

## FIRST DIVISION

[ G.R. NO. 146547, June 20, 2006 ]

**VILLA MACASASA AND GERTRUDES LANUTAN, PETITIONERS, VS.  
JUANITA SICAD AND ERNESTO MACASASA, RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

This refers to the petition for review under Rule 45 of the Rules of Court seeking the reversal of the Decision<sup>[1]</sup> of the Court of Appeals (CA) promulgated on January 24, 2000 dismissing the appeal and its Resolution<sup>[2]</sup> dated October 25, 2000 denying petitioners' motion for reconsideration.

The antecedent facts:

On February 10, 1994, the Regional Trial Court (RTC), Branch 18, Pagadian City, rendered a joint decision in Civil Case No. 1942 wherein petitioner Villa<sup>[3]</sup> Macasasa is the plaintiff and respondents Juanita Sicad and Ernesto Macasasa are the defendants for reconveyance with damages; and in Civil Case No. 1950 wherein respondents are the plaintiffs and both petitioners-spouses Macasasa and Gertrudes Lanutan are the defendants, for reconveyance of possession.<sup>[4]</sup> The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered dismissing Civil Case No. 1942 and ordering defendant and his agents and privies in Civil Case No. 1950 to vacate the premises of the subject parcel of land and to pay plaintiff the sum of P5,000.00 for attorney's fee and all incidental expenses incurred.

SO ORDERED.<sup>[5]</sup>

The decision became final and a writ of execution was issued by the RTC. Petitioners filed a Motion to Quash.

On August 6, 1996, the RTC issued an Order, to wit:

WHEREFORE, an Order is hereby issued denying the Motion to Quash Execution; giving due course to the Motion to Levy and to Attach Villa Macasasa properties; Declaring Transfer Certificate of Title No. 13,842 with Tax Declaration No. 798 use [sic] by defendant Villa Macasasa as supersedeas bond forfeited in favor of Juanita Sicad; and ordering defendant to pay plaintiff the sum of five thousand (P5,000.00) as Attorney's fees and to pay the money judgment included in the judgment under "and all incidental expenses incurred" in the total amount of one million, two hundred thousand (P1,200,000.00) pesos.

SO ORDERED.<sup>[6]</sup>

which petitioners received on August 14, 1996.<sup>[7]</sup>

On October 4, 1996,<sup>[8]</sup> petitioners filed a "Petition for Relief From Judgments, Orders, or Other Proceedings with Preliminary Injunction, Temporary Restraining Order and Damages" assailing the Order dated August 6, 1996 on the grounds that it has no legal and factual bases as the very order granting the Bill of Costs was never passed upon by the court or by the clerk of court and if ever there was, the same was taken either by mistake or by fraud against petitioners who were never notified of any hearing where they could have contested and presented evidence against the granting of the same; that it was entered and issued through mistake as the RTC approved respondents' Bill of Costs on items not included and considered as costs under Section 10, Rule 142 of the Rules of Court; that the Bill of Costs is not verified under oath as required under Sec. 8 of the same Rule; that there is a patent mistake in the issuance of the Order as there was no compliance of due process which is the required hearing for approval of the amount of P1.2 Million where both parties should have presented evidence; and that respondents did not ask for costs and the same were not prayed for in their complaint and counterclaim in the two consolidated cases and therefore the RTC did not acquire jurisdiction on the issue of costs and any award thereof is simply desultory.<sup>[9]</sup>

In their Answer with Counterclaim dated October 28, 1996, respondents contend that petitioners have no cause of action against them; that the subject order was issued in accordance with law and after all legal and procedural requirements have been duly complied with; that petitioners were afforded due process before the subject order was issued; that records bear out that petitioners were furnished with copies of all pleadings filed by them through their (petitioners') counsel on record; that the petition is now moot and academic since the auction sale had already been conducted on the "subject properties" of which Juanita Sicad is the highest bidder; that the fact that the bill of costs is not verified would not render it invalid; and that respondents are entitled to damages by reason of the malicious and reckless filing of petitioners' baseless and unfounded petition.<sup>[10]</sup>

Upon Motion to Dismiss filed by respondents, the RTC issued an Order dated February 27, 1997, to wit:

Before this Court is a Motion to Dismiss the petition for Relief from Judgment with the opposition thereto. The Court finds the Motion to be meritorious and well taken. It appearing that the defendants actively participated when the case was tried on the merits and the Motion for Relief from Judgment has not stated that there was a mistake and excusable negligence on there [sic] part to satisfy the Rules of Court on petition for relief from judgment. Besides, all the while, during the hearing of the case defendant was given the opportunity to present their evidences and facts, and thereafter, rest their case. Subsequently, the Court based on the facts and evidences submitted by both parties decided the case in favor of the plaintiff Juanita Sicad who was also the respondent in Civil Case No. 1942 and as plaintiff in Civil Case No. 1950.

Moreover, the petition sought only to question the propriety of the award for damages which the Court has previously granted on a Motion of plaintiff Juanita Sicad, in its Order dated August 6, 1996, and on this Order, no Motion for Reconsideration has been filed by the defendant Villa Macasasa to challenge said Order.

Moreover, the petition has not stated that there was a mistake and excusable negligence on the part of petitioner to merit the petition for the reopening of the case.

Furthermore, the decision was received by defendant on December 11, 1995 and this petition was filed only on October 4, 1996 beyond the 60 days [sic] period, a mandatory requirement for filing Relief from Judgment. For a petition for Relief from Judgment filed after the lapse of the reglementary period cannot be entertained. (Villeza versus Olmedo, 1 SCRA 761; J.M. Tuazon and Co. Inc. versus Aguila, 9 SCRA 537; Concepcion versus Presiding Judge, Branch V, CFI of Bulacan, 119 SCRA 222; Zabat Jr. versus CA, 142 SCRA 587) Besides, the petition must be filed within 60 days after knowledge is acquired of the proceeding provided, it is not beyond 6 months after the proceedings had actually occurred. (Dizon versus Sheriff of Manila, 73 SCRA 40)

With these circumstances considered, the petition is found without merit and the reopening of this case is no longer proper. For a case has to find a rest after having reached finality and had been executed.

Besides, petitioner had appealed the decision of the Court, but the same has been denied.

With the reasons aforecited, the Motion to Dismiss this petition is hereby granted. This petition is hereby DISMISSED, and accordingly all orders before this Motion to Dismiss follows and considered moot and academic.

SO ORDERED.<sup>[11]</sup>

Petitioners appealed to the CA claiming that the trial court gravely erred: in finding that the petition has not stated that there was a mistake and excusable negligence on the part of petitioners (appellants) to merit the petition for the reopening of the case; in finding that the petition was not filed on time; in granting the motion to dismiss filed by the appellees; in dismissing the petition; and in not granting the reliefs prayed for by the appellants in their petition.<sup>[12]</sup>

The CA dismissed the appeal on the grounds that not one of the grounds for a petition for relief from judgment is present in this case; that the petition, although grounded on mistake, did not refer to a mistake of the petitioners that had prevented them from defending their case; that mistake on the part of the trial court in its Order of August 6, 1996, basing the amount of P1.2 Million on the Bill of Costs filed by respondents, is not the mistake that is a proper ground for a petition for relief, but should have been assailed in a petition for *certiorari*; that a petition for relief is an equitable remedy and is allowed only in exceptional cases from final judgments or orders where no other remedy is available; that it will not be entertained when the proper remedy is appeal or *certiorari*, citing Regalado

Remedial Law Compendium, Vol. I, p. 253 citing *Arante v. Rosal*, 49 O.G. 2333 and *Fajardo v. Bayona*, 52 O.G. 1937; and that petitioners had reasonable time to file a petition for *certiorari* upon receipt of the August 6, 1996 Order on August 14, 1996 but failed to do so.<sup>[13]</sup>

Petitioners filed a motion for reconsideration which the CA denied for lack of merit in its Resolution dated October 25, 2000, ratiocinating thus:

Petitioners-appellants contend that their petition for relief is an exceptional case and should have been considered by the trial court. Petitioners-appellants claim that they were not able to attend to the filing of the proper remedy after the issuance of the August 6, 1996 order of the trial court because the latter had cited them in contempt and issued an order for their arrest allegedly prompting their lawyer to give priority to the situation, thus, it was only on October 4, 1996 when they realized they had no other recourse but to file the said petition for relief.

