

## THIRD DIVISION

[ G.R. No. 207433, December 05, 2018 ]

**DR. FE LASAM, PETITIONER, VS. PHILIPPINE NATIONAL BANK  
AND HON. PRESIDING JUDGE OF REGIONAL TRIAL COURT,  
BRANCH 66, SAN FERNANDO CITY, LA UNION, RESPONDENTS.**

### DECISION

**J. REYES, JR., J.:**

This is a petition for *certiorari* under Rule 65 of the Rules of Court which seeks to annul the March 18, 2013<sup>[1]</sup> and May 28, 2013<sup>[2]</sup> Orders of the Regional Trial Court of San Fernando City, La Union, Branch 66 (RTC) in Civil Case No. 6778, a petition for relief from a final order. The present petition for *certiorari* also seeks to set aside the February 23, 2010 Order<sup>[3]</sup> of the same court in Civil Case No. 6778 for annulment of mortgage.

On January 22, 2013, petitioner Dr. Fe Lasam (Lasam) filed a Petition for Relief from Judgment, Order, or Other Proceedings<sup>[4]</sup> before the RTC. In her petition, Lasam alleged, among others, the following: that on January 14, 2003, she filed a Complaint for Annulment of Mortgage<sup>[5]</sup> against Philippine National Bank (PNB), docketed as Civil Case No. 6778, before the same court; that on the February 23, 2010 hearing of the case for initial reception of evidence where she was present, her former counsel failed to appear; that as a consequence, the RTC issued an Order dismissing the civil case for failure to prosecute and for failure of her counsel to appear; that her former counsel filed an Urgent Manifestation and Motion<sup>[6]</sup> where she explained her failure to attend the hearing on February 23, 2010, but the RTC denied the same in its April 29, 2010 Order<sup>[7]</sup> as the motion was not seasonably filed; and that on May 24, 2010, her former counsel sought the reconsideration of the order,<sup>[8]</sup> but the RTC denied the same in its July 7, 2010 Order<sup>[9]</sup> for being in the nature of a second motion for reconsideration.

Lasam further alleged that her former counsel filed a Petition for *Certiorari*<sup>[10]</sup> before the Court of Appeals (CA), which was docketed as CA G.R. SP No. 116446, but the same was dismissed.<sup>[11]</sup> On September 27, 2012, an Urgent Motion for the Issuance of Temporary Restraining Order and/or Preliminary Injunction<sup>[12]</sup> was also filed. However, in its November 21, 2012 Resolution,<sup>[13]</sup> the CA stated that it could no longer act on the urgent motion in view of this Court's issuance of a Resolution dated May 28, 2012, and an Entry of Judgment.<sup>[14]</sup> The Entry of Judgment stated that the Court's February 22, 2012 Resolution in G.R. No. 199846, denying the petition for review on *certiorari* assailing the Decision and Resolution in CA-G.R. SP No. 116446, had become final and executory and had been recorded in the Book of Entries of Judgments on May 3, 2012.

Lasam claimed that she only learned of the finality of the February 23, 2010 Order after she consulted a different lawyer. She also averred that she was seriously deprived of her right to present her case due to the gross negligence and ignorance of her former counsel who caused the dismissal of her complaint for annulment of mortgage due to her failure to appear on the February 23, 2010 hearing of the case; who failed to file the motion for reconsideration on time; and who availed of the wrong remedy by filing a second motion for reconsideration which eventually led to the finality of the February 23, 2010 Order. Thus, she was prompted to file the petition for relief from the February 23, 2010 Order of the RTC within 60 days from her knowledge of its finality.

### ***Ruling of the RTC***

In its assailed March 18, 2013 Order, the RTC dismissed outright Lasam's petition for relief. The trial court explained that under Section 3, Rule 38 of the Rules of Court, a petition for relief from a final judgment or order must be filed within: (a) 60 days after the petitioner learns of the judgment, final order, or other proceeding to be set aside; and (b) six months from entry of such judgment, order, or other proceeding. It emphasized that these two periods must concur and must be strictly observed since compliance with the reglementary periods is jurisdictional.<sup>[15]</sup>

The trial court ruled that contrary to Lasam's belief, the 60-day period had commenced when she, through her former counsel, received a copy of the April 29, 2010 Order denying the reconsideration of the dismissal of the case on February 23, 2010, and not from the time of her belated knowledge of the finality after consulting with a different lawyer. Thus, the trial court opined that the petition for relief was filed way beyond the two periods set by the Rules of Court. The dispositive portion of the assailed Order provides:

WHEREFORE, in view of the foregoing, the instant petition is hereby  
DISMISSED for lack of merit.

SO ORDERED.<sup>[16]</sup>

Lasam moved for reconsideration,<sup>[17]</sup> but the same was denied by the RTC in its May 28, 2013 Order.<sup>[18]</sup>

Hence, this petition.

