NOTES

WHEN IS A PLEADING SENT BY MAIL DEEMED FILED?

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This question has become moot in the light of the provisions of the Rules of Court effective January 1, 1964. The clear statement of the new Rules on this point in Section 1, Rule 13, leaves no more room for dispute.

The object of this paper, then, is not to distill a rule through a doctrinaire perusal of cases. Rather, its burden is simply to trace the evolution of the *rule* in point. Thus, this paper examines only two cases and refers also to the Code of Civil Procedure of 1901, the Rules of Court of 1918 as amended in 1919, and the Rules of Court of 1940.

First Case: *Canete vs. Insular Lumber Co., Inc.*
61 Phil. 592; 61 JF 633
July 10, 1935

The plaintiff in this case was a carpenter who had been in the employ of the defendant company for six years at the foundry department of its sawmill. On March 13, 1931, while plaintiff was using the foundry's electric machine, a piece of wood he was holding slipped and his right hand came in contact with the sharp edge of the machine. As a result he lost his thumb and first finger and the first phalange of the middle finger. Later he filed in the Iloilo CFI action to recover compensation under Act No. 3428, commonly known as Workmen's Compensation Act, as amended by Act No. 3812. The Iloilo CFI rendered judgment in favor of the plaintiff.

On appeal, one of the issues was whether the worker's claim for compensation was filed within or beyond the 2 months period fixed by Section 24 of the Workmen's Compensation Act. If, as defendant-appellant contended, the claim was filed beyond the reglamentary period, the plaintiff's claim was already barred.

The Workmen's Compensation Act provides as follows: "Section 24—Notice of Injury and Claim for Compensation . . . . No compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, and unless a claim for compensation was made not later than two months after the date of the injury or sickness, or in case of death not later than

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3 months after the death, regardless of whether or not it was claimed by the employee himself."

As found by the trial court and not disputed by the parties, the accident took place on March 13, 1931 in the defendant's place of business at Sagay, Negros Occidental. The claim for compensation was mailed in the City of Manila on May 14, 1931.

Now, then, the defendant contended that the claim for compensation must be filed with the employer within two months. In other words, even if it was mailed on the last day of the reglamentary period, it was not received till after the period lapsed, so the claim was not filed on time with the employer and must be barred.

Did the Court go along with this contention? No. It decided:

> One of the rules of this Court is that the date of mailing of motions, pleadings, or any other paper, as shown by the post-office registry receipt shall be considered as the date of their filing in this Court. Applying this principle to the facts in this case, it is held that the admitted mailing date of the claim for compensation should be and is hereby considered as the date of its filing with the defendant, in view of the further fact that the defendant admits having received the same.

Second Case: *Caltex (Phil.) Inc. vs. Katipunan Labor Union* G.R. L-7496, January 31, 1956

On June 24, 1953, the Court of Industrial Relations received the petition of the Katipunan Labor Union dated June 8, 1953. The petition alleged that employee Florencio Alforque, a member of KLU, had been dismissed by the petitioner company without sufficient or valid cause and without investigation in violation of the order of the CIR dated March 18, 1950. The petition also prayed that Alforque be reinstated in his position with full pay from May 1, 1953, the date of dismissal, to the date of his reinstatement.

Caltex then filed an answer alleging that Alforque lacked judgment, initiative and ability in his work as mechanic; that the branch where he worked was overstaffed and his services not needed; and that the petition did not state facts to merit the exercise of jurisdiction of the CIR.

Nevertheless the CIR declared it has jurisdiction over the case and ordered the reinstatement of Alforque, pending a hearing on the merits of the petition for reinstatement with full pay or justified dismissal. The company moved for reconsideration which was denied. Hence it filed this petition to the Supreme Court questioning the jurisdiction of the CIR, on several grounds, one of which

was that the CIR lacked jurisdiction to order reinstatement after the enactment of R.A. No. 875 (Industrial Peace Act).

Note, then, the relevant dates of this case. The petition to the CIR filed by KLU was dated June 8, 1953. It was received June 24, 1953. In the interim—on June 17, 1953—the Industrial Peace Act was approved.

