



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SPOUSES ANTONIO AND G.R. No. 259282
MONETTE PRIETO,

Petitioners,

Present:

- versus -

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

BANK OF THE PHILIPPINE
ISLANDS [AS SUCCESSOR-IN-
INTEREST OF FAR EAST
BANK AND TRUST
COMPANY] SUBSTITUTED BY
PHILIPPINE ASSET
INVESTMENT [SPV-AMC], AS
FURTHER SUBSTITUTED BY
PHILIPPINE INVESTMENT
ONE [SPV-AMC], INC.,
Respondent.

Promulgated:

August 30, 2023

Misael B. B. B.

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DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated September 24, 2020, of the Court of Appeals (CA) in CA-G.R. SP No. 153869 that dismissed the Petition for *Certiorari*³ under Rule 65 of the Rules of Court filed by Spouses Antonio and Monette Prieto (petitioners) and affirmed the

¹ *Rollo*, pp. 3-26.

² *Id.* at 60-73. Penned by Associate Justice Bonifacio S. Pascua and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Jhosep Y. Lopez (now a Member of the Court).

³ *CA rollo*, pp. 3-14.

Decision⁴ dated September 18, 2017, of Branch 62, Regional Trial Court (RTC), Makati City, in Civil Case No. 02-683.

Likewise assailed is the CA Resolution⁵ dated February 16, 2022, which denied petitioners' motion for reconsideration.⁶

The Antecedents

Far East Bank and Trust Company (FEBTC) granted several loans to petitioners—the details⁷ of which are as follows:

Promissory Note	Date	Amount	Due Date
2-055-970017	01/21/1997	₱79,867.00	03/07/1997
2-055-960695	12/23/1996	₱89,995.00	02/17/1997
2-055-960691	12/17/1996	₱40,263.00	02/10/1997
2-055-960690	12/16/1996	₱85,634.00	02/07/1997
2-055-960686	12/11/1996	₱46,278.00	02/03/1997
2-055-960677	11/28/1996	₱83,655.00	01/27/1997
2-055-970024	01/29/1997	₱82,998.00	03/20/1997
2-055-970018	01/21/1997	₱74,308.00	03/10/1997
2-055-970013	01/17/1997	₱500,000.00	07/16/1997
2-055-960681 ⁸	12/03/1996	₱500,000.00	03/03/1997
2-055-960005 ⁹	01/18/1996	₱1,000,000.00	04/17/1996 ¹⁰
2-055-960049 ¹¹	02/07/1996	₱3,500,000.00	08/05/1996

To secure prompt payment of the loans, petitioners executed real estate mortgages over their two registered lots under Transfer Certificate of Title (TCT) Nos. 13062 and 40223.¹²

On June 18, 2002, Bank of the Philippine Islands (BPI), as successor-in-interest of FEBTC, filed a Complaint¹³ for sum of money

⁴ *Rollo*, pp. 50-54. Penned by Judge Selma Palacio Alaras.

⁵ *Id.* at 27-28. Penned by Associate Justice Bonifacio S. Pascua and concurred in by Associate Justices Fernanda Lampas Peralta and Apolinario D. Bruselas, Jr.

⁶ *Id.* at 75-82.

⁷ *Id.* at 58.

⁸ *CA rollo*, pp. 72-73.

⁹ *Id.* at 68-69.

¹⁰ Erroneously dated as "03/17/1996" in the RTC Decision.

¹¹ *CA rollo*, pp. 70-71.

¹² *Rollo*, pp. 61-62.

¹³ *CA rollo*, pp. 28-31.

against petitioners for the alleged deficiency in their loan obligation, viz.:

x x x x

3.1. As provided in annexes "A" to "L", the [petitioners] agreed among others to pay the principal amount of [P]6,082,998.00 and the interests therein stipulated. [Petitioners] agreed to pay the revised rate of interest as may be imposed by "FEBTC". Interest not paid when due shall become part of the principal and shall likewise bear the same rate of interest as is applicable on the period for which it was unpaid.

4. As security for the foregoing indebtedness [petitioners] executed a real estate mortgage over certain parcels of lands [*sic*] in favor of "FEBTC", copy of which is hereto attached as annexes "M" and "N".

x x x x

5. [Petitioners] failed to pay the amounts due representing the principal and interest on maturity thereof. Thus, demands were made by "FEBTC" on [petitioners] to settle their indebtedness. However, in spite of repeated demands, [petitioners] still failed to pay the same.

6. Upon [the] failure of the [petitioners] to pay their obligations, the plaintiff initiated foreclosure of the real estate mortgage.

7. On April 23, 2001 and November 10, 1997, public auction were conducted over the subject mortgaged properties, wherein plaintiff submitted the highest bid price of [P]2,603,465.00 and [P]4,000.00. Copies of the bid documents are attached herewith as annexes "O" and "P".

7.1. The bid price was applied to the total outstanding obligation of the defendants at the time of the auction sale leaving a deficiency balance of [P]13,268,303.02.

7.2. Certificates of sale were issued by the Ex-Officio Sheriff, Regional Trial Court of Agoo and Bauang La Union in favor of plaintiff attached hereto as annex "Q" and "R".

8. Plaintiff sent a letter to the [petitioners] demanding payment of their deficiency obligations in the amount of [P]13,268,303.02 as of September 30, 2001. However, in spite of repeated demands, [petitioners] still failed to pay their deficiency obligations. Copy of said letter is attached as annex "S".

