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WHEREFORE, the petition is hereby DISMISSED but respondent Mercantile Corporation of Davao (MERC0) is, nevertheless, ordered to grant the petitioner herein separation pay, equivalent to one (1) month salary for every year of his service.

No pronouncement as to costs.

SO ORDERED.

Fernan (Chairman), Gutierrez, Jr., Paras, Padilla, Bidin, and *Cortes, JJ.*, concur.

SECOND DIVISION

[G.R. No. 55932. March 16, 1987]

IGNACIO DOMALANTA, TEODORO DOMALANTA and DOMINADOR DOMALANTA, *petitioners*, *vs.* **HON. COURT OF APPEALS, SHERIFF OF QUEZON CITY and MAGDALENA BAUTISTA**, *respondents*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; FILING AND SERVICE ; RULE.— The filing of pleadings, appearances, motions and notices, orders and other papers with the Court as required by these rules shall be made by filing them personally with the Clerk of the Court or by sending them by registered mail. In the first case the Clerk shall endorse in the pleadings the date of the mailing of the motions, pleadings or any other papers or payments or deposits, as shown by the Post Office

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stamps on the envelope or the registry receipt, payment or deposit in Court. The envelope shall be attached to the record of the case."

2. **ID.; ID.; ID.; PLEADING SHOULD BE ADDRESSED TO THE COURT WHERE THE CASE IS PENDING.**— The motion for reconsideration was received by this Court on September 23, 1980, or 26 days late. The mailing of the motion to the Clerk of Court of the Supreme Court was not a valid filing of said pleading. The filing of a pleading by registered mail with the Court under Section 1, Rule 13, of the Rules of Court, like service by registered mail under Section 5 of the same rule, requires that the pleading be 'plainly addressed to the court where the case is pending.'

3. **STATUTORY CONSTRUCTION; LIBERAL CONSTRUCTION OF THE RULES; LIBERALITY OF CONSTRUCTION IS NOT APPLICABLE BECAUSE THE DECISION OF THE COURT OF APPEALS IS SATISFACTORILY SUPPORTED BY THE RECORDS.**— On certain occasions, this Court has allowed liberality in the construction of the Rules. The present case, however, does not warrant such liberality because the decision of respondent Court of Appeals is satisfactorily supported by the records.

APPEARANCES OF COUNSEL

Teodoro O. Domalanta for petitioners.
Eduardo Elizalde for private respondent.

D E C I S I O N

PARAS, *J.*:

Magdalena Bautista, a 38-year old widow, owned a house and lot, with an area of 237 square meters, at 473 Santolan Road, Quezon City. It was registered in her name under TCT No. 45238 of the Registry of Deeds of Quezon City.

A portion of the lot was occupied by a house of Tomas Ilao who had been leasing said portion from Magdalena Bautista since 1964. Having obtained from Ilao various amounts (loans)

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which had reached a total of ₱500.00 on August 1, 1956, Magdalena signed a note acknowledging that obligation and promising to sell one-fourth of her lot to him should she fail to pay her debt. Subsequently, Ilao discovered that Magdalena planned to sell her lot to another. So, on February 5, 1960, he caused to be annotated on the original of her title on file in the Register of Deeds for Quezon City, his adverse claim over one-fourth of the property.

On March 17, 1961, Magdalena obtained a loan of ₱3,000.00 from Ignacio Domalanta, offering to mortgage her lot to him as security for the repayment of the debt. The deed of real estate mortgage was prepared by the son of Ignacio Domalanta, Atty. Teodoro Domalanta.

On March 22, 1961, Magdalena through Atty. Teodoro Domalanta as her counsel, filed a petition to cancel Ilao's adverse claim. The petition was denied by the court on April 19, 1961.

Unable to redeem her property when the mortgage obligation matured on March 17, 1962, Magdalena decided to sell it to Atty. Teodoro Domalanta for ₱6,000.00. She executed a deed of absolute sale in his favor on March 29, 1962. (This was *after* the litigation on the adverse claim had ended). Upon the registration of the sale, Magadelana's TCT No. 45239 was cancelled and TCT No. 61132 was issued to Atty. Domalanta.

To recover the possession of the lot from Ilao and cancel Ilao's adverse claim, Atty. Domalanta, as counsel and co-plaintiff of Magdalena Bautista, filed on November 16, 1962 against Ilao a complaint in the Court of First Instance of Quezon City for recovery of possession and ownership of the lot in question. During the pendency of the case Atty. Domalanta conveyed the property to his brother Dominador Domalanta for a stated consideration of ₱8,000.00.

