

THIRD DIVISION

[G.R. No. 148435, November 28, 2008]

**ROGELIO GUEVARRA AND EDGARDO BANTUGAN, PETITIONERS,
VS. SPOUSES ENGRACIO AND CLAUDIA BAUTISTA, JESUS
DANAO AND CECILIA LACSON, RESPONDENTS.**

RESOLUTION

NACHURA, J.:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to set aside the Court of Appeals (CA) Resolutions dated January 24, 2001^[1] and May 30, 2001^[2] in CA-G.R. CV No. 59563.

On June 9, 1988, spouses Engracio and Claudia Bautista (spouses Bautista) filed a Complaint^[3] for *Reimbursement of Loan Payments and/or Collection of Money with Damages* against petitioners Rogelio Guevarra and Edgardo Bantugan, and spouses Aguinaldo and Remegia Santos (spouses Santos), before the Regional Trial Court (RTC) of Olongapo City. The case was raffled to Branch 73, and was docketed as Civil Case No. 294-0-88. Petitioners, in turn, filed a Third-Party Complaint against Jesus Danao (Danao) and Cecilia Lacson (Lacson), as the amount borrowed was invested in the latter's project.

After trial, or on January 5, 1996, the RTC rendered a Decision^[4] in favor of the spouses Bautista and against the petitioners, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs and against defendants Rogelio Guevarra and Edgardo Bantugan.

1. The defendants Guevarra and Bantugan are hereby ordered to pay the plaintiffs jointly and severally the amount of Two Hundred Thousand Pesos (P200,000.00) with interest at 18% per annum from the date it was borrowed on February 20, 1987 up to the time that the full amount shall have been paid.
2. To pay the said amount within a period of sixty (60) days from receipt of this decision; and
3. To pay P15,000.00 as attorney's fees and P7,000.00 as litigation expenses.

SO ORDERED.^[5]

Petitioners' motion for reconsideration was denied on June 4, 1996. No appeal was taken; instead, on July 15, 1996, they filed a Petition for Relief From Judgment^[6] as

they failed to seasonably appeal allegedly because of accident, honest mistake and excusable negligence. In their petition for relief, petitioners attributed their failure to appeal the January 5, 1996 RTC Decision to the excusable negligence of their counsel, who, at the time of the receipt of said decision, was busy preparing for a conference in Baguio City. To strengthen their claim for relief from judgment, petitioners raised anew their defense^[7] set up in the collection case.

On September 16, 1996, the RTC denied the petition for relief for lack of merit.^[8] The court held that the issues raised by petitioners were the same as those raised in their motion for reconsideration which had already been resolved by the court. It added that there was no showing of fraud, accident, mistake or excusable negligence, to warrant a relief from judgment.^[9]

Aggrieved, petitioners appealed the matter to the Court of Appeals; the same was docketed as CA-G.R. CV No. 59563. After the filing of the appellants' brief by the petitioners, Lacson filed a Motion to Dismiss^[10] on the ground that the issues raised were questions pertaining to the merits of the collection case and not to the denial of the petition for relief.

In a Resolution dated January 24, 2001, the appellate court granted the motion and thus dismissed the appeal pursuant to Section 1(b), Rule 50^[11] of the Rules of Court.^[12] While petitioners apparently questioned the September 16, 1996 Order of the RTC denying their petition for relief, it appeared from their appellants' brief that they were, in fact, assailing the January 5, 1996 decision of the court on the merits of the case. As such, the appeal before the CA was filed beyond the reglementary period. The CA further held that no appeal may be taken from an order denying a petition for relief from judgment pursuant to Section 1(a), Rule 41 of the Rules.^[13]

Acting on petitioners' motion for reconsideration, the appellate court sustained the denial of the appeal. The CA reiterated its findings that the issues raised were supportive of an appeal on the merits of the January 5, 1996 Decision and not of the September 16, 1996 Order.

Hence, the instant petition raising the following issues:

I.

WHETHER OR NOT ERRED (SIC) THE HONORABLE COURT OF APPEALS
ERRED IN DISMISSING THE APPEAL INTERPOSED BY HEREIN
PETITIONERS.

II.

WHETHER OR NOT THE TRIAL COURT ERRED IN DECLARING HEREIN
PETITIONERS CIVILLY LIABLE IN THE INSTANT CASE.^[14]

Before ruling on the petition, the Court notes that respondents Lacson and the spouses Bautista filed their respective Comments. For failure to serve the Resolution requiring respondent Danao to comment on the petition, we have repeatedly ordered the petitioners to furnish this Court with Danao's correct and present address. Considering the length of time that lapsed since Danao was first ordered to