REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **04 December 2019** which reads as follows:

“G.R. No. 239919 (Celso Panganiban vs. Alberto Furuc, Mila Furuc, Anofra Furuc, and Janang Cruz).- This Petition,¹ filed by Celso Panganiban (petitioner) under Rule 45 of the Rules of Court against Alberto Furuc, Mila Furuc, Anofra Furuc and Janang Cruz (respondents), seeks the reversal of the Resolution dated November 23, 2017² and the Resolution dated April 30, 2018,³ both issued by the Court of Appeals (CA) in CA-G.R. SP No. 151141. In the first assailed Resolution, the CA dismissed petitioner’s appeal for failure to correct the defects noted therein.

Petitioner is the plaintiff in a Complaint⁴ for forcible entry with prayer for the issuance of injunctive relief and damages filed against the respondents before the Municipal Circuit Trial Court (MCTC) of Ramon-San Isidro, Isabela on September 8, 2014. In his complaint, petitioner alleged that he is the son of Tomas Panganiban (Panganiban) and Visitacion Simangan, both of whom are deceased. A parcel of land, identified as Lot No. 1871 and located in Camarag, San Isidro, Isabela, was adjudicated in favor of Panganiban in a case before the Department of Environment and Natural Resources (DENR) in DENR Case No. 4732. The said property was eventually declared for taxation purposes in the name of Panganiban. On September 2, 2014, petitioner made arrangements and developed a portion of the subject property in preparation for rice planting in November of that year. However, through stealth, strategy, and force, the respondents allegedly entered on to the said property and planted mongo thereat on “September 4, 2013.”⁵

During the proceedings before the MCTC, clarificatory questions were asked as to the date when the respondents allegedly entered the subject

¹ Rollo, pp. 12-22.

² The assailed Resolutions were penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Ramon A. Cruz and Pablito A. Perez; id. at 93.

³ Id. at 104.

⁴ Id. at 45-49.

⁵ Id. at 45-46.

property. Petitioner claimed that such date was on September 4, 2014 and the date in his Complaint was merely a typographical error. The MCTC, considering the documentary presented, gave credence to petitioner's claim that the date on which the respondents entered the subject property was actually September 4, 2014.⁶

On January 12, 2016, the MCTC rendered a Decision⁷ in favor of the petitioner, the dispositive portion of which states:

WHEREFORE, premises considered judgment is hereby rendered in favor of the [petitioner] and against the [respondents]. Thus, ordering[:]

1. [Respondents] Janang Cruz, Alberto Furuc, Mila Furuc, and those that survived Anofra Furuc Cruz (Samuel F. Cruz, Adelaida F. Cruz, Salvador F. Cruz, Samson F. Cruz and Adelina F. Cruz) and all persons claiming rights under them to VACATE their respective occupancies and peacefully surrender the possession of the land described in LOT 1871 situated at Camarag, San Isidro, Isabela;
2. To pay jointly and severally attorney's fees in the amount of Php20,000.00[;] and
3. To pay the cost of suit.

SO ORDERED.⁸

On appeal the Regional Trial Court (RTC) of Santiago City, Isabela reversed the decision of the MCTC. In its Decision⁹ dated January 11, 2017, the RTC noted that during the clarificatory hearing before the MCTC, petitioner confirmed and affirmed that the respondents "forcibly entered the subject property on September 4, 2013," and that when ordered to submit a written manifestation in connection with the different dates, petitioner failed to comply thereto.¹⁰ Since the Complaint was considered to have been filed on September 8, 2014, the RTC found that the action for forcible entry had already prescribed. The decretal portion of the decision reads:

WHEREFORE, premises considered, the appeal is granted and the decision of [the] MCTC Ramon-San Isidro, Isabela dated February 4, 2015 is hereby reversed and set aside. Let the entire records of this case be forwarded to the Court of Origin for proper disposition.

SO ORDERED.¹¹

⁶ Id. at 25.
⁷ Id. at 23-29.
⁸ Id. at 29.
⁹ Id. at 30-34.
¹⁰ Id. at 32-33.
¹¹ Id. at 34.

Aggrieved, petitioner appealed before the CA *via* a Petition for Review under Rule 42¹² of the Rules of Court. However, the CA issued a Resolution¹³ dated July 11, 2017, requiring petitioner to rectify the defects and inadequacies found in his petition within 10 days from notice, failing which, the petition shall be dismissed. The said defects are quoted as follows:

- (1) The Decision of the RTC dated January 11, 2017, states that it resolves an appeal from the Decision of the MCTC dated February 4, 2015. However, there is no Decision of the MCTC of Ramon-San Isidro [sic] Isabela dated February 4, 2015 attached to the petition. The Decision of the MCTC attached to the petition (as Annex H) is dated January 12, 2016.
- (2) No copies of the pleadings filed before the RTC on appeal are attached to the petition, e.g., appeal memorandum, comment, etc.
- (3) The place of issuance of counsel for petitioner's [Professional Tax Receipt] PTR No. 8216082, 1-4-17, is not indicated.
- (4) There is no written explanation why the instant petition was FILED by registered mail, instead of the preferred mode of personal delivery.¹⁴

Petitioner failed to comply with the above-quoted Resolution within the period prescribed. Thus, on November 23, 2017, the CA issued the first assailed Resolution,¹⁵ dismissing the petition in this wise:

On 11 July 2017, this Court issued a Resolution requiring petitioner to rectify the noted defects in the petition. Record shows that copy of said resolution was received by petitioner's counsel on 25 July 2017 but no compliance has been filed.

