

THIRD DIVISION

[G.R. No. 172455, February 01, 2012]

**ANTONIO CHUA, PETITIONER, VS. TOTAL OFFICE PRODUCTS
AND SERVICES (TOPROS), INC., RESPONDENT.**

DECISION

PERALTA, J.:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision^[1] of the Court of Appeals (CA), dated December 9, 2005, and the Resolution^[2] dated April 6, 2006 denying petitioners' motion for reconsideration, be reversed and set aside.

A close examination of the records would reveal the CA's narration of facts to be accurate, to wit:

As culled from the evidence on records, on December 28, 1999, Total Office Products and Services (TOPROS), Inc. (plaintiff below), through its authorized representative Junnifer A. Ty, filed a complaint for annulment of contract with the court *a quo*. On February 24, 2000, summons was served on Antonio Chua (defendant below). On February 28, 2000, defendant filed a motion to dismiss the complaint, but the same was denied in an order dated August 9, 2000. On September 3, 2000, defendant filed a motion for reconsideration, but the same was denied in an order dated October 6, 2000. [On January 15, 2001, petitioner filed a petition for *certiorari* with the CA assailing the RTC's order denying the motion to dismiss. The CA did not issue a restraining order against the RTC.] Since no answer was filed by defendant, plaintiff filed a motion to declare defendant in default. On April 1, 2001, the court *a quo* issued an order declaring defendant in default and ordering the reception of the plaintiff's evidence *ex-parte*.

Following the presentation of the plaintiff's evidence before a commissioner, the court *a quo* on March 6, 2002 rendered a decision in favor of plaintiff and against defendant, the dispositive portion of which reads, as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as follows:

1. Declaring as null and void and has no legal effect, the loan contract and mortgage contract for being fictitious;
2. Ordering the cancellation of the annotation appearing in TCT Nos.

62352 and 62353 of the Register of Deeds of Quezon City;

3. Ordering the defendant to pay the plaintiff the amount of thirty thousand pesos (P30,000.00) as reasonable attorney's fees; and

4. Costs of suit.

SO ORDERED.

Defendant filed a motion for reconsideration of the above decision, which the lower court denied in its order dated May 17, 2002. x x x^[3]

The afore-quoted judgment was appealed to the CA, but on December 9, 2005, the CA promulgated its Decision dismissing the appeal, thereby affirming the RTC judgment. The CA ruled that the trial court's order declaring herein petitioner in default for failing to file his answer within the time allowed by the rules, is valid and in accordance with Section 3, Rule 9 of the Rules of Court. Petitioner moved for reconsideration of the Decision, but the same was denied per Resolution dated April 6, 2006.

Hence, the present petition before this Court, wherein the main argument is that the CA erred in dismissing the appeal based purely on technical considerations, resulting in petitioner's unjust deprivation of his property without due process of law due to his former counsel's gross negligence.

The petition is devoid of merit.

It is a well-entrenched rule that generally, the client is bound by the mistakes of his lawyer. To trivialize this rule would bring about a dangerous trend of endless litigation, as parties to a case could simply change counsels and claim that due to some mistake committed by their former counsel, they are entitled to new trial.^[4]

However, as held in *Hilario v. People*,^[5] said general rule admits of certain exceptions, to wit:

x x x the exception is when the negligence of counsel is so gross, reckless and inexcusable that the client is deprived of his day in court. x x x

x x x x

If the incompetence, ignorance or inexperience of counsel is so great and **the error committed as a result thereof is so serious that the client, who otherwise has a good cause, is prejudiced and denied his day in court**, the litigation may be reopened to give the client another chance to present his case. In a criminal proceeding, where certain evidence was not presented because of counsel's error or incompetence, the defendant in order to secure a new trial must satisfy the court