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SECOND DIVISION

[G.R. No. 138758. July 6, 2000]

WILLIAM P. CHAN, *petitioner, vs.* **COURT OF APPEALS [Fifth Division] and Sps. MARIO GERONIMO and GREGORIA GERONIMO,** *respondents.*

SYNOPSIS

On 29 October 1996, William P. Chan filed a complaint for collection of sum of money against spouses Mario and Gregoria Geronimo before the Regional Trial Court of Makati. The said case was raffled to Branch 145. On 11 December 1997, the trial court ruled in favor of Chan. On 20 January 1998, spouses Geronimo filed a Notice of Appeal with the trial court, but failed to pay the corresponding legal fees. Chan then filed a Manifestation that the Notice of Appeal filed by spouses Geronimo was not accompanied by proof of payment of the appellate court docket and other lawful fees as required by Sec. 4, Rule 41 of the 1997 Rules of Civil Procedure. Thus, the trial court issued an order denying the appeal for non-compliance with the requirement of paying the appellate docket and other lawful fees to the Clerk of Court that rendered the judgment subject of the appeal within the period for taking an appeal. It also denied the Motion for Reconsideration filed by spouses Geronimo. Subsequently, spouses Geronimo filed a petition for review with the Court of Appeals. The Court of Appeals granted the petition, annulled and set aside Orders of the court *a quo* and ruled that the payment of docket fees before the clerk of court of the lower court was non-mandatory or non-compulsory. Hence, the instant petition.

The Court ruled that there was merit in the petition. There was error in applying the *Revised Rules of Court* when it granted the petition of private respondents. The Court need not overemphasize that effective 1 July 1997, Rules 1 to 71 of the *Revised Rules of Court* have already been superseded by the *1997 Rules of Civil Procedure* after the amendment or revision was approved by the Court on 8 April 1997. Under the *1997 Rules of Civil Procedure* now invoked by petitioner,

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a notice of appeal must be filed within the 15-days reglementary period from receipt of the decision or order appealed from and the docket and other lawful fees must also be paid within the same period. Further, Sec. 4, Rule 41, of the *1997 Rules of Civil Procedure* explicitly provides that payment of the full amount of the appellate court docket and other lawful fees should be made within the period for taking an appeal before the clerk of court which rendered the judgment or order appealed from. Thus, contrary to the position taken by the appellate court, the place of payment of docket fees is not optional but mandatory on the appellant.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; DOCKET AND OTHER LAWFUL FEES; FULL PAYMENT SHOULD BE MADE WITHIN PERIOD FOR APPEAL BEFORE CLERK OF COURT OF LOWER COURT WHICH RENDERED JUDGMENT OR ORDER APPEALED FROM.** — There was error in applying the *Revised Rules of Court* when it granted the petition of private respondents. We need not overemphasize that effective 1 July 1997 Rules 1 to 71 of the *Revised Rules of Court* have already been superseded by the *1997 Rules of Civil Procedure* after the amendment or revision was approved by the Court on 8 April 1997. Under the *1997 Rules of Civil Procedure* now invoked by petitioner, a notice of appeal must be filed within the 15-days reglementary period from receipt of the decision or order appealed from and the docket and other lawful fees must also be paid within the same period. Further, Sec. 4, Rule 41, of the *1997 Rules of Civil Procedure* explicitly provides that payment of the full amount of the appellate court docket and other lawful fees should be made within the period for taking an appeal before the clerk of court which rendered the judgment or order appealed from. Thus, contrary to the position taken by the appellate court, the place of payment of docket fees is not optional but mandatory on the appellant.

2. **ID.; ID.; ID.; ID.; ID.; NOT COMPLIED WITH IN CASE AT BAR.** — The records reveal that private respondents failed to comply with these requirements when they filed their *Notice*

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of Appeal before the clerk of court of the lower court within the prescribed period, but without the corresponding docket fees. Although private respondents claimed that financial constraints prevented them from paying the docket fee, the Court notes that ample time had been given them to comply with the requirement, forty (40) days from the time they filed their *Notice of Appeal* to the time the Regional Trial Court dismissed their appeal. In fact, it is almost incredible that after having received a loan of ₱20,600,000.00 private respondents would be unable to pay the legal fees for their appeal.