On January 4, 1964, a decision was rendered ordering Ilao to vacate the premises in question and remove his constructions therefrom, as soon as he was paid the sum of ₱500.00 by the plaintiffs, representing the unpaid loan plaintiff Bautista had

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obtained and likewise after such payment, defendant (Ilao) was ordered to pay the sum of ₱10 as monthly rental and ₱10 for monthly water bills upon proof of payment by the plaintiffs to the defendant of the said loan of ₱500.00.

On August 15, 1964, Dominador Domalanta filed an ejectment suit against Magdalena for non-payment of rentals for her occupancy of the property in question.

Magdalena promptly retaliated by filing this suit on August 28, 1964 against the Domalantas — Ignacio, Teodoro and Dominador — praying that the sale which she made in favor of Teodoro Domalanta be reformed and declared an equitable mortgage, and that the titles which had been issued to Teodoro and Dominador Domalanta be annulled. The Court of First Instance of Quezon City rendered a decision the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants by declaring the Deed of Absolute Sale, Exh. 'B' or Exh. '2', to be an equitable mortgage; declaring the Deed of Absolute Sale, Exh. '4', as null and void; ordering the plaintiff to pay to defendants the amount of ₱6,000.00 with legal rate of interest, less the payment of ₱3,143.00 already made; and ordering the defendants to pay to the plaintiff the amount of ₱3,000.00 as attorney's fees, plus costs." (p. 77, *Rollo*).

The Domalantas appealed to the Court of Appeals, which modified the decision to read as follows:

"WHEREFORE, the appealed judgment is hereby modified as follows:

"(1) The deed of absolute sale executed on March 29, 1962 by plaintiff Magdalena Bautista (Exh. B or 2) in favor of Teodoro Domalanta is declared an equitable mortgage;

"(2) The deed of absolute sale executed on May 3, 1963 by defendant Teodoro Domalanta in favor of Dominador Domalanta (Exh. 4) is hereby declared to be an assignment of the former's credit against the plaintiff;

"(3) The plaintiff is ordered to pay into Court, or to defendant-appellant Dominador Domalanta, within ninety (90) days from notice,

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the sum of six thousand pesos (₱6,000.00), with legal rate of interest from March 29, 1962 until the principal obligation is fully paid, and, in default of such payment the mortgaged property shall be sold to realize the mortgage debt and costs.

"(4) The plaintiff shall pay the sum of ₱950.00 to Dominador Domalanta as consideration for the cancellation of the adverse claim, and the quitclaim deed, of Tomas Ilao, with legal rate of interest from July 19, 1964 until fully paid.

"(5) The Register of Deeds of Quezon City is hereby ordered to cancel TCT No. 61132 which was issued in the name of Teodoro Domalanta, as well as TCT No. 68925 in the name of Teodoro Domalanta, and to reinstate TCT No. 45239 of the plaintiff Magdalena Bautista, free from liens and encumbrances except those appearing on the face of the title and the lien of the equitable mortgage herein declared in favor of defendant Dominador Domalanta to secure the payment of his mortgage credit;

"(6) The defendants-appellants Teodoro Domalanta and Dominador Domalanta shall pay solidarily to the plaintiff attorney's fees in the sum of ₱3,000.00;

"(7) The complaint against Ignacio Domalanta is hereby dismissed for lack of a valid cause of action by the plaintiff against him.

"SO ORDERED." (pp. 19-20, *Rollo*)

On September 19, 1980, the Court of Appeals issued the following Resolution —

"The record of this case shows that Our decision modifying the appealed judgment was promulgated on July 30, 1980, and that a copy thereof was received by plaintiff-appellee on August 5, 1980 and by defendants-appellants on August 12, 1980. No motion for reconsideration of the same has been filed, nor a notice or appeal by *certiorari* to the Supreme Court received by Us.

"WHEREFORE, as the decision is final and executory, the Division Clerk of Court is hereby directed to enter the same and to remand the records to the court of origin for execution of judgment." (p. 34, *Rollo*).

It appears, however, that on August 28, 1980, Atty. Domalanta prepared and mailed to —

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The Clerk of Court
Supreme Court
Manila

a motion for reconsideration of the decision. Because it was carelessly misaddressed it did not reach the Court of Appeals until September 23, 1980.