9. By reason of the unjustified refusal of the [petitioners] to pay their loan obligations, the plaintiff is constrained to engage the services of the undersigned counsel in the amount of [P]100,000.00.



PRAYER

WHEREFORE, in view of all the foregoing, it is respectfully prayed of this Honorable Court, that after due notice and hearing, judgment be rendered ordering [petitioners] Spouses Antonio and Monette Prieto to pay jointly and severally the plaintiff Bank of the Philippine Islands the following amounts:

1. [P]13,268,303.02 plus the stipulated interest and penalty charges or liquidated damages from September 30, 2001 until fully paid;
2. Attorney's fees in the amount of [P]100,000.00; and
3. The costs of suit.

Other reliefs as may be deemed just and equitable in the premises are likewise prayed.¹⁴ (Emphasis and underscoring omitted)

In sum, BPI alleged that petitioners failed to pay their loans upon maturity, and thus, FEBTC extrajudicially foreclosed the real estate mortgage over TCT No. 13062 on November 10, 1997, in the amount of P4,000.00 in favor of FEBTC as the lone bidder; and that the real estate mortgage over TCT No. 40223 was likewise foreclosed on April 23, 2001, in the amount of P2,603,405.00 in favor of BPI.¹⁵

The RTC issued an undated summons, but the summons was lost. Hence, it issued an alias summons on November 30, 2004. The alias summons was personally served upon petitioners through Monette Prieto on February 11, 2005. The records were temporarily sent to the archives but was subsequently reinstated into the active docket upon BPI's request.¹⁶

On November 11, 2005, BPI was substituted by Philippine Asset Investments, Inc. (SPV-AMC).¹⁷

On November 25, 2005, the RTC declared petitioners in default.¹⁸

Upon motion of SPV-AMC, the RTC temporarily archived the case

¹⁴ Id. at 29-31.

¹⁵ *Rollo*, pp. 61-62.

¹⁶ Id. at 50-51.

¹⁷ Id. at 51.

¹⁸ Id.



on April 25, 2006, *due to difficulty in collating evidence*.¹⁹

On July 9, 2015, SPV-AMC was further substituted by Philippine Investment One [SPV-AMC], Inc. (SPV-AMC, Inc.).²⁰

The Ruling of the RTC

Initially, specifically on December 19, 2016, the RTC dismissed the case for lack of interest to prosecute. Upon SPV-AMC, Inc.'s motion for reconsideration, however, the court *a quo* reversed its order of dismissal on March 7, 2017. Thus, SPV-AMC, Inc.'s *ex-parte* presentation of evidence proceeded on May 2, 2017.²¹

On May 4, 2017, SPV-AMC, Inc. filed its Formal Offer of Evidence,²² which the RTC admitted on even date.²³

For reference, the pertinent documentary evidence submitted by SPV-AMC, Inc. in support of its deficiency claim against petitioners were as follows:

1. Promissory Note with PN No. 2-055-960005 dated January 18, 1996 in the amount of ₱1,000,000.00;
2. Promissory Note with PN No. 2-055-960049 dated February 7, 1996 in the amount of ₱3,500,000.00;
3. Promissory Note with PN No. 2-055-960681 dated December 3, 1996 in the amount of ₱500,000.00;
4. Demand letter dated September 28, 2001, from BENEDICTO VERZOSA GEALOGO & BURKLEY Law Offices to petitioners;
5. Deed of Assignment dated January 5, 2005 between BPI and SPV-AMC;
6. Deed of Assignment dated May 11, 2007, between SPV-AMC and SPV-AMC, Inc.;
7. SPV-AMC, Inc.'s Demand Letter dated August 12, 2011, addressed to petitioners;
8. Registry return receipts of SPV-AMC, Inc.'s Demand Letter

¹⁹ Id.

²⁰ Id.

²¹ Id. at 51-52.

²² CA *rollo*, pp. 85-94.

²³ *Rollo*, pp. 51-52.

- dated August 12, 2011;
9. Statement of Account as of March 28, 2017 in the amount of ₱35,667,973.74; and
 10. Judicial Affidavit of Reyzalyn D. Seña (Seña) dated March 28, 2017.²⁴

In the Decision²⁵ dated August 3, 2017, the RTC dismissed the Complaint for the second time; thus:

Apparently, as in any claim for payment of money, a mortgagee must be able to prove the basis for the deficiency judgment it seeks. The right of the mortgagee to pursue the debtor arises only when the proceeds of the foreclosure sale are ascertained to be insufficient to cover the obligation and other costs at the time of sale. Thus, the amount of the obligation prior to the foreclosure and the proceeds of the foreclosure are material in a claim for deficiency.

Notably, there was no evidence offered to support the allegations in the complaint that defendants owed plaintiff so much and that the former's properties were sold at auction to satisfy the indebtedness and that there is unsatisfied portion which justifies the present suit.

WHEREFORE, considering the paucity of evidence to prove the material facts above-stated, the Complaint is hereby DISMISSED WITHOUT PREJUDICE.

SO ORDERED.²⁶ (Citations and emphasis omitted)

The RTC stressed that the Complaint was not for the whole indebtedness but only for the unsatisfied portion thereof; hence, the amount of the obligation prior to foreclosure and the proceeds of the foreclosure are material in the case. It noted, however, that there was no evidence offered to support the allegations in the Complaint that petitioners' loan obligation still had an unsatisfied portion after their mortgaged properties were auctioned.²⁷

In response, SPV-AMC, Inc. filed its Motion for Reconsideration (Re: Decision dated 03 August 2017)²⁸ ("Motion for Reconsideration," for brevity) imploring the "kind indulgence" of the RTC to reconsider and set

²⁴ CA rollo, pp. 87-91.

