

SECOND DIVISION

[G.R. No. 185303, August 01, 2018]

EDITHA S. MEDINA, RAYMOND A. DALANDAN, AND CLEMENTE A. DALANDAN, AS THEIR ATTORNEY-IN-FACT, PETITIONERS, V. SPS. NICOMEDES AND BRIGIDA LOZADA, RESPONDENTS.

RESOLUTION

CAGUIOA, J:

Before the Court is a petition^[1] for review on *certiorari* (Petition) under Rule 45 of the Rules of Court assailing the Decision^[2] dated August 26, 2008 (Decision) of the Court of Appeals^[3] (CA) in CA-G.R. SP No. 102990, dismissing the petition for *certiorari* filed by the petitioners and the Resolution^[4] dated November 10, 2008 of the CA denying the motion for reconsideration filed by the petitioners.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

It appears that a Complaint was filed by the plaintiffs (herein petitioners) against the defendants (herein private respondents), docketed as *Civil Case No. 07-0041*^[5]. Petitioners failed to append a copy thereof to their instant Petition.

A Motion to Dismiss with Motion to Punish for Contempt dated 10 May 2007 was filed by the defendants on the grounds that the cause of action is barred by prior judgment; plaintiffs have absolutely no cause of action; the court has no more jurisdiction over the subject matter of the action; plaintiffs and their counsel are guilty of blatant forum shopping; and the action has prescribed. Plaintiffs filed their Vehement Opposition dated 11 June 2007.

Respondent Judge [Lorna Navarro Domingo, as presiding judge of the Regional Trial Court of Las Piñas City, Branch 201 (RTC)] issued the first assailed Order dated 27 July 2007 dismissing the case on the ground of *res judicata*, which reads:

"Under consideration is the Motion to Dismiss with Motion to Punish for Contempt filed by defendants through counsel on the ground that the cause of action is barred by prior judgment and this court has no more jurisdiction over the subject matter of this action.

"Opposition was filed by plaintiffs through counsel and alleged therein that res judicata does not apply since the Order dated

January 29, 2004, the dismissal for failure of plaintiffs and counsel to attend the hearing is not a judgment on the merits.

"As pointed out by the plaintiffs through counsel, res judicata or bar by prior judgment is a doctrine which holds a matter adjudicated by a court of competent jurisdiction must be deemed to have been finally and conclusively settled if it arises in any subsequent litigation between the same parties and for the same cause.

"For the doctrine to apply four (4) requirements must be met:

(1.) the former judgment or order must be final;

'(2.) it must be a judgment, or an order on the merits;

'(3.) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and

'(4.) there must be between the first and second actions identity of parties, of subject matter and of cause of action.

"The Court finds that when the defendants alleged as one of the grounds barred by a prior judgment, they were referring to decision of LRC No. M-24 rendered by the Regional Trial Court, Branch 134 of Makati Metro Manila on February 23, 1989 confirming the title of applicant Nicomedes J. Lozada, the defendants [sic] in this case.

"The Court can safely conclude that the four (4) requisites of res judicata have been complied with in this case.

"WHEREFORE, premises considered, the Court hereby order (sic) for the Dismissal of this case on the ground of res judicata.

"As to the Motion for Contempt, the Court hereby DENIES the said Motion for lack of merit.

"SO ORDERED. "

Plaintiffs filed a Motion for Reconsideration dated 26 September 2007. The same was denied, for lack of merit, by the respondent Judge in the second assailed Order dated 28 December 2007.^[6]

The petitioners filed a petition for *certiorari* before the CA.

Ruling of the CA.

The CA in its Decision dismissed the petition. The CA reasoned out:

In the case at bar, the assailed Orders dismissing the Complaint in *Civil Case No. 07-0041* on the ground of *res judicata* and denying the Motion

for Reconsideration are final orders and completely dispose of the case. Appeal, and not a special civil action for *certiorari*, is the correct remedy to elevate said final orders. The manner of appealing said final orders is provided under Rule 41 of the 1997 Rules of Civil Procedure, as amended. The instant Petition for *Certiorari* cannot be used by petitioners as a substitute for a lost appeal. Accordingly, when a party adopts an improper remedy, the petition may be dismissed outright.^[7]

The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the Petition is **DISMISSED**. Costs against petitioners.

SO ORDERED.^[8]

The petitioners filed a Motion for Reconsideration dated September 12, 2008, which was denied by the CA in its Resolution^[9] dated November 10, 2008.

Hence, the instant Petition. The respondents filed their "Comments"^[10] dated February 19, 2009. The petitioners filed a Reply^[11] dated March 23, 2009. The parties filed their respective Memorandum dated October 10, 2009^[12] for the respondents and dated October 17, 2009^[13] for the petitioners.

The Issue

The Petition raises the sole issue of whether the CA erred in dismissing the petition for review by *certiorari* under Rule 65.

The Court's Ruling

The Petition lacks merit.

The petitioners argue that the Order^[14] dated July 27, 2007 of the RTC, dismissing their action for Quieting of Title and Reconveyance docketed as Civil Case No. 07-0041 on the ground of *res judicata*, and the Order^[15] dated December 28, 2007, denying the motion for reconsideration of the earlier Order, are mere interlocutory Orders and are not final Orders because their action was not adjudged on its merits and an Order denying a motion for reconsideration is not appealable.^[16]

On the other hand, the respondents argue that an Order granting a motion to dismiss is final, being an adjudication on the merits, so that the proper remedy is appeal; and the Order granting a motion to dismiss becomes final 15 days from receipt thereof with prejudice to the re-filing of the same case once such Order achieves finality.^[17] They further argue that *certiorari* proceedings cannot be used as substitute for a lost appeal.^[18]

The CA ruled:

An order or a judgment is deemed final when it finally disposes of a pending action, so that nothing more can be done with it in the trial court. In other words, the order or judgment ends the litigation in the lower court.^[19] An order of dismissal, whether correct or not, is a final order. It is not interlocutory because the proceedings are terminated; it