

## THIRD DIVISION

[ G.R. No. 143395, July 24, 2003 ]

**WILFREDO SILVERIO, ERNESTO DEL CASTILLO, AND HONORATO DEL CASTILLO, JR., PETITIONERS, VS. HON. COURT OF APPEALS AND GELARDA TOLENTINO REPRESENTED BY HER ATTORNEY-IN-FACT MATILDE T. BADILLO, RESPONDENTS.**

### D E C I S I O N

#### **CORONA, J.:**

Before us is a petition for review of the resolution<sup>[1]</sup> dated February 15, 2000 of the Court of Appeals<sup>[2]</sup> denying the petitioners' appeal from the decision<sup>[3]</sup> dated November 10, 1999 of the Regional Trial Court (RTC), Branch 146, of Makati City which in turn affirmed the decision dated February 25, 1999 of the Metropolitan Trial Court (MTC), Branch 62, of Makati City.

Petitioners Wilfredo Silverio, Ernesto del Castillo and Honorato del Castillo, Jr. claim that their aunt, Eugenia del Castillo, owned a 355 square-meter lot (evidenced by Transfer Certificate of Title No. 17283 issued by the Register of Deeds of Rizal) and three residential houses erected thereon located at Economia Street, Makati City. When she died in 1983, they, as forced heirs of Eugenia, became the co-owners of the subject lot and so they lived in the houses thereon.

In 1997, petitioners discovered that a certain Manuel del Castillo already owned the subject lot by virtue of a deed of donation executed by Eugenia in favor of Manuel who later had it titled in his name. On March 10, 1997, petitioner Honorato annotated an adverse claim on Manuel's title. Despite the notice, the property was nonetheless transferred to Manuel's wife, Blesilda del Castillo, and their minor children and a new title issued in their name. Blesilda and her minor children then sold the property to herein respondent Gelarda Tolentino. After the sale was judicially approved by the RTC of Quezon City, Transfer Certificate of Title No. 211301 was issued in the name of respondent.

Thereafter, respondent went to the subject premises and verbally asked the petitioners to vacate the premises. When petitioners pleaded to be given sufficient time to leave, respondent granted them until June 15, 1998 to vacate. However, the said period lapsed without the petitioners vacating the subject lot. Respondent's legal counsel then sent a demand letter to the petitioners but the latter refused to receive the same and even threatened to hurt the messenger if he insisted on having the document officially received. Hence, the letter was served by registered mail and a copy of the same was posted at the entrance of the subject property.

On August 25, 1998, petitioners filed a case for reconveyance of property and damages against respondent and the Register of Deeds of Makati City. On September 19, 1998, respondent countered by filing before the MTC of Makati City

the subject ejectment case against the petitioners.

On February 25, 1999, the MTC rendered a decision in favor of respondent. Three days after the receipt of the decision, the petitioners filed a notice of appeal and paid the docket fee. Since no supersedeas bond was filed within the reglementary period, respondent filed a motion for execution pending appeal. The trial court granted the motion and issued a writ of execution.

Thereafter, the RTC of Makati City denied the petitioners' appeal in a decision dated November 10, 1999.

Said decision was appealed to the Court of Appeals. On February 15, 2000, the Court of Appeals denied the appeal on the ground that the petitioners failed to attach (1) a duplicate original or true copy of the decision of the MTC (2) material pleadings and (3) documents to support their petition, in violation of Section 2, Rule 42 of the 1997 Rules of Civil Procedure.<sup>[4]</sup> The appellate court also denied the petitioners' motion for reconsideration because they did not bother to correct the deficiencies in the petition.<sup>[5]</sup>

Hence, this petition arguing that the Court of Appeals erred:

## I

IN DISMISSING THE PETITION FOR REVIEW IN CA-G.R. NO. SP. 56306 ON MERE TECHNICALITY AND IN DISREGARD OF THE MERITS OF PETITIONERS' CAUSE; and

## II

IN NOT GIVING DUE COURSE TO THE PETITION PURSUANT TO AND IN ACCORDANCE WITH ESTABLISHED JURISPRUDENCE LAID DOWN BY THIS HONORABLE COURT ON IDENTICAL CASES.<sup>[6]</sup>

According to the petitioners, the appellate court erroneously denied the petition on a technical issue without considering its substantial merits. The petitioners also seek the dismissal of the complaint on the ground that respondent did not sufficiently prove that a demand was effected prior to the filing of the ejectment case. The courts *a quo* likewise erred for its failure to suspend the ejectment proceedings on account of the pendency of the petitioners' civil case for reconveyance and damages against the respondent. Lastly, the petitioners argue that the RTC erred in issuing a writ of execution pending appeal despite the fact that their appeal was filed within the reglementary period.

We deny the petition.

Petitioners argue that the rigid application of procedural rules should be avoided when it frustrates substantial justice. Hence, the appellate court should have disregarded the procedural lapses in their petition, i.e., the absence of a clearly legible duplicate original or true copy of the decision of the MTC, pleadings and other relevant portions of the records, and should have instead looked at the substantial merits of their claims.