



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**VIRGILIO P. VILLALONGHA,
 LUZVIMINDA P. VILLALONGHA-
 OMBING, and VIRGINCITA P.
 VILLALONGHA-BATUTO,**

Petitioners,

- versus -

**COURT OF APPEALS, (Twenty-
 Second Division), REGIONAL TRIAL
 COURT, DAVAO CITY BRANCH 38,
 FELIPA VDA. DE VILLALONGHA,
 AURORA VILLALONGHA-
 CABARRUBIAS, RAMONITO
 VILLALONGHA, JOSEFINA
 VILLALONGHA-DALEON,
 BOLTON BRIDGE HOMEOWNERS'
 ASSOCIATION, INCORPORATED,
 and THE REGISTER OF DEEDS FOR
 THE CITY OF DAVAO,**

Respondents.

G.R. No. 227222

Present:

**BERSAMIN,* C.J.,
 PERLAS-BERNABE,
 Acting Chairperson,**
 JARDELEZA,
 GISMUNDO,*** and
 CARANDANG, JJ.**

Promulgated:

AUG 20 2019

X-----

DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for *certiorari*¹ filed by petitioners Virgilio P. Villalongha (Virgilio), Luzviminda P. Villalongha-Ombing (Luzviminda), and Virgincita P. Villalongha-Batuto (Virgincita; collectively, petitioners) assailing: (a) the Resolution² dated July 7, 2016 of the Court of

* On official business.

** Per Special Order No. 2700 dated August 15, 2019.

*** On official business.

¹ See Urgent Petition for Certiorari with Prayer for Immediate Issuance of Temporary Restraining Order and Writ of Preliminary Injunction; *rollo*, pp. 3-20.

² Id. at 25-28. Penned by Associate Justice Edgardo A. Camello with Associate Justices Maria Filomena D. Singh and Perpetua T. Atal-Paño, concurring.

2

Appeals (CA) in CA-G.R. CV No. 01027-MIN, which declared its Decision³ dated March 22, 2013 as having become final and executory, and directed the Division Clerk of Court to make an entry of judgment; and (b) the Resolution⁴ dated September 20, 2016, which noted without action petitioners' Manifestation/Compliance with Motion to Recall Entry of Judgment.

The Facts

The instant case stemmed from a complaint⁵ for annulment of sale and transfer certificates of title (TCT), damages, and attorney's fees filed by siblings Virgilio, Luzviminda, Virgincita, Deogracias⁶ Villalongha (Deogracias), and Alejandro Villalongha (Alejandro; collectively, plaintiffs Villalongha) against their mother, Felipa Vda. de Villalongha (Felipa), and their siblings Aurora Villalongha-Cabarrubias (Aurora), Josefina Villalongha-Daleon (Josefina), and Ramonito Villalongha (Ramonito; respondents Villalongha), together with Bolton Bridge Homeowners' Association, Incorporated (BBHAI), and the Register of Deeds for the City of Davao (RD-Davao) before the Regional Trial Court of Davao City, Branch 33 (RTC), docketed as Civil Case No. 27,442-99.

Plaintiffs Villalongha claimed that: (a) they are co-owners of the properties covered by TCT Nos. T-130982,⁷ T-141817,⁸ and T-141832⁹ that used to be conjugal properties of Felipa and her late husband, Mauricio Villalongha (Mauricio), who passed away in 1978;¹⁰ (b) in a Deed of Extra-Judicial Settlement of Estate with Deed of Donation¹¹ dated May 7, 1996 (extrajudicial settlement), Felipa waived her rights over her shares in the said lands, which were allotted and awarded as follows: (i) TCT No. T-141817 to Virgilio, Deogracias, and Alejandro, (ii) TCT No. T-141832 to Ramonito and Josefina, and (iii) TCT No. T-130982 to Virgincita, Luzviminda, and Aurora;¹² (c) despite having lost all rights and interests on the said lands, Felipa subsequently sold¹³ to BBHAI the lands covered by TCT Nos. T-141817 and T-141832 (subject lands) upon the malicious instigation of respondent Aurora, resulting in the issuance of TCT Nos. T-313206¹⁴ and T-313207¹⁵ in the name of BBHAI, which is now threatening or procuring to eject the plaintiffs from the subject lands.¹⁶

³ CA *rollo*, pp. 138-163. Penned by Associate Justice Jhosep Y. Lopez with Associate Justices Edgardo A. Camello and Henri Jean Paul B. Inting (now a member of the Court), concurring.

⁴ *Rollo*, p. 30.

⁵ Dated July 21, 1999; *id.* at 31-44.

⁶ "Diogracias" in some parts of the records.

⁷ In the name of the Heirs of Mauricio Villalonga, represented by Felipa Vda. De Villalonga. Exhibit "A," folder of exhibits, pp. 1-2, including dorsal portion.

