

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DATU CAMARO SALENDAB and BAI
JOLLY SALENDAB,

Petitioners,

- versus -

FLORENCE CASE DELA PEÑA
[deceased], as substituted by her legal
heirs and representatives, namely,
EMMA C. DELA PEÑA-KAMID,
EVERT C. DELA PEÑA, EVELYN C.
DELA PEÑA CARILLO, EDNA C.
DELA PEÑA-DESCUTIDO, ELLAINE
C. DELA PEÑA-RAFOLS, JUNIE C.
DELA PEÑA, EMMELINE C. DELA
PEÑA and ROMA C. DELA PEÑA-
ILING, and GABRIEL E. DIZON,

Respondents.

G.R. No. 217569

Present:

LEONEN, J., Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J., JJ.

Promulgated:

May 5, 2021

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RESOLUTION

LOPEZ, J., J.:

This case stems from a Complaint¹ dated January 30, 2006 filed by the spouses Datu Camaro Salendab and Bai Jolly Salendab (*petitioners*) for Specific Performance, Collection of Sum of Money, and Damages against Florence Case Dela Peña (*now deceased*), Land Bank of the Philippines (*LBP*), and Registry of Deeds for Sultan Kudarat Province (*RD*), with the Regional Trial Court, 12th Judicial Region, Branch 14, of Cotabato City (*RTC*).

The Complaint alleges that deceased Dela Peña is the owner of two (2) parcels of land situated at Midtungok, Senator Ninoy Aquino, Sultan Kudarat.

¹ Rollo, pp. 102-114.

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She engaged the services of petitioners in order to sell her lands to the LBP under the Voluntary Offer to Sell (*VOS*) scheme of the Department of Agrarian Reform (*DAR*). Such agreement is evidenced by a Memorandum of Agreement² (*MOA*) signed August 15, 2003, under which the deceased Dela Peña agreed to compensate the following to the petitioners: (a) 15% of the total proceeds of the sale of the property, exclusive of certain expenses, which may be incurred; and (b) to sell to petitioners all her LBP bonds which form part of the proceeds of the sale. Notably, the *MOA* explicitly provides that it “would not be subject to revocation/cancellation, amendments, or modification without the written consent of both parties.”³

Notwithstanding the approval of deceased Dela Peña’s *VOS* application, petitioners claim that the latter evaded her obligations under the *MOA* and refused to compensate them the amount of One Million Two Hundred Twenty-One Thousand Pesos (₱1,221,000.00), representing 15% of the total proceeds of the sale; she, likewise, reneged to agree with the petitioners on the price of the LBP bonds which she also promised to sell. Worse, she executed an Affidavit⁴ on December 29, 2005, unilaterally revoking the *MOA* absent any reason, and in violation of its provisions.

In her Answer, deceased Dela Peña neither denied the genuineness and due execution of the *MOA*, nor the petitioners’ asseveration that she unilaterally revoked the *MOA*. Instead, she argues that she was the one who actually secured the documents herself and that the *MOA* she entered into with petitioners was a contract of adhesion.

RTC Ruling

On April 2, 2009, the RTC rendered a Decision,⁵ the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs against the defendants, and orders that defendant Florence Case Dela Peña to pay plaintiffs the following:

- a. P1,221,000.00 as compensation for services rendered by plaintiffs to her;
- b. P480,000.00 as unrealized profit from the purchase and re-sale of defendant Case’s Land Bank Bonds;
- c. P200,000.00 for payment of the loan granted by plaintiffs to her;
- d. P200,000.00 for reimbursement of obligations incurred by plaintiffs in filing and pursuing the Mandamus suit;

² *Id.* at 117-120.

³ *Id.* at 118.

⁴ *Id.* at 121.

⁵ *Id.* at 149-155.

- e. P100,000.00 for reimbursement of attorney's fee incurred in this suit; [and]
- f. P500,000.00 for moral and exemplary damages, and to reimburse to plaintiffs the docket fees and other costs of this suit.

SO ORDERED.⁶

In finding for the petitioners, the RTC ratiocinated that no evidence was ever presented by the deceased Dela Peña that her consent was vitiated by coercion, intimidation, or fraud; thus, there was enough reason to conclude that she signed the contract voluntarily. Having been agreed upon by both parties, the MOA's provisions clearly contain the law that must govern the contractual relations between them and must be respected, particularly the provisions on compensation and in requiring a written consent from the other party, should the other seek to revoke, amend, or modify the MOA. As the deceased Dela Peña failed to seek the written consent of the petitioners in unilaterally revoking the MOA, the RTC rendered her Affidavit of Revocation without legal effect.

Upon receipt of the Decision last April 14, 2009, deceased Dela Peña filed a Motion for Reconsideration⁷ on April 29, 2009 praying that the RTC reconsider, vacate, and set aside the April 2, 2009 Decision. The Motion was denied in an Order⁸ dated June 4, 2009, the same having been declared *pro forma* for failure to assert the grounds prescribed under Section 1, Rule 37 of the Revised Rules of Court. Consequently, the Motion does not toll the running of the period of appeal.

On June 23, 2009, deceased Dela Peña subsequently filed a Notice of Appeal,⁹ which was denied in an Order¹⁰ dated July 27, 2009 for having been filed out of time, in light of the *pro forma* Motion for Reconsideration.

Alleging grave abuse of discretion amounting to lack or excess of jurisdiction against Hon. Cader P. Indar, Al Haj, Presiding Judge of the RTC for having issued the April 2, 2009 Decision and the July 27, 2009 Order declaring the Notice of Appeal filed out of time, deceased Dela Peña filed a Petition for *Certiorari* with Application for Preliminary Injunction and/or Temporary Restraining Order¹¹ under Rule 65 of the Revised Rules of Court with the Court of Appeals (CA).

⁶ *Id.* at 155.

⁷ *Id.* at 156-163.

⁸ *Id.* at 168-169.

⁹ *Id.* at 164-166.

¹⁰ *Id.* at 167.

¹¹ *Id.* at 125-148.



CA Ruling

In a Resolution¹² dated November 18, 2010, the CA dismissed the petition for failure of counsel and deceased Dela Peña to appear despite due notice, pursuant to Section 3, Rule 17 of the Revised Rules of Court. The issuance of a Writ of Preliminary Injunction was, likewise, declared moot due to the manifestation of petitioners' counsel that his clients have been duly paid the full amount of the judgment.

Deceased Dela Peña, thereafter, filed a Motion for Reconsideration, which was granted in a Resolution¹³ dated February 24, 2011. The CA likewise set the case anew for hearing, considering deceased Dela Peña's denial of petitioners' assertion that they have been fully paid during the hearing on November 18, 2010. Meanwhile, counsel for deceased Dela Peña filed a Motion to Substitute Representatives due to the death of Dela Peña and her substitution by herein respondents as heirs.¹⁴

On July 30, 2014, the CA issued a Decision¹⁵ granting the petition and setting aside the July 27, 2009 Order, while directing the RTC to give due course to petitioners' Notice of Appeal, the *fallo* of which reads:

WHEREFORE, the petition is GRANTED. The assailed Order dated July 27, 2009 of the RTC of Cotabato City, Branch 14, is hereby SET ASIDE and the court *a quo* is DIRECTED to give due course to the notice of appeal of petitioner.

If indeed the court *a quo*'s Decision dated June (sic) 02, 2009 was already executed pursuant to writ of execution issued by the court *a quo* in its Order dated June 04, 2009, private respondents are ORDERED to return to the court *a quo* such amount they received under the writ of execution.

Likewise, the cash bond in the amount of One Hundred Thousand Pesos (P100,000.00) posted on November 25, 2009 before this Court under Official Receipt No. 6185525 is ordered release (sic) to Gabriel E. Dizon.

SO ORDERED.

In the Decision, the CA was convinced that the extraordinary writ of *certiorari* lies in this case; particularly, the Judge committed grave abuse of discretion in declaring respondents' Motion for Reconsideration as *pro forma* and in subsequently denying her Notice of Appeal for having been filed out of time in view of said declaration.

¹² *Id.* at 170-171.

¹³ *Id.* at 172-174.

¹⁴ *Id.* at 55.

¹⁵ Penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Edgardo T. Lloren and Edward B. Contreras concurring; *id.* at 11-38.

Upon a perusal of the said Motion, the CA found the same to be compliant with the requirements of Section 2, Rule 37 of the Revised Rules of Court, having specifically pointed out the findings and conclusions of the Judge that she found to be both erroneous and contrary to the facts and the applicable law. Resultantly, the motion having been found to be in sufficient form, tolled the running of the period to appeal. As such, the respondents still had a fresh period of fifteen (15) days from receipt of the denial of her Motion within which to file an appeal. Considering that the receipt of the denial of the Motion was on June 4, 2009, the CA found that respondents had timely filed its Notice of Appeal when it was lodged in the RTC on June 15, 2009 as evidenced by the registry receipt. For this reason, the Judge was found to have gravely abused his discretion when he denied respondents' Notice of Appeal.

Aggrieved, petitioners filed a motion for reconsideration, which was denied in a Resolution¹⁶ dated March 31, 2015 for lack of merit.

Hence, this petition.¹⁷

In the main, petitioners argue that when respondents received notice that the Motion for Reconsideration was declared *pro forma*, they knew that appealing beyond fifteen (15) days from receipt of the Decision would be futile. Regrettably, respondents went ahead and filed a notice of appeal beyond the reglementary period despite prior notice that the same would be ruled as being filed out of time. Moreover, as respondents were assailing the Order dated June 4, 2009 in their petition for *certiorari*, they had sixty (60) days from receipt of the Order thereof, or until August 5, 2009, within which to file the same. However, as the petition was belatedly filed with the CA only on October 20, 2009, the same should also have been dismissed for being filed out of time.

In the same vein, petitioners further insist that the CA should not have put into issue the June 4, 2009 Order denying respondents' motion for reconsideration, as the period to assail the same has already lapsed and the Order has become final. Finally, petitioners question the undue and excessive liberality of the CA towards respondents in granting the motion for reconsideration and setting the case anew for hearing in its Resolution dated February 24, 2011.

In a Resolution¹⁸ dated August 24, 2016, this Court deemed respondent Gabriel Dizon to have waived the filing of his Comment on the Petition. In the same manner, this Court dispensed with the filing of the respective Comments of respondents Elaine Rafols, Emmeline Lucas, Emma Kamid,

¹⁶ *Id.* at 41-44.

¹⁷ *Id.* at 47-67.

¹⁸ *Id.* at 209-210.

Evelyn Carillo, and Edna Descutido, and respondents Evert Dela Peña, Junie Dela Peña, and Roma Dela Peña-Iling *via* a Resolution¹⁹ dated February 8, 2021.

Our Ruling

After a careful scrutiny of the records, this Court resolves to **DENY** the Petition.

The issues put forth by petitioners are no less factual and evidentiary in nature and are, therefore, outside this Court's scope of review in Rule 45 petitions. Here, the question of the timeliness of the filing of the petition for *certiorari*, the propriety of appreciating the June 4, 2009 Order, as well as the exercise of liberality in favor of respondents in the CA's reversal of its November 18, 2010 Resolution, hinges on a re-evaluation and recalibration of the records below. As a rule, factual issues are not the proper subject of this Court's discretionary power of judicial review. As aptly held in *Mangahas, et al. v. Court of Appeals*:²⁰

Under Rule 45, only questions of law may be raised in a petition for review on certiorari before this Court as we are not a trier of facts. Our jurisdiction in such a proceeding is limited to reviewing only errors of law that may have been committed by the lower courts. Consequently, findings of fact of the trial court and the Court of Appeals are final and conclusive, and cannot be reviewed on appeal.

In any case, upon review of the Petition and its annexes, this Court finds that the CA committed no reversible error and the conclusions reached are supported by the evidence and are in accord with law and prevailing jurisprudence.

On the first contention, this Court finds that the Petition for *Certiorari* was timely filed.

It is basic and elementary that a petition for *certiorari* under Rule 65 should be filed "not later than sixty (60) days from notice of judgment, order, or resolution."²¹ Moreover, under Section 3,²² Rule 13 of the Revised Rules of Court, pleadings may be filed either personally or by registered mail. In

¹⁹ *Id.* at 281-282.

²⁰ *Mangahas, et al. v. Court of Appeals*, 588 Phil. 61, 77 (2008).

²¹ RULES OF COURT, Rule 65, Section 4.

²² Section 3. *Manner of filing.* — The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. (1a)

the first case, the date of filing is the date of receipt, whereas in the second case, the date of mailing is the date of receipt, as shown by the post office stamp on the envelope or the registry receipt.

Here, the records disclose that the Petition for *Certiorari* was filed via registered mail as reflected in the Affidavit of Service²³ and Explanation²⁴ by deceased Dela Peña's counsel, Atty. Michael A. Ignes. Although the CA received the petition on October 20, 2009, the same was actually filed on October 9, 2009 *via* registered mail, the date indicated in the registry receipt attached to the petition.²⁵ Hence, petitioners are in error for misreading the Rules, thereby claiming that the petition was belatedly filed on October 20, 2009.

Petitioners are, likewise, mistaken in asserting that the instant Petition challenged the Order dated June 4, 2009; instead, a careful reading of the same would reveal that it was assailing the Order dated July 27, 2009, praying that it be declared annulled and set aside. Thus, having received the said Order on August 10, 2009,²⁶ deceased Dela Peña had sixty (60) days, or until October 9, 2009, within which to file her petition. Having been filed by registered mail on the last allowable day, the CA cannot be faulted for giving due course to the petition, which was seasonably filed within the reglementary period.

Relatedly, no credence may be accorded to the petitioners' second contention, being anchored on the supposed failure of deceased Dela Peña to file a petition for *certiorari* within the reglementary period. Given that the petition was found to be timely filed, such an argument is rendered baseless. Resultantly, the CA was not in error for passing upon the propriety of the Order dated June 4, 2009.

At the risk of repetition, this Court is one with the CA in declaring that the Motion for Reconsideration dated April 27, 2009 is not in any way *pro forma*. We are guided by the ruling in *Marine Properties Corporation v. Court of Appeals*²⁷ that "[w]here the circumstances of a case do not show an intent on the part of the pleader to merely delay the proceedings, and his motion reveals a *bona fide* effort to present additional matters or to reiterate his arguments in a different light, the courts should be slow to declare the same outright as *pro forma*."

Here, a careful review of the records would reveal that the said Motion adequately pointed out the conclusions that deceased Dela Peña regarded as erroneous and contrary to law, particularly the findings of the RTC that the MOA should be upheld. Moreover, the Motion explicitly referred to certain

²³ *Rollo*, p. 148.

²⁴ *Id.* at 145.

²⁵ *Id.* at 124.

²⁶ *Id.* at 127.

²⁷ 355 Phil. 705, 717 (1998).



amounts awarded to petitioners and LBP, as well as the amounts that represent attorney's fees, exemplary damages, and moral damages, as both excessive and unconscionable. Noticeably absent in the Motion is any showing of an intent to delay the proceedings; on the contrary, the Motion reveals a *bona fide* effort to present arguments and issues that she believes is worth the RTC's time to reconsider. All told, deceased Dela Peña's motion for reconsideration was but proper under the rules extant in this jurisdiction.

Given that the Motion effectively tolled the prescriptive period to file an appeal, it is indubitable that the Notice of Appeal filed on June 15, 2009, upon receipt of the denial of the Order denying the Motion for Reconsideration on June 5, 2009, was timely filed. Hence, the same should have been given due course by the RTC. As emphasized in a catena of cases,²⁸ the approval of the notice of appeal, if timely filed, becomes the ministerial duty of the trial court.

Neither can this Court sustain the petitioners' last argument, having been previously raised by the latter and having been passed upon by the CA in its Resolution²⁹ dated March 31, 2015. Contrary to their assertion that the CA extended excessive and undue liberality towards the deceased Dela Peña by granting their Motion for Reconsideration thereby setting the case anew for hearing, records bear out that petitioners were likewise given an equal opportunity to be heard, having filed a Comment-Opposition to the Motion; both parties were likewise duly furnished with notices from the CA prior to the issuance of the Decision last July 30, 2014. Verily, it does not appear that petitioners were unduly prejudiced by the CA's actions, having been afforded the same opportunity to ventilate their position as allowed by law.

Finally, it is well to stress that a review under Rule 45 of the Rules of Court is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor.³⁰ The instant Petition raises no substantial issues that have not already been passed upon and considered by the CA.

For the foregoing reasons, the instant Petition is **DENIED**.

SO ORDERED.


JHOSEF L. LOPEZ
Associate Justice

²⁸ *Oro v. Judge Diaz*, 413 Phil. 416, 426 (2001); *Mateo v. The Honorable Court of Appeals*, 273 Phil. 507 (1991).


²⁹ *Rollo*, pp. 41-44.

³⁰ RULES OF COURT, Rule 45, Section 6.

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION


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



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Third 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice