

## **NINETEENTH DIVISION**

**[ CA-G.R. SP NO. 06407, January 26, 2015 ]**

**SPOUSES EMMANUEL FLORES AND DAISY FLORES,  
PETITIONERS, VS. THE HON. HERMES MONTERO PRESIDING  
JUDGE OF RTC-59 AS NOMINAL PARTY; SPOUSES JOSE PAULIN  
AND ELEODORA GANHINHIN AND SPOUSES GERSHON N.  
DULANG AND LUZVIMINDA TAN DULANG, RESPONDENTS.**

### **D E C I S I O N**

**LAGURA-YAP, J.:**

This is a Petition for Certiorari<sup>[1]</sup> filed pursuant to Rule 65 of the Rules of Court, seeking to assail the Orders dated July 14, 2011<sup>[2]</sup> and September 2, 2011,<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 59 of Toledo City, in Civil Case No. T-862 entitled Spouses Emmanuel Flores and Daisy Flores vs. Spouses Jose G. Paulin and Eleodora Ganhinhin and Spouses Gershon N. Dulang and Luzviminda Tan Dulang.

The July 14, 2011 Order denied the Notice of Appeal of herein petitioners against the RTC's May 26, 2011 Decision,<sup>[4]</sup> thus:

"The Notice of Appeal dated June 9, 2011 filed by the (petitioners), through counsel, is defective, because of the following reasons:

(1) The lawyer concerned failed to indicate the date of issue of his MCLE Certificate of Compliance, a violation of Bar Matter No. 1922- which requires that the date of issue must be indicated in the pleading filed with the court- otherwise, the same may be expunged from the record; and

(2) There is failure of the date of official receipt of payment of annual membership dues to the Integrated Bar of the Philippines, on violation of Supreme Court Circular No. 10- which requires the inclusion of the date in all pleadings, motions and papers to be filed in court.

Accordingly, the Notice of Appeal dated June 9, 2011 filed by the (petitioners), through counsel, is hereby denied.

Furnish the parties concerned with copy of this Order.

SO ORDERED."

While the September 2, 2011 Order denied petitioners' Motion for Reconsideration of the July 14, 2011 Order, as follows:

"It must be emphasized that Bar Matter No. 1922 issued by the Supreme Court en banc on June 3, 2008 states, among others, to wit:

"The court further resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to require practising members of the Bar to indicate in all pleadings filed before the courts of quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records."

It is therefore clear and unequivocal that Bar Matter No. 1922 requires practicing members of the Bar to indicate in all pleadings filed before the courts xxx the Number and Date of Issue of their MCLE Certificate of Compliance or Certificate of Exemption xxx. Failure to disclose the required informations would cause the dismissal of the case and the expunction of the pleadings from the record.

A Notice of Appeal is a pleading in contemplation of the law, hence, the same is not exempted from the operation of Bar Matter No. 1922. In other words, it is mandatory for all lawyers to indicate in all pleadings filed with the Court the required informations.

Besides, the "date of issue" of the lawyer's MCLE Certificate of Compliance- as stated in his Motion for Reconsideration dated August 5, 2011- is "September 4, 2008", hence the same is no longer "current", and had already expired when the Notice of Appeal was filed.

Accordingly, the Motion for Reconsideration dated August 5, 2011 , as well as the additional authority dated August 20, 2011, filed by the (petitioners), through counsel, is hereby denied.

Furnish the parties concerned with copies of this Order.

SO ORDERED."

The petition therefore prays 1) that We render judgment annulling the order denying the Notice of Appeal and 2) that the decision of the court a quo which is the subject of the Notice of Appeal be certified for appeal.

The antecedents of the petition, as summarized by petitioners, are as follows:

1. On August 3, 2000, petitioners filed an action for Declaration of Illegality and Nullity of the order of award/issuance of patent original certificate of title no. IP-130300, against Spouse Jose G. Paulin and Eleodora Gahinhin and Spouses Gershon N. Dulang and Luzviminda Tan Dulang. The case was docketed as Civil Case No. T-862 and was assigned to RTC -Branch 59.<sup>[5]</sup> xxx;

2. (Respondents) filed their Answer<sup>[6]</sup> xxx;

3. After trial the court rendered a decision dated May 26, 2011. xxx The decision was received by petitioners on June 8, 2011;

4. That on June 22, 2011, petitioners filed a Notice of Appeal;<sup>[7]</sup> That was fourteen (14) days after they received the decision; docket fees and other filing fees were paid to the court; xxx;

5. That on July 14, 2011, the respondent Judge issued an order denying the Notice of Appeal (moto propio). This order was received by the herein petitioner on July 26, 2011. xxx; Counsel's copy of this order was received on August 4, 2011. xxx;

6. That on August 9, 2011, petitioners filed a Motion for Reconsideration to the order of the court denying the Notice of Appeal.<sup>[8]</sup> xxx;

7. The petitioners' Motion for Reconsideration was denied by the Court in an order dated September 2, 2011 and received by the petitioner on October 28, 2011.

Hence the instant petition, with petitioners' primary assertion that the RTC's denial of their Notice of Appeal curtailed their right to litigate; and for such reason, the court a quo acted without or in excess of its jurisdiction, or with grave abuse of discretion.

Petitioners' reasons for the allowance of their petition,<sup>[9]</sup> are as follows:

"In this particular case, the Notice of Appeal was denied by the Court on the flimsy ground that (petitioners) (their lawyer) failed to indicate in their Notice of Appeal, the date of issuance of their lawyer's MCLE and the date of issuance of the IBP No.850235. These are very technical matters which should give way in favor of substantial justice. Besides we indicated in our Notice of Appeal the MCLE and IBP number. What was missing was only the date of issuance. Further these MCLE and IBP number will apply only to initiatory pleadings which refer to complaint, answer, cross claim, etc. and a Notice of Appeal is not an initiatory pleading, hence not applicable.

In our Motion for Reconsideration we pointed out that approval of Notice of Appeal is a ministerial duty of the Court (Comelec vs. Silva, 286 SCRA 177) . The filing of the Notice of Appeal divest the Court of its jurisdiction over the case, hence the denial of our Notice of Appeal is void ab initio it being filed within the time frame.

In its ruling denying our Motion for Reconsideration, the Court pointed out that the Lawyer's MCLE Compliance No.III is not current as it was issued on September 4, 2008. Be it noted that MCLE compliance 111 is effective until April 2012. Besides undersigned would humbly say that he is among the few lawyers in Cebu City who complied MCLE no. III ahead of time."

## **OUR RULING**