

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**SIENNALYN GOLD MINING
CORPORATION,**

Petitioner,

-versus-

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

**CTA CASE NO. UDK-SP
044**

Members:

**UY, Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.**

Promulgated:

MAR 17 2023

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9:24 a.m.

RESOLUTION

On February 22, 2023, petitioner filed a *Motion for Extension of Time to Pay Filing Fee* stating that it received on February 9, 2023, a copy of the Resolution dated February 2, 2023, and requesting that it be given an extension of sixty (60) days from February 24, 2023, or until April 25, 2023, to pay the filing fee of ₱647,619.81.

In its motion, petitioner states that it needs additional time to raise the amount required to pay the filing fees that it considers to be “highly excessive, onerous, and confiscatory,” considering that petitioner is still in the exploration stage and has no income yet from its mining operations and is operating at a loss.

Before resolving the motion, a review of the antecedent facts is in order.

In this case, petitioner assails the Warrant of Distrainment and/or Levy that it received on December 6, 2022 and appealed the same to the Court within thirty (30) days from its receipt by attempting to file personally with the Court a Petition for Review on Certiorari on January 5, 2023.

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However, the Petition for Review on Certiorari was not received by the Court because petitioner was unable to pay the docket fees; and so, petitioner filed its Petition for Review on Certiorari *via* registered mail on the same date.¹

After four (4) days from the lapse of the reglementary period, or on January 9, 2023, petitioner filed *via* courier its *Ex-Parte* Manifestation and Motion to Reduce Filing Fee and to Admit Petition for Review on Certiorari,² which the Court denied in its Resolution dated February 2, 2023 and gave petitioner an additional period of fifteen (15) days from receipt thereof to pay the docket fees. Hence, the instant motion.

It is well-settled that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal.³ This is so because a court acquires jurisdiction over the subject matter of the action only upon the payment of the correct docket fees, regardless of the actual date of filing the case in court.⁴ The failure to pay or even the partial payment of the appeal fees does not toll the running of the prescriptive period, hence, will not prevent the judgment from becoming final and executory.⁵

To support its motion, petitioner invoked the cases of *Yambao v. Court of Appeals* (*Yambao*)⁶ and *Julian v. Development Bank of the Philippines* (*Julian*),⁷ which ruled that “the appellate court may extend the time for the payment of the docket fees if the appellant can show that there is a justifiable reason for his failure to pay the correct amount of docket fees within the prescribed period, like fraud, accident, mistake, excusable negligence, or a similar supervening casualty, without fault on the part of the appellant.”⁸

These cases, however, convince the Court to deny petitioner’s motion.

In *Yambao*, the Supreme Court did not fault therein petitioners because they were able to pay the docket fees, albeit incomplete, due to the erroneous assessment by the Clerk of

¹ Received by the Court on January 11, 2023.

² Received by the Court on January 10, 2023.

³ *National Transmission Corporation v. Heirs of Teodulo Ebasa*, G.R. No. 186102, February 24, 2016.

⁴ *Meatmasters International Corporation v. Lelis Integrated Development Corporation*, G.R. No. 163022, February 28, 2005.

⁵ *National Transmission Corporation v. Heirs of Ebasa*, G.R. No. 186102, February 24, 2016.

⁶, G.R. No. 140894, November 27, 2000.

⁷, G.R. No. 174193, December 7, 2011.

⁸ *Id.* (Emphasis on the original).

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Court. Thus, the Supreme Court held in *Yambao* that the appellate court may extend the time for the payment of the docket fees if the appellant can show that there is a justifiable reason for his failure to pay the *correct* amount of docket fees within the prescribed period, like fraud, accident, mistake, excusable negligence, or a similar supervening casualty, without fault on the part of the appellant.⁹

In *Julian*, no payment was made by petitioner, so the Supreme Court saw no justifiable reason to relax the strict application of the rules on payment of docket fees.

Like in *Julian*, petitioner has made no payment at all, nor has it alleged any fraud, accident, mistake, excusable negligence, or a similar supervening casualty to explain its non-payment of docket fees. Petitioner's sole reason for asking for an extension of time to pay the docket fees is its alleged financial incapacity. However, apart from its bare allegations that the prescribed docket fee is "highly excessive, onerous, and confiscatory" and that it is operating at a loss, petitioner has not shown any compelling reason to allow for the extension of time to pay the appropriate docket fees.

Further, the case of *De la Paz v. Court of Appeals*,¹⁰ which petitioner also cited, is inapplicable. There, the petitioner was found to have continuously paid additional sums for the prescribed docket fees in installments; thus, his petition was allowed to prosper. Again, not even partial payment has been made by petitioner in this case.