3. **ID.; ID.; ID.; ID.; DENIAL OF APPEAL BY TRIAL COURT FOR FAILURE TO COMPLY THEREWITH, NOT REVERSIBLE ERROR.** — The *1997 Rules of Civil Procedure*, particularly Sec 1, par. (c), provides that an appeal may be dismissed by the Court of Appeals on its own motion or of that of the appellee, on the ground among others of failure of the appellant to pay the docket and other lawful fees as provided in Sec. 4, Rule 41. Far from committing any reversible error, the trial court in fact correctly issued the assailed order denying the appeal of private respondents as well as their motion to reconsider the denial.

APPEARANCES OF COUNSEL

Perlas Chan Abrenica Law Office for petitioner.
Quirante & Associates Law Office for respondents.

D E C I S I O N

BELLOSILLO, *J.*:

This is a petition for *certiorari* under Rule 65 which seeks to annul the 23 December 1998 Decision of the Court of Appeals (Fifth Division) in CA-G.R. No. 47343 giving due course to the appeal filed by private respondents as well as its 20 April 1999 Resolution denying petitioner's motion to reconsider the decision.

On 16 August 1995, in a *Memorandum of Agreement* the spouses Mario and Gregoria Geronimo engaged the services of William P. Chan to act as their financial consultant in obtaining

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a loan with Banco Filipino in consideration of which they agreed to pay Chan a "success fee" equivalent to ten percent (10%) of the approved loan amount. True to that agreement, Chan assisted the spouses in preparing their loan application, reviewed the supporting documents, *e.g.*, Income Tax Returns, Transfer Certificate of Title used as collateral for the loan applied for, and obtained the necessary documents from the Sangguniang Bayan of Guiguinto, Bulacan, concerning the road right-of-way of the respondents' property, among others. Eventually, the application of the spouses was favorably acted upon and Banco Filipino granted them a loan in the amount of ₱20,600,000.00. However, despite repeated demands, they failed to pay Chan the stipulated "success fee" equivalent to 10% of the approved loan or the sum of ₱2,060,000.00.

Thus on 29 October 1996 Chan filed a complaint for collection of a sum of money against respondent spouses before the Regional Trial Court of Makati, which was raffled to Branch 145.[1] On 11 December 1997 the trial court ruled in favor of Chan and ordered the Geronimos to jointly and severally pay him the sum of ₱2,060,000.00 with interest thereon at the legal rate of 6% per annum from 5 November 1996 when the complaint was filed until judgment becomes final, such legal rate to be increased thereafter to 12% per annum until the amount is fully paid, plus ₱50,000.00 as reasonable attorney's fees.

On 20 January 1998 respondent spouses filed a *Notice of Appeal* with the Regional Trial Court. However, they failed to pay the corresponding legal fees, prompting petitioner to file a *Manifestation* that the *Notice of Appeal* filed by them was not accompanied by "proof of payment of the appellate court docket and other lawful fees" as required by Sec. 4, Rule 41, of the *1997 Rules of Civil Procedure*. Thus, the trial court issued an order denying the appeal for non-compliance with the requirement of paying appellate docket and other lawful fees to the Clerk of Court that rendered the judgment subject of the appeal within

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[1] RTC-Br. 145, Makati City, was presided over by Judge Francisco Donato Villanueva.

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the period for taking an appeal. On 18 February 1998 the spouses Geronimo filed a *Motion for Reconsideration* of the order denying their appeal, which was opposed by Chan. On 12 March 1998 the motion was denied.

On 3 April 1998 the spouses Mario and Gregoria Geronimo filed a petition for review with the Court of Appeals for the reversal of the orders of the trial court. In his comment thereon, Chan disagreed and argued that based on Sec. 1 of Rule 50 of the *1997 Rules of Civil Procedure*, an appeal may be dismissed by the Court of Appeals either on its own motion or upon motion of the appellee on the ground of failure of appellant to pay the docket and other lawful fees as provided in Sec. 4, Rule 41 of the same Rules.

