



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 7, 2020 which reads as follows:

“G.R. No. 227097 – MARIANO CRISTINO N. JOSON, MUNICIPAL MAYOR, QUEZON, NUEVA ECIJA vs. IMELDA B. PABLO

The Case

Petitioner Mariano Cristino N. Joson, municipal mayor of Quezon, Nueva Ecija, assails the Resolutions dated May 12, 2016¹ and July 29, 2016² of the Court of Appeals in CA-G.R. SP No. 144507 denying his petition for review for failure to perfect his appeal.

Antecedents

By Order of Separation³ dated June 24, 2013, Mayor Joson terminated respondent Imelda B. Pablo’s services as Revenue Collection Clerk I of the Municipal Assessor’s Office due to the latter’s alleged unsatisfactory work performance for two (2) consecutive semesters. On September 2, 2013, Pablo appealed her dismissal to the Civil Service Commission-Regional Office III (CSC-III).⁴

By Decision⁵ dated January 10, 2014, the CSC-III reversed and ordered Pablo’s reinstatement, thus:

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15-B

¹ *Rollo*, pp. 97-102.

² *Id.* at 112.

³ *Id.* at 126.

⁴ *Id.* at 16.

⁵ *Id.* at 36-40.

WHEREFORE, the appeal of Imelda B. Pablo, former Revenue Collection Clerk I, Municipal Assessor's Office, Municipality of Quezon, Nueva Ecija, is hereby GRANTED. Accordingly, the Order dated June 24, 2012 of then Municipal Mayor Mariano Cristino N. Joson is hereby set aside. Incumbent Mayor Mariano Noriel M. Joson is directed to reinstate Pablo to her former position as Revenue Collection Clerk I, with payment of backwages and other benefits from July 1, 2013 when she was dropped from the rolls up to the date of her reinstatement.⁶

It essentially held: **First**, Pablo was dropped from the rolls without due process of law since her performance evaluation did not undergo the mandatory process of review before a committee;⁷ **Second**, petitioner failed to comply with the requirement of informing Pablo in writing of her unsatisfactory performance and warning her of possible separation from the service should she fail to improve her rating the following semester;⁸ **Finally**, petitioner failed to establish that Pablo obtained unsatisfactory marks for two (2) consecutive semesters since he only submitted Pablo's performance evaluations for the rating periods *January to June 2012* where she obtained 3.72 rating and *January to May 2013* where she got 3.95.

Petitioner's⁹ motion for reconsideration was denied per Resolution¹⁰ dated March 21, 2014.

- over -

15-B

⁶ *Id.* at 40.

⁷ **1.b.3 Determination of Final Rating.** At the end of the rating period, the PERC (Performance Evaluation Review Committee) reviews documents; evaluates work accomplishments and performance ratings; conducts hearings or dialogues, if necessary; provides opportunities for employee or supervisor to defend a particular rating and eventually determines the employees' final rating. The PERC completes the review and approval of employees' rating not later than 30 days after the Agency HRMO/Personnel Office has submitted the same to the former. (Paragraph V, Procedures of the Civil Service Commission Memorandum Circular No. 25, series of 1999).

⁷ ⁸ **SECTION 2. Dropping from the Rolls.** — Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls subject to the following procedures: xxx xxx xxx

2.2 Unsatisfactory or Poor Performance

a. An official or employee who is given two (2) consecutive unsatisfactory ratings may be dropped from the rolls after due notice. Notice shall mean that the officer or employee concerned is informed in writing of his unsatisfactory performance for a semester and is sufficiently warned that a succeeding unsatisfactory performance shall warrant his separation from the service. Such notice shall be given not later than 30 days from the end of the semester and shall contain sufficient information which shall enable the employee to prepare an explanation. xxx xxx xxx

2.7 The written notice mentioned in the preceding paragraphs may be signed by the person exercising immediate supervision over the official or employee. However, the notice of separation shall be signed by the appointing authority or head of office. (Revised Omnibus Rules on Appointments and Other Personnel Actions, *CSC Memorandum Circular No. 40-98*, December 14, 1998).

⁹ Through then Mayor Mariano Noriel M. Joson.

¹⁰ *Rollo*, pp. 48-50.

The Civil Service Commission's Ruling

Under Decision¹¹ dated October 9, 2015, the CSC affirmed with modification, thus:

WHEREFORE, the petition of Mayor Mariano Noriel M. Joson is hereby **DISMISSED**. The CSCRO III Decision No. 14-0002 dated January 10, 2014, which set aside the Order dated June 24, 2012 of then Municipal Mayor Mariano Cristino N. Joson and directing incumbent Mayor Mariano Noriel M. Joson to reinstate Imelda B. Pablo to her former position as Revenue Collection Clerk I, with payment of backwages and other benefits from July 1, 2013 when she was dropped from the rolls up to the date of her reinstatement is hereby **AFFIRMED with MODIFICATION** in that the dropping from the rolls of Pablo is not in order for failure to meet the conditions under Section VI, Item No. 2 (2.2) (b) of the Omnibus Rules on Appointments and Other Personnel Actions.¹²

Although the CSC-III cited the wrong provision as basis for its ruling, the CSC found that the results would have nevertheless been the same. Pablo's numerical rating of 3.72 for January to June 2012 and 3.95 for January to May 2013 were equivalent to "satisfactory" performance under CSC Memorandum Circular No. 6, series of 2012.¹³ Hence, there was no ground at all to drop Pablo from the rolls.

Petitioner¹⁴ moved for reconsideration¹⁵ but the same was denied by Resolution dated January 26, 2016.¹⁶

The Court of Appeals' Ruling

By Resolution¹⁷ dated May 12, 2016, the Court of Appeals dismissed petitioner's¹⁸ appeal by certiorari for failure to pay docket and other lawful fees in full, among other procedural lapses. For one, petitioner was assessed the amount of ₱4,530.00 but only paid ₱2,000.00 through postal money order.

- over -

15-B

¹¹ *Id.* at 62-69.

¹² *Id.* at 69.

¹³ Guidelines in the Establishment and Implementation of Agency Strategic Performance Management System.

¹⁴ Through then Mayor Mariano Noriel M. Joson.

¹⁵ *Rollo*, pp. 70-76.

¹⁶ *Id.* at 81-84.

¹⁷ *Id.* at 97-102.

¹⁸ Then Mayor Mariano Noriel M. Joson.

For another, petitioner failed to comply with Section 6, Rule 43 of the Rules of Court.¹⁹ **First**, he did not attach to the petition certified true copies of the assailed CSC Decision dated October 9, 2015 and Resolution dated January 26, 2016. **Second**, he did not attach pertinent records, including the Order of Separation dated June 24, 2013 itself and other documentary evidence, while those attached were illegible. **Third**, the Verification and Certification of Non-Forum Shopping attached to the petition was not accompanied by a duly accomplished *jurat* and competent proof of petitioner's identity. **Lastly**, petitioner failed to attach proof of service on the CSC.

Petitioner²⁰ moved for reconsideration,²¹ praying that the Court of Appeals give due course to his petition in the interest of substantial justice. He posted the deficiency docket fees of ₱2,530.00 and allegedly attached to his motion for reconsideration the pertinent portions of the records noted by the Court of Appeals.

Per Resolution²² dated July 29, 2016, the Court of Appeals denied petitioner's motion for reconsideration. For despite petitioner's attempt to cure all the procedural defects of his petition, he still failed to append all the missing pertinent records to his motion for reconsideration, such as the certified true copies of the CSC Decision dated October 9, 2015 and Resolution dated January 26, 2016, other supporting papers, and proof of service of the petition on Pablo and the CSC.

The Present Petition for Review on Certiorari

Petitioner²³ now faults the Court of Appeals in dismissing his petition for review on technicality. He asserts that the docket and other lawful fees were eventually paid in full, and the other material records, duly appended to his motion for reconsideration before the

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15-B

¹⁹ **SECTION 6. Contents of the Petition.**— The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (2a). Rules of Court, 1997 Rules of Civil Procedure As Amended, April 8, 1997.

²⁰ Through then Mayor Mariano Noriel M. Joson.

²¹ *Rollo*, pp. 104-111.

²² *Id.* at 112.

²³ Through Mayor Mariano Cristino N. Joson; *id.* at 9-26.

Court of Appeals. He further claims that the petition was duly served on the CSC and the defect in the verification is not fatal to his cause. Petitioner likewise argues the merits of his case.

In her Comment,²⁴ Pablo defends the assailed CSC dispositions and counters that her separation from the service violated her rights to security of tenure and to due process of law. She lays emphasis on her unblemished record in office. She characterizes as baseless her separation from office as she was a mere victim of the unjust political culture in Quezon, Nueva Ecija.

Issue

Did the Court of Appeals commit reversible error in outrightly dismissing petitioner's appeal by certiorari?

Ruling

The Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Appeals committed reversible error in rendering its assailed dispositions to warrant the exercise of the Court's discretionary appellate jurisdiction.

Perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. Failure to perfect an appeal as required by the rules precludes the appellate court from acquiring jurisdiction over the case. Notably, the right to appeal is not a natural right nor a part of due process but is merely a statutory privilege. It may be exercised only in the manner and in accordance with the provisions of the law. Failure to do so, the right to appeal is lost.²⁵

Section 5, Rule 43 of the Rules of Court outlines how an appeal is taken from rulings of quasi-judicial agencies, *viz.*:

SECTION 5. How Appeal Taken.— Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency *a quo*. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

Upon the filing of the petition, the petitioner shall pay to the clerk of court of the Court of Appeals the docketing and other lawful fees and deposit the sum of P500.00 for costs. Exemption from payment of docketing and other lawful fees and the deposit

- over -

15-B

²⁴ *Id.* at 142-149.

²⁵ See *Lefebre v. A Brown Co., Inc.*, 818 Phil. 1046-1061 (2017).

for costs may be granted by the Court of Appeals upon a verified motion setting forth valid grounds therefor. If the Court of Appeals denies the motion, the petitioner shall pay the docketing and other lawful fees and deposit for costs within fifteen (15) days from notice of the denial. (n)²⁶ (*Emphasis supplied*)

Failure to comply with the aforesaid provision warrants the dismissal of the appeal under Section 7 of the same rule, thus:

SECTION 7. *Effect of Failure to Comply with Requirements.*— The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition ***shall be sufficient ground for the dismissal thereof.***²⁷ (*Emphasis supplied*)

Here, petitioner only paid ₱2,000.00 for docket and other lawful fees instead of ₱4,530.00 as assessed by the Judicial Records Division. He also repeatedly failed to attach to the petition and even to his subsequent motion for reconsideration pertinent portions of the records already brought to his attention by the Court of Appeals. As such, petitioner's appeal was not perfected, allowing the assailed dispositions of the CSC to lapse into finality. A decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if such modification is meant to correct errors of law.²⁸

Petitioner, nevertheless, pleads that his petition be given due course in the interest of substantial justice and considering his eventual payment of deficiency fees.

We are not convinced.

In *Lee v. Republic*,²⁹ petitioner timely paid half of the appellate court's docket and other fees and tendered the other half after the period of appeal had expired. There, the Court held that all the steps taken by appellant for purposes of his appeal, including the partial payment of the appellate court's docket fee, lost all legal value because his failure to timely pay docket fees in full prevented the Court of Appeals from acquiring jurisdiction over the appeal. So must it be.

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15-B

²⁶ Rules of Court, 1997 Rules of Civil Procedure As Amended, April 8, 1997.

²⁷ *Id.*

²⁸ See *People v. Alapan*, G.R. No. 199527, January 10, 2018, 850 SCRA 284, 296.

²⁹ 119 Phil. 325-327 (1964).

At any rate, the dismissal of petitioner's appeal was not hinged solely on his failure to pay full docket and other fees on time. The Court of Appeals also noted several lapses (*i.e.* failure to attach pertinent records, illegible copies of the attachments, and defective Verification and Certification of Non-forum Shopping) warranting the dismissal of petitioner's appeal. Even on reconsideration, petitioner still failed to comply with the requirements under Section 6, Rule 43 of the Rules of Court.³⁰

All told, the Court of Appeals did not err in dismissing petitioner's petition for review.

WHEREFORE, the petition is **DENIED**, and the Resolutions dated May 12, 2016 and July 29, 2016 of the Court of Appeals in CA G.R. SP No. 144507, **AFFIRMED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court m 4/15

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
15-B

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³⁰ **SECTION 6. Contents of the Petition.**— The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (2a). Rules of Court, 1997 Rules of Civil Procedure As Amended, April 8, 1997.



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(Resolution No. 14-00072)

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(Resolution No. 1600100)

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