It is clear that under the Rules of Court, Rule 38, Section 1, "when a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through **fraud, accident, mistake or excusable negligence**, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside. Unfortunately, for herein petitioners-appellants, their cited reason does not constitute excusable negligence or mistake which had prevented them from defending their case and thus resulting in the issuance of the August 6, 1996 Order of the trial court. The negligence which they cited which is not excusable, in fact refer to their failure to file an appeal or for *certiorari* to question the Order dated August 6, 1996 of the trial court because they were evading a warrant of arrest for contempt instead of a petition for relief from judgment. Therefore, the trial court properly dismissed their petition for relief for lack of sufficient grounds.

Evidently, petitioners-appellants had failed to present any new ground to disturb the earlier decision of this Court.<sup>[14]</sup>

Hence, the present petition.

Petitioners claim that the RTC and the CA committed grave abuse of discretion in dismissing the petition for relief from judgment and in affirming the RTC Order dated August 6, 1996 which approved the amount of P1.2 Million without giving the petitioners the opportunity to object to the same; that it is alleged in the petition for relief from judgment that the said Order has no factual and legal bases as the very order granting the Bill of Costs was never passed upon by the court or by the clerk of court and if ever there was, the same was taken either by mistake or by fraud against petitioners who were never notified of any hearing where they could have contested, and presented evidence against the granting of the same.

Respondent Sicad filed a Comment contending that the petition is solely intended to further delay the proceedings; that the arguments and discussions in the petition have been fully resolved in the proceedings before the lower court; and that petitioners have been at times declared in contempt by the lower court due to their constant defiance to obey its lawful orders.

Parties filed their respective memoranda.

Before proceeding any further, it is noted that although the petition does not clearly state whether it is one for review on *certiorari* under Rule 45 or a petition for *certiorari* under Rule 65, both of the 1997 Rules of Civil Procedure, the petition was nevertheless filed within the period provided for under Rule 45. Thus, even if the petitioners' ground in support of their petition is that the CA committed grave abuse of discretion, the Court treats the present petition as one filed under Rule 45 as that is the proper remedy to assail a CA decision or resolution that finally disposes of a case on the merits. As held in *National Irrigation Administration v. Court of Appeals*,<sup>[15]</sup> to wit:

The appeal from a final disposition of the Court of Appeals is a petition for review under Rule 45 and not a special civil action under Rule 65 of the Rules of Court, now Rule 45 and Rule 65, respectively, of the 1997 Rules of Civil Procedure. Rule 45 is clear that decisions, final orders or resolutions of the Court of Appeals in any case, *i.e.*, regardless of the nature of the action or proceedings involved, may be appealed to this Court by filing a petition for review, which would be but a continuation of the appellate process over the original case.<sup>[16]</sup>

The Court finds the petition to be with merit. Under the peculiar facts and circumstances of the case, the RTC committed grave abuse of discretion in dismissing the petition for relief from the Order dated August 6, 1996; and the CA committed a reversible error in dismissing the appeal therefrom.

This case had actually been before the Court as far back as 1999, when herein petitioners filed an administrative case against Judge Fausto H. Imbing, then presiding judge of the trial court where Civil Cases Nos. 1942 and 1950 were filed. That earlier, the Court, in *Macasasa v. Imbing*,<sup>[17]</sup> had ruled that Judge Imbing acted with grave abuse of authority by awarding P1.2 Million as incidental expenses. The Court explicitly stated the circumstances which demonstrate that respondent judge acted outside the scope of his authority, thus:

In filing the "Bill of Costs" on June 25, 1996, the Sicads did not pray that it be approved. Although a copy of the same was furnished the complainants as the losing parties, it did not contain any notification as to when it would be submitted for approval of the respondent's court. As a matter of fact, there apparently was no hearing to approve or disprove it as the Order granting the same was issued the very next day.

It is noteworthy that the judgment rendered by respondent in Civil Cases Nos. 1942 and 1950 did not provide for any damages suffered by plaintiffs. All that the said judgment required was for the defendants (complainants herein) "to vacate the premises of the subject parcel of land and to pay the plaintiff the sum of P5,000.00 for attorney's fees and all incidental expenses incurred."

**Evidently, what could only be collected under this**