



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
REGISTRATION OFFICE
RECORDED
JUL 15 2019
BY: *yo*
TIME: 1:11 pm

SECOND DIVISION

FRANCISCO B. YAP, substituted by his heirs, namely: FRANCISCO M. YAP, JR. (now represented by CAROL URSUA YAP, FRANCISCO YAP III, CHRISTINE YAP and CARL YAP), MANUEL M. YAP, CARLOS M. YAP, EMERLITA M. YAP-SARENAS, FERDINAND TE YAP, RACHEL ANN TE YAP, ROMEO TE YAP, JR., and AURELIA TE-YAP,

Petitioners,

G.R. No. 199783

Present:

CARPIO, J., Chairperson,
PERLAS-BERNABE,**
CAGUIOA,
REYES, J. JR., and
LAZARO-JAVIER, JJ.

- versus -

HEIRS OF PANTALAN (MORO), namely: NASERON PANTALAN (MORO) deceased, represented by his widow, ROHAINE LUMA-AN PANTALAN and their children, RABIOLE PANTALAN, ALIMUDIN PANTALAN, MIRAMULIN PANTALAN-COMPANIA, and SAHAR PANTALAN, QUELIMA* PANTALAN-BANGAL, VIRGINIA LICUANAN-SUSON, VIRGILIO LICUANAN, VICTOR LICUANAN deceased, represented by his wife, CAROLINA R. LICUANAN, and the OFFICE OF THE REGISTRY OF DEEDS, MATI, DAVAO ORIENTAL,

Respondents.

Promulgated:

10 APR 2019

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DECISION

REYES, J. JR., J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Resolutions dated May 9, 2011² and November

* Also referred to as "Quelina" in some parts of the *rollo*.

** On leave.

¹ *Rollo*, pp. 23-67.

² Penned by Associate Justice Melchor Q.C. Sadang, with Associate Justices Edgardo A. Camello and Edgardo T. Lloren, concurring; id. at 159-162.

24, 2011³ of the Court of Appeals-Cagayan De Oro (CA) in CA-G.R. SP No. 03990-MIN.

This case is rooted from claims over a parcel of land originally owned by Pantalan (Moro). In June 1990, said parcel of land was adjudged with finality to be owned by respondents Virginia Licuanan-Suson, Virgilio P. Licuanan, and Victor P. Licuanan (collectively, the Licuanans) in a case for Reconveyance, Nullity of Title, Damages, Attorney's Fees, Etc., docketed as Civil Case No. 1555 filed by the Licuanans against the Heirs of Pantalan (Moro).⁴

Yap, however, also claims ownership thereof, having allegedly acquired the same by sale from respondent Heirs of Pantalan (Moro), through a "private deed of sale" prepared and notarized by Atty. Teodoro D. Nano, Jr. (Atty. Nano).⁵ Hence, in June 2008, Yap filed this Complaint for Specific Performance, Reconveyance, Nullity of Titles, Damages, Attorney's Fees, Receivership, with Preliminary Injunction and Prayer for Issuance of Temporary Restraining Order,⁶ which was docketed as Civil Case No. 232-08 before the Regional Trial Court (RTC) of *Lupon*, Davao Oriental, Branch 32, against the Heirs of Pantalan (Moro), the Licuanans, and Atty. Nano.

The Licuanans filed motions for extension of time⁷ to file a responsive pleading. On August 27, 2008, however, the Licuanans filed a Motion to Dismiss⁸ the Complaint.

In the said Motion, the Licuanans argued that the Complaint should be dismissed on the ground of forum shopping, alleging that Yap failed to disclose in his Verification and Certification of Non-Forum Shopping that he had previously filed a Complaint-In-Intervention in Civil Case No. 1555, which was denied for being filed out of time.⁹

The Motion to Dismiss also pointed out that Yap failed to disclose that he had previously filed an action for Quieting of Titles, Damages with Prayer for Preliminary Injunction and/or Restraining Order and Appointment of Receivership, which was docketed as Civil Case No. 104 before the RTC of *Lupon*, Davao Oriental, Branch 32, back in April 2001. The said case involved the same parties and issues, which was dismissed on the ground of bar by prior judgment or *res judicata*. Such dismissal was affirmed by the CA in its Resolution dated December 18, 2006, as well as by this Court in a Resolution¹⁰ dated January 23, 2008. Hence, the Licuanans argued that the Complaint should be dismissed on the ground of *res judicata* as well.¹¹

³ Id. at 219-222.

⁴ Id. at 85-86.

⁵ Id. at 41-44.

⁶ Id. at 81-91.

⁷ Id. at 92, 94, 96-98.

⁸ Id. at 100-121.

⁹ Id. at 101-104.

¹⁰ G.R. No. 180015.

¹¹ Id. at 104-112.

