

FIRST DIVISION

[G.R. No. 228138, August 27, 2020]

REMEDIOS M. MASCARINAS, PETITIONER, VS. BPI FAMILY SAVINGS BANK, PROMULGATED: INC., RESPONDENT.

DECISION

LAZARO-JAVIER, J.:

ANTECEDENTS

In LRC Case No. Q-19021 (04) entitled *Application for Issuance of a Writ of Possession (By virtue of Extra-Judicial Foreclosure of Real Estate Mortgage) - BPI Family Savings Bank, Inc.*, the Regional Trial Court-Quezon City, Branch 215 issued in favor of respondent BPI Family Savings Bank, Inc. a writ of possession over Lot 3-30-C-2 covered by TCT No. N-266377 with an area of 206 square meters.^[1] The lot was previously covered by TCT No. N-221465 (RT-122312/255084) in the name of mortgagor Josephine Abila.

When the sheriff went to the supposed lot to serve the notice to vacate, the occupant, herein petitioner Remedios Mascarinas, claimed that the lot on which the writ of possession was being erroneously implemented actually belongs to her, that is, Lot 3-30-C-1, measuring 1,552 square meters, situated in Caloocan City, and covered by TCT No. T-142901. She allegedly purchased it sometime in 2007 at an auction sale, for which, a writ of possession^[2] was issued in her name by the Regional Trial Court-Branch 129, Caloocan City in Civil Case No. C-21521 entitled *Remedios Mascariñas v. Josephine Abila*. The confusion may have arisen from the fact that the lot subject of the writ and her lot were both previously owned by one Josephine Abila and both lots are situated along the boundaries of Quezon City and Caloocan City.

She also moved to quash the writ of possession and submitted the sketch plan issued by the Land Registration Authority (LRA) and pictures to prove that the bank's property is now part of Galino Street, Quezon City.

For its part, the bank reiterated that in 2012, it had already submitted to the court a relocation survey prepared by RC Tollo Surveying Services.^[3] The relocation survey properly identified the metes and bounds of Lot 3-30-C-2 and its actual location, as opposed to petitioner's sketch plan which allegedly failed to identify the exact location of her property.

Petitioner replied that the bank's unsigned survey plan cannot prevail over her sketch plan which bears the approval of the LRA.^[4]

Under Order dated June 24, 2014, the trial court denied the motion to quash. It held that the writ of possession specifically covered the bank's TCT No. N-266377 and

not TCT No. T-142901 which petitioner claimed to have been issued in her name. The trial court noted that the two (2) titles bear different technical descriptions.

Petitioner moved to clarify the aforesaid order and for the same to specifically state that the writ of possession cannot be enforced on her property. The motion was denied under Order dated October 20, 2014.

Petitioner moved for reconsideration. At the same time, she prayed for a survey of both lots so the real subject of the writ of possession may be determined with certainty.

Under Order dated April 25, 2016, the trial court denied the motion. On May 5, 2016, petitioner received notice of the order.

On July 4, 2016 (the sixtieth day counted from May 5, 2016), petitioner filed with the Court of Appeals a motion for an extension of fifteen (15) days or until July 19, 2016 to file her intended petition for *certiorari*. Her counsel cited pressure of work as ground therefor.^[5]

The Court of Appeals' Ruling

By Resolution^[6] dated July 13, 2016, the Court of Appeals denied petitioner's motion for extension following Sec. 4, Rule 65 of the Rules of Court and citing ***Mid-Islands Power Generation Corporation v. Court of Appeals, et al.***

Petitioner then filed a motion to admit the petition^[7] alleging that even before she received the denial of her motion for extension, she had already filed said petition as of July 19, 2016.^[8] She averred that not only was her counsel saddled with heavy workload, he, too, was suffering from failing health, old age, and his frequent long trips from San Pedro, Laguna to his office in Quezon City, all of which compelled said counsel to seek the one-time fifteen (15) day extension from the Court of Appeals. She invoked Section 4 of Rule 65 of the Rules of Court, as amended by SC Administrative Memo No. 00-2-03 where an extension was allowed, provided it did not exceed fifteen (15) days.

Under Resolution dated August 16, 2016, the Court of Appeals noted without action the motion to admit.^[9]

Petitioner's subsequent motion for reconsideration was also denied per Resolution dated November 4, 2016.

