

THIRD DIVISION

[G.R. No. 165544, October 02, 2009]

**ROMEO SAMONTE, PETITIONER, VS. S.F. NAGUIAT, INC.,
RESPONDENTS.**

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* filed by Romeo Samonte which seeks to set aside the Decision^[1] dated March 26, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 70213, dismissing his petition for *certiorari* of the Order^[2] dated December 21, 2001 of the Regional Trial Court (RTC), Malolos, Bulacan, in Civil Case No. 585-M-2000, denying his petition for relief from judgment. Also assailed is the CA Resolution^[3] dated September 28, 2004, denying petitioner's motion for reconsideration.

The antecedent facts, as narrated by the Court of Appeals, are as follows:

Petitioner Romeo Samonte is the President and General Manager of S.B. Commercial Traders, Inc. (SB Traders, for brevity), a corporation engaged in the business of retailing motor oils and lubricants. It (sic) purchases Mobil products on credit basis from one of Mobil Oil Philippines' authorized dealers in Bulacan, herein private respondent S.F. Naguiat, Inc., with an express agreement to pay within a period of 60 days from date of delivery.

On September 4, 2000, the private respondent filed a complaint for collection of sum of money against SB Traders and the petitioner with Branch 9 of the Regional Trial Court (RTC) of Malolos, Bulacan. The private respondent alleged that SB Traders incurred an obligation to pay the total sum of P1,105,143.27 arising from the sale of Mobil Oil products. It further averred that SB Traders was merely an alter ego of the petitioner and that it was operating for his sole benefit.. Therefore, the petitioner and SB Traders must be held solidarily liable for the subject amount.

The petitioner filed an answer denying all the material averments of the complaint, As special and affirmative defenses, he claimed that he was not acting in his personal capacity and was merely acting for and in behalf of SB Traders; that SB Traders never denied its obligation to pay for the purchases it made with the private respondent but was merely requesting for more time to settle its accounts; and that to effect payment for the subject amount, it had already issued postdated checks of P25,000.00 per month covering the period from June to December

1999 to the private respondent.

Despite due notice, the petitioner and his counsel failed to appear at the scheduled pre-trial conference on April 20, 2001. Hence, trial ensued where the public respondent allowed the *ex parte* presentation of the private respondent's evidence before the Branch Clerk of Court.

On May 25, 2001, the public respondent rendered judgment in favor of the private respondent, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendants S.B. Commercial Traders, Inc. and Romeo G. Samonte to pay, jointly and severally, unto plaintiff S.F. Naguiat, Incorporated the following amounts: P1,105,143.27 as prayed for in the complaint representing the value of the oil products reflected in the Invoices marked as Exhibits 'B' to ' O' and 'O-1'-and 'P', with interest thereon at the rate of 18% per annum from the filing of the complaint on September 4, 2000 until the same shall have been paid in full; P10,000.00 as exemplary damages; and 20% of the entire amount due and demandable from the defendants as and for attorney's fees, plus the costs of the suit.

SO ORDERED.

The petitioner failed to appeal the said decision. Thereafter, on motion by the private respondent, the public respondent ordered the issuance of a writ of execution on July 30, 2001.

On August 22, 2001, the petitioner filed a petition for relief from judgment on the ground that the public respondent made serious and prejudicial mistakes in appreciating the evidence presented. He argued that a corporation had a personality separate and distinct from that of its officers and therefore, he cannot be held solidarily liable for obligations contracted by corporation. The petition was opposed by the private respondent.

On December 21, 2001, the public respondent issued the first assailed order denying the petitioner's petition for relief from judgment for lack of merit. The petitioner moved for reconsideration of the said order but the same was denied in the second assailed order dated February 12, 2002 on the grounds that the motion failed to comply with the mandatory requirements of sections 4 and 5 of Rule 15 of the 1997 Rules of Civil procedure and that it failed to raise an issue which would warrant a modification or reversal of the order dated December 21, 2001.^[4]

Petitioner filed with the CA a petition for *certiorari* with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction reiterating the grounds stated in his petition for relief from judgment filed with the RTC. Respondent filed its Comment. The parties subsequently filed their respective memoranda.