Does this mean, as contended by the company, that CIR had no more jurisdiction to order the reinstatement of Alforque?

The Supreme Court ruled:

> One of the reasons given why the CIR is alleged to have no jurisdiction over the case is that the petition was received in the CIR after R.A. No. 875 was approved on June 17, 1953. In answer to this contention, it is to be noted that it is the practice before courts of justice to consider the mail as an agent of the Government—so the date of mailing is always considered the date of filing any petition, motion or paper. As the petition was mailed before the approval of R.A. No. 875, it may not be considered filed after the new law had become effective.

Discussion of the Cases

If the law is what the courts will do in fact, then the law on our present subject matter has long been clear even before it was written down positively in the 1964 Rules of Court.

Let us restate. In the Caltex case, the court said that "it is the practice before courts of justice to consider the mail as an agent of the Government." Thus, as far as the Court of Industrial Relations was concerned, deposit in the mails was filing with the Court. This is logical, since, as pointed out in U.S. vs. Rodge, 214 F. 283 (cited in 72 CJS 251), "A postmaster is an instrument used by the government to discharge its function in the carriage or delivery of the mail."

But in the Canete case, the principle of agency is of doubtful application. The Insular Lumber Company, unlike the CIR, was not part of the government. Delivery to the post office could certainly not be delivery to Insular Lumber; nor notice of the claim for compensation to the postmaster operate as notice to the company's officials. Hence the Court was definitely dogmatic: "One of the rules of this Court is . . ."

Yet, the rub of this decision is its misapplied analogy. "Applying the principle" still meant applying the principle of agency, as in the Caltex case; *viz.*—mailing with the post office is filing with court because the mail is an agent of the government and the court

is part and parcel of the principal—the government. But, here the defendant lumber company is not a part of the government. Why then the transference of the rule binding the court to one binding a private entity, when the rationale of the rule, which is agency, no longer holds true?

Of course, it must be remembered that technicalities should not result in miscarriage of justice. And no doubt in the Canete case, the substantial issue was whether the injured worker was entitled to compensation or not. Mere dates, when time as a natural phenomenon is by no means absolute, cannot bar justice. Moreover, probably the Court believes that one rule—regardless of rationale—that binds the Court itself must bind also private entities in cases at hand.

Evolution of the Rule

Act No. 190, known as the Code of Civil Procedure effective October 1, 1901, stated in Section 389: "The date of filing of the complaint upon which process is issued and duly served shall be deemed to be the true time of the commencement of the action." This was followed in Section 390, by the mandate that "The clerk must endorse in the complaint the day, month and year that it is filed . . ."

Following the authority in Section 6 of this Code, the Supreme Court adopted rules for its own use and of the Court of First Instance. The Rules of Court of the Supreme Court of the Philippine Islands effective October 2, 1918, stated in Rule 2: "The clerk of this Court shall keep his office at Manila. All papers authorized to be filed in said office shall be filed at Manila. The clerk shall mark on all papers the day and hour when they were filed." The Rules of the Court of First Instance, simultaneously promulgated with those of the Supreme Court, also stated in Rule 2: ". . . When notice is given by registered mail, the notice shall be considered made as of the date appearing in the registry return receipts."

When the Court streamlined its Rules in 1940, it clarified in Rule 5, Section 4 the dte of filing the Complaint, "Upon the filing of a complaint in an inferior court, the judge or clerk if any, shall endorse thereon the day, month and year upon which it was filed . . ."

This provision has been retained as Rule 5, Section 3, in the Rules of Court effective January 1, 1964. Significantly, the new Rules clearly states in Rule 13, Section 1 as follows:

> *Filing with the court, defined.*—The filing of pleadings, appearances, motions, notices 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 on the pleading the date and hour of filing. In the second case, the date of mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case.

With so clear a provision, it is difficult to imagine dispute. Wittingly or otherwise, the Court has deprived lawyers of a good nail to hang on appeals and thusly justify additional fees!