



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NORA ALVAREZ and EDGAR ALVAREZ,

Petitioners,

- versus -

G.R. No. 192472

Present:

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

The FORMER 12TH DIVISION, COURT OF APPEALS, SPOUSES ALEJANDRO DOMANTAY and REBECCA DOMANTAY, and the PRESIDING JUDGE HERMOGENES C. FERNANDEZ, OF BRANCH 56 OF THE REGIONAL TRIAL COURT (RTC), SAN CARLOS CITY, PANGASINAN,

Respondents.

Promulgated:

03 JUN 2019

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DECISION

REYES, J. JR., J.:

This resolves the Petition for *Certiorari* under Rule 65 of the 1997 Rules of Court assailing the December 16, 2009¹ and April 21, 2010² Resolutions issued by the former 12th Division of the Court of Appeals (CA), which respectively dismissed the Petition for Annulment of Judgment filed by petitioners and denied the latter's Motion for Reconsideration, in CA-G.R. SP No. 111420.

* On official leave.

¹ Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Mario L. Guariña III and Mariflor P. Punzalan Castillo, concurring; *rollo*, pp. 40-43.

² Id. at 45.

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The case arose from a Petition for Consolidation of Ownership filed by private respondent spouses Alejandro and Rebecca Domantay over a parcel of land covered by TCT No. 128750 (subject land) before the Regional Trial Court (RTC), San Carlos City, Pangasinan, Branch 56. It was alleged in the said petition that on April 14, 1983, the former owners, spouses Nicanor Alvarez and Juanita de Guzman (spouses Alvarez) executed a Deed of Sale with Right to Repurchase over the subject land and that their heirs and assigns failed to repurchase it.

Petitioner Nora Alvarez (one of the defendants in the case) and some other defendants were never served with summons. Having failed to file their Answer, defendants were declared in default and private respondents Domantay were allowed to adduce evidence ex-parte.

Meanwhile, the heirs of spouses Alvarez (cousins of petitioners) filed a Motion for Leave to Intervene alleging that they are the lawful owners and actual possessors of the subject land. The motion was denied.

On December 18, 2007, a Decision³ was rendered by the RTC ordering the registration of the consolidated ownership of the petitioners spouses Alejandro and Rebecca Domantay over the subject land.

Petitioners Nora Alvarez and Edgar Alvarez (who was not impleaded as party-defendant in the case) filed a Motion to Set Aside Judgment By Way of Special Appearance on November 13, 2008. No resolution was as yet been issued resolving the said Motion. Upon verification of the status of their motion, petitioner Nora discovered that there was already an Entry of Final Judgment⁴ on the case (for consolidation of ownership). This prompted the petitioners to file a Petition for Annulment of Judgment⁵ before the Court of Appeals grounded on lack of jurisdiction over their person.

On December 16, 2009, public respondent Court of Appeals issued the now assailed resolution dismissing the Petition for Annulment of Judgment. The dismissal was anchored on two grounds: (a) for failure to attach certain documents, to wit: Petition for Consolidation of Ownership, Deed of Sale with Right to Repurchase, Motion for Leave to Intervene, and the Motion to Set Aside Judgment By Way of Special Appearance; and (b) for failure of the petitioners to act immediately to have the case dismissed and that they did not resort to ordinary remedies of appeal, new trial, petition from relief from judgment and any other remedies.

Petitioners filed a Motion for Reconsideration, submitting with it the required documents mentioned by the CA in its December 16, 2009 Resolution. On April 21, 2010, the CA issued a resolution denying petitioners' Motion for Reconsideration.

³ Penned by Presiding Judge Hermogenes C. Fernandez; id. at 71-72.

⁴ Id. at 75.

⁵ Id. at 46-64.

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Dissatisfied, petitioners filed the instant Petition for *Certiorari* on the following grounds, to wit:

- I. The Honorable Court of Appeals gravely abused its discretion amounting to lack or excess of jurisdiction in dismissing the Petition for Annulment of Judgment filed before it on the ground that certain documents to support the action were not submitted and that “ordinary” remedies or actions were not resorted to by petitioners;
- II. The respondent Court of Appeals gravely abused its discretion amounting to lack or excess of jurisdiction when it contravened the decided cases of the Honorable Supreme Court that prior availment of the “Ordinary remedies” of appeal, petition for relief, new trial is not required where absence of jurisdiction over the person of the defendant is in issue;
- III. The Honorable Court of Appeals gravely abused its discretion amounting to lack or excess of jurisdiction in denying the Motion for Reconsideration and therefore affirming the dismissal earlier made despite petitioners’ submission of the documents that the Honorable Court of Appeals was looking for. It also gravely abused its discretion when it refused to recognize why resort to the “ordinary remedies” was not available and is not necessary[.]⁶

It must be clarified at the outset that the instant petition is one for *certiorari* under Rule 65 of the 1997 Rules of Court, and thus, this Court is limited only to inquire on whether or not respondent CA acted without jurisdiction or with grave abuse of discretion in dismissing the Petition for Annulment of Judgment.

Annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered.⁷ It is a recourse that presupposes the filing of a separate and original action for the purpose of annulling or avoiding a decision in another case.⁸ It is not a continuation or progression of the same case, as in fact the case it seeks to annul is already final and executory, but rather, it is an extraordinary remedy that is equitable in character and is permitted only in exceptional cases.⁹

⁶ Id. at 19.

⁷ *Islamic Da'wah Council of the Philippines v. Court of Appeals*, 258 Phil. 802, 808 (1989).

⁸ *Frias v. Alcayde*, G.R. No. 194262, February 28, 2018.

⁹ Id.

