

THIRD DIVISION

[G.R. NO. 138500, September 16, 2005]

**ANDY QUELNAN, PETITIONER, VS. VHF PHILIPPINES,
RESPONDENT.**

D E C I S I O N

GARCIA, J.

Under consideration is this petition for review on *certiorari* to nullify and set aside the decision^[1] dated September 17, 1997 of the Court of Appeals (CA) in CA-G.R. No. SP-41942, and its resolution^[2] dated April 27, 1999, denying petitioner's motion for reconsideration.

The factual backdrop:

In an ejectment suit (Civil Case No. 139649-CV) filed by respondent VHF Philippines, Inc. against petitioner Andy Quelnan, involving a condominium unit at the *Legaspi Towers 300* at Roxas Boulevard, Manila which respondent claimed to have been leased by petitioner, the Metropolitan Trial Court (MeTC) of Manila, on its finding that "summons together with a copy of the complaint was served [on petitioner] thru his wife on August 25, 1992 by substituted service" and that petitioner "failed to file his answer within the reglementary period", came out with a **decision dated November 23, 1992**^[3] rendering judgment for respondent, as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of [respondent] and against herein [petitioner] ordering the latter to vacate the premises located at Unit 20-G Legaspi Towers 300, Vito Cruz, corner Roxas Blvd., Manila and restore possession of the same to [respondent]; ordering [petitioner] to pay [respondent] the amount of P1,077,497.77 as of June 1992 and the further sum of P25,000.00 and P1,500.00 as monthly rental for the condominium unit and parking lot respectively with legal interest thereon and to pay the sum of P15,000.00 as and for attorney's fees with costs against defendant.

SO ORDERED. (Words in bracket ours).

Copy of the aforementioned decision was served on petitioner by registered mail but the same was returned unclaimed on account of petitioner's failure to claim the same despite the postmaster's three (3) successive notices on November 25, 1992, December 7, 1992 and December 11, 1992.

No appeal having been taken by the petitioner, the MeTC decision became final and executory.

On May 18, 1993, a writ of execution, a notice of levy and a notice to vacate were served on petitioner's wife who acknowledged receipt thereof.

On May 24, 1993, petitioner filed with the Regional Trial Court (RTC) at Manila a *Petition for Relief from Judgment With Prayer for Preliminary Injunction and/or temporary restraining order*,^[4] thereunder alleging, inter alia, that he was never served with summons and was completely unaware of the proceedings in the ejectment suit, adding that he learned of the judgment rendered thereon only on May 18, 1993 when a notice of levy on execution came to his knowledge. He thus prayed the RTC to annul and set aside the MeTC decision and the writs issued in connection therewith.

In a **decision dated June 3, 1996**,^[5] the RTC granted petitioner's petition for relief and set aside the MeTC decision. The RTC explained that petitioner had been unduly deprived of a hearing and had been prevented from taking an appeal for the reason that petitioner's wife, in a fit of anger, tore the summons and complaint in the ejectment suit in the heat of a marital squabble. To the RTC, this constituted excusable negligence as would justify the filing of the petition for relief from judgment.

Respondent sought reconsideration of the RTC decision but its motion was denied by said court in its order of July 5, 1996.^[6]

Therefrom, respondent directly went to this Court on a petition for review, which petition was remanded by this Court to the Court of Appeals (CA), whereat the same was docketed as CA-G.R. SP No. 41942.

As stated at the threshold hereof, the appellate court, in a **decision dated September 17, 1997**,^[7] upon a finding that petitioner's petition for relief was filed with the RTC beyond the 60-day mandatory period therefor under Section 3, Rule 38 of the Rules of Court, reversed and set aside the RTC decision and reinstated that of the MeTC, thus:

WHEREFORE, the petition is GRANTED. The decision dated June 3, 1996 of the Regional Trial Court of Manila, Branch 16 is SET ASIDE. The decision dated November 23, 1992 of the Metropolitan Trial Court of Manila, Branch 30 is REINSTATED. No costs.

SO ORDERED.

In time, petitioner moved for a reconsideration but his motion was denied by the appellate court in its resolution of April 27, 1999.^[8]

With this turn of events, petitioner is now the one with us *via* the present recourse urging us to nullify and set aside the assailed decision and resolution of the Court of Appeals on the following grounds:

- A. THE RESPONDENT IN ITS PETITION FOR CERTIORARI BEFORE THE COURT OF APPEALS DID NOT QUESTION THE ORDERS OF THE REGIONAL TRIAL COURT OF MANILA DATED OCTOBER 26, 1995 AND JANUARY 26, 1996.

B. THE METROPOLITAN TRIAL COURT OF MANILA NEVER ACQUIRED JURISDICTION OVER THE PETITIONER, HENCE ITS DECISION CANNOT BECOME FINAL AND EXECUTORY.

C. THE FINDINGS OF FACT OF THE METROPOLITAN TRIAL COURT ARE NOT SUPPORTED BY THE EVIDENCE ON RECORD AND CANNOT BE CONSIDERED AS FINAL AND CONCLUSIVE.^[9]

As we see it, the principal questions to be resolved are: (1) if a party fails to claim his copy of the adverse decision which was sent through registered mail, when is he deemed to have knowledge of said decision? (2) will the presumption of completeness of service of a registered mail matter under Rule 13, Section 10 of the 1997 Rules of Civil Procedure^[10] apply in relation to the 60-day period for filing a petition for relief from judgment under Rule 38, Section 3 of the Rules?

It is petitioner's posture that the 60-day period for filing a petition for relief from judgment must be reckoned from the time a party acquired knowledge of the judgment. Hence, prescinding from his premise that he became aware of the MeTC decision only on **May 18, 1993** when a notice to pay and vacate was served on him by the sheriff, petitioner submits that his petition for relief from judgment was timely filed on May 24, 1993.

We are not persuaded.

Relief from judgment under Rule 38 is a legal remedy whereby a party seeks to set aside a judgment rendered against him by a court whenever he was unjustly deprived of a hearing or was prevented from taking an appeal, in either case, because of fraud, accident, mistake or excusable neglect.^[11]

Section 3 of Rule 38 reads:

SEC. 3. Time for filing petition; contents and verification. — A petition provided 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, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final 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. (Emphasis supplied)

Clear it is from the above that a petition for relief from judgment must be filed within: (a) 60 days from knowledge of judgment, order or other proceedings to be set aside; and (b) six (6) months from entry of such judgment, order or other proceeding. These two periods must concur. Both periods are also not extendible and never interrupted.^[12] Strict compliance with these periods stems from the equitable character and nature of the petition for relief. Indeed, relief is allowed only in exceptional cases as when there is no other available or adequate remedy. As it were, a petition for relief is actually the "last chance" given by law to litigants to question a final judgment or order. And failure to avail of such "last chance" within the grace period fixed by the Rules is fatal.^[13]