

FIRST DIVISION

[G.R. No. 166944, August 18, 2014]

**JUANITO MAGSINO, PETITIONER, VS. ELENA DE OCAMPO AND
RAMON GUICO, RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

Section 2 (d), Rule 42 of the *Rules of Court* requires the petition for review to be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, and the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. The failure of the petitioner to comply with the requirement shall be a sufficient ground for the dismissal of the petition for review.

The Case

Under review are the resolution promulgated on January 8, 2004 in CA-G.R. SP No. 81103,^[1] whereby the Court of Appeals (CA) dismissed the petition for review of the petitioner on the ground of his failure to comply with Section 2 (d), Rule 42 of the *Rules of Court*; and the resolution promulgated on January 28, 2005,^[2] whereby the CA denied his motion for reconsideration.

Antecedents

The petitioner filed against the respondents a complaint for forcible entry with prayer for preliminary mandatory injunction and/or temporary restraining order in the Metropolitan Trial Court in Antipolo City (MeTC). In his complaint, docketed as Civil Case No. 4141, he alleged that he was the owner in fee simple of a parcel of agricultural land containing an area of 10 hectares situated in Sapinit, San Juan, Antipolo City; that he had been in physical possession of the land for more than 30 years; and that on February 5, 2000, the respondents, through force, intimidation, threats and strategy and with the aid of armed men, had unlawfully bulldozed the eastern and northern portions of his land, cutting lengthwise through the land, destroying ornamental plants and fruit-bearing trees that he had himself planted several years before, thereby illegally depriving him of the possession of the land.^[3]

The petitioner filed a motion for preliminary mandatory injunction but the Municipal Trial Court in Taytay, Rizal (MTC) issued only a writ of preliminary injunction.

Respondent Elena De Ocampo countered that she had held a registered title in the land by virtue of the original certificate of title issued to her mother, Cecilia De Ocampo; and that the petitioner was a squatter on the land with no possessory rights.^[4] Her co-respondent Ramon Guico, Jr., then a Municipal Mayor in the

Province of Pangasinan, had allegedly owned the titled land being occupied and possessed by De Ocampo.

On May 5, 2003, the MTC rendered its judgment in favor of the respondents, disposing:

WHEREFORE, having failed to substantiate his allegations, the Complaint is hereby ordered DISMISSED.

The writ of preliminary injunction dated November 10, 2000, is hereby ordered recalled, set aside and with no further force and effect. Consequently, the plaintiff is ordered to leave and vacate that parcel of agricultural land with an area of 10 hectares more or less, located at Sapinit, San, Juan, Antipolo City covered by Transfer Certificate of Title Nos. 328090, 328091, 328092, 328093 and 328094 in the name of defendant Elena De Ocampo which is currently being occupied by said plaintiff by virtue of such writ of injunction.

But finding no malice in instituting this Complaint against the defendants, as it was only natural for anybody who is similarly situated to search for remedies in protecting his rights, the Court shall not pronounce any moral or actual damages against the plaintiff.

However, as the defendants incurred litigation expenses, plaintiff is hereby ordered to reimburse to the defendants the grand total amount of P100,000.00 representing attorney's fees and litigation expenses ("Honorarium") and to pay costs of suit.

SO ORDERED.^[5]

On September 17, 2003, the Regional Trial Court, Branch 74, in Antipolo City (RTC) rendered its decision affirming the judgment of the MTC,^[6] viz:

WHEREFORE, the Decision appealed from is hereby affirmed-in-toto with costs against the plaintiff-appellant.

SO ORDERED.^[7]

The petitioner moved for reconsideration, but the RTC denied his motion on November 6, 2003.^[8]

Dissatisfied, the petitioner appealed to the CA by petition for review.

On January 8, 2004, however, the CA promulgated its first assailed resolution dismissing the petition for review,^[9] holding thusly:

The petition for review is procedurally flawed in view of the following:

The petition is not accompanied by copies of the pleadings and other material portions as would support the allegations of the petition, such as:

- 1) Copy of the complaint filed with the Municipal Trial Court of Taytay, Rizal, Answer, and Motion to Dismiss;
- 2) Copies of the appeal memoranda filed by the parties.

WHEREFORE, in view of the foregoing premises, the instant petition is hereby DISMISSED.

SO ORDERED.

