

## SECOND DIVISION

[ G.R. No. 120697, October 16, 2000 ]

**STA. LUCIA REALTY AND DEVELOPMENT, INC. AND LANDCO, INC., PETITIONERS, VS. COURT OF APPEALS, HON. ROGELIO ANGELES, PRESIDING JUDGE, REGIONAL TRIAL COURT OF ANTIPOLO, RIZAL, BRANCH 72 AND JAIME KOA, RESPONDENTS.**

### RESOLUTION

#### **QUISUMBING, J.:**

This is a petition for review on certiorari seeking to annul and set aside the Decision of the Court of Appeals in CA-G.R. SP No. 35346, dated January 30, 1995, as well as the Resolution dated June 23, 1995 denying herein petitioners' motion for reconsideration. The assailed decision denied the petition filed by petitioners to review the order of the Regional Trial Court of Antipolo, Rizal, Branch 72, in Civil Case No. 94-3353, which dismissed their petition for relief from judgment.

The factual antecedents to the instant petition are as follows:

On January 11, 1992, petitioners offered to renew the contract of lease with private respondent doing business under the name and style of "Smokey's" at petitioners' Sta. Lucia East Commercial Complex in Cainta, Rizal for a period of one year to commence on February 1, 1993. On May 27, 1993, private respondent signified his conformity. However, on June 8, 1993, petitioner ejected private respondent from their premises when the latter failed to pay rentals despite due demand and notice.

Private respondent then instituted on June 9, 1993, Civil Case No. 75-AF (93) for Forcible Entry against petitioners before the Municipal Trial Court of Cainta, Rizal. He also filed on September 21, 1993 another action, Civil Case No. 88-AF (93) for consignment, before the same court.

On May 19, 1994, the MTC disposed of Civil Case No. 75-AF (93) as follows:

"WHEREFORE, in view of all the foregoing, this Court hereby finds for Plaintiff JAMES KOA and hereby renders judgment in his favor and against defendants SANTA LUCIA REALTY AND DEVELOPMENT, INC. and LANDCO, INC., hereby directing the latter to

respect and abide by the terms and conditions of the herein parties' renewed contract of lease, this Court's 'Writ of Preliminary Mandatory Injunction' issued on 16 July 1993 being hereby made permanent subject only to the terms and conditions of the aforestated lease agreement;

pay herein plaintiff the amount of THREE HUNDRED FORTY TWO THOUSAND PESOS (P342,000.00), Philippine currency, for the

latter's having been dispossessed of subject premises for a period of Thirty-Eight (38) calendar days [from 08 June 1993 through 15 July 1993 inclusive], by way of actual compensatory damages, for which amount herein defendants shall be held jointly and solidarily liable; and

'pay herein plaintiff attorney's fees which this Court hereby fixes at TWENTY THOUSAND PESOS (P20,000.00), Philippine currency, and to pay costs of suit, for which amounts herein defendants shall be held jointly and severally liable.

"SO ORDERED."<sup>[1]</sup>

That same day, the MTC of Cainta dismissed Civil Case No. 88-AF (93) for being moot and academic, in view of its decision in Civil Case No. 75-AF (93).<sup>[2]</sup> On June 19, 1994, private respondent moved for the execution of judgment in Civil Case No. 75-AF (93). On June 20, 1994, petitioners appealed the decision in Civil Case No. 75-AF (93). Consequently, the MTC directed the Clerk of Court to forward the entire records of the above-entitled case to the Regional Trial Court of Antipolo, Rizal (now Antipolo City). On August 26, 1994, petitioners filed Civil Case No. 94-3335, which was denominated as a petition for relief from judgment, before the RTC of Antipolo, Branch 72. The RTC meantime issued a temporary restraining order enjoining the MTC from issuing the writ of execution prayed for by private respondent in Civil Case No. 75-AF (93). On August 29, 1994, petitioners filed their opposition to the motion for execution of judgment, alleging *inter alia*, the excusable oversight and mistake committed by their counsel's clerk-typist. The latter had apparently typed the wrong case number, in the notice of appeal. On September 1, 1994, the MTC granted the motion for issuance of writ of execution of the judgment in Civil Case No. 75-AF (93).

On September 10, 1994, private respondent moved for the dismissal of Civil Case No. 94-3335 on the grounds that: (1) a petition for relief from judgment is a prohibited pleading under the Rules on Summary Procedure, (2) the petition was not sufficient in form and substance for failure to attach an affidavit of merit, and (3) the act committed constituted gross and inexcusable negligence on the part of petitioners' counsel. On September 23, 1994, petitioners filed their opposition to the motion to dismiss. On September 26, 1994, the RTC of Antipolo granted the motion to dismiss on the ground that the petition for relief from judgment lacked the requisite affidavit of merit. The decretal portion of its order reads:

"WHEREFORE, premises considered, respondent's Motion to Dismiss is hereby GRANTED.

"ACCORDINGLY, petitioners' Petition for Relief from Judgment is hereby DISMISSED for lack of merit. IN VIEW THEREOF, Petitioners' prayer for preliminary injunction has been rendered moot and academic.

"SO ORDERED."<sup>[3]</sup>

On September 30, 1994, petitioners elevated the matter to the Court of Appeals by way of a petition for review on certiorari with prayer for preliminary injunctive relief, docketed as CA-G.R. SP No. 35346. On October 10, 1994, private respondent