



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**NIEVES TURGO JADER and
 HEIRS OF ALFREDO TURGO:
 ZENAIDA TURGO BASCO and
 LUCIA R. TURGO, represented
 herein by their Attorney-in-Fact,
 CARLITO JADER,**
 Petitioners,

G.R. No. 209014

Present:

CARPIO, J., Chairperson,
 PERLAS-BERNABE,
 CAGUIOA,
 REYES, J. JR., and
 LAZARO-JAVIER, JJ.

-versus-

**HEIRS OF EVELYN TURGO
 ALLONES: NICASIO ALLONES
 and MICHAEL TURGO ALLONES,**
 Respondents.

Promulgated:

27 MAR 2019

x ----- *Alfonso C. Cabalag* ----- x

DECISION

REYES, J. JR., J.:

Batas Pambansa Bilang 129 (BP 129), as amended by Republic Act 7691 (RA 7691), states that jurisdiction of action involving recovery of title or possession of real property, located outside of Metro Manila and assessed at below ₱20,000.00, belongs to the first level court.

The Facts

On October 23, 1924, Mariano Turgo died intestate, leaving behind six children namely: Nicolas, Filemon, Alfredo, Abreo, Trinidad, and Juan. On September 30, 1960, the Turgo siblings executed a *Kasulatan ng Pagbabahaging Labas sa Hukuman ng Ari-ariang Naiwan ng Namatay na Mariano Turgo* (Deed of Extrajudicial Settlement of Estate of the Late Mariano Turgo), in which they agreed to partition among themselves a land

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measuring 1,125 square meters and originally covered by Tax Declaration 3276.¹

In 1963, Tax Declaration No. 3276 was split into two: Tax Declaration Nos. 9795 and 9796, covering 563 square meters each. Tax Declaration No. 9795 was divided among Abreo, Trinidad, and Juan, while Tax Declaration No. 9796 was divided among Nicolas, Filemon, and Alfredo.² The subject matter of this case pertains to the land covered by Tax Declaration No. 9796, since the children of Nicolas, Filemon and Alfredo are the party litigants in this case.

Through the years, the tax declaration underwent several cancellations and replacements.³ One time, the land was covered by Tax Declaration No. 14-001-0188-R, which indicated that the land was reduced to 373 square meters due to road widening.⁴

In 1985, Nicolas executed a Relinquishment of Rights in favor of her daughter, Evelyn, over Lot 6812, Pls-1052-D, located in Brgy. Comon, Infanta, Quezon, and measuring 373 square meters.⁵ Later, Evelyn filed an application for free patent and was granted Free Patent No. IV-8-2187. Consequently, she was issued Original Certificate of Title P-9980 (OCT P-9980).⁶

Upon learning this, petitioner Nieves Turgo Jader (Nieves) filed an Affidavit of Adverse Claim before the Quezon Register of Deeds, claiming part ownership of the land as she is the daughter of Filemon, one of the co-owners of the land.⁷

In 1993, Nieves, through her son and attorney-in-fact, Carlito Jader (Carlito), occupied and built a house on a portion of the land with Evelyn's consent as she recognized Nieves' right of ownership.⁸

In 1999, Evelyn's husband, Nicasio, evicted Carlito and rented out the house for ₱1,500.00 monthly.⁹ Nieves tried to reach out to Evelyn but to no avail, until Evelyn died on August 3, 2006.¹⁰

In 2009, Nieves, through Carlito, filed a complaint against Nicasio before the *Lupong Tagapamayapa (Lupon)* and claimed ownership of the

¹ *Rollo*, p. 22.

² *Id.*

³ *Id.* at 22-23.

⁴ *Id.* at 23.

⁵ *Id.* at 23, 41.

⁶ *Id.* at 23.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 23-24.

¹⁰ *Id.* at 24.

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land. As no settlement took place, the *Lupon* issued *Katunayan Para Makadulog sa Hukuman* (Certificate to File Action) on March 17, 2009.¹¹

Since Nicasio refused to hand over a portion of the land due to Nieves, the latter was forced to file an action for partition of property with damages and claimed litigation costs and attorney's fees estimated at ₱200,000.00, before the Regional Trial Court (RTC) of Infanta, Quezon, Branch 65 and docketed as Civil Case No. 785-I. An amended complaint was later filed to include co-plaintiffs Zenaida Turgo Basco (Zenaida) and Lucia Turgo (Lucia), both children of Alfredo.¹² Plaintiffs Nieves, Zenaida, and Lucia are represented in this case by their attorney-in-fact, Carlito.¹³

Proceedings in the RTC

After the parties exchanged their pleadings, the plaintiffs moved for summary judgment under Rule 35 of the Rules of Court. On April 14, 2011, the RTC issued an Order¹⁴ treating the motion as judgment on the pleadings under Rule 34, instead. The RTC denied the motion because there is a genuine issue to be litigated, that is, who between Mariano and Romana Lucero-Turgo (Romana) is the real owner of the land measuring 1,125 square meters and covered by Tax Declaration No. 3276.

The RTC further resolved that the issue affects title or ownership over the land. Section 19 (2) of BP 129, as amended by RA 7691, states that exclusive original jurisdiction in all civil actions involving title to or possession of real property or any interest therein, where the assessed value of the property located outside Metro Manila exceeds ₱20,000, is conferred upon the RTC.¹⁵

Considering that the 2003 Tax Declaration No. 02-14-001-0064-R indicates that the land's assessed value is ₱13,055.00, the RTC ruled that the case falls within the exclusive original jurisdiction of the first level court pursuant to Sec. 33 (3) of BP 129, as amended by RA 7691. Thus, the RTC dismissed the complaint.¹⁶

Plaintiffs moved for reconsideration, which the RTC denied in its January 19, 2012 Resolution.¹⁷ The RTC reiterated that there are two grounds for dismissal. First, the real issue is ownership and not partition. The RTC explained that although the complaint was entitled as action for partition of property with damages, the ultimate objective is to recover title over two-thirds portion of the 373 square-meter land or 248.6 square meters.

¹¹ Id.

¹² Id.

¹³ Id. at 21.

¹⁴ Penned by Presiding Judge Arnelo C. Mesa; id. at 65-66.

¹⁵ Id. at 66.

¹⁶ Id.

¹⁷ Id. at 79-82.

Second, the RTC lacks jurisdiction over the subject matter of the case. The RTC considered the assessed value of the two-thirds portion, which is ₱8,703.33, and not ₱13,055.00 as indicated in the previous order. The assessed value falls within the original exclusive jurisdiction of the first level court.¹⁸

Plaintiffs filed a Notice of Appeal, which the RTC dismissed in its April 22, 2013 Order.¹⁹ Sec. 1, Rule 41 of the Rules of Court states that no appeal may be taken from an order dismissing an action without prejudice. The RTC clarified that the dismissal of the complaint is without prejudice, and the plaintiffs may file a complaint before the first level court, or file a special civil action under Rule 65, instead.

Plaintiffs moved for reconsideration, which the RTC denied in its May 24, 2013 Order²⁰ and essentially reiterated its discussion in its January 19, 2012 Resolution.

The Issue Presented

Unsuccessful, plaintiffs elevated the case before the Court through a petition for *certiorari*²¹ under Rule 65 of the Rules of Court, alleging that the RTC committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it issued the orders and resolution and unfavourably ruled against them. Petitioners prayed to set aside the April 22, 2013 and May 24, 2013 RTC Orders denying the Notice of Appeal and Motion for Reconsideration, respectively. In the alternative, petitioners prayed to set aside the April 14, 2011 RTC Order denying the Motion for Summary Judgment and dismissing the complaint, and the January 19, 2012 RTC Resolution denying the Motion for Reconsideration.

In their Comment, respondent heirs of Evelyn Turgo Allones alleged that the RTC's dismissal was based on jurisprudence, and therefore, it did not act without or in excess of jurisdiction. The respondents averred that it was right for the RTC to dismiss the complaint and advise the petitioners to re-file the complaint in the first level court. Respondents further assert that the Court may grant the petition and remand the case to the first level court.²²

In their Reply,²³ petitioners reiterated the arguments in the petition and clarified that the primary subject of their petition is the May 24, 2013

¹⁸ Id.

¹⁹ Id. at 97-98.

²⁰ Id. at 19-20.

²¹ Id. at 3-13.

²² Id. at 103-104.

²³ Id. at 115-118.

RTC Order denying the Motion for Reconsideration of the April 22, 2013 Order dismissing their Notice of Appeal.

The issue to be resolved by the Court is **whether or not the RTC committed grave abuse of discretion amounting to lack or in excess of jurisdiction in issuing the May 24, 2013 Order.**

The Court's Ruling

The petition is dismissed.

The second paragraph of Section 1 of Rule 65 of the Rules of Court provides that *the petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, x x x as provided in the third paragraph of Section 3, Rule 46.*

Last paragraph of Section 3, Rule 46 states that *failure of the petitioner to comply any of the requirements shall be sufficient ground for the dismissal of the petition.*

Here, petitioners specifically stated in their Reply that *the primary subject for review x x x is the order of the Court a quo of May 24, 2013 denying the Petitioner's Motion for Reconsideration of the Order dated April 22, 2013 denying their Notice of Appeal.*²⁴ Petitioners failed to attach a certified true copy of the May 24, 2013 RTC Order in their Petition. What petitioners attached is a mere photocopy of the order. Non-compliance with the requirement of the Rules is already a ground for the dismissal of the petition. However, the Court will further discuss substantial grounds for its dismissal.

Certiorari is an extraordinary prerogative writ that is never demandable as a matter of right. It is meant to correct only errors of jurisdiction and not errors of judgment committed in the exercise of the discretion of a tribunal or an officer. To warrant the issuance thereof, the abuse of discretion must have been so gross or grave, as when there was such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction; or the exercise of power was done in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility. The abuse must have been committed in a manner so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.²⁵

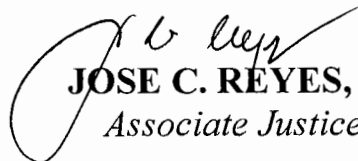
²⁴ Id. at 116.

²⁵ *Polytechnic University of the Philippines v. National Development Co.*, G.R. No. 213039, November 27, 2017, 846 SCRA 599, 610-611..


Here, petitioners failed to show specific instances that the RTC gravely or grossly abused its discretion or acted arbitrarily and capriciously in issuing the May 24, 2013 Order. On the contrary, the RTC's order was clear, concise, and substantiated by law, jurisprudence, and facts on record. The May 24, 2013 Order was consistent with the earlier RTC orders and resolution. The RTC dismissed the complaint due to lack of jurisdiction. The RTC sufficiently explained that the real issue of the case is ownership of two-thirds portion of the land, and the assessed value of which is jurisdictional to this case. The Court finds petitioners' claim of grave abuse of discretion to be unsupported by evidence other than their bare allegations.

WHEREFORE, premises considered, the petition is **DISMISSED** for lack of merit.

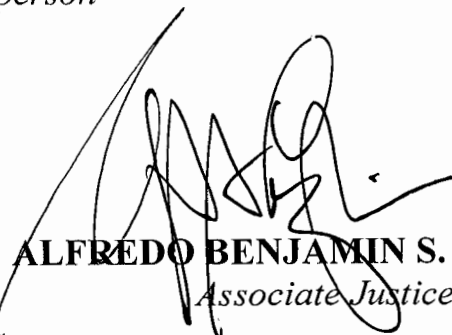
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

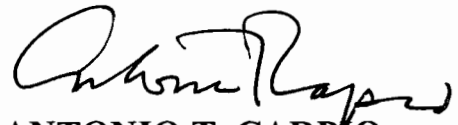

ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

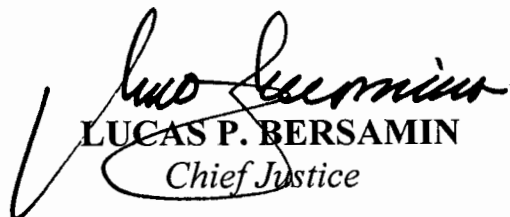
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second 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.



LUCAS P. BERSAMIN
Chief Justice