On March 26, 2004, the CA issued its assailed Decision dismissing the petition.

In so ruling, the CA found that the records showed that petitioner failed to file a motion for reconsideration or an appeal from the RTC Decision dated May 25, 2001 causing the said decision to become final and executory; that when petitioner filed the petition for relief from judgment, petitioner did not offer any reason for his failure to appeal; there was no assertion that the RTC decision was entered against him through fraud, accident, mistake or excusable negligence. The CA noted that the petition was not accompanied by an affidavit of merit showing the fraud, accident, mistake or excusable negligence relied upon and the facts constituting petitioner's good and substantial defense as required by law. It also agreed with the RTC's observation that petitioner did not assail the proceedings conducted below, but merely questioned the validity of the dispositive portion of the RTC decision, thus, the petition for relief from judgment was fatally flawed and should have been dismissed outright.

The CA added that notwithstanding such defect, the RTC proceeded with hearing the petition perhaps as an act of grace giving petitioner one last chance to protect his interest and present evidence in support of his arguments, but petitioner opted to dispense with the presentation of evidence in support of the said petition; that petitioner could not claim that he was denied his day in court or claim that the RTC committed grave abuse of discretion. The CA then said that once a judgment becomes final, executory and unappealable, the prevailing party shall not be deprived of the fruits of victory by some subterfuge devised by the losing party.

Petitioner's motion for reconsideration was denied in a Resolution dated September 28, 2004.

Petitioner is now before the Court raising the following grounds:

The Honorable Court committed an irreversible error in dismissing herein Petitioner's Petition for *Certiorari* and subsequently thereafter, in denying his Motion for Reconsideration thereto for lack of merit.

The Honorable Court gravely erred in strictly applying the rules of procedure at the expense of substantial justice.

The Honorable Court committed an irreversible error in not ruling on the merits of the case.^[5]

The petition has no merit.

The Court of Appeals did not err in ruling that no grave abuse of discretion was committed by the RTC in dismissing the petition for relief from judgment filed by petitioner therewith.

Sections 1 and 3 of Rule 38 of the Rules of Court provide the requirements for a petition for relief from judgment, thus:

SEC. 1. Petition for relief from judgment, *order, or other proceedings.* - When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

SEC. 3. *Time for filing of petition; contents and verification.*-- A petition for in either of the preceding sections of this rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, order, or other proceeding to be set aside, and not more than six (6) months after such judgment or order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

Relief from judgment under Rule 38 of the Rules of Court is a remedy provided by law to any person against whom a decision or order is entered into through fraud, accident, mistake or excusable negligence. The relief provided for is of equitable character, allowed only in exceptional cases as where there is no other available or adequate remedy.^[6] When a party has another remedy available to him, which may either be a motion for new trial or appeal from an adverse decision of the lower court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking the appeal, he cannot avail himself of the relief provided in Rule 38. The rule is that relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence or a mistaken mode of procedure, otherwise the petition for relief will be tantamount to reviving the right of appeal which has already been lost either because of inexcusable negligence or due to a mistake in the mode of procedure by counsel.^[7]

In his Petition for Relief from Judgment filed before the RTC, petitioner alleged that the petition was filed on the ground that the RTC made serious and prejudicial mistakes in appreciating the evidence presented. He then proceeded to discuss the errors of judgment committed by the RTC in rendering its decision.

The mistake contemplated by Rule 38 of the Rules of Court pertains generally to mistake of fact, not of law, which relates to the case.^[8] The word "mistake" which grants relief from judgment, does not apply and was never intended to apply to a judicial error which the court might have committed in the trial.^[9] Such error may be corrected by means of an appeal.

The arguments raised by petitioner in his petition for relief from judgment, *i.e.*, he cannot be held civilly liable for obligations he, as corporate president thereof, has incurred in behalf of the corporation which is vested with a personality separate and distinct from its officers and stockholders; and that he cannot be held jointly and solidarily liable for the obligations, are proper issues which petitioner could have raised in a motion for reconsideration which he did not. The RTC, in its Order