

THIRD DIVISION

[G.R. No. 217121, March 16, 2016]

**SYSTEMS AND PLAN INTEGRATOR AND DEVELOPMENT
CORPORATION, REPRESENTED BY ITS PRESIDENT, ENGR.
JULIETA CUNANAN, PETITIONER, VS. MUNICIPAL GOVERNMENT
OF MURCIA, RESPONDENT,**

R E S O L U T I O N

REYES, J.:

The instant petition for review on *certiorari*^[1] assails the Resolutions dated May 30, 2014^[2] and February 23, 2015^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 133398.

Facts

In August of 2010, petitioner Systems and Plan Integrator and Development Corporation (SPIDC) engaged the services of Kapunan Lotilla Garcia and Castillo Law Offices (the law office) to pursue a civil collection case and an administrative case against the Municipal Government of Murcia (respondent).^[4] Per agreement, SPIDC shall pay the law office acceptance, contingency and deposit fees.^[5] Official receipts^[6] issued by the law office, dated February 4, 2011 and February 17, 2011, indicated SPIDC's payment of Php 50,000.00 and Php 30,000.00, respectively.

Thereafter, the law office filed in behalf of SPIDC and against the respondent a collection case before the Regional Trial Court (RTC) of Quezon City, which was docketed as Civil Case No. Q-11-68595, and raffled to Branch 220. On January 4, 2011, SPIDC paid filing fees^[7] in the amounts of Php 185,146.00 and Php 277,594.00.

On August 30, 2012, SPIDC received a copy of the RTC Order, dated July 23, 2012, which dismissed the case against the respondent for failure to prosecute. The dismissal was precipitated by the law office's non-appearance before the RTC to examine the case records pursuant to the order issued on January 12, 2012. SPIDC claimed that a certain "Atty. Garcia" from the law office manifested that a motion for reconsideration shall be filed to assail the RTC's dismissal of the collection case.^[8]

On September 21, 2012, SPIDC instead received a copy of the law office's motion to approve withdrawal as counsel for non-payment of service fees filed before the RTC.^[9] The RTC granted the law office's motion through the Order issued on October 19, 2012.^[10]

SPIDC claimed that upon inquiry addressed to the law office, a certain "Atty. Castillo" explained that fees paid for services rendered in the collection case against

the respondent were not recorded properly and the lawyers assigned thereto had resigned. Further, SPIDC had to wait for the law office to reconcile its records.^[11]

Meanwhile, SPIDC engaged the services of Atty. Aries B. Mirandilla (Atty. Mirandilla),^[12] who filed a motion for reconsideration to assail the dismissal of the collection case. Through the Order^[13] issued on October 16, 2013, the RTC denied SPIDC's motion for having been filed out of time.

In the herein challenged resolutions, the CA dismissed SPIDC's petition for *certiorari* filed under Rule 65 of the Rules of Court for being a wrong mode of appeal. The CA ruled that the dismissal of a case for failure to prosecute is a final order and operates as a judgment on the merits, appealable under Rule 41 and not Rule 65 of the Rules of Court.^[14]

Issues

SPIDC is now before this Court raising the issues of whether or not (1) the dismissal of the case by the RTC violated SPIDC's substantive rights, and (2) the alleged violation of substantive rights should be considered as grave abuse of discretion amounting to lack or excess of jurisdiction.^[15]

SPIDC avers that even if there was indeed inadequacy on the part of the law office in prosecuting the case against the respondent, the RTC should have exercised liberality lest there be a deprivation of substantive rights.^[16]

In its Comment,^[17] the respondent asserts that SPIDC has failed to present legal arguments against the validity of the CA Resolutions dated May 30, 2014 and February 23, 2015. Besides, SPIDC had erroneously filed before the CA a petition for *certiorari* under Rule 65 of the Rules of Court, instead of an ordinary appeal under Rule 41 thereof. Hence, by reason of SPIDC's inefficacious appeal before the CA, the RTC Order dated July 23, 2012 dismissing the complaint had attained a state of finality. Further, SPIDC is bound by the acts of its counsel. Granting the instant petition would be violative of the principles of finality of judgments and stability of judicial doctrines.

Ruling of the Court

There is no merit in the instant petition.

An erroneous mode of appeal was filed before the CA.

In *Young v. Spouses Sy*,^[18] the Court is emphatic that:

[T]he RTC orders dismissing the case for failure to prosecute are final orders, because such orders of dismissal operate as a judgment on the merits. This principle is now an express provision in Section 3, Rule 17 of the Rules of Court, to wit:

Section 3. *Dismissal due to fault of plaintiff.*—If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. ***This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court,*** x x x

It is firmly established, and with very few exceptions, that the remedy against such final order is appeal and not *certiorari*.

The general rule is that a writ of *certiorari* will not issue where the remedy of appeal is available to the aggrieved party, x x x.^[19] (Citations omitted, italics and emphasis in the original and underscoring ours)

Further, Section 5(f), Rule 56 of the Rules of Court clearly provides that an appeal may be dismissed *motu proprio* or upon motion if a party resorts to an erroneous mode thereof.

Prescinding from the above, the CA cannot be faulted for dismissing SPIDC's petition for *certiorari* on account of its procedural flaw. Besides, even if the Court were to exercise leniency, consider SPIDC's motion for reconsideration belatedly filed before the RTC, and let the petition for *certiorari* be treated as an ordinary appeal by the CA, it would still be susceptible to dismissal.

As a general rule, the counsel's negligence binds the client, and no compelling reason exists for the Court to exempt the petitioner from its application.

In *Philhouse Development Corporation v. Consolidated Orix Leasing and Finance Corporation*,^[20] the Court declared that:

The dereliction of duty by counsel affects the client. While, exceptionally, the client may be excused from the failure of counsel, the factual and case settings in this instance, however, would not warrant such an exception; indeed, petitioners themselves may not be said to be entirely faultless.

The complaint for a sum of money and damages was instituted several years back. Petitioners were thrice declared in default, xxx After an adverse decision by the trial court, petitioners' counsel failed to file a timely notice of appeal. The petition for relief, subsequently filed, was correctly dismissed by the trial court for lack of merit. The appeal to the