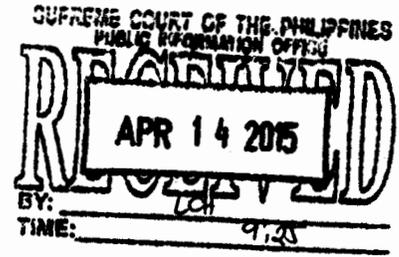




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **25 March 2015** which reads as follows:

G.R. No. 207918 - Reynaldo P. Lagman v. Acacia Investment Corporation, represented by its President, Florencio Cecilio R. Reyes.

For resolution is the petition for review on *certiorari* under Rule 45 assailing the February 28, 2013 Decision¹ of the Court of Appeals (CA) which set aside the December 15, 2010 Order² of the Regional Trial Court, Branch 24, Biñan, Laguna (RTC), penned by Presiding Judge Marino Rubia, which denied due course to the Notice of Appeal of the respondent, Acacia Investment Corporation (*respondent*).

The Factual Antecedents

Records show that petitioner Reynaldo Lagman (*petitioner*) filed a petition before the RTC entitled "IN RE: PETITION FOR INSCRIPTION OF THE WORD CANCELLED BY TCT NO. 486715 IN THE TRANSFER CERTIFICATE OF TITLE NO. 473062 OF THE REGISTRY OF DEEDS OF CALAMBA CITY, LAGUNA," docketed as LRC Case No. B-4587.

On August 12, 2010, after a number of hearings set on the petition without any opposition thereto, the case was finally heard *ex-parte*. During the proceedings, petitioner presented and offered testimonial and documentary evidence. On August 16, 2010, before judgment was rendered on the petition, respondent filed its motion to comment/oppose the petition, but it was denied by the RTC in its August 17, 2010 Order. Nevertheless, respondent still filed an opposition which was likewise denied by the RTC in its September 29, 2010 Order.

On October 18, 2010, the RTC granted the petition. On November 18, 2010, respondent filed a motion for reconsideration, but it was denied by the RTC on November 23, 2010.

¹ CA Decision, *Rollo*, pp. 20-31.

² *Id.* at 100.

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Respondent thereafter, filed its Notice of Appeal before the RTC. On December 15, 2010, the notice of appeal was denied due course on the ground that "an order denying a motion for reconsideration may not be appealed,"³ citing Section 1 (a), Rule 41 of the Rules of Court.

Undaunted, respondent filed its "Motion to File Verified Petition for Review on Certiorari under Rule 65 of the Rules of Court" before the CA, which motion was denied at first, but was later granted. Respondent basically argued in its petition that the RTC committed grave abuse of discretion in not giving due course to its notice of appeal.

On February 28, 2013, the CA rendered the assailed decision favoring respondent. The CA ruled, among others, that the RTC gravely abused its discretion when it denied respondent's notice of appeal. The CA wrote:

Under the amendment introduced by A.M. No. 07-7-12-SC, an appeal may now be taken from an order denying a motion for new trial or reconsideration. It is clear, therefore, that respondent judge gravely abused his discretion in denying petitioner's Notice of Appeal. As the legal provision now stands, an appeal may now be taken from an order denying a motion for new trial or reconsideration. Administrative Matter No. 07-7-12-SC amended Rule 41, Section 1 of the Rules of Court by deleting an order denying a motion for new trial or motion for reconsideration from the enumeration of non-appealable orders.

Petitioner moved for a reconsideration, but his motion was denied by the CA.

Hence, this petition.

GROUNDS

I

THE HONORABLE COURT OF APPEALS COMMITTED GROSS ERROR, ACTED IN EXCESS OF JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION AND IN THE PROCESS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND ESTABLISHED JURISPRUDENCE IN REVERSING ITS RESOLUTION DATED JANUARY 25, 2011 AND ADMITTED THE PETITION FOR CERTIORARI THE FILING OF WHICH IT EARLIER DENIED FOR 1) FAILURE OF RESPONDENT TO FILE A MOTION FOR RECONSIDERATION OF THE ASSAILED ORDER OF THE TRIAL COURT; AND 2) UNDER RULE 65, SECTION 1 OF THE RULES OF COURT, A WRIT OF CERTIORARI MAY BE

³ Id.

AVAILED OF ONLY WHERE THERE IS NO APPEAL, OR ANY PLAIN, SPEEDY AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW WHICH OBTAINS IN RESPONDENT'S (PETITIONER BELOW) CASE.

