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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

DEC 17 2018

Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

JERSON E. TORTAL,
 Petitioner,

G.R. No. 212683

Present:

-versus-

PERALTA, *J.*, Chairperson,
 LEONEN,
 GISMUNDO*,
 REYES, J., JR., and
 HERNANDO**, *JJ.*

CHIZURU TANIGUCHI,
 Respondent.

Promulgated:
November 12, 2018

Wilfredo V. Lapitan

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DECISION

LEONEN, J.:

An allegation of a trial court's lack of jurisdiction to render the assailed judgment, final order, or resolution must be brought in a separate action for annulment of judgment under Rule 47 of the Rules of Civil Procedure.

This resolves the Petition for Review on Certiorari¹ filed by Jerson E. Tortal (Tortal) assailing the Court of Appeals December 13, 2013 Decision²

* On wellness leave.

** On wellness leave.

¹ *Rollo*, pp. 3–11.

² Id. at 14–23. The Decision was penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Myra V. Garcia-Fernandez and Victoria Isabel A. Paredes of the Special Thirteenth Division, Court of Appeals, Manila.

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and May 14, 2014 Resolution³ in CA-G.R. CV No. 98955. The assailed judgments upheld the Regional Trial Court October 28, 2011 Decision, which annulled the levy and sale of a house and lot covered by a compromise agreement between Tortal and Sevillana P. Sales (Sales).⁴

On June 8, 1999,⁵ Tortal married Chizuru Taniguchi (Taniguchi). They lived in a 250 m² house and lot in BF Homes, Parañaque City, which was covered by Transfer Certificate of Title (TCT) No. 142089 and registered in the name of Tortal, married to Taniguchi.⁶

On April 11, 2000, Taniguchi filed a petition for the nullity of her marriage with Tortal. The petition was docketed as Civil Case No. CV-00-0149 and was raffled to Branch 260, Regional Trial Court, Parañaque City.⁷

On August 25, 2003, the Regional Trial Court granted the petition and annulled Tortal and Taniguchi's marriage. In the same decision annulling their marriage, the Regional Trial Court declared the house and lot to be Taniguchi's exclusive property.⁸ Tortal did not move for the reconsideration of this decision. Hence, it became final and executory on October 14, 2005.⁹

While the petition for nullity of marriage was pending, Sales filed a complaint for collection of sum of money against Tortal. The collection complaint was docketed as Civil Case No. C-1262 and raffled to Branch 63, Regional Trial Court, Calauag, Quezon. Sales and Tortal eventually entered into a compromise agreement, which was approved by the Regional Trial Court of Calauag.¹⁰

On December 3, 2003, Tortal and Taniguchi's house and lot was levied upon in accordance with the Regional Trial Court of Calauag's Compromise Judgment. The property was then sold at a public auction to Sales for ₱3,500,000.00.¹¹

On May 24, 2005,¹² Taniguchi filed a Complaint for Reivindication of Title, Annulment of Levy and Sale in Execution, Injunction, Damages and Attorney's Fees against Tortal and Sales. She prayed that an injunction be

³ Id. at 24–25. The Resolution was penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Myra V. Garcia-Fernandez and Victoria Isabel A. Paredes of the Former Special Thirteenth Division, Court of Appeals, Manila.

⁴ Id. at 15.

⁵ Id. at 35.

⁶ Id. at 15.

⁷ Id. at 36.

⁸ Id. at 15.

⁹ Id. at 16 and 38.

¹⁰ Id. at 15.

¹¹ Id. at 15–16.

¹² Id. at 40.

issued against the Register of Deeds of Parañaque City, and that the levy over the house and lot and the sale to Sales be declared null and void.¹³ Her complaint was docketed as Civil Case No. 05-0198 and was raffled to Branch 257, Regional Trial Court, Parañaque City.¹⁴

On September 14, 2005, the Regional Trial Court of Parañaque City granted Taniguchi's application for injunction and enjoined the Registry of Deeds of Parañaque City from cancelling TCT No. 142089 and from issuing a new one in Sales' favor.¹⁵

On October 28, 2011, the Regional Trial Court of Parañaque City nullified the levy and the sale of the house and lot to Sales, and made permanent the injunction against the Registry of Deeds of Parañaque City. The *fallo* of its Decision read:

WHEREFORE, the preliminary injunction issued on September 14, 2005 is hereby made permanent. The levy and sale by public auction of the property covered by TCT No. 142089 of the Registry of Deeds of Parañaque conducted by Sheriff Benedicto G. Hebron and the Certificate of Sale issued pursuant thereto are declared null and void. Defendant Jerson E. Tortal is ordered to pay plaintiff Chizuru Taniguchi the amount of P50,000.00 for moral damages, P50,000.00 for exemplary damages, and P50,000.00 for attorney's fees and the cost of suit.

IT IS SO ORDERED.¹⁶

Tortal and Sales appealed the Regional Trial Court October 28, 2011 Decision but on December 13, 2013, the Court of Appeals¹⁷ dismissed their appeal and upheld the assailed Decision.

The Court of Appeals rejected Tortal's allegations about the supposed defects of the Regional Trial Court August 25, 2003 Decision nullifying his marriage with Taniguchi. It pointed out that this Decision had long become final and executory.¹⁸

It likewise rejected Tortal's assertions that Taniguchi had no right to acquire property because she was not a Filipino citizen. It emphasized that Tortal failed to bring up Taniguchi's citizenship during pre-trial and only did so for the first time on appeal.¹⁹

¹³ Id. at 15–16.

¹⁴ Id. at 14.

¹⁵ Id. at 16.

¹⁶ Id. at 14–15

¹⁷ Id. at 14–23.

¹⁸ Id. at 18.

¹⁹ Id. at 19–20.

It also stressed that Tortal should have assailed the Regional Trial Court August 25, 2003 Decision nullifying his marriage with a petition for annulment of judgment, not in the present case which only questioned the nullity of the levy and sale of the house and lot to Sales. Nonetheless, it asserted that the period for filing a petition for annulment of judgment had likewise long passed.²⁰

The *fallo* of the Court of Appeals December 13, 2013 Decision read:

WHEREFORE, the *Appeal* is hereby **DENIED**. The *Decision* dated 28 October 2011 of the Regional Trial Court of Paranaque City, Branch 257, in Civil Case No. 05-0198, is **AFFIRMED**.

SO ORDERED.²¹ (Emphasis in the original)

Only Tortal moved for the reconsideration of the Court of Appeals December 13, 2013 Decision, but on May 14, 2014, the Court of Appeals²² denied his motion.

In his Petition for Review on Certiorari²³ before this Court, petitioner Tortal maintains that the Regional Trial Court August 25, 2003 Decision nullifying his marriage with respondent was null and void as there was no valid service of summons on him. He further claims that substituted service of summons by publication was improperly complied with; thus, the Regional Trial Court never obtained jurisdiction over him.²⁴

Petitioner likewise asserts that Taniguchi's foreign citizenship precludes her from owning real property under Philippine law.²⁵

Finally, petitioner declares that contrary to the Court of Appeals' findings, the issue of respondent's capacity to acquire real property was "impliedly included or inferable from the issues raised"²⁶ before the Regional Trial Court during pre-trial.

In her Comment²⁷ to the petition, respondent Taniguchi contends that the Regional Trial Court August 25, 2003 Decision, which granted her petition for nullity of marriage and upheld her exclusive ownership over the house and lot, attained finality as early as October 14, 2005 because neither

²⁰ Id. at 21.

²¹ Id. at 23.

²² Id. at 24–25.

²³ Id. at 3–11.

²⁴ Id. at 5–6.

²⁵ Id. at 6–7.

²⁶ Id. at 7.

²⁷ Id. at 35–50.

respondent nor the Solicitor General moved for its reconsideration. Hence, she presses that the same issues may no longer be reopened or relitigated.²⁸

Respondent then maintains that the issue of her citizenship and lack of capacity to own property was never brought up before the Regional Trial Court. Furthermore, she asserts that petitioner failed to explain how the pre-trial order impliedly included the issue regarding her supposed lack of capacity or how this issue could be inferred from it.²⁹

In his Reply,³⁰ petitioner merely reiterates his previous arguments regarding the Regional Trial Court's lack of jurisdiction over the petition for nullity of his marriage with respondent and respondent's lack of capacity to own real property.³¹

The only issue for this Court's resolution is whether or not petitioner Jerson E. Tortal may assail a final and executory judgment nullifying his marriage with respondent Chizuru Taniguchi in his appeal of the Court of Appeals December 13, 2013 Decision, which granted respondent's petition for annulment of levy and sale in execution.

The Petition lacks merit.

Petitioner claims that he failed to participate in the proceedings for the nullity of his marriage with respondent before Branch 260, Regional Trial Court, Parañaque City because summons was never served on him, either personally or by substitution.³²

If indeed summons was not properly served on petitioner, then his remedy was to file a petition for annulment of judgment under Rule 47 of the Rules of Civil Procedure. An action for the annulment of judgment is an equitable recourse that is independent of the case and is allowed only in exceptional cases, such as when there is no more available or other adequate remedy.³³

A petition for the annulment of judgment of Regional Trial Courts may be given due course if it is sufficiently proven that the "ordinary

²⁸ Id. at 43–45. Taniguchi mistakenly stated in her Comment that the RTC Decision was dated "August 23, 2003."

²⁹ Id. at 45–47.

³⁰ Id. at 52–57.

³¹ Id. at 52–53.

³² Id. at 5.

³³ *De Pedro v. Romasan Development Corp.*, 748 Phil. 706, 733–734 (2014) [Per J. Leonen, Second Division].

remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.”³⁴

Furthermore, Rule 47, Section 2 of the Rules of Civil Procedure provides only two (2) grounds for an action for annulment or judgment: extrinsic fraud and lack of jurisdiction. Nonetheless, extrinsic fraud cannot be considered a valid ground in an action under Rule 47 “if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.”³⁵

Rule 47, Section 3 then provides that an action for annulment of judgment, if based on extrinsic fraud, should be filed within four (4) years from discovery of the fraud, or if based on lack of jurisdiction, then before the action is barred by laches or estoppel.

In the action for the nullity of his marriage with respondent, petitioner claims that respondent deliberately indicated a non-existent address, instead of his real address; thus, he never received the summons and the Regional Trial Court failed to acquire jurisdiction over him.³⁶

However, instead of directly assailing the Regional Trial Court August 25, 2003 Decision, which granted the nullity of his marriage in an action for annulment of judgment, petitioner chose to tackle the issue in his appeal of the Regional Trial Court October 28, 2011 Decision, which nullified the levy and sale by auction of the house and lot to Sales. This is clearly not the correct remedy. The Court of Appeals did not err in dismissing his appeal and in upholding the Regional Trial Court October 28, 2011 Decision, striking down the levy and sale by auction, thus:

Still and all, appellant Tortal is not left without any recourse. If, indeed, he believes that the RTC, Br. 260 erred in awarding the property to appellee despite being a Japanese national, he should have filed a *Petition for Annulment of Judgment* under Rule 47 of the 1997 Rules of Civil Procedure. Upon this point, the court *a quo*’s disquisition is well-taken—

It is doubtful that defendant Tortal could in the instant case assail the validity of the final decision of RTC Br. 260. Following the principle of *res judicata*, the dispute on ownership was deemed to have been put to rest with the finality of the said decision. Under the doctrine of *res judicata*, a matter that has been adjudicated by a court of competent jurisdiction must be deemed to have been finally and conclusively settled if it arises in any subsequent litigation between the same parties and for the

³⁴ RULES OF COURT, Rule 47, sec. 1.

³⁵ RULES OF COURT, Rule 47, sec. 2.

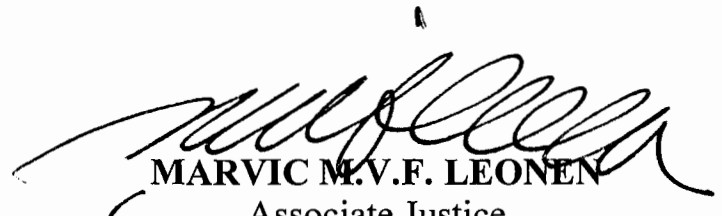
³⁶ *Rollo*, p. 5.

same cause Certainly, **the remedy available to defendant Tortal is not in this proceeding, but through a petition for annulment of judgment with the Court of Appeals under Rule 47 of the Rules of Court.**³⁷
(Emphasis in the original)

Without a ruling from the Court of Appeals nullifying the Regional Trial Court August 25, 2003 Decision, which granted the nullity of petitioner and respondent's marriage and declared respondent as the exclusive owner of the house and lot, this Decision remains valid and subsisting. Moreover, it became final and executory as early as October 14, 2005;³⁸ hence, the lower courts did not err in granting the petition for nullity of levy and sale at auction since respondent was the established exclusive owner of the house and lot. Thus, petitioner had no authority to use the real property as security for his indebtedness with Sales.


WHEREFORE, premises considered, the Petition for Review is **DENIED**. The assailed Court of Appeals December 13, 2013 Decision and May 14, 2014 Resolution in CA-G.R. CV No. 98955 are **AFFIRMED**.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice
Chairperson

On wellness leave
ALEXANDER G. GESMUNDO
Associate Justice



JOSE C. REYES, JR.
Associate Justice

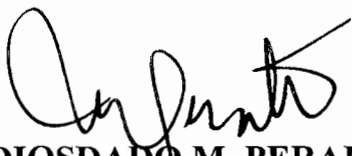
³⁷ Id. at 21.

³⁸ Id. at 38.

On wellness leave
RAMON PAUL L. HERNANDO
Associate Justice

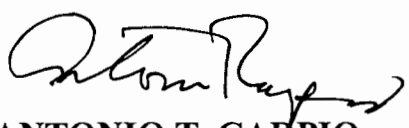
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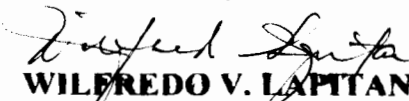
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Associate Justice
Chairperson

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
Senior Associate Justice
(Per Section 12, Republic Act No. 296,
The Judiciary Act of 1948, as amended)

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Division Clerk of Court
Third Division

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