The petitioner moved for the reconsideration of the first assailed resolution,^[10] arguing therein that the decisions of the MTC and the RTC submitted with the petition for review were sufficient for the CA to resolve the issues "without resort to[the] record"^[11] because the issues involved are questions of law – such as "[w]ill the possession in law of defendants (now respondents), have it (sic) over the prior physical, actual or de facto possession of the Plaintiff-appellant (now herein Petitioner);"^[12] that, at any rate, should the CA have really desired to inform itself more, all that it needed to do was simply to order the elevation of the records; and that "all rules of procedure should bow to the greater imperative of doing substantial justice."^[13]

On January 28, 2005, the CA denied the petitioner's motion for reconsideration "for evident want of merit."^[14]

Issues

Hence, in his appeal, the petitioner submits the following for our consideration, namely:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS HAD THE POWER AND DISCRETION TO FOREGO WITH THE APPLICATION OF SAID SECTIONS OF RULE 43 (SIC) IN THE INTEREST OF SUBSTANTIAL JUSTICE, CONSIDERING THAT NO LESS THAN IGNORANCE OF THE LAW WAS EXHIBITED BY JUDGE QUERUBIN IN HOLDING THAT RESPONDENTS, THEN DEFENDANTS, HAD THE BETTER POSSESSORY RIGHT OVER THE PROPERTY BY REASON OF THEIR TITLE, OBLIVIOUS OF THE FACT THAN (SIC) IN FORCIBLE ENTRY, IT IS PRIOR, PHYSICAL AND ACTUAL POSSESSION THAT IS MATERIAL.

II.

WHETHER OR NOT, CONSIDERING OUR SUBMISSION TO THIS HONORABLE COURT THE DOCUMENTS THE COURT OF APPEALS WAS AITATING (SIC) FOR IT WOULD BE PROPER FOR THIS CASE TO BE

REFERRED BACK TO IT FOR ADJUDICATION ON THE MERITS.

III.

WHETHER OR NOT TECHNICALITY (SIC) WHICH THE HONORABLE COURT OF APPEALS STRICTLY AHERED (SIC) TO BEDAME (SIC), HERE, AN INSTRUMENT IN OBSTRUCTIN (SIC) THE SEARCH FOR TRUTH AND IN DEFEATING THE ENDS OF JUSTICE.^[15]

Ruling of the Court

The decisive question is whether or not the CA erred in dismissing the petition for review on the ground that the petitioner did not comply with Section 2, Rule 42 of the *Rules of Court*, to wit:

Section 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 material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) **be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.**

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As earlier mentioned, the CA issued the first assailed resolution dismissing the petition for review because the petitioner did not attach to his petition the complaint, the answer, and the motion to dismiss, all filed in the MTC; and the copies of the parties' memoranda on appeal presented in the RTC. Such dismissal was pursuant to Section 3, Rule 42 of the *Rules of Court*, which provides:

Section 3. *Effect of failure to comply with requirements.* – The **failure of the petitioner to comply with any of the foregoing requirements regarding** the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and **the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.**

The appeal of the petitioner absolutely lacks merit.

We begin by reminding the petitioner that the right to appeal is not a natural right and is not part of due process, but merely a statutory privilege to be exercised only in accordance with the law. Being the party who sought to appeal, he must comply with the requirements of the relevant rules; otherwise, he would lose the statutory right to appeal.^[16] It cannot be over-emphasized, indeed, that the procedures regulating appeals as laid down in the Rules of Court must be followed because strict compliance with them was indispensable for the orderly and speedy disposition of justice.^[17]

Whether or not the dismissal of the petition for review was warranted depended on whether or not there remained sufficient materials in the records to still enable the CA to act on the appeal despite the omissions.

In *Galvez v. Court of Appeals*,^[18] a case that involved the dismissal of a petition for certiorari to assail an unfavorable ruling brought about by the failure to attach copies of all pleadings submitted and other material portions of the record in the trial court (like the complaint, answer and position paper) as would support the allegations of the petition, the Court recognized three guideposts for the CA to consider in determining whether or not the rules of procedures should be relaxed, as follows:

First, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a *prima facie* case of grave abuse of discretion as to convince the court to give due course to the petition.

Second, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also (sic) found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.

The guideposts, which equally apply to a petition for review filed in the CA under Rule 42, reflect that the significant determinant of the sufficiency of the attached documents is whether the accompanying documents support the allegations of the petition.^[19]

Did the petitioner follow the guideposts recognized in *Galvez*?

Under the first guidepost recognized in *Galvez*, only the relevant pleadings and parts of the case records needed to be attached to the petition for review. Hence, not