WHEREFORE, premises considered, the instant petition is **DISMISSED**.¹⁶ (Emphasis in the original)

On the same day the above-cited Resolution was issued,¹⁷ petitioner belatedly complied with the July 11, 2017 Resolution by way of a Manifestation.¹⁸ Therein, petitioner attached copies of the decisions of the RTC and the MCTC and his unfiled Appellee's Memorandum when the case was pending before the RTC. Petitioner likewise indicated the place of issuance of his counsel's PTR and the explanation for why the petition was filed by registered mail.¹⁹ Considering the dismissal of the petition, the CA

¹² Id. at 35-40.
¹³ Id. at 89.
¹⁴ Id.
¹⁵ Id. at 93.
¹⁶ Id.
¹⁷ Id. at 97.
¹⁸ Id. at 94-96
¹⁹ Id. at 94-95

noted the Manifestation without action in its Resolution dated January 17, 2018.²⁰

On January 12, 2018,²¹ petitioner moved for reconsideration of the November 23, 2017 Resolution, reasoning that the compliance was only filed on November 2017 because “the office secretary” kept the Resolution dated July 11, 2017 in another case folder where petitioner is also a party.²²

Issues

The CA denied petitioner’s motion in the second assailed Resolution dated April 30, 2018. Hence, the instant petition where petitioner raises the following issues:

- A. Whether or not the CA erred in not considering the Petition for Review under Rule 42 substantially compliant as containing the necessary documents needed to review the Petition
- B. Whether or not the one-year period for filing the Complaint for Forcible Entry was properly applied by the RTC

As to the first issue, petitioner argues that his petition before the CA should have been given due course as he had substantially complied with the July 11, 2017 Resolution of the CA. He submits that: (1) there is no missing attachment in his petition, because there was no Decision dated February 4, 2015 issued by the MCTC, the correct document being the Decision dated January 12, 2016; and (2) the other deficiencies were corrected in his Manifestation dated November 22, 2017, where he attached a copy of his Appellee’s Memorandum before the RTC and indicated the place of issuance of his counsel’s PTR as well as the explanation that the petition before the CA was filed through registered mail due to lack of material time. Petitioner opines that, notwithstanding his and his counsel’s lapses, the CA should have granted his motion for reconsideration in the interest of the substantial justice.

As to the second issue, petitioner maintains that the cause of action for forcible entry did not prescribe as the respondents forcibly entered the subject property on September 4, 2014 and not September 4, 2013. The finding of the RTC, which did not give credence to petitioner’s claim that the date in his complaint was a typographical error, is controverted by the totality of evidence presented by petitioner before the MCTC. Considering that the respondents entered the property on September 4, 2014, and that petitioner

²⁰ Id. at 97.

²¹ Id. at 98-99.

²² Id.

filed the Complaint for Forcible Entry on September 8, 2014, such action is still within the one-year prescriptive period.

In their Comment,²³ the respondents point out that there is no showing that the instant petition before this Court was filed on time. They submit that absent any proof, petitioner's claim of having received the April 30, 2018 CA Resolution, where the latter's motion for reconsideration was denied, should not be given credence. They maintained that petitioner failed to comply with the procedural requirements in his petition before the CA and thereby failed to perfect his appeal. Thus, there is nothing more to be reviewed by this Court under the present Rule 45 petition.

Ruling of the Court

The petition fails.

At the outset, the instant petition deserves outright dismissal for failure to comply with the procedural requirements for an appeal by *certiorari* before this Court. Section 4 (b), Rule 45 of the Rules of Court specifically requires a petition for review on *certiorari* to indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.²⁴ Relatively, the failure of the petitioner to comply with the requirements regarding the contents of the petition shall be sufficient ground for the dismissal thereof.²⁵

A perusal of the instant petition readily shows that the petitioner failed to indicate the date when the notice of the CA Resolution dated November 23, 2017 was received. The petitioner also indicated different dates as to when he received a copy of the CA Resolution dated April 30, 2018. While the instant petition stated that petitioner received the April 30, 2018 CA Resolution on May 23, 2018,²⁶ his Motion for Extension of Time to File Petition for Review on *Certiorari* indicated the date of receipt to be on May 17, 2018.²⁷

On September 10, 2018, this Court issued a Resolution requiring petitioner to submit, among others, a verified statement of the material date of receipt of the assailed Resolution dated November 23, 2017 and the accurate

²³ Id. at 144.