²⁵ Rollo, pp. 56-59.

²⁶ Id. at 59.

²⁷ Id.

²⁸ CA rollo, pp. 135-147.

aside its Decision dated August 3, 2017 “in the interest of substantial justice”²⁹ and attached certified true copies of the Real Estate Mortgage³⁰ over TCT No. 13062 dated June 15, 1995, Certificate of Sale of Real Property³¹ over TCT No. 13062 dated November 10, 1997, and Certificate of Absolute Definitive Deed of Sale³² over TCT No. 40223 dated October 22, 2010 (collectively, subject documents).

SPV-AMC, Inc. contended that (1) the Demand Letter dated September 29, 2001 fully established the existence of petitioners’ debt;³³ (2) anent its failure to present and to offer the other promissory notes and bid documents in evidence, SPV-AMC, Inc. pleaded that these be nonetheless considered as not all documents relative to petitioners’ loan account were forwarded to it and copies of the said documents can no longer be secured despite utmost diligence on its part;³⁴ (3) the subject documents were attached in the Complaint filed by BPI and were neither denied nor opposed by petitioners;³⁵ (4) petitioners’ failure to specifically deny the material allegations and actionable documents in the Complaint amounted to an admission;³⁶ and (5) having proved the existence of the obligation, the burden of proof rests upon petitioners to show that it had been discharged.³⁷

In the Order³⁸ dated September 18, 2017, the RTC granted SPV-AMC, Inc.’s Motion for Reconsideration; thus:

In the higher interest of substantial justice, plaintiff PHILIPPINE INVESTMENT ONE (SPV-AMC), INC.,’s Motion for Reconsideration (Re: Decision dated 03 August 2017), is hereby GRANTED in part.

WHEREFORE, the Decision dated August 3, 2017 dismissing the complaint is set aside. *This case shall be decided anew on the basis of the additional evidence attached to the afore-stated motion.*

SO ORDERED.³⁹ (Emphasis omitted; italics supplied)

²⁹ Id. at 146.

³⁰ Id. at 153-154.

³¹ Id. at 149-150.

³² Id. at 151-152.

³³ Id. at 137-138, 145.

³⁴ Id. at 138.

³⁵ Id.

³⁶ Id. at 141, citing the case of *Otero v. Tan*, 692 Phil. 714 (2012).

³⁷ Id. at 144.

³⁸ *Rollo*, p. 49.

³⁹ Id.

On even date, the RTC issued its second Decision and held that (1) petitioners were extended loans in the amount of ₱5,200,000.00, plus interest and other charges which were secured by real estate mortgages on their properties; (2) they defaulted on their loan obligation amounting to ₱14,787,405.40, excluding filing fees of ₱26,705.00, publication fees of ₱12,000.00, and attorneys' fees of ₱3,696,851.35; (3) the extrajudicial foreclosure sales of petitioners' properties yielded the sum of ₱2,603,465.00; and (4) petitioners' outstanding obligation after applying the bid price was ₱13,268,303.02.⁴⁰

The dispositive portion of the RTC Decision⁴¹ dated September 18, 2017, reads:

WHEREFORE, premises considered, judgment is rendered in favor of the plaintiff BANK OF THE PHILIPPINE ISLANDS (as successor-in-interest of FAR EAST BANK AND TRUST COMPANY), substituted by PHILIPPINE ASSET INVESTMENT (SPV-AMC), INC., as further substituted by PHILIPPINE INVESTMENT ONE (SPV-AMC), INC., against defendants SPS. ANTONIO AND MONETTE PRIETO ordering the latter to pay plaintiff, jointly and solidarily the following:

- (1) Thirteen Million Two Hundred Sixty Eight Thousand Three Hundred Three & 02/100 centavos (Php13,268,303.02) Philippine currency plus twelve percent (12%) interests per annum from September 30, 2001 until June 30, 2013 and another six (6%) percent per annum from July 1, 2013 until the decision becomes executory and six (6%) percent interest per annum from finality until its full satisfaction.
- (2) cost of suit.

SO ORDERED.⁴² (Emphasis omitted)

Petitioners received a copy of the Decision dated September 18, 2017, on October 18, 2017. Neither party filed a motion for reconsideration or an appeal; hence, the decision became final and executory on November 2, 2017. Consequently, SPV-AMC, Inc. filed an Ex-Parte Motion for Issuance of Writ of Execution, a copy of which was duly received by petitioners.⁴³

⁴⁰ Id. at 53-54.

⁴¹ Id. at 50-54.

⁴² Id. at 54.

⁴³ Id. at 66.



Undeterred, petitioners filed a Petition for *Certiorari*⁴⁴ before the CA on December 18, 2017. They argued that the RTC erred in (1) considering the subject documents in violation of Section 34,⁴⁵ Rule 132 of the Rules of Court; and (2) awarding the amount of ₱13,268,303.02 to SPV-AMC, Inc.