⁸ In the name of Felipa Vda. De Villalongha. Exhibit "B," *id.* at 3-4, including dorsal portion.

⁹ In the name of Felipa Vda. De Villalongha. Exhibit "C," *id.* at 5-6, including dorsal portion.

¹⁰ See *rollo*, p. 33.

¹¹ Exhibit "D-1," folder of exhibits, pp. 7-11.

¹² See *rollo*, p. 34.

¹³ See Deed of Absolute Sale dated June 2, 1999; Exhibit "E," folder of exhibits, pp. 13-14.

¹⁴ Exhibit "G," *id.* at 17-18, including dorsal portion.

For their part, respondents Villalongha denied¹⁷ the conjugal nature of the subject lands and their participation in the execution of the extrajudicial settlement. They averred that: (a) Felipa is the sole owner of the subject lands which she purchased from the Board of Liquidators on October 20, 1988, long after Mauricio's demise in 1978; (b) Felipa signed the extrajudicial settlement on the representation of Luzviminda that the said document will only show the boundaries and monuments of the properties involved, without any intention to donate her properties to her children; and (c) the signatures of Aurora and Josefina appearing thereon were forged, and they did not sign any acceptance of the alleged donation to them.¹⁸

On the other hand, BBHAI claimed to be an innocent purchaser in good faith and for value.¹⁹

The RTC Ruling

In a Decision²⁰ dated June 30, 2006, the RTC (a) dismissed the complaint on the ground that plaintiffs Villalongha failed to establish their claim by a preponderance of evidence; (b) declared the extrajudicial settlement null and void; and (c) adjudged Felipa as the sole owner of the subject lands.²¹ Aggrieved, plaintiffs Villalongha appealed²² to the CA.

The CA Proceedings

In a Decision²³ dated March 22, 2013 (March 22, 2013 Decision), the CA affirmed with modification the RTC ruling, thereby (a) adjudging Felipa as the exclusive and sole owner of the subject lands; (b) declaring her sale to BBHAI as valid and binding; (c) ordering Felipa to deliver possession of the subject lands to BBHAI; and (d) ordering plaintiffs Villalongha to pay litigation expenses and attorney's fees.²⁴

A copy of the March 22, 2013 Decision was sent to plaintiffs Villalongha's counsel, Atty. Victorio U. Advincula, Jr. (Atty. Advincula, Jr.), with registered letter No. 03654, and was received by a certain Ariel Hernandez on May 8, 2013.²⁵ However, in a manifestation²⁶ dated *March 11, 2014* (request manifestation), Atty. Advincula, Jr. informed the CA that:

¹⁵ Exhibit "H," *id.* at 19-20, including dorsal portion.

¹⁶ See *rollo*, pp. 35-38.

¹⁷ See Answer dated August 17, 1999; records, *Pieza 1*, pp. 51-59.

¹⁸ See *id.* at 56-57.

¹⁹ See *id.* at 86-87.

²⁰ Records, *Pieza 2*, pp. 411-431. Penned by Judge Wenceslao E. Ibabao.

²¹ See *id.* at 430-431.

²² See Notice of Appeal dated July 31, 2006; *id.* at 433.

²³ CA *rollo*, pp. 138-163.

²⁴ See *id.* at 162.

²⁵ See *id.* at 196.

²⁶ See Request Manifestation In Re: Tracer of Decision dated September 5, 2013; *rollo*, pp. 58-59.

(a) he did not receive said notice; and (b) Ariel Hernandez is not his staff or employee, and not personally known to him or to his associate, Atty. Victorio S. Advincula, Sr.

Atty. Advincula, Jr. also filed a Motion to Withdraw as Counsel²⁷ dated March 11, 2014 (motion to withdraw) for plaintiffs Villalongha with the conformity of Virgilio. In a Resolution²⁸ dated *March 23, 2015*, the CA granted the motion to withdraw and submitted the request manifestation for resolution.

In a Resolution²⁹ dated June 3, 2015 (June 3, 2015 Resolution), the CA noted without action the request manifestation, pointing out that (a) Atty. Advincula, Jr. has no more personality and/or authority to file pleadings in behalf of plaintiffs Villalongha; and (b) the request manifestation did not specify the action requested from the CA.³⁰

Virgilio received a copy of the said resolution on July 15, 2015, and filed a notice of receipt, requesting for time to engage the services of a new counsel.³¹ On August 17, 2015, he also received notice³² of BBHAI's Motion for Issuance of Entry of Judgment³³ in the case. Thereafter, Atty. Arnold C. Abejaron (Atty. Abejaron) filed a formal entry of appearance as counsel³⁴ for herein petitioners only, and opposed³⁵ BBHAI's motion on the ground of *prematurity*, averring that there was no proper notice of the March 22, 2013 Decision on their former counsel, Atty. Advincula, Jr.

