

SECOND DIVISION

[G.R. No. 134460, November 27, 2003]

**AQUILINA ESTRELLA, SIMPLICIO ESTRELLA AND NOLASCO
ESTRELLA, PETITIONERS, VS. NILA ESPIRIDION, RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on *certiorari* which should properly be a petition for *certiorari* under Rule 65 of the Rules of Court. It assails the Court of Appeals' Resolution dated February 17, 1998^[1] denying due course and dismissing the petition for review on *certiorari*,^[2] filed by herein petitioners Aquilina, Simplicio and Nolasco, all surnamed Estrella; and of the Resolution dated April 17, 1998, denying petitioners' motion for reconsideration.

The factual background of herein petition is as follows:

The case commenced on March 20, 1992 upon the filing with the Regional Trial Court (Branch 6), Malolos, Bulacan of a complaint for recovery of possession^[3] by Nila C. Espiridion (respondent for brevity) against Aquilina, Simplicio and Nolasco, all surnamed Estrella (petitioners for brevity). Respondent claims that she bought a parcel of land which is now covered by TCT No. T-236166 in her name. At the time she bought the land, petitioner Aquilina's house was already standing on a portion thereof but she tolerated Aquilina's stay on her property on condition that once she needs the land, Aquilina shall immediately vacate the premises. Subsequently, however, petitioners Simplicio and Nolasco also built their houses on the land of respondent without the latter's knowledge and consent. Respondent demanded that the petitioners vacate the portion of her land being occupied by them but despite said demands, the petitioners refused to vacate the subject premises.

On the other hand, petitioners contend in their Answer^[4] dated April 6, 1992, that petitioner Aquilina is the bona fide tenant of the subject property which she is tilling with the help of her co-petitioners by virtue of a lease contract dated June 15, 1976 with the former owner of the land, Deogracias Mendoza; and that the case is within the jurisdiction of the Department of Agrarian Reform Adjudication Board (DARAB).

After trial on the merits, the Regional Trial Court rendered a Decision^[5] dated September 3, 1997 in favor of respondent with said court ordering herein petitioners and any and all persons claiming any right under them to vacate the premises in question and to pay the costs of suit.

On September 30, 1997, the counsel originally representing herein petitioners filed her Motion to Withdraw Appearance^[6] which the trial court granted in its Order dated October 1, 1997.^[7] On the same date (October 1), Atty. Aquilino Inocencio of

the Bureau of Agrarian Legal Assistance filed an undated Notice of Appeal/Motion to Enter Appearance^[8] in behalf of petitioners, stating that the former counsel for petitioners received a copy of the Decision on September 19, 1997.

On October 2, 1997, the trial court issued an Order, to wit:

I

The undated "Notice of Appeal/Motion to Enter Appearance" filed by defendants' new counsel Atty. Aquilino M. Inocencio, are NOTED.

II

The undated Notice of Appeal filed by defendants' new counsel Atty. Aquilino M. Inocencio is not in accord with Section 5 Rule 41 of the 1997 Rules of Civil Procedure, as amended, in that it failed to . . . specify the court to which the appeal is being taken . . . and accordingly, the same is DENIED DUE COURSE.^[9]

Counsel for petitioners received a copy of the said Order on October 16, 1997, as shown by the registry return card.^[10] He filed a Manifestation/Compliance^[11] on October 20, 1997, praying for the reconsideration of the Order dated October 2, 1997 and manifesting that they are appealing the Decision of the lower court to the Court of Appeals in accordance with Rule 41 of the 1997 Rules of Civil Procedure. The lower court merely "NOTED" said Manifestation/Compliance in its Order dated October 21, 1997.^[12] Thus, on November 27, 1997, petitioners filed a petition for review on *certiorari*^[13] with the Court, docketed as G.R. No. UDK-12459 which we referred to the Court of Appeals for appropriate action per our Resolution dated January 12, 1998.^[14]

The referred petition is docketed as CA-G.R. SP No. 46671. Petitioners claim that the lower court was too strict in denying their notice of appeal for failure to specify the court to which appeal is being taken, despite the fact that said notice was filed within the reglementary period to appeal. They argued that since the Notice of Appeal was filed on October 1, 1997 or just three months after the 1997 Rules of Civil Procedure only took effect on July 1, 1997, they should be given some leniency in complying with the new rules. Thus, they sought the nullification of the lower court's order denying due course to their notice of appeal.

On February 17, 1998, the Court of Appeals issued the assailed Resolution^[15] denying due course and dismissing the petition for review on *certiorari* on the ground that said pleading did not contain an explanation why service of the petition upon respondent was not done personally as required under Section 11, Rule 13 of the 1997 Rules of Civil Procedure. Petitioners' Motion for Reconsideration was likewise denied per Resolution dated April 17, 1998^[16] wherein the appellate court ruled that the motion again contained formal and substantial infirmities and the allegations therein failed to show that petitioners have a meritorious case which would warrant it to uphold their defective Notice of Appeal from the decision of the trial court.

Hence, the present petition anchored on the following grounds:

I.

THE HONORABLE COURT OF APPEALS WAS TOO STRICT IN DENYING DUE COURSE AND DISMISSING OUR PETITION AS WELL AS OUR MOTION FOR RECONSIDERATION FOR BEING INSUFFICIENT IN FORM AND SUBSTANCE AND AT THE SAME TIME ERRED IN RESOLVING THAT THE PETITIONERS HAVE NO MERITORIOUS CASE WHICH WOULD WARRANT TO UPHOLD OUR DEFECTIVE NOTICE OF APPEAL IN THE REGIONAL TRIAL COURT.

II.

THE HONORABLE REGIONAL TRIAL COURT HAS NO JURISDICTION OVER THE CASE BEING AGRARIAN IN NATURE.

Anent the first ground, petitioners asseverate that the Court of Appeals erred in strictly applying Section 11, Rule 13 of the 1997 Rules of Civil Procedure^[17] and in subsequently denying the motion for reconsideration because such stringent application of technicalities would be tantamount to a denial of substantial justice. Petitioners implore this Court to resolve the case on its merits.

As to the second ground, petitioners posit that it is the DAR and not the Regional Trial Court which has jurisdiction over the complaint for recovery of possession as they are tenants of the subject parcel of land.

We find cogent reasons for a relaxation of the application of the rules of procedure in this case. At the outset, we call to mind our pronouncement in *Solar Team Entertainment, Inc. vs. Hon. Helen Bautista Ricafort, et al.*,^[18] to wit:

The 1997 Rules of Civil Procedure took effect only on 1 July 1997, while the questioned "Answer (with Counterclaims)" was filed only on 8 August 1997, or on the 39th day following the effectivity of the 1997 Rules. Hence, private respondents' counsel may not have been fully aware of the requirements and ramifications of Section 11, Rule 13.

. . .

It has been several months since the 1997 Rules of Civil Procedure took effect. In the interim, this Court has generally accommodated parties and counsel who failed to comply with the requirement of a written explanation whenever personal service or filing was not practicable, guided, in the exercise of our discretion, by the primary objective of Section 11, the importance of the subject matter of the case, the issues involved and the *prima facie* merit of the challenged pleading. **However, as we have in the past, for the guidance of the Bench and Bar, strictest compliance with Section 11 of Rule 13 is mandated one month from promulgation of this Decision.**^[19] (Emphasis supplied)

Thus, the rule requiring a written explanation whenever personal service or filing was not practicable, should be strictly complied with beginning September 5, 1998. In other words, the courts are allowed to be lenient to parties in case of non-compliance before said date. Herein petition for review on *certiorari* was filed in the