

SECOND DIVISION

[G.R. No. 144813, August 15, 2001]

**GOLD LINE TRANSIT, INC., PETITIONER, VS. LUISA RAMOS,
RESPONDENT.**

D E C I S I O N

BELLOSILLO, J.:

Subject of this petition for review is the 30 June 2000 Decision of the Court of Appeals dismissing the petition of GOLD LINE TRANSIT, INC. (GOLDLINE), in effect sustaining the Orders of the trial court of 8 April 1999 and 24 August 1999 which granted the issuance of a writ of execution and denied GOLDLINE's petition for relief from judgment, respectively,^[1] as well as the 12 September 2000 Resolution denying reconsideration thereof.^[2]

The antecedent facts: On 4 January 1993, at about 11 o'clock in the evening, 22-year old Leonisa Ramos was riding a passenger jeepney bearing Plate No. NVT-651 driven by Julius A. Jereza and heading towards Baclaran. While traversing Dr. A. Santos Avenue (formerly Sucat Road), it collided head-on with a bus of GOLDLINE which was travelling in the opposite direction. As a result of the impact, two (2) passengers of the jeepney died while nine (9) others on board the same vehicle were injured. Among the fatalities was Leonisa Ramos.

Seeking indemnification for the death of her daughter, respondent Luisa Ramos filed on 16 March 1994 a *Complaint for Damages*^[3] against GOLDLINE and Eduardo Lumontad, driver of the ill-fated bus,^[4] praying that defendants therein be held jointly and severally liable as follows: P67,644.00 for actual damages, P2,247,624.00 for compensatory damages, P20,000.00 for moral damages, P10,000.00 for exemplary damages, and P50,000.00 for attorney's fees and litigation expenses.

On 21 July 1994 GOLDLINE filed its *Answer (With Compulsory Counterclaim and Third Party Complaint)* denying liability. By way of *Third-Party Complaint*, GOLDLINE alleged that it was the negligence and recklessness of third-party defendant Julius A. Jereza, driver of the jeepney, which caused the mishap; and, that the GOLDLINE bus was insured against accident by third-party defendant Commonwealth Insurance which should therefore contribute and be subrogated to whatever liability may be adjudged against GOLDLINE. Answering defendant counterclaimed for actual and exemplary damages plus attorney's fees.

The pre-trial that was initially set on 27 August 1996 was postponed several times. Then on 4 July 1997 the court a quo set the pre-trial on 29 August 1997 and copies of the notice of pre-trial conference were sent to the parties and their respective counsel. However, on 29 August 1997, the day of the pre-trial, defendant and its counsel Atty. Leovigildo H. Mijares III failed to appear. On motion of plaintiff,

defendant GOLDLINE was declared as in default. The trial court then directed plaintiff to present her evidence *ex-parte* before the clerk of court who was appointed by the judge as trial commissioner.

On 30 September 1998 the trial court rendered judgment on the basis of the evidence presented by the plaintiff and, as prayed for, adjudged defendant liable for P67,247.00 for actual damages, P2,247,624.00 for compensatory damages, P20,000.00 for moral damages, P10,000.00 for exemplary damages and P50,000.00 for attorney's fees and litigation expenses. Defendant's counsel was furnished with copy of the decision on 20 November 1998. The Decision of the trial court in due course became final and executory for failure of defendant to appeal therefrom. Thereafter, on motion of plaintiff, the trial court directed the issuance of a writ of execution.

On 8 April 1999 defendant GOLDLINE through its counsel Atty. Leovigildo H. Mijares III filed a *Petition for Relief With Motion to Withdraw as Counsel* alleging among others that answering defendant was furnished with a copy of the questioned decision only in March 1999; that defendant's counsel had a misunderstanding with the owner of the building where he had his office regarding the payment of rents; that counsel was forced to transfer to a new office at Unit 1701-A, Tektite West Tower, PSE, Pearl Drive, Pasig City; that he omitted to inform the court of his change of address, and that the notices, order of default, and trial court decision were not received by him; and, that he was withdrawing as counsel with the conformity of his client, defendant GOLDLINE.