II

COROLLARILY, THE HONORABLE COURT OF APPEALS ALSO COMMITTED GROSS ERROR, ACTED IN EXCESS OF JURISDICTION, WITH GRAVE ABUSE OF DISCRETION AND NOT IN ACCORD WITH LAW AND ESTABLISHED JURISPRUDENCE IN GIVING DUE COURSE TO THE DISPUTED PETITION FOR CERTIORARI FILED BY THE RESPONDENT (AS PETITIONER BELOW) AND IN DECIDING IT IN FAVOR OF RESPONDENT CONTRARY TO ITS EARLIER RESOLUTION DATED JANUARY 25, 2011 DENYING THE FILING THEREOF.

III

THE HONORABLE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND ESTABLISHED JURISPRUDENCE WHEN ON RECONSIDERATION IT ADMITTED AND GAVE DUE COURSE TO THE IMPUGNED PETITION FOR CERTIORARI WHEN RESPONDENT HAS PLAIN, SPEEDY, AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW WITHOUT RESORTING TO THE EXTRAORDINARY REMEDY OF WRIT OF CERTIORARI.⁴

In sum, petitioner is of the position that the CA gravely abused its discretion when it gave due course to the petition for *certiorari* filed by respondent.

Petitioner essentially argues that Section 1, Rule 65 of the Rules of Court mandates that the extraordinary writ of *certiorari* is available only when any tribunal, board or officer exercising judicial or quasi-judicial function has acted without or in excess of its jurisdiction, amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.

Petitioner claims that respondent was not left without any legal remedy after the RTC issued its December 15, 2010 Order denying due course to respondent's notice of appeal after the issuance of the October 18, 2010 decision and the November 23, 2010 order of the RTC. Petitioner insists that respondent had a plain, speedy and adequate remedy in the ordinary course of law, which was in the form of a motion for reconsideration. He stresses that after the denial of its notice of appeal, respondent should have filed a motion for reconsideration

⁴ Id. at 62-63.

first before filing its "Motion to File Verified Petition for Review under Rule 65 of the Rules of Court." The act of giving due course by the CA to respondent's petition for certiorari sans the required motion for reconsideration violated Section 1, Rule 65 of the Rules of Court. Hence, the CA gravely abused its discretion.

Respondent's counter-position

Respondent counters that while an appeal is merely a statutory privilege, the emerging trend now in judicial pronouncements is that cases should be decided on the merits and not on mere technicalities. Procedural rules must not override substantial justice. It likewise argues that the CA exercised its sound judicial discretion in giving due course to its petition for certiorari in the interest of justice.

The Court's Ruling

The petition lacks merit.

Petitioner failed to show that the CA committed an error when it granted respondent's petition for *certiorari* and effectively gave due course to the notice of appeal. The Court agrees with the CA that the RTC gravely abused its discretion when it made it appear that respondent was assailing the November 23, 2010 RTC Order denying the motion for reconsideration contrary to the fact that it was attacking the October 18, 2010 RTC Decision denying due course to its Notice of Appeal as it expressly indicated in its Notice of Appeal.

Next, granting that it was assailing the November 23, 2010 Order denying the motion for reconsideration, the RTC was still in error because pursuant to A.M. No. 07-7-12-SC, an appeal can now be taken from an order denying a motion for new trial or reconsideration. As amended, Section I, Rule 41, now reads:

RULE 41

Section 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.

No appeal may be taken from:

1. An order denying a petition for relief or any similar motion seeking relief from judgment;

2. An interlocutory order;
3. An order disallowing or dismissing an appeal;
4. An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
5. An order of execution;
6. A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
7. An order dismissing an action without prejudice.

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65.

Considering that A.M. No. 07-7-12-SC took effect on December 27, 2007, the RTC deliberately ignored the rules when, after three years, it still applied the old rule.⁵

WHEREFORE, the petition is **DENIED**. (*Carpio, J., on leave; Brion, J., designated Acting Chairperson, per Special Order No. 1955; Perlal-Bernabe, J., designated Acting Member, per Special Order No. 1956, both dated March 23, 2015*)

SO ORDERED.

Very truly yours,

MA. LOURDES C. PERFECTO
 MA. LOURDES C. PERFECTO
 Division Clerk of Court

⁵ SECTION 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.

No appeal may be taken from:

- (a) An order denying a motion for new trial or reconsideration;
- (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
- (c) An interlocutory order;
- (d) An order disallowing or dismissing an appeal;
- (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent.
- (f) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
- (h) An order dismissing an action without prejudice. [Emphasis supplied]

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