

SECOND DIVISION

[G.R. No. 209605, January 12, 2015]

**NEIL B. AGUILAR AND RUBEN CALIMBAS, PETITIONERS, VS.
LIGHTBRINGERS CREDIT COOPERATIVE, RESPONDENT.**

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* filed by petitioners Neil B. Aguilar (*Aguilar*) and Ruben Calimbas (*Calimbas*), seeking to reverse and set aside the April 5, 2013^[1] and October 9, 2013^[2] Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 128914, which denied the petition for review outright, assailing the January 2, 2013 Decision^[3] of the Regional Trial Court, Branch 5, Dinalupihan, Bataan (RTC) and the May 9, 2012 Decision^[4] of the First Municipal Circuit Trial Court, Dinalupihan, Bataan (MCTC).

In the lower courts, one of the issues involved was the proper application of the rules when a party does not appear in the scheduled pre-trial conference despite due notice. In this petition, the dismissal by the CA of the petition filed under Rule 42 for failure to attach the entire records has also been put to question, aside from the veracity of indebtedness issue.

The Facts

This case stemmed from the three (3) complaints for sum of money separately filed by respondent Lightbringers Credit Cooperative (*respondent*) on July 14, 2008 against petitioners Aguilar and Calimbas, and one Perlita Tantiangco (*Tantiangco*) which were consolidated before the First Municipal Circuit Trial Court, Dinalupihan, Bataan (MCTC). The complaints alleged that Tantiangco, Aguilar and Calimbas were members of the cooperative who borrowed the following funds:

1. In Civil Case No. 1428, Tantiangco allegedly borrowed P206,315.71 as evidenced by Cash Disbursement Voucher No. 4010 but the net loan was only P45,862.00 as supported by PNB Check No. 0000005133.^[5]
2. In Civil Case No. 1429, petitioner Calimbas allegedly borrowed P202,800.18 as evidenced by Cash Disbursement Voucher No. 3962 but the net loan was only P60,024.00 as supported by PNB Check No. 0000005088;^[6]
3. In Civil Case No. 1430, petitioner Aguilar allegedly borrowed P126,849.00 as evidenced by Cash Disbursement Voucher No. 3902

but the net loan was only P76,152.00 as supported by PNB Check No. 0000005026;^[7]

Tantiangco, Aguilar and Calimbas filed their respective answers. They uniformly claimed that the discrepancy between the principal amount of the loan evidenced by the cash disbursement voucher and the net amount of loan reflected in the PNB checks showed that they never borrowed the amounts being collected. They also asserted that no interest could be claimed because there was no written agreement as to its imposition.

On the scheduled pre-trial conference, only respondent and its counsel appeared. The MCTC then issued the Order,^[8] dated August 25, 2009, allowing respondent to present evidence *ex parte*. Respondent later presented Fernando Manalili (*Manalili*), its incumbent General Manager, as its sole witness. In his testimony, Manalili explained that the discrepancy between the amounts of the loan reflected in the checks and those in the cash disbursement vouchers were due to the accumulated interests from previous outstanding obligations, withheld share capital, as well as the service and miscellaneous fees. He stated, however, that it was their bookkeeper who could best explain the details.

Aguilar and Calimbas insisted that they should have the right to cross-examine the witness of respondent, notwithstanding the fact that these cases were being heard *ex parte*. In the interest of justice, the MCTC directed the counsels of the parties to submit their respective position papers on the issue of whether or not a party who had been declared "as in default" might still participate in the trial of the case. Only respondent, however, complied with the directive. In its Order,^[9] dated April 27, 2011, the MCTC held that since the proceedings were being heard *ex parte*, the petitioners who had been declared "as in default" had no right to participate therein and to cross-examine the witnesses. Thereafter, respondent filed its formal offer of evidence.^[10]

MCTC Ruling

On May 9, 2012, the MCTC resolved the consolidated cases in three separate decisions. In Civil Case No. 1428,^[11] the MCTC dismissed the complaint against Tantiangco because there was no showing that she received the amount being claimed. Moreover, the PNB check was made payable to "cash" and was encashed by a certain Violeta Aguilar. There was, however, no evidence that she gave the proceeds to Tantiangco. Further, the dates indicated in the cash disbursement voucher and the PNB check varied from each other and suggested that the voucher could refer to a different loan.

The decisions in Civil Case No. 1429^[12] and 1430,^[13] however, found both Calimbas and Aguilar liable to respondent for their respective debts. The PNB checks issued to the petitioners proved the existence of the loan transactions. Their receipts of the loan were proven by their signatures appearing on the dorsal portions of the checks as well as on the cash disbursement vouchers. As a matter of practice, banks would allow the encashment of checks only by the named payee and subject to the presentation of proper identification. Nonetheless, the MCTC ruled that only the amount shown in the PNB check must be awarded because respondent failed to

present its bookkeeper to justify the higher amounts being claimed. The court also awarded attorney's fees in favor of respondent. The dispositive portion of the decision in Civil Case No. 1429 reads:

WHEREFORE, premises considered, judgment is hereby rendered in plaintiff's favor and against the defendant, ordering the latter to pay plaintiff the amount of P60,024.00 with interest at the rate of 12% per annum from April 4, 2007 until fully paid, plus P15,000.00 as attorney's fees.

Costs against the defendant.

SO ORDERED.^[14]

And in Civil Case No. 1430, the dispositive portion states:

WHEREFORE, premises considered, judgment is hereby rendered in plaintiff's favor and against the defendant, ordering the latter to pay the plaintiff the amount of ₱76,152.00 with interest at the rate of 12% per annum from February 28, 2007 until fully paid.