The Court is aware of instances where the Supreme Court has relaxed the strict rule on payment of docket fees. In *Sun Insurance Office, Ltd. (SIOL) v. Asuncion*,¹¹ the Supreme Court adopted a more liberal interpretation of the rule since "the private respondent demonstrated his willingness to abide by the rules by paying the additional docket fees as required" and held thus:

1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee, that vests a trial court with jurisdiction over the subject matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, **the court may allow payment of the fee within a reasonable**

⁹ *Yambao v. Court of Appeals*, G.R. No. 140894, November 27, 2000.

¹⁰ G.R. No. 120150, March 27, 2000.

¹¹ G.R. Nos. 79937-38, February 13, 1989.

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time but in no case beyond the applicable prescriptive or reglementary period. (*Emphasis supplied*)

This liberal interpretation of the rule was further expanded by the Supreme Court in the case of *Buenaflor v. Court of Appeals (Buenaflor)*,¹² viz.:

The established rule is that the payment in full of the docket fees within the prescribed period is mandatory. Nevertheless, this rule must be qualified, to wit: First, **the failure to pay appellate court docket fee within the reglementary period allows only discretionary dismissal**, not automatic dismissal, **of the appeal**; Second, such power should be used in the exercise of the Court's sound discretion "in accordance with the tenets of justice and fair play and with great deal of circumspection considering all attendant circumstances." (*Emphasis supplied*)

Notwithstanding the liberal application of the rules, it must be emphasized that payment of filing fees in full when the initiatory pleading or application is filed is still the general rule. Exceptions that grant liberality for *insufficient* payment are strictly construed against the filing party.¹³

Verily, the Court, in accordance with the ruling in *Buenaflor*, has already exercised its discretionary authority in not automatically dismissing petitioner's Petition for Review on Certiorari for non-payment of docket fees within the reglementary period by giving petitioner an additional fifteen (15) days from receipt of the Resolution dated February 2, 2023 to pay the docket fees.

In effect, from the lapse of the reglementary period on January 5, 2023¹⁴ until the end of the 15-day deadline given by the Court on February 24, 2023,¹⁵ petitioner had been given 50 days to pay the appropriate docket fees. Thus, granting another extension of 60 days to pay the docket fee is highly unwarranted and not in accordance with the tenets of justice and fair play.

To reiterate, the Supreme Court consistently ruled that full payment of docket fees within the prescribed period is mandatory and jurisdictional¹⁶ for the perfection of the appeal.

¹² G.R. No. 142021, November 29, 2000.

¹³ *Heirs of Dragon v. The Manila Banking Corporation*, G.R. No. 205068, March 6, 2019.

¹⁴ The 30th day from petitioner's receipt of the assailed Warrant of Dstraint and/or Levy on December 6, 2022.

¹⁵ Counting 15 days from February 9, 2023, which is petitioner's receipt of the Resolution dated February 2, 2023.

¹⁶ *Ang v. Court of Appeals*, G.R. No. 238203, September 3, 2020; *Ramones v. Spouses Guimoc*, G.R. No. 226645, August 13, 2018; *National Transmission Corporation v. Heirs of Teodulo Ebasa*, G.R. No. 186102, February 24, 2016; *Alfonso v. Spouses Andres*, G.R. No. 139611, October 4, 2002.

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Otherwise, the appellate court will not be able to act on the subject matter of the action, and the decision or final order sought to be appealed will become final and executory.¹⁷

The same ruling is expressed in the case of *La Salette College v. Victor C. Pilotin*,¹⁸ where the Supreme Court states that payment of docket fees is not a trivial matter. These fees are necessary to defray court expenses in the handling of cases. For this reason, and to secure a just and speedy disposition of every action and proceeding, the Rules mandate the payment of docket fees and other lawful fees within the prescribed period. Otherwise, the jurisdiction of the proper court to handle a case is adversely affected.

The requirement of a docket fee is not a mere technicality of law or procedure and should not be disregarded without the most compelling reasons.¹⁹

Unfortunately, the reasons given by petitioner do not merit the relaxation of the rules. As in the case of *Julian*, it is unusual for petitioner not to be advised appropriately by its counsel of the correct docket fees before filing its Petition with this Court.

For failure to pay the corresponding docket fees on time, petitioner failed to perfect its appeal, divesting the Court of jurisdiction to take cognizance of the Petition for Review.

WHEREFORE, petitioner's *Motion for Extension of Time to Pay Filing Fee* is **DENIED** for lack of merit. Accordingly, the Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED.



ERLINDA P. UY

Associate Justice



JEAN MARIE A. BACORRO-VILLENA

Associate Justice



LANEE S. CUI-DAVID

Associate Justice

¹⁷ *Spouses Lee V. Land Bank of the Philippines*, G.R. No. 218867, February 17, 2016.

¹⁸ G.R. No. 149227, December 11, 2003.

¹⁹ *Julian v. Development Bank of the Philippines*, G.R. No. 174193, December 7, 2011.