

SECOND DIVISION

[G.R. No. 120408, April 18, 1997]

**PHILGREEN TRADING CONSTRUCTION CORPORATION,
PETITIONER, VS. COURT OF APPEALS; HON. ERNA F. ALIPOSA,
AS JUDGE, RTC OF MAKATI, METRO MANILA, BRANCH 150; AND
UNITED COCONUT PLANTERS BANK, RESPONDENTS.
D E C I S I O N**

PUNO, J.:

This is a petition to review the decision of the Court of Appeals setting aside the orders of the Regional Trial Court, Branch 50, Makati City, which suspended the appeal in the case for ejectment (Civil Case No. 93-526) pending a determination of the issues in the case for specific performance (Civil Case No. 88-477).

This case involves a parcel of land with improvements registered under Transfer Certificate of Title No. 149578 located at No. 3 Cambridge Circle, North Forbes Park, Makati City. The property was foreclosed by private respondent United Coconut Planters Bank in 1987. At the public auction sale, petitioner Philgreen Trading Construction Corporation was the highest bidder and the lot was awarded to it for the amount of P13 million. Petitioner, through its President, Teresita Villaluz, deposited the amount of P1.4 million with the agreement to pay the balance of P11.6 million within ninety (90) days. Petitioner and private respondent also agreed that petitioner was to take possession of the property but title shall remain with private respondent until full payment of the purchase price. This agreement was embodied in a Contract to Sell.

Petitioner thereafter took possession of the property. Before the expiration of the ninety-day period, however, petitioner allegedly discovered that the lot was sequestered by the Philippine Commission on Good Government as ill-gotten wealth of Edna Camcam and was actually the subject before the Sandiganbayan of Civil Case No. 00017 entitled "Republic of the Philippines vs. Fabian Ver, et al." On March 28, 1988, petitioner instituted against private respondent before the Regional Trial Court, Branch 57, Makati City, Civil Case No. 88-477 for specific performance and rescission of contract with damages. The complaint sought to compel private respondent to clear the property from sequestration before full payment of the purchase price.

On the other hand, private respondent, on May 25, 1988, filed against petitioner a complaint for ejectment before the Metropolitan Trial Court, Makati City, on the ground of failure to pay the balance of the purchase price under their Contract to Sell. On January 7, 1992, the Metropolitan Trial Court rendered a decision ordering petitioner to vacate the property, restore possession to private respondent and pay attorney's fees of P20,000.00. Private respondent forthwith filed a motion for execution of the decision pending appeal. The Metropolitan Trial Court, however, did not act on the motion but instead forwarded the records of the case to the Regional

Trial Court upon appeal by petitioner.

The appeal was assigned to respondent Regional Trial Court, Branch 150, Makati City and was docketed as Civil Case No. 93-526. Before Branch 150, petitioner moved to consolidate the appeal with Civil Case No. 88-477 then pending before Branch 57, or, in the alternative, to suspend proceedings in the appeal until resolution of Civil Case No. 88-477. On June 4, 1993, the trial court issued an order denying consolidation of the cases. The court, however, found that Civil Case No. 88-477 "is unavoidably determinative of whether or not the cause for ejectment should proceed with the risk that herein defendant-movant is ousted from the premises while in the meantime the rights and obligations of the parties are still in litigation."^[1] The court thus ordered the suspension of the proceedings in Civil Case No. 93-526 pending determination of the issues in Civil Case No. 88-477.

Private respondent moved for reconsideration of the order which the trial court denied on August 23, 1993. On November 17, 1993, private respondent filed a "Motion to Reopen Case with Motion to Resolve Motion for Execution Pending Appeal." On February 8, 1994, the trial court denied the Motion declaring that the motion to reopen was a second motion for reconsideration of the June 4, 1993 order and that the motion for execution pending appeal was not before it but before the Metropolitan Trial Court. Thus:

"In its opposition, defendant contends that plaintiff's motion for execution cannot be resolved at this point in time for the reason that an order suspending further proceedings is in effect.

This Court agrees with defendant's stand. As correctly pointed out by defendant, if under this motion, plaintiff is again seeking the reversal of the order of suspension, then the motion is, in effect, a second motion for reconsideration which is prohibited by the Rules.