On 24 August 1999 the trial court denied the petition for relief for having been filed beyond the reglementary period provided under the rules. According to the trial court -

x x x x said counsel received a copy of the Decision dated September 30 1998 way back on November 20, 1998 x x x x the 15-day period within which they should have appealed expired on December 5, 1998. Computing the 60-day period provided for under Sec. 3, Rule 38 of the Rules of Court, from the time the defendant Goldline Transit, Inc. learned of the Decision of the Court, that is, on November 20, 1998 when a copy thereof was received by its counsel, the 60-day period would expire on January 20, 1999. Hence, when Atty. Leovigildo H. Mijares, III, counsel for defendant Goldline Transit, Inc. filed its "Petition for Relief" on April 8, 1999, it was already filed out of time for the reason that it was way way beyond the 60-day period allowed by Sec. 3, Rule 38, of the Rules of Court.

GOLDLINE went to the Court of Appeals on a petition for certiorari questioning the denial of its petition for relief but on 30 June 2000 the appellate court dismissed the petition. It pointed out that -

Public respondent's finding that petitioner's counsel Atty. Mijares received copy of the decision on November 20, 1998 has remained uncontroverted. Clearly then, when Atty. Mijares filed on April 8, 1999, on petitioner's behalf, the Petition for Relief from Judgment, the same

was outside the reglementary period. This leaves it unnecessary to pass on the *mea culpa* negligence of Atty. Mijares in failing to notify the court of his alleged change of address. Suffice it to state that it is inexcusable (vide *Philippine Suburban Development Corporation v. CA*, 100 SCRA 109 [1980]).

It is the inescapable duty of members of the Bar to make of record their correct address in all cases in which they are counsel for a suitor. For, instances here have been in the past when, because of failure to inform the court of the change of address, litigations were delayed. And this, not to speak of inconvenience caused the parties and the court. Worse still, litigants have lost their cases in court because of such negligence on the part of their counsel. It is painful enough for a litigant to suffer a setback in a legal battle. It is doubly painful if defeat is occasioned by his attorney's failure to receive notice because the latter has changed the place of his law office without giving the proper notice therefor. It is only when some such situation comes about that the negligent lawyer comes to realize the grave responsibility that he has incurred to his client and to the cause of justice. It is then that the lawyer is reminded that in his oath of office he solemnly declared that he will conduct himself as a lawyer accordingly to the best of his knowledge and discretion. Too late. Experience indeed is a good teacher. To a lawyer, though, it could prove very expensive.

With the denial of its motion for reconsideration, GOLDLINE filed before us the instant petition for review arguing that it never received a copy of the trial court's decision on 20 November 1998 as alleged since it came to know of it only on 30 March 1999 when its president verified the status of the case; since it learned of the decision only on 30 March 1999 GOLDLINE's petition for relief from judgment filed 8 April 1999 was well within the time frame provided under Sec. 3, Rule 38, of the 1997 *Rules of Civil Procedure*; as proof that its counsel did not receive copy of the court *a quo*'s decision on 20 November 1998, the return card^[5] contains patent irregularities on its face, i.e., the signature appearing thereon is not the customary signature of Atty. Mijares; the penmanship of the person who signed for Atty. Mijares is strikingly similar to that of the person who filled up the other entries in the return card, and it does not contain a post office seal; petitioner was deprived of its day in court by mistake and/or negligence of its counsel; and, it has a meritorious defense vis-à-vis respondent's complaint, i.e., the police report showing that it was the jeepney driver who was responsible for the accident.

The petition must fail. Section 3, Rule 38, of the 1997 *Rules of Civil Procedure* lays down the requirements of a petition for relief from judgment -

Sec. 3. *Time for filing petitions; contents and verification.* - A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake or excusable negligence relied