The CA Ruling

In the assailed Decision⁴⁶ dated September 24, 2020, the CA dismissed the petition for *certiorari*. It held that the petition warrants an outright dismissal for failure to file a motion for reconsideration which is a condition *sine qua non* for filing the extraordinary writ of *certiorari*. Citing Sections 1 and 2, Rule 41 of the Rules of Court, the CA further held that appeal—not *certiorari*— is the correct remedy considering that what is being assailed is a final judgment.⁴⁷

Petitioners moved for the reconsideration of the CA Decision dated September 24, 2020, but the CA denied it in the Resolution⁴⁸ dated February 16, 2022.

Hence, the present petition.

Issues

For resolution by the Court is the procedural issue of whether the CA erred in (1) dismissing the petition for *certiorari* filed by petitioners outright on procedural grounds and (2) disregarding the substantive issue of whether the RTC acted with grave abuse of discretion when (a) it considered the subject documents in violation of Section 34, Rule 132 of the Rules of Court; and (b) awarded ₱13,268,303.02, despite the insufficiency of the evidence on record.

⁴⁴ CA *rollo*, pp. 3-13.

⁴⁵ Section 34, Rule 132 of the Rules of Court provides:
Section 34. *Offer of evidence*. — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

⁴⁶ *Rollo*, pp. 60-73.

⁴⁷ *Id.* at 69-71.

⁴⁸ *Id.* at 27-28.

Petitioners' Arguments

On the procedural issue, petitioners contend that the filing of a motion for reconsideration of the assailed RTC was not necessary because the issuance was a patent nullity for violating Section 34, Rule 132 of the Rules of Court. They further contend that they were deprived of due process because they were never able to examine and object to the admissibility of the subject documents.⁴⁹

Anent the first substantive issue, quoting the RTC Order dated September 18, 2017, petitioners maintain that the RTC based its Decision dated September 18, 2017, on the subject documents in violation of Section 34, Rule 132 of the Rules of Court. To their mind, newly discovered evidence, if any, can be considered upon a granting of a motion for new trial pursuant to Section 1, Rule 37 of the Rules of Court, but not in a motion for reconsideration.⁵⁰

On the second substantive issue, petitioners allege that the deficiency claim of ₱13,268,303.02 is not supported by preponderance of evidence considering that the records show that in 1996, petitioners were granted three promissory notes in the total amount of ₱5,000,000.00, not ₱5,200,000.00. They further allege that the proceeds of the foreclosure sales amounted to ₱1,266,597.07 on November 10, 1997, and ₱2,603,405.00 on October 22, 2001.⁵¹

SPV-AMC, Inc.'s Arguments

In its Comment,⁵² SPV-AMC, Inc. sought the dismissal of the present petition on the ground that it was resorted to as a substitute for a lost appeal. Citing the case of *Heirs of Serapio Maborang v. Maborang*⁵³ (*Maborang*), SPV-AMC, Inc. posits that the subject documents may be considered even though these were not formally offered as they were duly identified and incorporated in the records of the case.⁵⁴

⁴⁹ Id. at 19.

⁵⁰ Id. at 9-10.

⁵¹ Id. at 15-17.

⁵² Id. at 195-204.

⁵³ 759 Phil. 82 (2015).

⁵⁴ *Rollo*, p. 200.

Our Ruling

The petition is impressed with merit.

In the case at bar, petitioners are asking the Court to rule on whether the CA erred in dismissing their petition for *certiorari* outright on the grounds that they availed themselves of the wrong remedy and failed to comply with the mandatory requirement of a motion for reconsideration. Petitioners, contend, however, that a motion for reconsideration was not necessary in the case because the assailed RTC decision was a patent nullity for failure to comply with Section 34, Rule 132 of the Rules of Court and in violation of their right to due process.

Notably, the RTC Decision dated September 18, 2017, is a final judgment on the merits of the case; hence, petitioners' correct remedy is appeal "even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution."⁵⁵ Jurisprudence is replete with cases that pronounce that the special civil action for *certiorari* under Rule 65 is only proper when there is no plain, speedy, and adequate remedy in the ordinary course of law and is not a substitute for a lost appeal.⁵⁶ More, petitioners failed to move for the reconsideration of the assailed RTC Decision dated September 18, 2017, prior to their filing of a petition for *certiorari* with the CA. From the foregoing, the CA did not err when it dismissed the petition because of petitioners' procedural lapses.

Nonetheless, the Court gives due course to the present petition and rules on the substantive issues raised by petitioners in view of the merits of the case. In numerous cases, the Court has exercised its equity jurisdiction and allowed meritorious cases to proceed despite the litigant's procedural lapses in the broader interest of substantial justice.

Similar to the case at bar, the petitioner in *Tanenglian v. Lorenzo*⁵⁷ filed a special civil action of *certiorari* under Rule 65 of the Rules of

⁵⁵ *Nuque v. Aquino*, 763 Phil. 362, 367-368 (2015), citing *Sps. Dycoco v. Court of Appeals*, 715 Phil. 550, 561 (2013).

⁵⁶ *Sps. Dycoco v. Court of Appeals*, supra at 560. See also *Chua v. People*, 821 Phil. 271, 278-279 (2017); *Spouses Leynes v. Court of Appeals*, 655 Phil. 25, 44 (2011); and *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, 479 Phil. 768, 772 (2004).

