

SECOND DIVISION

[G.R. NO. 169596, March 28, 2007]

**SUPERLINES TRANSPORTATION COMPANY, INC., PETITIONER,
VS. PHILIPPINE NATIONAL CONSTRUCTION COMPANY AND
PEDRO BALUBAL, RESPONDENTS.**

DECISION

CARPIO MORALES, J.:

Assailed via petition for review is the Court of Appeals' Decision^[1] dated September 6, 2005 dismissing for lack of merit the appeal of petitioner Superlines Transportation Company, Inc. (petitioner), docketed as CA-G.R. CV No. 61144.

Petitioner is a corporation engaged in the business of providing public transportation. On December 13, 1990, one of its buses, while traveling north and approaching the Alabang northbound exit lane, swerved and crashed into the radio room of respondent Philippine National Construction Company (PNCC).

The incident was initially investigated by respondent PNCC's toll way patrol, Sofronio Salvanera, and respondent Pedro Balubal (Balubal), then head of traffic control and security department of the South Luzon tollway.^[2] The bus^[3] was thereafter turned over to the Alabang Traffic Bureau for it to conduct its own investigation of the incident. Because of lack of adequate space, the bus was, on request of traffic investigator Pat. Cesar Lopera (Lopera), towed by the PNCC patrol to its compound where it was stored.^[4]

Subsequently, petitioner made several requests for PNCC to release the bus, but respondent Balubal denied the same, despite petitioner's undertaking to repair the damaged radio room. Respondent Balubal instead demanded the sum of P40,000.00, or a collateral with the same value, representing respondent PNCC's estimate of the cost of reconstruction of the damaged radio room. By petitioner's estimate, however, the damage amounted to P10,000.00 only.^[5]

Petitioner thus filed a complaint for recovery of personal property (replevin) with damages^[6] against respondents PNCC and Balubal with the Regional Trial Court of Gumaca, Quezon, praying as follows:

x x x x

2. after trial on the issues, judgment be rendered -

a) adjudging that plaintiff has the right to the possession of subject personal property and awarding the material possession of said property to plaintiff as the sole and absolute owner thereof;

b) ordering defendants jointly and severally to pay the plaintiff the following:

- (1) the sum of P500,000.00 representing unrealized income as of the date of the filing of the instant complaint and, thereafter, the sum of P7,500.00 daily until subject passenger bus shall have been delivered to and in actual material possession of plaintiff;
- (2) the sum of P100,000.00 as and for attorney's fees;
- (3) the sum of P20,000.00 as litis expenses; and
- (4) the cost of suit.^[7]

In view of its inability to put up the bond for the issuance of a writ of replevin, petitioner opted to forego the same and just wait for the court's final judgment.

In respondents' Answer^[8] to the complaint, they claimed that they merely towed the bus to the PNCC compound for safekeeping pursuant to an order from the police authorities; that respondent Balubal did not release the bus to petitioner in the absence of an order from the police authorities; that petitioner, in claiming the bus, failed to present the certificate of registration and official receipt of payment to establish ownership thereof; and that the bus subject of the complaint was not the same bus involved in the December 13, 1990 accident.

By way of Counterclaim, respondents prayed for the award of P40,326.54 in actual damages, P50,000.00 in exemplary damages, and P130,000.00 in attorney's fees and litigation expenses.

By Decision of December 9, 1997, the trial court dismissed petitioner's complaint. On respondents' Counterclaim, it ordered petitioner to pay respondent PNCC the amount of P40,320.00 representing actual damages to the radio room.

Petitioner appealed to the Court of Appeals^[9] which held that the storage of the bus for safekeeping purposes partakes of the nature of a deposit, hence, custody or authority over it remained with Lopera who ordered its safekeeping; and that Lopera acted as respondent PNCC's agent, hence, absent any instruction from him, respondent PNCC may not release the bus.

The appellate court thus concluded that the case should have been brought against the police authorities instead of respondents.