Lastly, the Licuanans argued that Yap was guilty of laches as he never took the necessary steps to enforce his claimed right over the subject property until after the Licuanans enforced theirs. Yap never took physical possession of the subject property nor did he demand delivery of the same from the Heirs of Pantalan (Moro). Neither did he seek to register the alleged sale nor did he file an adverse claim therefor.¹²

The Heirs of Pantalan (Moro) and Atty. Nano, on the other hand, did not file any responsive pleading.¹³ Thus, Yap filed a Motion to Declare Defendants [Heirs of Pantalan (Moro)] and [Atty. Nano] In Default.¹⁴

In an Order¹⁵ dated June 25, 2010, the RTC granted the Licuanan's Motion to Dismiss, thus:

WHEREFORE, the above-entitled complaint is hereby
DISMISSED.

SO ORDERED.¹⁶

Yap's motion for reconsideration was likewise denied in the RTC's Order¹⁷ dated November 24, 2010, the dispositive thereof reads:

WHEREFORE, [Yap's] Motion For Reconsideration is denied.

SO ORDERED.¹⁸

Aggrieved, Yap sought refuge from the CA by filing a Petition for *Certiorari*¹⁹ under Rule 65 of the Rules of Court dated January 20, 2011, questioning the RTC's grant of the Motion to Dismiss.

The CA, however, dismissed the said petition in its assailed May 9, 2011 Resolution on the ground that a petition for *certiorari* was not proper considering that the questioned RTC Orders were final orders issued in the exercise of the RTC's original jurisdiction. Hence, the CA ruled that the proper remedy was an ordinary appeal under Rule 41 of the Rules of Court. The CA found that Yap filed the petition merely because he lost his right to appeal. The CA disposed as follows:

¹² Id. at 112-116.

¹³ Id. at 35.

¹⁴ Id. at 122-124.

¹⁵ Id. at 125-129.

¹⁶ Id. at 129.

¹⁷ Id. at 130-132.

¹⁸ Id. at 132.

¹⁹ Id. at 134-158.

IN VIEW OF THE FOREGOING, the instant Petition is hereby **DISMISSED**.

x x x x

SO ORDERED.²⁰

In its November 24, 2011 assailed Resolution,²¹ the CA denied Yap's motion for reconsideration.

Hence, this Petition.

In the main, Yap seeks this Court's liberality to make an exception to the rule that *certiorari* may not be used as a substitute for a lost appeal. Insisting that he has a meritorious case, Yap argues that a strict application of the procedural rules would result to a miscarriage of justice. Yap also puts the blame to his counsel for resorting to a wrong remedy and argues that he should not be bound by his counsel's negligence or mistake.

We deny the Petition.

We do not find error on the part of the CA in dismissing the petition for *certiorari* for being a wrong remedy, nor do we find cogent reason to exercise leniency in applying the procedural rules in this case.

The assailed RTC Orders before the CA were clearly final orders issued by the RTC in the exercise of its original jurisdiction, which may be reviewed by an ordinary appeal. Sections 1 and 2(a), Rule 41 of the Rules of Court provide:

SEC. 1. Subject of appeal. – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

x x x x

SEC. 2. Modes of appeal.

(a) *Ordinary appeal.* – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. x x x

Section 3, Rule 41 of the same Rules, provides that such appeal should be taken within 15 days from the notice of the final order appealed from. In this case, no such appeal was filed within the reglementary period. Instead, Yap, through counsel, filed a petition for *certiorari*, which was filed outside the 15-day period for the filing of an appeal.

²⁰ Id. at 162.

²¹ Id. at 219-222.

Nothing is more settled than the rule that *certiorari* is not and cannot be made a substitute for an appeal where the latter remedy is available but was lost through fault or negligence.²² While it is true that we have applied a liberal application of the rules of procedure in a number of cases, we have always stressed that this can be invoked only in proper cases and under justifiable causes and circumstances.²³ “To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice.”²⁴ It should be emphasized that in this case, Yap did not proffer any reasonable cause to justify its failure to avail of the proper remedy before the CA except for his defensive argument of laying the blame to his counsel’s mistake or negligence and his invocation of this Court’s exercise of liberality in order to accord him his day in court. Indeed, Yap has not been forthright about his procedural blunder. Time and again, we have ruled that utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.²⁵

At any rate, the perfection of an appeal within the period and in the manner prescribed by law is not a mere technicality, but is jurisdictional in that, non-compliance with such legal requirements is fatal and has the effect of rendering the judgment final and executory.²⁶ Considering, therefore, that Yap failed to file a timely appeal from the RTC Orders, and consequently, resorted to a wrong mode of appeal before the CA, said RTC Orders already became final and executory.