On 23 December 1998 the Court of Appeals granted the petition, annulled and set aside the 9 February and 12 March 1998 Orders of the court *a quo* and ruled that the payment of docket fees before the clerk of court of the lower court was non-mandatory or non-compulsory, and that under Sec. 6, Rule 46 of the *Revised Rules of Court* the payment of the appellate docket fee to the clerk of the lower court is optional on the part of the appellant and the latter may choose to pay the appellate docket fee to the clerk of the appellate court instead. Citing *Dizon v. Encarnacion*[2] the appellate court explained that the court *a quo* was not empowered by law to deny due course to the appeal when the notice of appeal was filed on time on the mere failure of the appellant therein to pay docket fee to its clerk of court.

On 12 January 1999 Chan filed his *Motion for Reconsideration* of the 23 December 1998 Decision noting that the appellate court erroneously invoked Sec. 6, Rule 46, and Sec. 1, par. (d), Rule 50 of the *Revised Rules of Court*, which is already obsolete and no longer applicable since it has already been superseded by Sec. 4, Rule 41, and Sec. 1, Rule 50, of the *1997 Rules of Civil Procedure*. However, in a Minute Resolution

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[2] No. L-18615, 24 December 1963, 9 SCRA 714.

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dated 20 April 1999, the appellate court denied the motion. Hence, the instant petition.

There is merit in the petition. There was error in applying the *Revised Rules of Court* when it granted the petition of private respondents. We need not overemphasize that effective 1 July 1997 Rules 1 to 71 of the *Revised Rules of Court* have already been superseded by the *1997 Rules of Civil Procedure* after the amendment or revision was approved by the Court on 8 April 1997. Under the *1997 Rules of Civil Procedure* now invoked by petitioner, a notice of appeal must be filed within the 15-days reglementary period from receipt of the decision or order appealed from and the docket and other lawful fees must also be paid within the same period. Further, Sec. 4, Rule 41, of the *1997 Rules of Civil Procedure* explicitly provides that payment of the full amount of the appellate court docket and other lawful fees should be made within the period for taking an appeal before the clerk of court which rendered the judgment or order appealed from. Thus, contrary to the position taken by the appellate court, the place of payment of docket fees is not optional but mandatory on the appellant.

The records reveal that private respondents failed to comply with these requirements when they filed their *Notice of Appeal* before the clerk of court of the lower court within the prescribed period, but without the corresponding docket fees. Although private respondents claimed that financial constraints prevented them from paying the docket fee, the Court notes that ample time had been given them to comply with the requirement, forty (40) days from the time they filed their *Notice of Appeal* to the time the Regional Trial Court dismissed their appeal. In fact, it is almost incredible that after having received a loan of ₱20,600,000.00 private respondents would be unable to pay the legal fees for their appeal.

The *1997 Rules of Civil Procedure*, particularly Sec 1, par. (c), provides that an appeal may be dismissed by the Court of Appeals on its own motion, or of that of the appellee, on the ground among others of failure of the appellant to pay the docket and other lawful fees as provided in Sec. 4, Rule 41. Far from

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committing any reversible error, the trial court in fact correctly issued the assailed order denying the appeal of private respondents as well as their motion to reconsider the denial.

ACCORDINGLY, the petition is *GRANTED*. The 23 December 1998 Decision of the Court of Appeals in CA-G.R. No. 47343 subject of the instant petition is *ANNULLED* and *SET ASIDE*, and this case is remanded to the trial court for execution of its judgment.

SO ORDERED.

Mendoza, Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

FIRST DIVISION

[G.R. No. 116895. July 7, 2000]

ARAMIS B. AGUILAR, *petitioner, vs.* **COURT OF APPEALS, AURELIO T. JUGUILON and PATRIA F. JUGUILON,** *respondents.*

SYNOPSIS

On July 6, 1982, petitioner Aramis B. Aguilar entered into a lease agreement with respondents spouses Aurelio T. Juguilon and Patria A. Juguilon involving two adjacent parcels of land with an area of 1,949 sq. meters for a period of 25 years. It was also agreed that the leased premises will be used for the construction of a three-story building for commercial establishment and business. Petitioner paid the advance rentals for one year. On the other hand, private respondents vacated the second floor of the existing building and they moved to a rented house. However, because of the delay in the ejectment of the tenants on the ground floor, the parties entered into an Amendment of the Contract of Lease deferring the