

THIRD DIVISION

[G.R. No. 186199, September 07, 2016]

**EDGARDO A. QUILO AND ADNALOY VILLAHERMOSA,
PETITIONERS, VS. TEODULA BAJAO, RESPONDENT.**

DECISION

PEREZ, J.:

Before us is a Petition for Review on *Certiorari*^[1] under Rule 45 of the 1997 Rules of Civil Procedure assailing the Order^[2] of the Regional Trial Court (RTC) of Branch 17, Manila, dated 18 December 2008, which denied the petition for certiorari filed under Rule 65 due to failure to attach with the petition a certified true copy of the Metropolitan Trial Court (MeTC) Decision^[3] and Orders^[4] in violation of Section 1, Rule 65 and for disregarding the three (3)-day notice rule under Section 4, Rule 15.

The facts as culled from the records are as follows:

The present case stemmed from an Ejectment Complaint^[5] filed by respondent Teodula Bajao (Bajao) against Eduardo B. Saclag, Jr., Zoilo J. Fulong, Sr., Elena Bertos,^[6] and Talia Saclag (hereinafter collectively referred to as "defendants") in the MeTC of Manila, Branch XIX, docketed as Civil Case No. 158273-CV, praying that the defendants vacate and demolish the subject property located at 2519 Granate Street, Sta. Ana, Manila. After trial, the MeTC ruled in favor of Bajao in a Decision dated 20 November 1998.

Aggrieved, the defendants elevated the case to the RTC-Branch 3 of Manila. On 13 September 1999, the RTC affirmed the Decision of the MeTC which has become final and executory due to defendants' failure to elevate the case to the Court of Appeals (CA), via a petition for review under Rule 41. The CA's Resolution denying defendants' appeal was issued on 26 November 1999. The defendants' Motion for Reconsideration was also denied in the CA's Resolution dated 13 March 2000.

When the defendants elevated the case to this Court, the petition was denied for failure to show a reversible error committed by the CA in a Resolution^[7] dated 14 June 2000. Pursuant thereto, this Court issued an Entry of Judgment^[8] declaring that the Resolution has become final and executory on 28 July 2000.

By virtue of the Entry of Judgment, Bajao filed a Motion for Execution on 8 August 2000. Seven (7) years thereafter, the Motion for Execution^[9] was acted upon by the RTC on 23 October 2007, ordering the remand of the records of the case to the court of origin or the MeTC.^[10] Finally, on 13 November 2007, the MeTC granted the Motion for Execution and issued a Writ of Execution on 28 November 2007.

On 27 February 2008, Edgardo Quilo and Adnaloy Villahermosa, petitioners herein,

received a Notice to Pay/Vacate and Demolish Premises^[11] from the MeTC, Branch XIX of Manila, directing them to vacate the property and remove their houses therein by virtue of the Writ of Execution. In opposition to the Writ, petitioners filed a Motion to Quash Writ of Execution and Recall of the Notice to Pay/Vacate and Demolish Premises on 5 March 2008 based on the following grounds: (1) the Writ of Execution was issued beyond the lapse of the 5-year period within which to execute a judgment based on Section 6, Rule 39 of the Rules of Court; and (2) for issuing the Writ of Execution on them, who are not parties to the ejectment case. Petitioners argued that the property subject of the Writ of Execution, which is 2519 Granate St., Sta. Ana, Manila, is not the same property, they are occupying, which is 2518 Granate St., San Andres Bukid, Manila.

On 26 June 2008, the MeTC denied the Motion to Quash. According to the MeTC, the Writ of Execution is binding on all persons claiming rights on the property including persons occupying the property, whether impleaded or not.^[12]

Aggrieved, petitioners filed a Motion for Reconsideration, which was also denied in an Order dated 29 July 2008. The MeTC referred to the petitioners' Answer where the latter admitted the correctness of the description of the subject property, i.e., 2519 Granate St., Sta. Ana, Manila. To further prove that the property of petitioners and the property subject of litigation are one and the same, the Process Server who personally served the summons way back in 1998, attested that it was the same subject property. As a matter of fact, the same Process Server accompanied the Sheriff to serve the Notice to Pay/Vacate and Demolish Premises to the same subject property. Hence, there is no dispute as to where the subject property is situated. The change in the address from 2519 to 2518 occurred only after the case was filed with the MeTC. There being no issue in the identity of the subject property, the MeTC ordered the implementation of the Writ of Execution on petitioners. The dispositive portion of the Order dated 29 July 2008 reads:

