

## SECOND DIVISION

[ G.R. No. 188360, January 21, 2010 ]

**SPS. HEBER & CHARLITA EDILLO, PETITIONERS, VS. SPS.  
NORBERTO & DESIDERIA DULPINA, RESPONDENTS.**

### DECISION

**BRION, J.:**

We resolve in this Decision the Petition for Review on *Certiorari*<sup>[1]</sup> filed by defendants-petitioners Spouses Heber and Charlita Edillo (*defendants-petitioners*) who seek to reverse and set aside the Resolutions dated January 28, 2009<sup>[2]</sup> and June 11, 2009<sup>[3]</sup> of the Special Former Special Division of Five of the Court of Appeals (CA) in CA-G.R. SP No. 02436-MIN. The first assailed CA Resolution dismissed outright the defendants-petitioners' Petition for Review for failure to state the factual background of the case; the second assailed CA Resolution denied the defendants-petitioners' Motion for Reconsideration.

### FACTUAL BACKGROUND

The facts of the case, gathered from the parties' pleadings and annexes, are briefly summarized below.

On February 21, 2006, plaintiffs-respondents Spouses Norberto and Desideria Dulpina (*plaintiffs-respondents*) filed a Complaint for Forcible Entry against the defendants-petitioners with the Municipal Circuit Trial Court of Del Carmen-San Isidro-San Benito, Surigao del Norte (*MCTC*).<sup>[4]</sup>

The plaintiffs-respondents alleged that they purchased from Wencilito Camingue a 235-square meter residential lot and house located in Poblacion, San Isidro, Surigao del Norte, through a Deed of Sale<sup>[5]</sup> dated May 14, 1990. On August 8, 2005, defendant-petitioner Heber Edillo, without their consent and against their express prohibition, suddenly fenced off and occupied a 50-square meter portion of the western part of the disputed property while uttering threats against plaintiffs-respondents. On January 26, 2006, they sent the defendants-petitioners a notice to vacate the disputed property, but the defendants-petitioners refused to comply.<sup>[6]</sup>

In their Answer dated March 1, 2006, the defendants-petitioners countered that the Complaint states no cause of action because the plaintiffs-respondents failed to allege that they were in prior physical possession of the disputed property.<sup>[7]</sup> They also alleged that they acquired the disputed property through three (3) separate Deeds of Absolute Sale<sup>[8]</sup> from Apolinar Saragoza,<sup>[9]</sup> Felomino Forcadilla,<sup>[10]</sup> and Wenceslao Caunzad.<sup>[11]</sup>

### THE MCTC RULING

On May 23, 2007, the MCTC rendered judgment dismissing the Complaint. It ordered the plaintiffs-respondents to pay the defendants-petitioners P10,000.00 as actual damages and another P10,000.00 as attorney's fees.<sup>[12]</sup> The plaintiffs-respondents' counsel received a copy of the MCTC Judgment on May 31, 2007.<sup>[13]</sup>

On June 5, 2007, the plaintiffs-respondents filed a Motion for Reconsideration<sup>[14]</sup> which the MCTC denied in its Resolution of June 8, 2007.<sup>[15]</sup>

On July 30, 2007, the plaintiffs-respondents filed a Notice of Appeal with the MCTC, which the latter granted.

On August 15, 2007, the plaintiffs-respondents filed their Appeal Memorandum with the Regional Trial Court, Branch 31, Dapa, Surigao del Norte (RTC).<sup>[16]</sup>

### **THE RTC RULING**

The RTC decided the appeal on November 7, 2007. It set aside the MCTC judgment and ordered the defendants-petitioners to vacate the subject property and to restore the plaintiffs-respondents to their possession. It likewise ordered the payment of P10,000.00 as attorney's fees and the cost of suit.<sup>[17]</sup>

After the RTC denied<sup>[18]</sup> their Motion for Reconsideration,<sup>[19]</sup> the defendants-petitioners elevated the case to the CA through a Petition for Review under Rule 42 of the Rules of Court.<sup>[20]</sup> They argued that the plaintiffs-respondents' appeal with the RTC was filed out of time since the Revised Rules of Summary Procedure (RRSP) prohibits the filing of a motion for reconsideration.