Neither can Yap simply put the blame on his counsel for having lost his remedy under the rules. It is an oft-repeated ruling that the negligence, or mistakes of the counsel bind the client. A departure from this ruling would bring about never-ending suits, so long as lawyers could allege their own fault or negligence to support the client’s case and obtain remedies and reliefs already lost by operation of law.²⁷ This Court has laid down the only exception to the said rule and that is, where the lawyer’s gross negligence would result in the grave injustice of depriving his client of the due process of law. We do not find such exception to be applicable herein.

There was no deprivation of due process in this case, contrary to Yap’s contention. It must be remembered that, as found by the RTC, Yap had previously filed Civil Case No. 104, a case for Quieting of Titles, Damages, and Appointment of Receivership, among others, against the same respondents in this case and involving the same subject property. This case was heard by the trial court and even reached this Court. Thus, Yap could not validly argue that he was not accorded the opportunity to be heard.

²² *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*, 716 Phil. 500, 513 (2013).

²³ *Land Bank of the Philippines v. Court of Appeals*, 789 Phil. 577, 583 (2016).

²⁴ *Building Care Corp./Leopard Security & Investigation Agency v. Macaraeg*, 700 Phil. 749, 755 (2012).

²⁵ *Id.* at 756.

²⁶ *Id.* at 757.

²⁷ *Id.* at 756.

Unfortunately for Yap, however, said case was also dismissed by the trial court on the ground of *res judicata*, which dismissal was affirmed with finality by the CA and eventually, by this Court in its Resolution dated January 23, 2008, in G.R. No. 180015. Curiously, unlike with Civil Case No. 1555, Yap never alleged any objection to the RTC's findings that Civil Case No. 104 has already settled the issues raised by Yap in the present Complaint. In fact, this Court cannot ignore Yap's evasiveness in failing to disclose the existence of Civil Case No. 104 in his certificate against forum shopping in Civil Case No. 232-08, and in discussing the circumstances thereof in the case at bar. Hence, this Court is constrained to uphold the RTC's ruling on the matter.

We also note that this is not the first time that Yap blamed his counsel for his procedural blunders. Yap also put the blame on his counsel for the dismissal of his complaint-in-intervention in Civil Case No. 1555.²⁸

For these reasons, we find no cogent reason to subscribe to Yap's plea for this Court to exercise liberality in applying the above-cited well-settled principles in his case. To recapitulate, Yap availed of the remedy of a complaint-in-intervention in Civil Case No. 1555 but lost it for failing to file it on time. This failure was blamed on his counsel. Undaunted, Yap proceeded to file a separate case (Civil Case No. 104) to assert his right over the subject property, which was dismissed with finality by this Court. A few months after the finality of Civil Case No. 104, Yap filed this Complaint (Civil Case No. 232-08) for the same cause. This was also dismissed by the RTC and Yap failed to avail of the proper mode of review to the CA to question said dismissal. For this failure, Yap made no explanation but merely resorted to laying the blame on his counsel's mistake or negligence again.

This Court cannot allow a party to abuse the remedies made available by the law. "Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final the issue or the cause involved therein should be laid to rest. This doctrine of finality of judgment is grounded on fundamental consideration of public policy and sound practice."²⁹ It is in the best interest of justice that this court write *finis* to this litigation.³⁰

There is, thus, no necessity to belabor on the other issues raised in this Petition.

²⁸ *Rollo*, p. 60.

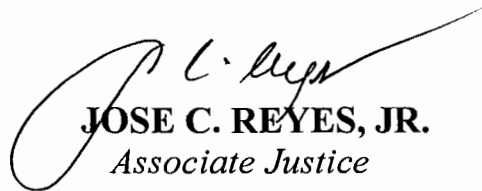
²⁹ *Mendoza v. Court of Appeals*, 764 Phil. 53, 66 (2015).

³⁰ *De Leon v. Public Estates Authority*, 640 Phil. 594, 612 (2010).


V

WHEREFORE, premises considered, the Petition is **DENIED**. Accordingly, the Resolutions dated May 9, 2011 and November 24, 2011 of the Court of Appeals in CA-G.R. SP No. 03990-MIN are hereby **AFFIRMED**.

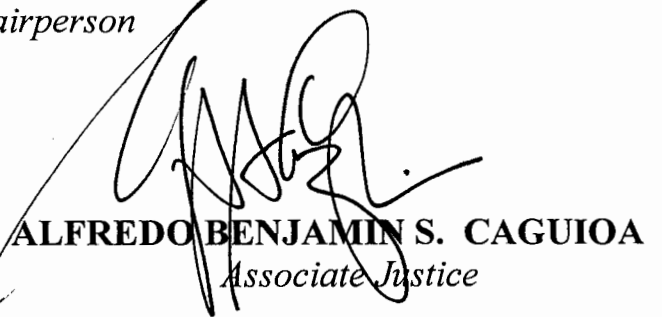
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR;


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


(On Leave)
ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

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