On October 13, 1980, the Court of Appeals denied the motion for reconsideration for being tardy:

"The decision having become final and executory on August 27, 1980, this Court was thereafter divested of jurisdiction over the case except to order the entry of the judgment and remand the records to the court of origin for execution." (p. 38, *Rollo*)

The motion to set aside the Resolutions dated September 19, 1980 and October 13, 1980, was likewise denied by the Court of Appeals in its Resolution dated November 12, 1980. Hence, this petition filed by the Domalantas upon their lone assignment of error —

"THE COURT OF APPEALS ERRED IN NOT GIVING DUE COURSE TO THE MOTION FOR RECONSIDERATION FOR THE JULY 30, 1980 DECISION, BY NOT APPLYING CORRECTLY THE PROVISIONS OF SECTION 1, RULE 13 OF THE RULES OF COURT."

Sec. 1, Rule 13 of the Rules of Court reads —

"That the filing of pleadings, appearances, motions and notices, orders and other papers with the Court as required by these rules shall be made by filing them personally with the Clerk of the Court or by sending them by registered mail. In the first case the Clerk shall endorse in the pleadings the date of the mailing of the motions, pleadings or any other papers or payments or deposits, as shown by the Post Office stamps on the envelope or the registry receipt, payment or deposit in Court. The envelope shall be attached to the record of the case."

In their motion to set aside the resolution dated September 19, 1980 filed before the Court of Appeals, petitioners attached a certification dated October 16, 1980 of postmaster Gonzalo

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Bernardino of the Araneta Center Post Office, Quezon City 3001 that the copy of the decision which was sent by registered mail to Atty. Teodoro Domalanta was received by him on August 13, 1980. However, the same postmaster notified the Court of Appeals on August 29, 1980 that said decision was delivered to and received by Atty. Teodoro Domalanta on "August 12, 1980 per record."

In denying petitioner's motion to set aside resolution, the Court of Appeals correctly ruled —

"While the second certification of the postmaster is questionable, and We are tempted to investigate the matter, nevertheless, We decided to forego such an investigation since it is inconsequential whether the appellants received the decision on August 12, 1980, as previously certified by the postmaster Bernardino, or on August 13, 1980, as it was made to appear in the second certification, for even if the latter were correct, the reglementary period for filing appellants' motion for reconsideration would have expired on August 28, 1980. The motion for reconsideration was received by this Court on September 23, 1980, or 26 days late. The mailing of the motion to the Clerk of Court of the Supreme Court was not a valid filing of said pleading. The filing of a pleading by registered mail with the Court under Section 1, Rule 13, of the Rules of Court, like service by registered mail under Section 5 of the same rule, requires that the pleading be 'plainly addressed to the court where the case is pending.'" (p. 43, *Rollo*)

On certain occasions, this Court has allowed liberality in the construction of the Rules. The present case, however, does not warrant such liberality because the decision of respondent Court of Appeals is satisfactorily supported by the records. We therefore quote with approval the following apt observations of the Court of Appeals:

"After a thorough consideration of the circumstances surrounding the execution of Exh. 'B' or Exh. '2', the Court is convinced that it is an instrument to guarantee the payment of a loan.

"There is no evidence that plaintiff Magdalena Bautista, after the execution of said Exh. 'B' or '2' has ceased to have the complete

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possession of the property supposedly sold. There has been no attempt on the parts of Teodoro Domalanta and Dominador Domalanta to transfer the property to their names for taxation purposes. The evidence showing that plaintiff Magdalena Bautista paid interest of ₱150.00 monthly after the execution of Exh. 'A' and then increased it to ₱300.00 monthly after the execution of Exh. 'B', both to defendant Teodoro Domalanta, is very convincing. The payment of such interests is an indication that the transaction is a loan with interest. Finally, notwithstanding the alleged sale of the property to Teodoro Domalanta under Exh. 'B' or Exh. '2', the debt of plaintiff Magdalena Bautista continued to pile up to ₱19,442.28, as of September 1964. The loan in the amount of ₱6,000.00 (Exh. 'C-19') earned an interest of ₱13,442.28 (Exh. 'C-20').

"Due to the following circumstances, and under the provision of Art. 1603, Civil Code, the Court considers Exh. 'B' or Exh. '2', as an equitable mortgage." (pp. 15-16, *Rollo*).

WHEREFORE, the assailed decision and resolutions are hereby AFFIRMED, and the petition is DISMISSED.

SO ORDERED.

Fernan (Chairman), Gutierrez, Jr., Padilla, Bidin, and *Cortes, JJ.*, concur.

Alampay, J., on leave.

SECOND DIVISION

[G.R. No. 58036. March 16, 1987]

ELISEO BOTICANO, *petitioner, vs.* **MANUEL CHU, JR.**, *respondent.*