⁵⁷ 573 Phil. 472 (2008).

court instead of an ordinary appeal, but the Court nonetheless relaxed the rules of procedure in his favor:

Petitioner filed with the Court of Appeals the special civil action of *certiorari* under Rule 65 of the Rules of Court instead of a petition for review under Rule 43, not because it was the only plain, speedy, and adequate remedy available to him under the law, but, obviously, to make up for the loss of his right to an ordinary appeal. It is elementary that the special civil action of *certiorari* is not and cannot be a substitute for an appeal, where the latter remedy is available, as it was in this case. A special civil action under Rule 65 of the Rules of Court cannot cure a party's failure to timely file a petition for review under Rule 43 of the Rules of Court. Rule 65 is an independent action that cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including that under Rule 43, especially if such loss or lapse was occasioned by a party's neglect or error in the choice of remedies.

All things considered, however, we do not agree in the conclusion of the Court of Appeals dismissing petitioner's Petition based on a procedural *faux pax*. While a petition for *certiorari* is dismissible for being the wrong remedy, there are exceptions to this rule, to wit: (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.

x x x x

We find that petitioner's case fits more the exception rather than the general rule. Taking into account the importance of the issues raised in the Petition, and what petitioner stands to lose, the Court of Appeals should have given due course to the said Petition and treated it as a petition for review. By dismissing the Petition outright, the Court of Appeals absolutely foreclosed the resolution of the issues raised therein. Indubitably, justice would have been better served if the Court of Appeals resolved the issues that were raised in the Petition.⁵⁸ (Citations omitted; underscoring supplied)

In the recent case of *Republic v. Maria Basa Express Jeepney Operators and Drivers Association, Inc.*,⁵⁹ the Court opined that technicalities may be set aside if strict application thereof would result in manifest injustice:

At first blush, it would appear that the OSG availed of the wrong remedy when it sought to assail the Decision of the RTC by

⁵⁸ Id. at 488-489.

⁵⁹ G.R. Nos. 206486, 212604, 212682 & 212800, August 16, 2022.

filing a petition for *certiorari*. It is well settled that the proper remedy to obtain a reversal of judgment on the merits, final orders, or resolutions, is an appeal. While the petition attributes grave abuse of discretion on the part of Hon. Antonio M. Esteves as judge, this Court, in *Chua v. People*, nevertheless instructs that an appeal should still be sought as a recourse “even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution.” As emphasized in *Spouses Leynes v. Former Tenth Division of the Court of Appeals*, “where an appeal is available, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion.”

All things considered, however, this Court is not in agreement with the conclusion of the CA in dismissing the petition based on mere procedural error. While the availability of an appeal precludes *certiorari*, this oft-repeated rule still admits of exceptions. After all, the acceptance of a petition for *certiorari*, and the decision to give the same due course, is generally addressed to the sound discretion of this Court.

In *Department of Education v. Cunanan*, this Court cites certain exceptional instances, to wit: “(a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.” In any case, when the stringent application of the rules would result in manifest injustice, the Court may set aside such technicalities and take cognizance of the petition before it. In *Tanenglian v. Lorenzo, et al.*, which involves similar facts, the CA was found to be in error for dismissing the petition for *certiorari* instead of resolving the issues raised therein.⁶⁰ x x x (Citations omitted; underscoring supplied)

In *Barnes v. Judge Padilla*,⁶¹ the Court gave due course to the petition although the procedural error committed by the petitioner therein had rendered the assailed CA decision final and executory:

x x x [T]he filing of petitioner’s motion for extension of time to file motion for reconsideration did not toll the fifteen-day period before the CA decision becomes final and executory. Since the decision of the CA dated August 18, 2003 has long become final and executory at the time of the filing of the present petition, the Court can no longer alter or modify the same. The failure of the petitioner to file his motion for reconsideration within the period fixed by law renders the decision final and executory. Such failure carries with it the result that no court can exercise appellate jurisdiction to review the case. Phrased otherwise, a final and executory judgment can no longer be attacked by any of the

⁶⁰ Id.

⁶¹ 482 Phil. 903 (2004).

parties or be modified, directly or indirectly, even by the highest court of the land.

However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.

Invariably, rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflects this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself had already declared to be final.⁶² (Citations omitted; underscoring supplied)

The foregoing cases are consistent with the oft-repeated principle that “rules of procedure are mere tools designed to facilitate the attainment of justice and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided.”⁶³

All told, the compelling circumstances in the present case warrant the exercise of the Court’s equity jurisdiction.

To recall, the case was archived on April 25, 2006, upon motion of SPV-AMC, in order to give the latter more time to collate evidence. It must be noted, however, that SPV-AMC’s reason for the archiving of the case is not one of the instances wherein a civil case may be archived as provided under OCA Circular No. 89-04,⁶⁴ viz.:

II. Civil Cases

In civil cases, the court may, *motu proprio* or upon motion, order that a civil case be archived *only* in the following instances:

(a) When the parties are in the process of settlement, in which case the proceedings may be suspended and the case archived for a

⁶² Id. at 914-915.

⁶³ *Tanenglian v. Lorenzo*, supra note 57, at 489.

⁶⁴ Reiteration of the Guidelines in the Archiving of Cases, approved on August 12, 2004.

period not exceeding ninety (90) days. The case shall be included in the trial calendar on the day immediately following the lapse of the suspension period.

(b) When an interlocutory order or incident in the civil case is elevated to and is pending resolution/decision for an indefinite period before a higher court which has issued a temporary restraining order or writ of preliminary injunction.

(c) When defendant without fault or neglect of plaintiff, cannot be served with summons within six (6) months from issuance of original summons. (Emphasis supplied)

Interestingly, the case was archived for more than 10 years when the RTC ordered its dismissal on December 19, 2016, for lack of interest to prosecute. However, on SPV-AMC's motion for reconsideration, the RTC reversed its order of dismissal and thereafter admitted SPV-AMC, Inc.'s Formal Offer of Evidence on May 4, 2017.

Surprisingly, despite having been given more than a decade to collate evidence, SPV-AMC and SPV-AMC, Inc. still failed to formally offer the subject documents. It was only when the RTC dismissed the case for insufficiency of evidence in the Decision dated August 3, 2017, did SPV-AMC, Inc. belatedly attach the subject documents in its Motion for Reconsideration.

It is also worth noting that the RTC ruled that out of the 12 promissory notes, SPV-AMC, Inc. was able to substantiate its claim on only three of them, *i.e.*, PN Nos. 2-055-960005, 2-055-960049, and 2-055-960681.⁶⁵ Still, the RTC ordered petitioners to pay the whole amount prayed for in the Complaint despite SPV-AMC, Inc.'s failure to substantiate its claim on the remaining nine promissory notes. In addition, as aptly pointed out by petitioners, the sum of the three promissory notes formally offered by SPV-AMC, Inc. amounted to ₱5,000,000.00 only, not ₱5,200,000.00.⁶⁶

Lastly, the Court noted that the Certificate of Sale of Real Property over TCT No. 13062 dated November 10, 1997, was irregular on its face. On its first page, Ex-Officio Sheriff Ethelwolda A. Jaravata (Jaravata) stated that the subject property was sold for ₱1,286,597.07 as maintained by petitioners. On its succeeding page, however, Jaravata

⁶⁵ *Rollo*, p. 52.

⁶⁶ *Id.* at 16.

stated that the subject property was sold for ₱4,000.00 only.⁶⁷ Notably, SPV-AMC, Inc. neither presented the relevant bid documents nor presented any witness who can shed light on this discrepancy.

Considering the special circumstances in the case, *i.e.*, overwhelming concessions granted by the RTC to SPV-AMC and SPV-AMC, Inc., and the merits of the case, it is only fair and just for the Court to suspend the enforcement of the procedural rules in favor of petitioners. Verily, it is more prudent to relax the rules of procedure in the present case rather than dismiss the case on pure technicalities and cause grave injustice to petitioners.

To be sure, the Court's function in a petition for review on *certiorari* is limited to determining whether the CA erred in dismissing petitioners' petition for *certiorari*, and not whether the RTC committed an error of jurisdiction.⁶⁸ Be that as it may, remanding the case back to the CA will only result in more unnecessary delay in the resolution of the case and additional litigation expenses for the parties. With the whole record before the Court, including the subject documents in question, it would be more in keeping with the higher interest of justice for the Court to consider the substantive issues raised in the present petition and write *finis* to this decades-long case.

The RTC's Order and Decision, both dated September 18, 2017, are void.

- a. *The RTC gravely abused its discretion in considering the subject documents even though they were not formally offered.*

Section 34 of Rule 132 of the Rules of Court provides that any evidence that a litigant wants to present for the consideration of the court

⁶⁷ CA rollo, pp. 176-177.

⁶⁸ See *Campos v. Bank of the Philippine Islands*, 785 Phil. 853, 862 (2016).



must be formally offered; otherwise, it is excluded. Nonetheless, there is an exception to this rule.

In *Mabborang*, the Court stated that evidence not formally offered may be considered provided that two conditions are met:

x x x [T]he trial court is bound to consider only the testimonial evidence presented and exclude the documents not offered. Documents which may have been identified and marked as exhibits during pre-trial or trial but which were not formally offered in evidence cannot in any manner be treated as evidence. Neither can such unrecognized proof be assigned any evidentiary weight and value. It must be stressed that there is a significant distinction between identification of documentary evidence and its formal offer. The former is done in the course of the pre-trial, and trial is accompanied by the marking of the evidence as an exhibit; while the latter is done only when the party rests its case. The mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence. It must be emphasized that any evidence which a party desires to submit for the consideration of the court must formally be offered by the party; otherwise, it is excluded and rejected.

In certain instances, however, this Court has relaxed the procedural rule and allowed the trial court to consider evidence not formally offered on the condition that the following requisites are present: (1) *the evidence must have been duly identified by testimony duly recorded; and (2) the same must have been incorporated in the records of the case.*⁶⁹ (Citations omitted; italics supplied)

Stated differently, the trial court may consider evidence not formally offered provided that the evidence was (1) duly identified by testimony duly recorded, and (2) incorporated in the records of the case.

In *People v. Mate*,⁷⁰ the prosecution therein marked and identified their exhibits, but failed to make a formal offer thereof. Still, the Court held that their oversight was trivial because the “witnesses properly identified those exhibits and their testimonies are recorded.”⁷¹

SPV-AMC, Inc. failed to meet the first condition. Although the subject documents were attached in the Complaint, the subject documents were not duly identified by testimony of any witness duly

⁶⁹ *Heirs of Mabborang v. Mabborang*, supra note 53, at 95.

⁷⁰ 191 Phil. 72 (1981).

⁷¹ *Id.* at 82.

recorded. The testimony of a witness who has personal knowledge of the first auction sale is crucial in view of the irregularity on the face of the Certificate of Sale of Real Property over TCT No. 13062 dated November 10, 1997, and the failure on the part of SPV-AMC, Inc. to present and offer the relevant bid documents in evidence.

Here, SPV-AMC, Inc.'s sole witness, Seña, failed to mention, much less identify, the subject documents in her judicial affidavit.⁷² Verily, the exception set forth in *Mabborang* does not apply in the present case.