### **The Issue**

WHETHER THE RTC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED OUTRIGHT LASAM'S PETITION FOR RELIEF FROM JUDGMENT, ORDER OR OTHER PROCEEDINGS AND DENIED HER MOTION FOR RECONSIDERATION<sup>[19]</sup>

Lasam argues that the RTC gravely abused its discretion when it dismissed outright her petition for relief considering that she has been seriously deprived of her right to present her case due to the gross negligence and ignorance of her former counsel. Although she recognizes the general rule that the negligence of the counsel binds the client, Lasam nevertheless claims that the gross negligence of her former

counsel justifies the application of the exception to her case.

In its Comment,<sup>[20]</sup> private respondent PNB counters that Lasam has not been unduly deprived of her right to present her case. It contends that Lasam has had sufficient legal representation contrary to her claim that her former counsel was guilty of gross negligence and ignorance. PNB points out that the records of the case, as well as Lasam's admissions, would reveal that her former counsel moved for the reconsideration of the RTC's February 23, 2010 Order. Her former counsel also filed a petition for *certiorari* in the CA; and, when the same was dismissed, moved for the reconsideration of the same, which was also denied. PNB further states that the CA's denial of the motion for reconsideration apparently became the subject of Lasam's petition for review on *certiorari*, docketed as G.R. No. 199846, before this Court. PNB maintains that the legal services and representations by Lasam's former counsel in the proceedings before the RTC, the CA, and this Court clearly manifest that no fraud, accident, mistake, or excusable negligence exists which could have justified a petition for relief.

PNB further disputes Lasam's claim that the petition for relief from the order of the RTC has been timely filed. It underscores that Lasam's petition in G.R. No. 199846, assailing the decision and resolution in CA G.R. SP No. 116446, was denied in this Court's February 22, 2012 Resolution, which became final and executory as evidenced by the Entry of Judgment on May 3, 2012. Thus, the petition for relief filed on January 22, 2013, or more than six months after the entry of the final order on May 3, 2012, was clearly filed out of time. Therefore, the RTC did not commit any grave abuse of discretion when it denied Lasam's petition.

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

The petition must be dismissed for utter lack of merit.

*Direct recourse to this Court was improperly resorted.*

As already stated, Lasam filed this petition for *certiorari* under Rule 65 of the Rules of Court directly to this Court, assailing the orders of the RTC. On this consideration alone, the instant petition must be dismissed for failure to observe the principle of hierarchy of courts.

The rationale for the principle of hierarchy of courts was discussed in *Chamber of Real Estate and Builders Associations, Inc. v. Secretary of Agrarian Reform*.<sup>[21]</sup> In the said case, the Court, citing the *Heirs of Bertuldo Hinog v. Hon. Melicor*,<sup>[22]</sup> explained that:

Primarily, although this Court, the Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction, **such concurrence does not give the petitioner unrestricted freedom of choice of court forum.** In *Heirs of Bertuldo Hinog v. Melicor*, citing *People v. Cuaresma*, this Court made the following pronouncements:

**This Court's original jurisdiction to issue writs of *certiorari* is not exclusive.** It is shared by this Court with

Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. **There is after all a hierarchy of courts.** That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. **A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.** This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further overcrowding of the Court's docket.

The rationale for this rule is two-fold: (a) it would be an imposition upon the precious time of this Court; and (b) it would cause an inevitable and resultant delay, intended or otherwise, in the adjudication of cases, which in some instances had to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as better equipped to resolve the issues because this Court is not a trier of facts.<sup>[23]</sup> (Emphases in the original; citations omitted.)

There is nothing in the instant petition which would justify direct recourse to this Court. Thus, dismissal of the same is in order.

Furthermore, even if the Court gives due course to this petition, it would certainly still meet the same fate. The Court is convinced that the RTC, in issuing the assailed orders, did not commit any grave abuse of discretion.

*Petition for relief from the order of the RTC was filed out of time.*

A petition for relief from judgment, order, or other proceedings is an equitable remedy which is allowed only in exceptional circumstances.<sup>[24]</sup> The petition is the proper remedy of a party seeking to set aside a judgment rendered against him by a court whenever he was unjustly deprived of a hearing, was prevented from taking an appeal, or a judgment or final order entered because of fraud, accident, mistake or excusable negligence.<sup>[25]</sup>

However, as an equitable remedy, strict compliance with the applicable reglementary periods for its filing must be satisfactorily shown because a petition for relief from judgment is a final act of liberality on the part of the State, which remedy cannot be allowed to erode any further the fundamental principle that a judgment, order, or proceeding must, at some definite time, attain finality in order to put an end to litigation.<sup>[26]</sup> As such, it is incumbent upon the petitioner to show that the petition