²⁴ Section 4. *Contents of petition.* — The petition shall x x x (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; x x x

²⁵ RULES OF COURT, Rue 45, Section 5.

²⁶ *Rollo*, p. 12.

²⁷ Id. at 131.

date of receipt of the Resolution dated April 30, 2018.²⁸ Notwithstanding, petitioner failed submit such verified statement.

Verily, petitioner failed to comply with the requirements set by the Rules of Court regarding the contents of his petition and, despite being afforded the opportunity to cure the deficiencies thereof, he unjustifiably failed to do so.

Even if we are to consider petitioner's arguments, the same is still without merit, for just as he failed to complete his petition before this Court, he likewise failed to perfect his appeal before the CA.

Time and again, the Court has declared that the right to appeal is not a natural right, but a statutory privilege that may be exercised only in the manner and in accordance with the provisions of the law. Thus, the party who seeks to avail of the remedy of appeal must comply with the requirements of the Rules of Court, failing which, the privilege of appeal is forfeited.²⁹

To recapitulate, the following deficiencies were noted by the CA in the petitioner's petition for review under Rule 42 of the Rules of Court: (2) there is no Decision of the MCTC dated February 4, 2015 as referred to by the RTC in its Decision dated January 11, 2017; (2) there were no copies of pleadings filed before the RTC on appeal attached to the petition; (3) the place of issuance of counsel for petitioner's PTR was not indicated; (5) and a written explanation as to why the petition was filed by registered mail instead of personally was attached thereto. The petitioner was then allowed 10 days from receipt of the July 11, 2017 Resolution to correct such deficiencies.

Section 2, Rule 42 of the Rules of Court provide, among others, that the petition filed thereunder shall be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the RTC, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. Notably, the failure to comply with the foregoing requirements regarding the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.³⁰

Meanwhile, Section 11, Rule 13 of the Rules of Court dictates that, whenever practicable, the service and filing of pleadings and other papers shall be done personally and a resort to other modes must be accompanied by

²⁸ Id. at 121.

²⁹ *Sibayan v. Costales, et al.*, 789 Phil. 1, 9 (2016).

³⁰ RULES OF COURT, Rule 42, Section 3.

a written explanation why the service or filing was not done personally. A violation of this rule may be cause to consider the paper as not filed.

Despite receipt of the copy of the July 11, 2017 Resolution on 25 July 2017, no compliance was filed by the petitioner or his counsel. Instead on November 23, 2017, on the same date the CA dismissed his petition and 121 days after his counsel received the July 11, 2017 Resolution, the petitioner filed a Manifestation in an attempt to cure the deficiencies of his petition. Interestingly, the petitioner offered no explanation then as to why his compliance was being filed out of time.

Accordingly, considering the defects of the petition and the lack of compliance filed by the petitioner within and beyond the period allowed by the court, it was proper for the CA to dismiss the same.

Assuming the petitioner's Manifestation may be considered, the same does not cure the defects of petition filed before the CA.

First, the Decision of the RTC dated January 11, 2017 states that it resolves an appeal from the Decision of the MCTC dated February 4, 2015, but a copy of the said MCTC Decision was not attached to the petition before the CA. The petitioner claims that no such decision was rendered and that the correct MCTC Decision was dated January 12, 2016.

It has been long established that public officials, including the courts, enjoys the presumption of regularity in the performance of their official duties and functions. In the absence of evidence to the contrary, the issuances of the courts such as the RTC are deemed regular and valid.³¹ Instead of a bare allegation that there was no MCTC Decision dated February 4, 2015, it would have been more prudent for the petitioner to obtain a certification from the MCTC or the court having custody of the records of this case to further support his claim.

Second, the submission in the petitioner's motion for reconsideration before the CA that his counsel's office secretary misfiled the copy of the July 11, 2017 Resolution is unacceptable.

Notwithstanding receipt of the above-mentioned resolution by the petitioner's counsel's secretary, it remains the duty of the said counsel to adopt and strictly maintain a system that efficiently takes into account all court notices sent to him.³²

³¹ See *Yap v. Lagtapon*, 803 Phil. 652 (2017).

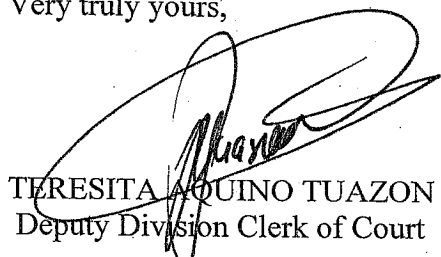
³² *Gonzales v. Court of Appeals*, 450 Phil. 296, 302 (2003).

All told, the Court finds no error in the Decision of the Court of Appeals.

WHEREFORE, the instant Petition is hereby **DENIED** for lack of merit.

SO ORDERED." (*Bernabe, J., on official business; Zalameda, J., on official leave*)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *utb, 12/17*
17 DEC 2019

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