### **THE CA RULING**

The CA dismissed the Petition in its Resolution of January 28, 2009<sup>[21]</sup> on the ground that it does not contain a statement of the factual background of the case, in violation of Sections 2 and 3 of Rule 42 of the Rules of Court. A special division of five (5) justices, with Associate Justice Ruben C. Ayson dissenting,<sup>[22]</sup> rendered the resolution.

The defendants-petitioners moved to reconsider the dismissal, to amend the petition, and to admit their First Amended Petition.<sup>[23]</sup> The CA denied the motions in its Resolution of June 11, 2009, noting that the amended petition did not correct the infirmity of the original petition.<sup>[24]</sup>

Faced with this development, the defendants-petitioners filed the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

### **THE PETITION**

The defendants-petitioners argue that the CA's outright dismissal of the petition was unwarranted since the Petition for Review and the Amended Petition (filed with the Motion for Reconsideration of the Dismissal of the Original Petition) sufficiently

recited the factual background of the case. They submit that the annexes to the original and amended petitions, consisting of the Complaint, the Answer, the other pleadings, and the MCTC and RTC Decisions, also contain this factual background. They point out that a relaxation of technical rules is justified by the merits of the case - the RTC had no jurisdiction to entertain the plaintiffs-respondents' appeal because the MCTC Decision had become final and executory; the Motion for Reconsideration the plaintiffs-respondents filed is a prohibited pleading in summary proceedings and did not stop the running of the period for the decision's finality.

For their part, the plaintiffs-respondents submit that the requirements set forth in Section 2 of Rule 42 of the Revised Rules of Court are mandatory and the defendants-petitioners have no discretion but to comply, citing *Galang v. Court of Appeals*<sup>[25]</sup> and *Tan v. Court of Appeals*.<sup>[26]</sup>

## **OUR RULING**

***We find for the defendants-petitioners.***

### ***Procedure on Appeal; Liberal Construction of Rules***

An appeal to the CA from an RTC Decision rendered in the exercise of its appellate jurisdiction is *via* a Petition for Review under Rule 42 of the Revised Rules of Court. Section 2 of Rule 42 prescribes the following requirements:

SEC. 2. *Form and contents.* -- The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; **(c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal;** (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. (Emphasis supplied.)

Non-compliance with these requirements is sufficient ground for the dismissal of the Petition, pursuant to Section 3 of the same Rule, which reads:

SEC. 3. *Effect of failure to comply with requirements.* -- The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

In not a few cases, we have ruled that the right to appeal is neither a natural right nor a part of due process; it is a mere statutory privilege that may be exercised only in the manner and strictly in accordance with the provisions of law allowing the appeal.<sup>[27]</sup> The party who seeks to appeal must comply with the requirements of the law and the rules; failure to comply leads to the dismissal and the loss of the right to appeal.<sup>[28]</sup>

But while we have so ruled, we recognize nonetheless that the right to appeal is an essential part of our system of judicial processes, and courts should proceed with caution in order not to deprive a party of the right to appeal. We invariably made this recognition due to our overriding concern that every party-litigant be given the amplest opportunity to ventilate and secure the resolution of his cause, free from the constraints of technicalities.<sup>[29]</sup> This line of rulings is based, no less, on the Rules of Court which itself calls for a liberal construction of its provisions, with the objective of securing for the parties a just, speedy and inexpensive disposition of every action and proceeding.<sup>[30]</sup> In this line of rulings, we have repeatedly stressed that litigation is not merely a game of technicalities. The law and jurisprudence grant to courts - *in the exercise of their discretion along the lines laid down by this Court* - the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.<sup>[31]</sup>

We are aware of the plaintiffs-respondents' cited cases of *Galang v. Court of Appeals*<sup>[32]</sup> and *Tan v. Court of Appeals*,<sup>[33]</sup> but these rulings are not fully applicable to the present case as they are not squarely in point.

*Galang* involved the dismissal of a petition with the CA for nonpayment of costs within three (3) days from notice of the order. It involved a direct failure to comply with a CA directive - a matter vastly different from, and greater than, the question of sufficiency posed in this case. *Tan*, on the other hand, involved a motion for reconsideration that was considered a mere scrap of paper for lack of a notice of hearing. This is a matter that, at its core, is a due process concern - the failure to afford the opposing party the opportunity to respond to the motion in a duly scheduled hearing.

A commonality and the weightier reason (although not so given this characterization) behind our rulings in these cited cases is the lack of merit of the respective petitioners' underlying cases. In both cases, we took into account the