Anent plaintiff's motion to resolve motion for execution pending appeal, the record shows that plaintiff has not filed any motion for execution pending appeal before this Court. Plaintiff is probably referring to its motion filed before Branch 63, Metropolitan Trial Court of Makati, Metro Manila. Even assuming that said motion was filed before this court, still the same could not be acted upon for the same reason that an order suspending further proceedings in this case is in effect."^[2]

On April 26, 1994, private respondent filed with the Court of Appeals a petition for certiorari questioning the orders of the trial court.^[3] On May 24, 1995, the Court of Appeals granted the petition and reversed the trial court after finding that the pendency of Civil Case No. 88-477 was not a bar to the ejectment case in Civil Case No. 93-526. Hence this recourse.

Petitioner questions the timeliness of the filing of the petition for certiorari before the Court of Appeals. It argues that in 1992, the Supreme Court promulgated three Resolutions, i.e., *Philec Workers' Union v. Hon. Romeo A. Young*,^[4] *Antonio V. Navarro v. National Labor Relations Commission*,^[5] and *The President and Vice-President of Travellers Life Assurance of the Philippines v. National Labor Relations Commission*,^[6] where it "laid down the rule that a petition for certiorari can only be

filed within three months from receipt of the questioned order."^[7] It is urged that since private respondent's petition was filed before the Court of Appeals more than seven (7) months after notice of the August 23, 1993 order of the trial court, it was therefore filed out of time and should have been dismissed.

The Revised Rules of Court do not fix a specific time frame for the filing of a special civil action for certiorari under Rule 65 thereof. Existing jurisprudence merely requires that the same be filed within a reasonable time from receipt of the questioned judgment or order.^[8] The period of three (3) months has been found as reasonable to file the petition for certiorari.^[9]

The three Minute Resolutions cited by petitioner do not categorically state that the period within which to file a petition for certiorari is three months. In fact, the Resolution in *Philec Workers' Union* was later cited in the cases of *Caramol v. National Labor Relations Commission*,^[10] and *Paderanga v. Court of Appeals*,^[11] where this Court declared that a petition for certiorari should be filed within a reasonable period of three months from notice of the decision or order. The operative phrase is "reasonable period" and this has been defined as "so much time as is necessary under the circumstances for a reasonable, prudent and diligent man to do."^[12] "Three months" is merely used as a yardstick to determine the reasonableness of the period in filing the petition.^[13] There is no such declaration that three months is the period for filing the petition beyond which period no such petition can be filed. If the petition is filed beyond three months, then under normal circumstances, it was filed beyond a reasonable time and should be dismissed. This, however, does not preclude courts from entertaining the petition if warranted by the demands of justice and provided laches has not set in.^[14]

Laches is defined as the failure or neglect for an unreasonable and unexplained length of time to do that which by exercising due diligence, could or should have been done earlier, or to assert a right within a reasonable time, warranting a presumption that the party entitled thereto has either abandoned it or declined to assert it.^[15] We have held that an interval of two (2) years is definitely barred by laches^[16] and so is an interval of seven (7) months after rendition of the last order sought to be set aside.^[17] A petition brought after ninety-nine (99) days is also barred by laches.^[18]

In the case at bar, the petition for certiorari before the Court of Appeals assailed three (3) orders of the trial court, viz: (a) the order dated June 4, 1993; (b) the order dated August 23, 1993; and (c) the order dated February 8, 1994. The February 8, 1994 order was issued to dispose of private respondent's "Motion to Reopen Case with Motion to Resolve Motion for Execution Pending Appeal." The trial court denied this motion on the ground that the Motion to Reopen Case was a second motion for reconsideration which is prohibited by the Rules. Petitioner claims that since a second motion for reconsideration is prohibited then the period to file a petition for certiorari should be counted from receipt of the order denying the first motion for reconsideration, which was the order of August 23, 1993. Private respondent received a copy of the August 23, 1993 order on August 31, 1993 and filed its petition with the Court of Appeals on April 26, 1994 -- seven (7) months and 26 days thereafter which it is contended is an unreasonably long period of time.^[19]