"WHEREFORE, the instant Motion for Reconsideration is hereby denied. The Sheriff of this Court is hereby directed to implement the Writ of Execution issued by this Court on November 28, 2007. The Court reiterates its Order to the Sheriff to effect the ejectment from the premises located at 2519 Granate Street, Sta. Ana, Manila and which is presently known as 2518 Granate Street, San Andres Bukid, Manila, of the defendants as well as all persons claiming rights under them, and such other persons who may be presently occupying the said premises, whether or not impleaded as parties in the present ejectment case. The plaintiff is directed to coordinate with the Sheriff of this Court for the immediate implementation of the Writ of Execution and in order to forestall further delay.

SO ORDERED."^[13]

On 29 August 2008, the Sheriff served petitioners a 2nd and Final Notice to Pay/Vacate and to Demolish Premises.

On 1 September 2008, petitioners filed a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure before the RTC imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondents Hon. Felicitas O. Laron-Cacanindin and Sheriff Rogelio G. Jundarino for affirming the

Decision of the MeTC which ordered the eviction of petitioners. In an Order dated 4 September 2008, the RTC denied the petition for failure to attach a certified true copy of the assailed judgment, order or resolution.

On 2 October 2008, petitioners filed a Submission of Duplicate Original Copies and Certified Copies of Subject Orders with Motion for Reconsideration (Motion for Reconsideration). Attached to the Motion for Reconsideration was a certified true copy of the MeTC Orders dated 26 June 2008 and 29 July 2008. However, on 18 December 2008, the RTC still denied the Motion for Reconsideration.^[14] The RTC found that the petition for certiorari, while it appended a certified true copy of the MeTC Orders dated 26 June 2008 and 29 July 2008, failed to attach a certified true copy of the MeTC Decision. The RTC further held that the petition failed to comply with Section 4, Paragraph 2, Rule 15 of the 1997 Rules of Civil Procedure for serving a copy of the Motion for Reconsideration on public respondents only on 17 October 2008 or on the date of hearing.

Hence, the present petition with the following assignment of errors raised by petitioners:

I

Whether or not the Regional Trial Court of Manila Branch (sic) 17 committed serious reversible error amounting to lack or excess of jurisdiction in dismissing the petition for certiorari of the petitioners for allegedly failing to attached (sic) certified true copy of the Decision rendered by the [MeTC] Branch XIX Manila (sic) dated November 20, 1998 and for allegedly failing to comply with the three day notice rule in violation of Sec. 4 (sic) Rule 15 of the rules of the court.

II

Whether or not the Metropolitan Trial Court of Manila Branch (sic) XIX committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the petitioners (sic) motion to quash writ of execution and recall of the notice to pay/vacate and demolish premises.

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Our Ruling

Before proceeding to resolve the main issue(s) subject of the present case, the Court deems it proper to address the threshold issue regarding the procedure resorted to by petitioners.

Hierarchy of courts

The petitioners availed of the wrong remedy. By filing the present petition for review on *certiorari* under Rule 45 of the Rules of Court before this Court to assail a judgment of the RTC, the petitioners violated the elementary rule on hierarchy of courts and Section 5, Rule 56.^[16]

The present petition raises mixed questions of fact and law, i.e., (1) whether or not the RTC committed a reversible error in dismissing the petition for certiorari filed by

petitioners for: (a) failure to attach a certified true copy of the Decision of the MeTC dated 20 November 1998 in violation of Section 1, Rule 65; (b) belatedly filing a certified true copy of the MeTC Orders dated 26 June 2008 and 29 July 2008; and (c) failure to comply with the 3-day notice rule in violation of Section 4, Rule 15, and finally, (2) whether or not the period within which to execute the Decision rendered on 20 November 1998 has already lapsed pursuant to Section 21, Rule 70 and Section 6, Rule 39. Indeed, the Court has jurisdiction to hear petitions for review assailing decisions of the RTC; however, losing litigants, such as the petitioners, do not have unbridled freedom to submit their claim directly before the Supreme Court. The petitioners should have filed a petition for review via Rule 41 before the CA first.^[17]

The rules of procedure, such as the rule on hierarchy of courts, exist for big reasons: to shield the Court from having to deal with cases that are also well within the competence of the lower courts and to enable the Court to resolve cases with more fundamental issues the Constitution has especially assigned to it.^[18] They are not mere technicalities. By arrogating unto themselves the filing of the present petition directly before the Court, the petitioners denied the CA the opportunity to review the judgment of the RTC. Thus, the petitioners, in complete disregard of the rules, obviated appellate proceedings. Again, we reiterate, lest it be forgotten, that litigants do not have unbridled freedom to directly call upon this Court's jurisdiction without proper recourse before the lower tribunals. The rules are not set out for this Court to simply disregard in the guise of liberal construction to favor a party.^[19] Thus, a petition for review on certiorari assailing a decision involving both questions of fact and law must first be brought before the CA.

Now, the main to bottom issues.

Failure to attach a certified true copy of the Decision of the MeTC dated 20 November 1998 pursuant to Section 1, Rule 65 of the 1997 Rules of Civil Procedure

Section 1, Rule 65 of the 1997 Rules of Civil Procedure mandates that petitions for certiorari shall be accompanied by a certified true copy of the judgment, order or resolution assailed, to wit:

Section 1. *Petition for certiorari.*-

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The petition shall be accompanied by a **certified true copy** of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (Emphasis supplied)

As borne by the records, petitioners failed to attach certified true copies of the MeTC Orders dated 26 June 2008 and 29 July 2008 and MeTC Decision dated 20 November 1998 with their petition for *certiorari*. It was only when they filed a motion for reconsideration when the petitioners submitted certified true copies of the assailed Orders dated 26 June 2008 and 29 July 2008 on 2 October 2008.

However, despite petitioners' submission of the certified true copies of the assailed Orders, the RTC still denied the petition for certiorari for, petitioners' failure to attach the MeTC Decision dated 20 November 1998.

In opposition to the finding of the RTC that petitioners are required to submit a certified true copy of the MeTC Decision, petitioners contended that submission of the MeTC Decision can be dispensed with because it is not required of the petitioners. According to petitioners, because they are not assailing the aforesaid Decision, they are not required to attach the same to the petition. Petitioners reiterated that what they are assailing are the Orders of the MeTC dated 26 June 2008 and 29 July 2008, which denied their Motion to Quash Writ of Execution and Recall of the Notice to Pay/Vacate and Demolish Premises. Petitioners are wrong. What is excused from being filed in a situation such as in this case, is a certified true copy of the MeTC Decision. A true or plain copy of such decision is still required as it falls under the required "other material portion of the record as would support the allegations of the petition."

We held in *Dr. Reyes v. CA*,^[20] that:

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The phrase is the equivalent of "ruling, order or decision appealed from" in Rule 32, §2 of the 1964 Rules made applicable to appeals from decisions of the then Courts of First Instance to the Court of Appeals by R.A. No. 296, as amended by R.A. No. 5433. Since petitioner was not appealing from the decision of the MeTC in her favor, she was not required to attach a certified true copy - but only a true or plain copy - of the aforesaid decision of the MeTC. The reason is that inclusion of the decision is part of the requirement to attach to the petition for review "other material portion of the record as would support the allegations of the petition." xxx

Indeed, the Writ of Execution, which is supposedly what is being questioned, is based on, and cannot alter the decision in the case. Hence, a true or plain copy of the Decision remains a required submission.

We must, however, consider the petitioners' subsequent submission of the certified true copies of the Orders. It is settled that submission of the required documents with the motion for reconsideration is substantial compliance with the rules.^[21] Therefore, this point can be conceded in favor of the petitioners.

Concerning petitioners' failure to comply with the 3-day notice rule under Section 4, Rule 15 of the 1997 Rules of Civil Procedure, petitioners referred to the registry, return receipt and argued that private respondents, as well as the public respondents, received the Motion for Reconsideration on 8 October 2008, three (3) days prior to the date of hearing, or well within the period to serve a copy to the respondents.

The RTC ruled contrarily and said that public respondents received the Motion for Reconsideration only on 17 October 2008, or on the date of hearing in violation of the 3-day notice rule. A perusal of the registry return receipt would reveal that