Hence, the present petition for review.

The petition is impressed with merit.

Before proceeding to the substantive issues raised in the petition, the Court resolves to dispose first the procedural issues raised by respondents in their Comment.^[10]

Respondents contend that the petition raises only questions of fact and suffers from a procedural defect in that it failed to include "such material portions of the record

as would support the petition" as required under Section 4, Rule 45^[11] of the Rules of Court, hence, it should be dismissed outright.

Contrary to respondents' contention, the petition raises questions of law foremost of which is whether the owner of a personal property may initiate an action for replevin against a depositary and recover damages for illegal distraint.

In any event, while it is settled that this Court is not a trier of facts and does not, as a rule, undertake a re-examination of the evidence presented by the parties, a number of exceptions have nevertheless been recognized by the Court. These exceptions are enumerated in *Insular Life Assurance Company, Ltd. v. Court of Appeals*:^[12]

It is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) *when the judgment is based on a misapprehension of facts*; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) *when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record*; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.
x x x (Italics in original; underscoring supplied; citations omitted)

As will be discussed below, number 11 of the foregoing enumeration applies in the present case.

Respecting the second procedural issue, as a rule, the failure of a petitioner to comply with any of the requirements under Section 4, Rule 45 of the Rules of Court regarding the contents of and the documents which should accompany the petition constitutes sufficient ground for its dismissal.^[13]

In the exercise of its equity jurisdiction, however, procedural lapses may be disregarded so that a case may be resolved on its merits. As held in *Durban Apartments Corporation v. Catacutan*:^[14]

It is well to remember that this Court, in not a few cases, has consistently held that cases shall be determined on the merits, after full opportunity to all parties for ventilation of their causes and defense, rather than on technicality or some procedural imperfections. In so doing,

the ends of justice would be better served. **The dismissal of cases purely on technical grounds is frowned upon and the rules of procedure ought not be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very ends. Indeed, rules of procedure are mere tools designed to expedite the resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote justice must be avoided.**

x x x x (Emphasis supplied; citations omitted)

The facts and circumstances attendant to the case dictate that, in the interest of substantial justice, this Court resolves it on the merits.

On to the substantive issues. *Tillson v. Court of Appeals*^[15] discusses the term replevin as follows:

The term replevin is popularly understood as "the return to or recovery by a person of goods or chattels claimed to be **wrongfully taken or detained** upon the person's giving security to try the matter in court and return the goods if defeated in the action;" "the writ by or the common-law action in which goods and chattels are replevied," i.e., taken or gotten back by a writ for replevin;" and **to replevy, means to recover possession by an action of replevin;** to take possession of goods or chattels under a replevin order. Bouvier's Law Dictionary defines replevin as "**a form of action which lies to regain the possession of personal chattels which have been taken from the plaintiff unlawfully** x x x, (or as) the writ by virtue of which the sheriff proceeds at once to take possession of the property therein described and transfer it to the plaintiff upon his giving pledges which are satisfactory to the sheriff to prove his title, or return the chattels taken if he fail so to do; the same authority states that the term, "to replevy" means "to re-deliver goods which have been distrained to the original possessor of them, on his giving pledges in an action of replevin." **The term therefore may refer either to the action itself, for the recovery of personality, or the provisional remedy traditionally associated with it, by which possession of the property may be obtain[ed] by the plaintiff and retained during the pendency of the action.** (Emphasis and underscoring supplied; citations omitted)

In a complaint for replevin, the claimant must convincingly show that he is either the owner or clearly entitled to the possession of the object sought to be recovered,^[16] and that the defendant, who is in actual or legal possession thereof, wrongfully detains the same.^[17]

Petitioner's ownership of the bus being admitted by respondents,^[18] consideration of whether respondents have been wrongfully detaining it is in order.

Following the conduct of an investigation of the accident, the bus was towed by respondents on the request of Lopera.^[19] It was thus not distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or