- b. *SPV-AMC, Inc.'s "Motion for Reconsideration" was, by its nature, a motion for new trial.*

Petitioners aptly pointed out that SPV-AMC, Inc. should have filed a motion for new trial so that the subject documents, which were not formally offered during the trial, may be considered by the RTC.

In its Motion for Reconsideration, SPV-AMC, Inc. implored the "kind indulgence"⁷³ and consideration of the RTC as not all documents relative to petitioners' loan account were forwarded to it upon the assignment, and copies of the other promissory notes and bid documents which were appended by BPI in the Complaint can no longer be secured despite utmost diligence on its part. Anent the subject documents, SPV-AMC, Inc. explained that it was only recently that the certified true copies were secured due to a fire that razed the Registry of Deeds concerned.⁷⁴

A careful reading of the aforementioned grounds provided by SPV-AMC, Inc. would show that its Motion for Reconsideration was in fact a motion for new trial. In effect, SPV-AMC, Inc. was asking the RTC to set aside its Decision dated August 3, 2017, and grant a new trial by considering the subject documents that were not formally offered, which the RTC did as stated in its Order dated September 18, 2017. Regardless of the motion's designation, the RTC gravely abused its

⁷² See CA *rollo*, pp. 36-49.

⁷³ *Rollo*, p. 34.

⁷⁴ *Id.* at 36.

discretion when it granted a new trial in favor of SPV-AMC, Inc. in violation of Sections 1 and 2, Rule 37 of the Rules of Court:

RULE 37
New Trial or Reconsiderations

SECTION 1. *Grounds of and period for filing motion for new trial or reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

x x x x

SECTION 2. *Contents of motion for new trial or reconsideration and notice thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration shall point out a specifically the findings or conclusions of the judgment or final order which are not supported by the evidence[,] or which are contrary to law making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A pro forma motion for new trial or reconsideration shall not toll the reglementary period of appeal. (Emphasis and underscoring supplied)

Verily, SPV-AMC, Inc.'s mistake as to the nature of its motion was fatal to its case.



Due to SPV-AMC, Inc.'s failure to comply with Sections 1 and 2, Rule 37 of the Rules of Court, the Court holds that SPV-AMC, Inc.'s Motion for Reconsideration is a *pro forma* motion for new trial which shall not toll the reglementary period to file an appeal,⁷⁵ or in the case, a petition for *certiorari*.⁷⁶

c. *SPV-AMC, Inc. failed to establish the material facts necessary in a claim for deficiency.*

In civil actions, the party making allegations has the burden of proving them by a preponderance of evidence.⁷⁷ “The rule holds true especially when the latter has had no opportunity to present evidence because of a default order.”⁷⁸ Stated differently, the RTC’s award in favor of SPV-AMC, Inc. is limited only to what is “warranted by the *evidence offered* and the facts proven”⁷⁹ by the latter even though petitioners were declared in default.

The case of *SSS v. Hon. Chaves*⁸⁰ is instructive; thus:

We must stress, however, that a judgment of default against the petitioner who failed to appear during pre-trial or, for that matter, any defendant who failed to file an answer, does not imply a waiver of all of their rights, except their right to be heard and to present evidence to support their allegations. *Otherwise, it would be meaningless to request presentation of evidence every time the other party is declared in default. If it were so, a decision would then automatically be rendered in favor of the non-defaulting party and exactly to the tenor of his prayer.* The law also gives the defaulting parties some measure of protection because plaintiffs, despite the default of defendants, are still required to substantiate their allegations in the complaint.⁸¹ (Citations omitted; emphasis supplied)

⁷⁵ See last paragraph of Rules of Court, Rule 37, Section 2.

⁷⁶ In *Pillars Property Corp. v. Century Communities Corp.*, 848 Phil. 187 (2019), the Court held that an order dismissing an action without prejudice is reviewable via petition for *certiorari*.

⁷⁷ See Revised Rules on Evidence, Rule 133, Section 1.

⁷⁸ *Otero v. Tan*, supra note 36, at 729.

⁷⁹ See *Descallar v. Heirs of Guevara*, G.R. No. 243874, October 6, 2021. Italics supplied.

⁸⁰ 483 Phil. 292 (2004).

⁸¹ Id. at 301-302.

In a claim for deficiency, the material facts that must be alleged and proven are the amount of the obligation prior to the foreclosure and the proceeds of the foreclosure.⁸² In *Philippine National Bank v. Spouses Rocamora*,⁸³ the Court held that “[t]he right of the mortgagee to pursue the debtor arises only when the proceeds of the foreclosure sale are ascertained to be insufficient to cover the obligation and the other costs at the time of the sale.”⁸⁴

Given the circumstances of the present case, the Court finds that the RTC gravely abused its discretion when it awarded the alleged deficiency claim of ₱13,268,303.02 as prayed for in the Complaint .

First. SPV-AMC, Inc. failed to present any evidence showing the unpaid balance of petitioners’ loan obligation immediately prior to the two foreclosure sales held on November 10, 1997, and April 23, 2001. The records are likewise bereft of any detailed and credible accounting as to how BPI arrived at the amount of ₱13,268,303.02 as stated in the demand letter dated September 28, 2001. Considering that 62.32% of its claim consisted of interest and penalties, due process dictates that petitioners should at least have been informed of the breakdown of their loan obligation and assured that the proceeds of the auctions sales were deducted therefrom. Worse, SPV-AMC, Inc.’s own documentary evidence contradicted their allegation that the mortgaged property covered by TCT No. 13062 was auctioned for ₱4,000.00 only.