Defendant is further directed to pay attorney's fees equivalent to 25% of the adjudged amount.

Costs against the defendant.

SO ORDERED.^[15]

On July 12, 2012, a notice of appeal^[16] was filed by the petitioners, and on August 15, 2012, they filed their joint memorandum for appeal^[17] before the Regional Trial Court, Branch 5, Bataan (RTC). Aguilar and Calimbas argued out that had they been allowed to present evidence, they would have established that the loan documents were bogus. Respondent produced documents to appear that it had new borrowers but did not lend any amount to them. Attached to the joint memorandum were photocopies of the dorsal portions of the PNB checks which showed that these checks were to be deposited back to respondent's bank account.

RTC Ruling

On January 2, 2013, the RTC rendered separate decisions in Civil Case No. DH-1300-12^[18] and Civil Case No. DH-1299-12^[19] which affirmed the MCTC decisions. It held that the PNB checks were concrete evidence of the indebtedness of the petitioners to respondent. The RTC relied on the findings of the MCTC that the checks bore no endorsement to another person or entity. The checks were issued in the name of the petitioners and, thus, they had the right to encash the same and appropriate the proceeds. The decretal portions of the RTC decision in both cases similarly read:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Decision dated May 9, 2012 of the First Municipal Circuit Trial Court (1st MCTC), Dinalupihan-Hermosa, Bataan is hereby affirmed *in toto*.

SO ORDERED.

On January 18, 2013, the petitioners filed their joint motion for reconsideration/new trial^[20] before the RTC. Aguilar and Calimbas reiterated their position that they did not receive the proceeds of the checks. As an alternative prayer, petitioners moved that the RTC remand the case to the MCTC for a new trial on account of the *Sinumpaang Salaysay* of Arcenit Dela Torre, the bookkeeper of respondent.

On February 11, 2013, the RTC issued separate orders^[21] denying the motion of the petitioners. It explained that all the issues were already passed upon and the supposed newly discovered evidence was already available during appeal, but the petitioners failed to present the same in time.

CA Ruling

Aggrieved, Aguilar and Calimbas filed a petition for review^[22] before the CA on March 11, 2013. It was dismissed, however, in the questioned resolution,^[23] dated April 5, 2013, stating that the petition was formally defective because the "verification and disclaimer of forum shopping" and the "affidavit of service" had a defective *jurat* for failure of the notary public to indicate his notarial commission number and office address. Moreover, the entire records of the case, inclusive of the oral and documents evidence, were not attached to the petition in contravention of Section 2, Rule 42 of the Rules of Court.

A motion for reconsideration^[24] was filed by the petitioners which sought the leniency of the CA. They attached a corrected verification and disclaimer of forum shopping and affidavit of service. They asked the CA to simply order the RTC to elevate the records of the case pursuant to Section 7, Rule 42 of the Rules of Court. Moreover, the petitioners could not attach the records of the case because the flooding caused by "Habagat" in August 2012 soaked the said records in water.

In the other questioned resolution, dated October 9, 2013, the CA denied the motion because the petitioners still failed to attach the entire records of the case which was a mandatory requirement under Section 2, Rule 42.

Hence, this petition.

SOLE ASSIGNMENT OF ERROR

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITION FOR REVIEW FILED BEFORE IT BY THE PETITIONERS UNDER RULE 42 OF THE RULES OF COURT CITING THAT THE SAID PETITION IS FORMALLY DEFECTIVE FOR FAILURE OF THE PETITIONERS TO SUBMIT WITH

**THE SAID PETITION THE ENTIRE RECORDS OF THE APPEALED
CIVIL CASE NOS. DH-1300-12 AND DH-1299-12.^[25]**

The petitioners argue that contrary to the findings of the CA, they substantially complied with the required form and contents of a petition for review under Section 2, Rule 42 of the Rules of Court. There is nothing in the provision which requires that the entire records of the appealed case should be endorsed to the CA. Such requirement would definitely be cumbersome to poor litigants like them.

They assert that they submitted the following pleadings and material portions of the court records in their petition for review: (1) certified copies of the decisions, orders or resolutions of the RTC and the MCTC; (2) complaints against the petitioners attached with documents used by respondent in its formal offer of evidence; (3) answer of the petitioners; (4) order of the MCTC declaring the petitioners in default; (5) respondent's formal offer of evidence; (6) notice of appeal; (7) joint memorandum of appeal; and (8) joint motion for reconsideration/new trial. According to the petitioners, these pleadings and records were sufficient to support their petition for review.

Assuming that there was a reason to dismiss the petition on account of technicalities, the petitioners argue that the CA should not have strictly applied the rules of procedure and provided leniency to the petitioners. They also ask the Court to give a glance on the merits of their case brought before the CA.

On February 7, 2014, respondent filed its comment^[26] contending that the petitioners had no excuse in their non-compliance with Section 2, Rule 42. They claim that the court records were not attached because these were soaked in flood water in August 2012, but the RTC rendered its decision in January 2013. The petitioners failed to secure a certification from the RTC that these records were indeed unavailable.

On May 21, 2014, the petitioners filed their reply before this Court,^[27] adding that the elevation of the entire records of the case was not a mandatory requirement, and the CA could exercise its discretion that it furnished with the entire records of the case by invoking Section 7, Rule 42 of the Rules of Court.

The Court's Ruling

First Procedural Issue

On the sole assignment of error, the Court agrees with the petitioners that Section 2, Rule 42 does not require that the entire records of the case be attached to the petition for review. The provision states:

Sec. 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific