

## SECOND DIVISION

[ G.R. No. 240108, June 29, 2020 ]

**EDGAR T. CARREON, PETITIONER, VS. MARIO AGUILLON AND  
BETTY P. LOPEZ, RESPONDENTS.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Resolutions dated February 19, 2018<sup>[2]</sup> and May 4, 2018<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 08173-MIN, which dismissed the Petition for Annulment of Judgment (Annulment Petition) filed by petitioner Edgar T. Carreon (Carreon) under Rule 47 of the Rules of Court (Rules).

#### The Facts

This case stemmed from a complaint for breach of contract, damages, and attorney's fees filed by respondent Mario Aguillon (Aguillon) against Carreon and his wife, Isabel<sup>[4]</sup> (defendants), before the Regional Trial Court of Davao City, Branch 15 (RTC), docketed as Civil Case No. 33,044-09. In an Order dated March 10, 2010, the RTC, upon Aguillon's motion, declared the defendants in default for failure to file their responsive pleading within the reglementary period despite receipt of summons and a copy of the complaint through their "son" at their residence.<sup>[5]</sup> Eventually, the RTC rendered a Decision<sup>[6]</sup> dated October 15, 2010 in favor of Aguillon and ordered the defendants to, among others, pay the amount of P47,410.00 as actual damages, plus interests and attorney's fees.<sup>[7]</sup>

The RTC's Decision attained finality, and consequently, a writ of execution<sup>[8]</sup> was issued on April 12, 2011. Consequently, the Sheriff levied on the property belonging to the defendants, which was purportedly their family home. The property was thereafter sold at a public auction where the highest bidder thereof was respondent Betty P. Lopez (Lopez). Thereafter, a Final Certificate of Sale was issued in her favor.<sup>[9]</sup>

On December 5, 2013, Lopez filed a petition for cancellation<sup>[10]</sup> of Transfer Certificate of Title (TCT) No. T-208860 registered in the name of the defendants and for the issuance of a new one in her name. On December 12, 2013, the RTC issued an Order requiring the defendants to appear at the hearing of the petition. However, the Return of Service dated January 27, 2014 did not reflect service upon them of a copy of the December 12, 2013 Order. Nonetheless, the RTC proceeded to hear the petition; and on February 17, 2014, it issued an Order granting the same. The defendants were then directed to surrender their Owner's Duplicate Copy of TCT No. T-208860 while the Register of Deeds of Davao City was ordered to cancel the same and to issue a new one in the name of Lopez.<sup>[11]</sup>

Subsequently, Lopez filed a Motion to Publish the February 17, 2014 Order of the RTC granting the petition for cancellation of the defendants' title. Despite the absence of any affidavit from the Process Server or postman stating that the defendants' address could not be located, the RTC granted the motion in an Order dated May 20, 2014. Consequently, when the February 17, 2014 Order became final after publication, TCT No. T-208860 was cancelled and a new one was issued in Lopez's name, *i.e.*, TCT No. 146-2015001758. On December 11, 2015, Lopez filed before the RTC a petition praying for the issuance of a writ of possession in her favor, which the RTC eventually granted on April 17, 2016.<sup>[12]</sup>

On June 22, 2017, Carreon learned that they were about to be ousted from their family home when he received a letter from the City Government of Davao with the writ of possession attached thereto. It was only then that he discovered all the proceedings that transpired without their knowledge and participation. Thus, upon the advice of his counsel, he secured the pertinent records including the subsequent issuances of the RTC which had already become final and executory.<sup>[13]</sup>

Left with no legal recourse, Carreon, by himself, filed the Annulment Petition before the CA on the grounds of lack of jurisdiction and extrinsic fraud premised on the improper/invalid service of summons.<sup>[14]</sup>

### **The CA Ruling**

In a Resolution<sup>[15]</sup> dated July 28, 2017, the CA dismissed the Annulment Petition **on procedural grounds** as Carreon failed to, *inter alia*: (a) attach the affidavit of service of the petition to the court of origin as well as the adverse parties;<sup>[16]</sup> (b) attach a copy of TCT No. T-208860; and (c) submit affidavit/s of witness/es or documents in support of the cause of action or defense.<sup>[17]</sup>

Aggrieved, Carreon filed a Motion for Reconsideration with Manifestation, explaining that (a) the affidavit of service is not required in a petition for annulment of judgment, the same being an original action before the CA; hence, the rule on service of summons is applicable; (b) the failure to attach a copy of TCT No. T-208860 is not a fatal error to warrant the dismissal of the petition, but he nonetheless attached a copy thereof; and (c) Carreon himself, as well as his *only child*, Malaya De Luna Carreon (Malaya De Luna), and other witnesses have executed their respective affidavits in support of the Annulment Petition.

In a Resolution<sup>[18]</sup> dated February 19, 2018, the CA reconsidered its original ruling, stating that the procedural infirmities in Carreon's petition have already been rectified. However, **on the merits**, it found that the RTC acquired jurisdiction over the person of Carreon and his wife Isabel, there being no irregularity in the service of summons upon them. Hence, the CA dismissed the Annulment Petition entirely.<sup>[19]</sup>

Focusing solely on the CA's disposition of the case on the merits, Carreon then filed on March 8, 2018 a Motion for Reconsideration (March 8, 2018 Motion for Reconsideration) of the February 19, 2018 Resolution. In a Resolution dated May 4, 2018, the CA noted without action the said motion, opining that it was a *second*

motion for reconsideration which shall no longer be entertained for being a prohibited pleading. Hence, the CA directed the issuance of an Entry of Judgment, prompting Carreon to file the instant petition before the Court.

### **The Issue Before the Court**

The essential issues for the Court's resolution is whether or not the CA correctly (a) treated Carreon's March 8, 2018 Motion for Reconsideration as a second motion for reconsideration, a prohibited pleading; and (b) dismissed the Annulment Petition based on its finding that the RTC acquired jurisdiction over the person of defendants.

### **The Court's Ruling**

The petition is meritorious.

The Rules are explicit that a second motion for reconsideration shall not be allowed. Section 2, Rule 52 of the Rules provides that:

Section 2. *Second motion for reconsideration.* - No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.

Case law explains that "[t]he rule rests on the basic tenet of immutability of judgments [which evokes that] [a]t some point, a decision [must] become final and executory and, consequently, all litigations must come to an end."<sup>[20]</sup> Moreover, "a second motion for reconsideration does not suspend the running of the period to appeal and neither does it have any legal effect."<sup>[21]</sup>

In this case, the CA characterized Carreon's March 8, 2018 Motion for Reconsideration as a *second* motion for reconsideration. Hence, it noted without action the same for being a prohibited pleading and, resultantly, issued an Entry of Judgment.

The CA is mistaken.

Carreon's March 8, 2018 Motion for Reconsideration can hardly be considered as a *second* motion for reconsideration as contemplated by the Rules. In fact, the aforesaid motion should have actually been treated as a first motion for reconsideration because it assailed the CA's reconsidered ruling (*i.e.*, the Resolution dated February 19, 2018), and not its original Resolution dated July 28, 2017. As will be discussed below, these Resolutions were premised on completely different legal grounds from one another.

To recount, Carreon's earlier Motion for Reconsideration with Manifestation was in response to the CA's original Resolution dated July 28, 2017 which dismissed the Annulment Petition based purely on procedural grounds. As such, this motion was intended to address the alleged procedural infirmities pointed out by the CA. In its February 19, 2018 Resolution, the CA reconsidered its original resolution, holding that there was a "rectification of the infirmities" in the Annulment Petition.<sup>[22]</sup> Moreover, in the same February 19, 2018 Resolution, the CA proceeded to tackle the merits of the Annulment Petition itself. In particular, the CA held that the issue of