



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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TIME: 10:50

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 10, 2020**, which reads as follows:

“G.R. No. 208273 (*Loyal Urban Poor Homeowners Association, Inc. (LUPHA)*), rep. by *Edwina<sup>1</sup> R. Paypag in behalf of its members, around 18 of them v. Eugenio P. Santos and persons claiming rights under him*). – This is an appeal filed by the Loyal Urban Poor Homeowners Association, Inc. (*LUPHA*) in behalf of its members (*petitioners*) from the Resolutions<sup>2</sup> of the Court of Appeals (*CA*) dated January 25, 2013 and July 17, 2013 in CA-G.R. SP No. 127250, which dismissed the Petition for *Certiorari* filed before it, for failure of petitioners to comply with several procedural requirements.

Antecedents

Eugenio P. Santos (*respondent*) filed individual complaints<sup>3</sup> for ejectment against twenty-three (23) individuals before the Metropolitan Trial Court (*MeTC*) of Pateros, Branch 73. Respondent alleged that the late Soledad P. Santos was the owner of Lot 2282, situated at Masagana St., Sta. Ana, Pateros. As a legitimate heir of Soledad, respondent alleged that he is a co-owner of the subject property.

The MeTC initially dismissed the complaints in a Joint Decision<sup>4</sup> but, on appeal, the case was remanded for further proceedings.<sup>5</sup> Subsequently, the MeTC issued its May 25, 2001 Decision<sup>6</sup> finding for the respondent. Respondent submitted an approved survey plan, with corresponding tax declarations, relative to the application for registration applied for by Soledad

<sup>1</sup> Referred to as “Edwinia” in other parts of the *rollo*.

<sup>2</sup> *Rollo*, pp. 238-240 and 248-253 respectively; penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Amy C. Lazaro-Javier (now a Member of this Court), and Zenaida T. Galapate-Laguilles, concurring.

<sup>3</sup> Civil Case Nos. 1092-99, 1094-99 to 1099-99, 1101-99, 1102-99, 1105-99, 1108-99 to 1117-99, 1119-99 to 1121-99.

<sup>4</sup> *Rollo*, pp. 70-74; Joint Decision dated October 21, 1999, penned by Presiding Judge Lorifel Lacap Pahimna.

<sup>5</sup> *Id.* at 79-83; Joint Decision of the Regional Trial Court of Pasig City, Branch 266 dated June 20, 2000, penned by Presiding Judge Rodrigo B. Lorenzo.

<sup>6</sup> *Id.* at 84-91; penned by Acting Judge Jose P. Morallos.

Santos with the Bureau of Lands, which the court ruled as sufficient evidence to prove the identity and ownership of the land, and that respondent has a right and interest over the same. Conversely, the MeTC did not find the occupants to be builders in good faith on the property, and found their possession thereof to be illegal. As builders in bad faith, they shall lose what they built thereon without right to indemnity.

*Proceedings before the RTC*

On August 9, 2011, petitioners filed a Complaint for Quieting of Title<sup>7</sup> against respondent over the subject parcel of land, before the Regional Trial Court (RTC) of Pasig City, Branch 262. Some of the petitioners, namely: Edwina R. Payapag, Juliet E. Ortezo, Cresencio Narcordia, Jr., and Danilo Ong, were defendants before the MeTC in the earlier ejectment case. Petitioners alleged that the subject parcel of land is owned by the Municipality of Pateros; that they have been residing thereon publicly, continuously, and peacefully since 1970; and that some of them have paid realty taxes thereon beginning 2006 or earlier. They also sought for the issuance of a Temporary Restraining Order to enjoin the implementation of the MeTC's Writ of Execution.

Meanwhile, on November 28, 2011, the MeTC issued a Writ of Demolition<sup>8</sup> against the defendants in the ejectment case, to enforce its May 25, 2001 Decision. In response, petitioners filed a Motion and/or Petition to Issue Temporary Restraining Order and After Due Hearing Issue Preliminary Injunction<sup>9</sup> before the RTC against such execution.

The RTC denied the motion in an Order<sup>10</sup> dated September 6, 2012, finding that petitioners did not have a clear and unmistakable right to the injunctive relief sought, since the May 25, 2001 Decision had already become final and executory.

Petitioners moved for reconsideration but their motion was denied in an Order dated October 2, 2012.<sup>11</sup> The RTC ruled that since the writ was issued only against some of the petitioners, who were defendants in the ejectment case, it would not cause irreparable injury or damage to the other petitioners. It further held that the issuance of a Writ of Preliminary Injunction would be a virtual acceptance of the petitioners' claim of ownership and would effectively dispose of the main case without trial.

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<sup>7</sup> Id. at 92-107.

<sup>8</sup> Id. at 108.

<sup>9</sup> Id. at 109-114.

<sup>10</sup> Id. at 165-166; penned by Executive Judge Danilo S. Cruz.

<sup>11</sup> Id. at 179-180.

*Proceedings before the CA*

Petitioners filed a Petition for *Certiorari* before the CA, arguing that the RTC incorrectly held that the issuance of an injunctive relief would have effectively disposed of the main case for quieting of title before it. They merely sought the preservation of the *status quo*. The ordered demolition would cause irreparable damage or injury to the residents, who have been occupying the property for over thirty (30) years. It would also disrupt the studies of the children and the livelihood of their parents, and would thus breed criminality. The petition further alleged that the RTC committed grave abuse of discretion in denying the Motion for Reconsideration without first awaiting respondent's comment on said motion.

In its January 25, 2013 Resolution,<sup>12</sup> the CA dismissed the Petition for *Certiorari* for numerous procedural lapses on the part of the petitioners, namely:

1. failure to indicate the date of receipt of the RTC Order dated September 6, 2012;
2. failure to submit an explanation on why service of petition upon private respondent was not made personally;
3. failure to submit an affidavit of service of the petition upon respondents;
4. failure to submit a verification and certification of non-forum shopping with duly accomplished jurat indicating competent evidence of affiant's identity other than her Community Tax Certificate (A.M. 02-8-13-SC, February 19, 2008);
5. failure to submit legible copies of the complaint for ejectment filed before the MTC, appeal memorandum filed before the RTC, complaint for the quieting of title and other pertinent pleadings filed before the RTC; and
6. failure to indicate the date of issuance of counsel's MCLE Certificate of Compliance (B.M. # 1922, June 3, 2008).<sup>13</sup>

The CA deemed the failure to comply with such requirements provided under Section 3, Rule 46 of the Revised Rules of Court, as sufficient ground for the dismissal of the petition.

The petitioners filed a Motion for Reconsideration through the Public Attorney's Office (*PAO*), which entered its appearance as counsel, in substitution of petitioners' former private counsel. Petitioners alleged that the failure or negligence of their former counsel should not bind them; otherwise, they would be deprived of their constitutional right to due process, and stand to

<sup>12</sup> Id. at 238-240; penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Amy C. Lazaro-Javier (now a Member of this Court), and Zenaida T. Galapate-Laguilles, concurring.

<sup>13</sup> Id. at 239.

be deprived of property which they have allegedly been staying on for over 30 years.

The CA denied the motion, since petitioners failed to establish any exceptional circumstance warranting the relaxation of procedural rules. It noted that petitioners could have attempted to comply by submitting the necessary documents with their Motion for Reconsideration, but they failed to do so. The motion having been denied, petitioners seek recourse by way of this appeal.

### Issues

Petitioners allege that the CA erred in dismissing the petition, foreclosing the resolution of substantive matters on technical grounds. They argue that they have a meritorious case, and stand to lose property rights over lots which they have built their homes on and lived in for decades. The failure of their former counsel to comply with the requirements for filing a Petition for *Certiorari* can be characterized as gross negligence, and should not be binding upon them.

### The Court's Ruling

The petition lacks merit.

The general rule is that a client is bound by his or her counsel's negligence. Petitioners allege that this rule is inapplicable where the negligence can be characterized as gross, depriving them of their property without due process of law. They claim that since their former counsel, Atty. Eugenio S. Tumulak (*Atty. Tumulak*), has had decades of law practice, his failure to comply with the rules showed a reckless abandon in handling the case, which can only be characterized as gross negligence.

Jurisprudence has indeed established exceptions to the rule that negligence of counsel binds the client, as where the reckless or gross negligence of counsel deprives the client of due process of law, or where the application of the rule will result in outright deprivation of the client's liberty or property, or where the interests of justice so requires and relief ought to be accorded to the client who suffered by reason of the lawyer's gross or palpable mistake or negligence.<sup>14</sup>

However, the petition now before us fails to establish that the negligence of the former counsel was gross, or that petitioners were deprived of due process.

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<sup>14</sup>*Philippine Amusement and Gaming Corp. v. Court of Appeals*, G.R. No. 230084, August 20, 2018.

First, no explanation was ever given for the procedural lapses in filing the Petition for *Certiorari* before the CA. The Court observes that Atty. Tumalak represented the petitioners as early as August 9, 2011, until he was substituted by the PAO in February 2013. He filed numerous pleadings on behalf of his clients, who have not complained about any deficiency in his services save for the petition before the CA. The only reason given by petitioners for changing counsels was because they could no longer afford the services of a private counsel.<sup>15</sup>

Mere allegation of gross negligence does not suffice. The client must prove by clear and convincing evidence that they were maliciously deprived of information that they could not have acted to protect their interests. The error of counsel must have been both palpable and maliciously exercised that it could viably be the basis for a disciplinary action; and malice is never presumed but must be proved as a fact.<sup>16</sup>

Thus, the Court does not find that petitioners were able to establish gross negligence on the part of their former counsel.

Second, petitioners failed to show that they were deprived of due process of law. After their petition was initially dismissed by the CA, they were able to file a timely Motion for Reconsideration. But even after being informed of the procedural lapses, petitioners failed to rectify such shortcomings. The CA noted in its July 17, 2013 Resolution that the petitioners could have complied with the requirements in their Motion for Reconsideration, but they failed to do so. This was despite petitioners having requested for a period to cure the defects as early as February 2013.

At any rate, petitioners failed to establish their right to the relief sought. Injunction may only be issued upon a clear showing that: (1) there exists a right to be protected, and (2) the action sought to be enjoined is violative of that right.<sup>17</sup> Respondent is entitled to a Writ of Execution as the prevailing party in the ejectment case. While petitioners allege that they have a meritorious case and have a right to remain on the property, these remain to be proven.

The general rule is that the grant or denial of an injunction rests on the sound discretion of the lower court in the exercise of which this Court will not intervene except in a clear case of abuse.<sup>18</sup> Here, the RTC refused to issue an injunctive order noting that the issue of possession was resolved in the ejectment case, which had already become final and executory. We find no

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<sup>15</sup>Rollo, pp. 241-242.

<sup>16</sup>*Baclaran Marketing Corp. v. Nieva*, 809 Phil.92, 104 (2017).

<sup>17</sup>*Pasion v. Melegrito*, 548 Phil. 302, 313 (2007).

<sup>18</sup>*Id.*

abuse of discretion in such a ruling. Curiously, the instant petition does not even attribute grave abuse of discretion on the part of the RTC.

**WHEREFORE**, the petition is **DENIED**. The Resolutions of the Court of Appeals in CA-G.R. SP No. 127250 dated January 25, 2013 and July 17, 2013 are hereby **AFFIRMED**.

**SO ORDERED.”**

Very truly yours,

*MisdocBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Division Clerk of Court

*7/29/20*

Atty. Noemi C. Catubao-Tan  
PUBLIC ATTORNEY'S OFFICE  
Special & Appelaed Cases Service  
DOJ Agencies Building  
East Avenue cor. NIA Road  
Diliman, 1101 Quezon City

COURT OF APPEALS  
CA G.R. SP No. 127250  
1000 Manila

Atty. Remerico P. Regio  
Counsel for Respondents  
5 Dr. Sixto Antonio Avenue  
Kapasigan, 1600 Pasig City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 262, Pateros  
1621 Manila  
(SCA No. 3622)

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