THE PRESENT PETITION

Petitioner now seeks affirmative relief from the Court, specifically praying that her petition for *certiorari* in CA-G.R. SP No. 146409 which she had already filed on July 19, 2016 be admitted. She reiterates that her counsel's heavy workload, failing health, old age, and frequent long trips from San Pedro, Laguna to his office in Quezon City caused her counsel to seek the one-time fifteen (15) day extension to file the petition. On this score, she asks the Court to look into the merits of her petition over the strict application of the sixty-day reglementary period. She claims that the trial court's peremptory denial of her plea for a survey of both lots has

posed an irreparable grave damage to her right to property.

The bank opposes the petition, harping on petitioner's failure to adduce sufficient cause to relax the strict application of the sixty-day reglementary period. It stresses that the rationale of the amendment introduced by A.M. No. 07-7-12-SC is to prevent abuse of Rule 65 to delay a case or defeat the ends of justice, citing **Laguna Metis Corp. v. CA.**^[10]

ISSUES

I

Will the grant of petitioner's motion for a one-time extension of fifteen (15) days to file her intended petition for *certiorari* in CA-G.R. SP No. 146409 and her subsequent motion to admit the petition serve the higher interest of substantial justice?

II

Is petitioner's plea for a survey of the lot subject of the writ of possession and her own lot a necessary and indispensable measure to ascertain their exact locations once and for all so as to avoid the reckless implementation of the writ on the wrong property?

RULING

The grant of petitioner's motion for extension and subsequent motion to admit will serve the higher interest of substantial justice.

In its assailed resolutions, the Court of Appeals stressed that the filing of a motion for extension to file a petition for *certiorari* was already deleted when A.M. No. 07-7-12-SC further amended Section 4 of Rule 65.^[11] While recognizing the exceptions laid down in **Domdom v. Sandiganbayan**,^[12] the Court of Appeals did not find "pressure of work" as sufficient justification to apply **Domdom** here. Nor did it consider counsel's "failing health" as a justification considering that this reason was belatedly cited only after the petition had already been denied.

In **Thenamaris Philippines, Inc. v. Court of Appeals**,^[13] the Court clarified that while a petition for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration, the period may be extended subject to the court's sound discretion. For this purpose, one should be able to provide a reasonable or meritorious explanation for his or her failure to comply with the sixty-day period.

Here, petitioner stated that her counsel needed additional time to file the petition as he was also burdened with other equally important cases. Petitioner also mentioned, albeit belatedly, her counsel's failing health, old age, and frequent long trips from San Pedro, Laguna to Quezon City which had taken a toll on his health.

On several occasions, the Court had ruled that heavy workload is relative and often

self-serving, and that standing alone, it is not a sufficient reason to deviate from the sixty-day rule.¹⁴ We have oft reminded lawyers to handle only as many cases as they can efficiently handle because it is not enough that they are qualified to handle legal matters, for they are also required to prepare adequately and give the appropriate attention to their legal works.^[15] As for the alleged failing health and old age of petitioner's counsel, the Court of Appeals correctly opined that the invocation of these grounds in support of the motion for extension appears to be a mere afterthought.

This notwithstanding, however, when strict application of the rules would result in irreparable damage, if not grave injustice to a litigant, as in this case, the Court is compelled to relax the rules in the higher interest of substantial justice. In ***De Guzman v. Sandiganbayan***,^[16] we decreed:

The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. **That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around.** Truly then, technicalities, in the appropriate language of Justice Makalintal, "should give way to the realities of the situation." x x x (Emphasis supplied)

We, thus, relaxed the technical rules in ***Tanenglian v. Lorenzo***^[17] when, in the broader interest of justice, we gave due course to the appeal, albeit, it was a wrong remedy and filed beyond the reglementary period, viz.:

We have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules, allowing us, depending on the circumstances, to set aside technical infirmities and give due course to the appeal. In cases where we dispense with the technicalities, we do not mean to undermine the force and effectivity of the periods set by law. **In those rare cases where we did not stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice.** Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause. (Emphasis supplied)

Here, precluding petitioner from pursuing her appellate remedy based on a mere technicality will most probably cause her to perpetually and irreparably lose her 1,552 square meter property as a result of what she calls an erroneous, nay, unjust implementation of the writ of possession not on the property of the bank, but hers.

Verily, therefore, the Court resolves to grant petitioner's motion for a one-time extension of fifteen (15) days and admit the petition for *certiorari* she had already filed on July 19, 2016.

The survey of both Lot 3-30-C-1 and Lot