Second. Setting the subject documents aside, the remaining evidence at hand, *i.e.*, BPI’s demand letter dated September 28, 2001, has no probative value with respect to the material facts which must be proven by SPV-AMC, Inc. in support of its deficiency claim. The demand letter is at most hearsay evidence, and thus, inadmissible absent any showing that the author thereof had personal knowledge of the facts stated therein. It is even more suspect considering that it was not made under oath, and the author thereof did not even take the witness stand.⁸⁵

From the foregoing, the RTC aptly dismissed the Complaint in its Decision dated August 3, 2017. Considering that the evidence formally offered by SPV-AMC, Inc. was insufficient to justify a judgment in its

⁸² See *Philippine National Bank v. Spouses Rocamora*, 616 Phil. 369, 379 (2009).

⁸³ *Supra*.

⁸⁴ *Id.* at 379.

⁸⁵ See Rules of Court, Rule 130, Section 36.

favor, the dismissal of the Complaint is warranted. However, the RTC erred in ordering that the dismissal be one *without prejudice*.

- d. *The RTC should have dismissed the Complaint with prejudice due to SPV-AMC, Inc.'s failure to prosecute its action for an unreasonable length of time.*

Section 3, Rule 17 of the Rules of Court provides:

SECTION 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (Underscoring supplied)

Indeed, the RTC is given considerable discretion in deciding whether a case before it should be dismissed with or without prejudice. It must be stressed, however, that the exercise of judicial discretion must not violate Section 16, Article III of the Constitution which provides that “[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.” Courts should decide cases judiciously and expeditiously as a matter of course keeping in mind the adage, “justice delayed is justice denied.”

Here, SPV-AMC, Inc.'s delay in prosecuting its action is inexcusable. It is incredulous that the archival period of the case was longer than the 10-year-prescriptive period on the enforcement of the promissory notes.⁸⁶ Evidently, SPV-AMC and SPV-AMC, Inc. had all the opportunity in the world to prove their deficiency claim by preponderant evidence and still failed to do so. Having ruled on the merits of the case and finding SPV-AMC, Inc.'s evidence insufficient to justify its deficiency claim, the RTC should have dismissed the Complaint with prejudice.

⁸⁶ See Civil Code of the Philippines. Article 1144.

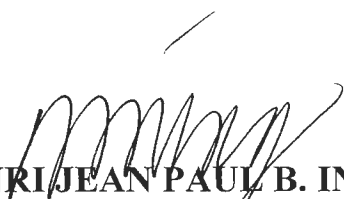
Considering that the case had already been archived for more than 10 years, the Court rules that the RTC's order of dismissal without prejudice after trial on the merits is a violation of petitioners' right to speedy disposition of their case, and thus, cannot be sanctioned by the Court. More, there will be no end to litigation and the courts' dockets would be clogged if plaintiffs who, by their own fault, failed to substantiate their claims after trial on the merits would be allowed to re-file their case to the prejudice of the defendant.

On a final note, "[t]he expeditious disposition of cases is as much the duty of the plaintiff as the court's."⁸⁷ SPV-AMC Inc.'s delay in prosecuting its action for an unreasonable length of time is highly prejudicial to petitioners whose loan obligation continued ballooning while the case is pending. The Court cannot, in good conscience, make petitioners suffer for the negligence of SPV-AMC and SPV-AMC, Inc.

WHEREFORE, the petition is **GRANTED**. The Decision dated September 24, 2020, and the Resolution dated February 16, 2022, of the Court of Appeals in CA-G.R. SP No. 153869, and the Order dated September 18, 2017, and the Decision dated September 18, 2017, of Branch 62, Regional Trial Court, Makati City, in Civil Case No. 02-683 are **SET ASIDE**.

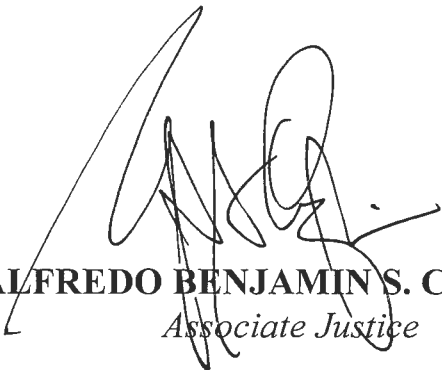
Accordingly, the Complaint for deficiency claim in Civil Case No. 02-683 is **DISMISSED**.

SO ORDERED.

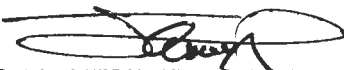

HENRIJEAN PAUL B. INTING
Associate Justice

⁸⁷ *3A Apparel Corp. v. Metropolitan Bank and Trust Co.*, 642 Phil. 732, 736 (2010).


WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



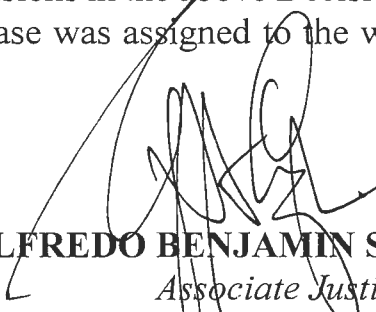
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest 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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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.


ALEXANDER G. GESMUNDO
Chief Justice