Respondents Villalongha countered³⁶ that petitioners already had knowledge of the said Decision, and that Virgilio even attached a copy of the same in his Judicial Affidavit³⁷ dated October 21, 2014 in Criminal Case No. 121,417-A-F-2005 (a criminal case for theft filed by Alejandro³⁸ against petitioners) before the Municipal Trial Court in Cities in Davao City, yet petitioners failed to do anything to verify if Atty. Advincula, Jr. received notice of said Decision and/or protect their remedial rights, if any.³⁹

²⁷ Id. at 60-61.

²⁸ Id. at 62.

²⁹ Id. at 63-65. Penned by Associate Justice Edgardo A. Camello with Associate Justices Henri Jean Paul B. Inting (now a member of the Court) and Pablito A. Perez, concurring.

³⁰ See id. at 64-A.

³¹ See Notice of Receipt with Request for Time to Engage Services of New Counsel dated July 20, 2015; id. at 66-68.

³² Id. at 10.

³³ Dated July 28, 2015; id. at 73-75.

³⁴ Dated August 19, 2015; id. at 71-72.

³⁵ See Comment and Opposition to the Motion for Issuance of Entry of Judgment dated August 27, 2015; id. at Id. at 76-78.

³⁶ See Entry of Appearance with Manifestation dated August 3, 2015; id. at 69-70. See also Comment on the Motion for Issuance of Entry of Judgment dated September 9, 2015; id. at 79-81.

³⁷ CA *rollo*, pp. 282-291.

³⁸ See id. at 267.

³⁹ See *rollo*, p. 80.

✓

In a Resolution⁴⁰ dated July 7, 2016, the CA held that the March 22, 2013 Decision had become final and executory on May 24, 2013 in the absence of any motion for reconsideration or further appeal and, accordingly, directed the Division Clerk of Court to make an entry of judgment.⁴¹ The said Decision was thus entered⁴² in the Book of Entries of Judgments.

Petitioners filed a Manifestation/Compliance with Motion to Recall Entry of Judgment,⁴³ which was noted without action in a Resolution⁴⁴ dated September 20, 2016.

In the meantime, respondents Villalongha and BBHAI moved⁴⁵ for the issuance of a writ of execution before the RTC; hence, this petition with prayer for issuance of a Temporary Restraining Order (TRO) enjoining, among others, the Presiding Judge of the RTC from hearing and/or giving due course to the said motions; and respondents from ejecting petitioners from the subject lands. In order not to render moot the issue in this case, the Court issued a TRO.⁴⁶

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA committed grave abuse of discretion in directing an entry of judgment in the case, and denying petitioners' motion to recall the same, despite their claim of lack of proper service of the March 22, 2013 Decision.

The Court's Ruling

Section 2, Rule 13 of the Rules of Court provides that "if any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court." **Thus, even if a party represented by counsel has been actually notified, said notice is not considered notice in law.**⁴⁷ "The reason is simple – the parties, generally, have no formal education or knowledge of the rules of procedure, specifically, the mechanics of an appeal or availment of legal remedies; thus, they may also be unaware of the rights and duties of a litigant relative to the receipt of a decision. More importantly, it is best for the courts to deal only with one person in the interest of orderly procedure –

⁴⁰ Id. at 25-28.

⁴¹ See id. at 27.

⁴² See Entry of Judgment; id. at 29.

⁴³ Dated August 3, 2016; id. at 82-90.

⁴⁴ Id. at 30.

⁴⁵ See respondents' Motion for issuance of Writ of Execution dated September 19, 2016 (id. at 94-96) and BBHAI's Motion for Execution dated October 3, 2016 (id. at 99-101).

⁴⁶ See id. at 106-109.

⁴⁷ See *Prudential Bank v. Business Assistance Group, Inc.*, 488 Phil. 191, 197 (2004).

either the lawyer retained by the party or the party him/herself if [he/she] does not intend to hire a lawyer.”⁴⁸

As to service of judgments and proof thereof, Sections 7 and 13, Rule 13 of the Rules of Court pertinently provide:

Section 7. *Service by mail.* – Service by registered mail shall be made by depositing the copy in the post office in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered. If no registry service is available in the locality of either the senders or the addressee, service may be done by ordinary mail.

x x x x

Section 13. *Proof of service.* – x x x If the service is by ordinary mail, proof thereof shall consist of an **affidavit of the person mailing of facts showing compliance with Section 7** of this Rule. **If service is made by registered mail**, proof shall be made by such affidavit and the **registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender**, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. (Emphases supplied)

In the case at bar, the registry return card pertaining to Atty. Advincula, Jr.’s copy of the notice was not returned to the CA.⁴⁹ However, the CA concluded that the notice was received by Atty. Advincula, Jr. on the basis of the reply to tracer of William H. Olmoguez, Postmaster of Davao City, that a certain Ariel Hernandez received the notice on May 8, 2013.⁵⁰ But in his request manifestation, Atty. Advincula, Jr. denied having received such notice and knowing Ariel Hernandez, which was not refuted by respondents.

It must be stressed that the mail matter must be received by the addressee or his duly authorized representative since service on a person who was not a clerk, employee or one in charge of the attorney’s office, is invalid.⁵¹ “[S]ervice of the court’s order upon any person other than the **counsel of record is not legally effective and binding upon the party, nor may it start the corresponding reglementary period for the subsequent procedural steps that may be taken by the attorney.**”⁵² Since Ariel Hernandez was not an employee and, thus, not authorized to receive court

⁴⁸ See *Delos Santos v. Elizalde*, 543 Phil. 12, 26 (2007).

⁴⁹ See Certification dated March 4, 2014 issued by the Office of the Division Clerk of Court of the CA’s Twenty-Second Division; *rollo*, p. 91.

⁵⁰ See *id.* at 57.

⁵¹ See *Tuazon v. Molina*, G.R. No. L-55697, February 26, 1981, 103 SCRA 365, 368.

⁵² See *Soriano v. Soriano*, 558 Phil. 627, 642 (2007).

notices in behalf of Atty. Advincula, Jr., his alleged receipt of the notice of the March 22, 2013 Decision on May 8, 2013 is without any effect in law, and cannot start the running of the period within which to file a motion for reconsideration or appeal.

Notably, Atty. Advincula, Jr. likewise withdrew as counsel for petitioners with the conformity of Virgilio, which was approved by the CA.

Having been informed that the withdrawing counsel has not been duly served with notice of the March 22, 2013 Decision, and considering further that no new counsel has entered any appearance in behalf of plaintiffs Villalongha, the CA should have ensured that the latter were duly served notice thereof, but it did not. While it originally sent a copy of the said Decision to them under registered letter No. 03562 on April 12, 2013, the same was unserved, and thus, returned to sender.⁵³ Nonetheless, it bears to reiterate that such earlier notice is not considered notice in law since plaintiffs Villalongha were then represented by counsel.

While Virgilio received a copy of the June 3, 2015 Resolution (noting without action Atty. Advincula, Jr.'s request manifestation), and manifested that plaintiffs Villalongha will engage a new counsel "to whom a copy of the x x x [March 22, 2013 Decision may] be served,"⁵⁴ neither plaintiffs Villalongha nor Atty. Abejaron who subsequently entered his appearance for petitioners was served a copy of the March 22, 2013 Decision.

In view of the foregoing, the Court finds that plaintiffs Villalongha have not been duly served with notice of the March 22, 2013 Decision; hence, the period within which they may file a motion for reconsideration has not commenced to run. Thus, the Entry of Judgment made in the case on the ground that the said Decision had become final and executory on May 24, 2013 or after the lapse of the fifteen (15) day period from the invalid receipt by Ariel Hernandez was therefore premature and inefficacious, and should be recalled and lifted. An entry of judgment merely records the fact that a judgment, order or resolution has become final and executory; but it is not the operative act that makes such judgment, order or resolution final and executory.⁵⁵ In the case at bar, the Entry of Judgment did not make the March 22, 2013 Decision final and executory considering that as of the date of entry, notice of said Decision has not yet been served on plaintiffs Villalongha/petitioners. Consequently, the Court finds that the CA committed grave abuse of discretion in issuing its July 7, 2016 Resolution directing entry of judgment in the case, and the September 20, 2016 Resolution noting without action petitioners' motion to recall such entry.

⁵³ See mailing envelope; CA *rollo*, p. 166-A.


⁵⁴ See *rollo*, p. 67.

⁵⁵ See *Realty Sales Enterprises, Inc. v. Intermediate Appellate Court* (Resolution), 254 Phil. 719, 723 (1989).

✓

WHEREFORE, the petition is **GRANTED**. The Resolutions dated July 7, 2016 and September 20, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 01027-MIN are **SET ASIDE**, and the Entry of Judgment dated July 7, 2016 is **RECALLED**. The case is **REMANDED** to the CA which is hereby ordered to furnish petitioners, through counsel, a copy of the March 22, 2013 Decision and give petitioners a period of fifteen (15) days from such notice to file their motion for reconsideration therefrom.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:

On Official Business
LUCAS P. BERSAMIN
 Chief Justice
 Chairperson



FRANCIS H. JARDELEZA
 Associate Justice

On Official Business
ALEXANDER G. GESMUNDO
 Associate Justice


ROSMARIE D. CARANDANG
 Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
 Associate Justice
 Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Acting Chief Justice*

* Per Special Order No. 2699 dated August 15, 2019.