteen (15) days from the date of the notice referred in the preceding section, to pay to the clerk of the Court of Appeals the fee for the docketing of the appeal." The appellants did not comply seasonably with this duty. Concededly, they paid forty one (41) days late. For such tardiness, they must suffer the sanction imposed by the Rules of Court- dismissal of their appeal x x x

In *Palteng v. Court of Appeals*^[4] we pronounced that there was no abuse of discretion in the Court of Appeals' ruling that there had been proper and adequate notice to defendants (petitioners) to pay the docket fees, a requirement that they failed to observe, and as failure to pay the docket fee is ground for dismissal of an appeal, the Court of Appeals acted correctly in issuing the resolution in question.

Earlier in *Lee v. Republic of the Philippines*^[5] we decided that even though half of the appellate court docket fee was deposited, no appeal was deemed perfected where the other half was tendered after the period within which payment should