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Annulment of judgment, as provided for in Section 2, Rule 47 of the 1997 Rules of Court, is based only on the grounds of extrinsic fraud and lack of jurisdiction. Thus:

Sec. 2. *Grounds for annulment.* — The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or⁹ petition for relief.

Jurisprudence, however, recognizes lack of due process as an additional ground to annul a judgment.¹⁰

Under Section 5, Rule 47¹¹ of the Rules of Court, it is incumbent that when a court finds no substantial merit in a petition for annulment of judgment, it may dismiss the petition outright but the “specific reasons for such dismissal” shall be clearly set out.¹²

Here, the allegations in the petition clearly set forth the ground of the RTC’s lack of jurisdiction over the persons of petitioners. It was alleged that petitioner Nora Alvarez was never personally served with summons and petitioner Edgar Alvarez, who is one of the heirs of the spouses Alvarez was not impleaded as party-defendant in the case.

Should the allegation of lack of jurisdiction be proven, then this would constitute a serious ground that could affect the validity of the Court’s judgment. The Court explained the effect if the judgment rendered is one without jurisdiction, thus:

x x x Lack of jurisdiction as a ground for annulment of judgment refers to either lack of jurisdiction over the persons of the defending party or over the subject matter of the claim. In case of absence or lack of jurisdiction, a court should not take cognizance of the case. Thus, the prevailing rule is that where there is want of jurisdiction over a subject matter, the judgment is rendered null and void. A void judgment is in legal effect no judgment, by which no rights are divested, from which no right can be obtained, which neither binds nor bars any one, and under which all acts performed and all claims flowing out are void. It is not a decision in contemplation of law and, hence, it can never become executory. It also follows that such a void judgment cannot constitute a bar to another case by reason of *res judicata*.¹³ (Citation omitted)

¹⁰ Id.

¹¹ SEC. 5. *Action by the Court.* — Should the court find no substantial merit in the petition, the same may be dismissed outright with specific reasons for such dismissal. Should prima facie merit be found in the petition, the same shall be given due course and summons shall be served on the respondent.

¹² *Castigador v. Nicolas*, 705 Phil. 306, 310 (2013).

¹³ *Sebastian v. Spouses Cruz*, 807 Phil. 738, 743 (2017).

The CA, instead, outrightly dismissed the petition based on technical grounds.

First, the CA did not give due course to the petition as it is not compliant with Section 4, Rule 47 of the Rules of Court, for failure of the petitioners to attach with their petition, documents supporting their cause of action. True, owing to the exceptional character of the remedy of annulment of judgment, the limitations and guidelines set forth by Rule 47 should be strictly complied with.¹⁴ A petition for annulment which ignores or disregards any of these limitations and guidelines cannot prosper.

A perusal of the petition would reveal that petitioners annexed therein the following documents: (a) the assailed RTC Decision dated December 18, 2007;¹⁵ (b) Transfer Certificate of Title No. 128750¹⁶ proving that their predecessors were the former registered owners thereof; (c) petitioner Edgar Alvarez's Certificate of Live Birth¹⁷ proving filiation to the former owners of the subject land; (d) proof of receipt¹⁸ by petitioner Nora Alvarez of the RTC Decision; (e) RTC Order¹⁹ dated December 10, 2008, submitting for resolution petitioners' "Motion to Set Aside Judgment by Way of Special Appearance"; (f) Entry of Final Judgment of the RTC Decision;²⁰ (g) Summons;²¹ and (h) Sheriff's Return.²²

Not satisfied with the foregoing documents, the CA dismissed the petition and mentioned the specific documents which were lacking. In their motion for reconsideration, petitioners submitted the said lacking documents, specifically: (a) the Petition for Consolidation of Ownership,²³ (b) two copies of the Deed of Sale with Right to Repurchase;²⁴ (c) a Copy of the Motion for Leave to Intervene;²⁵ and the (d) Motion to Set Aside Judgment By Way of Special Appearance.²⁶ Without determining whether said additional documents are relevant or not, it is more prudent for the CA to have reconsidered their ruling of dismissal when petitioners submitted the documents which were said to be lacking thereby substantially complying with what was required of them.

Second, the CA dismissed the petition for failure to avail first the remedies of new trial, appeal, petition for relief from judgment or other appropriate remedies. If these remedies were not availed of, petitioners must allege in their petition that said ordinary remedies are no longer available through no

¹⁴ *Aquino v. Tangkengko*, 793 Phil. 715, 721 (2016).

¹⁵ *Rollo*, pp. 65-66.

¹⁶ *Id.* at 67-69.

¹⁷ *Id.* at 70.

¹⁸ *Id.* at 72.

¹⁹ *Id.* at 73.

²⁰ *Id.* at 75.

²¹ *Id.* at 76.

²² *Id.* at 77.

²³ *Id.* at 90-92.

²⁴ *Id.* at 95-96.

²⁵ *Id.* at 97-98.

²⁶ *Id.* at 99-102.

fault on their part; otherwise, the petition will be dismissed. It bears to stress that these mandatory requirements apply only when the ground for the petition for annulment of judgment is extrinsic fraud. If the petition for annulment of judgment is based on lack of jurisdiction, petitioners need not allege that the ordinary remedies of new trial, reconsideration or appeal were no longer available through no fault on their part. As held by this Court:

In a case where a petition for the annulment of a judgment or final order of the RTC filed under Rule 47 of the Rules of Court is grounded on lack of jurisdiction over the person of the defendant/respondent or over the nature or subject of the action, the petitioner need not allege in the petition that the ordinary remedy of new trial or reconsideration of the final order or judgment or appeal therefrom are no longer available through no fault of her own. This is so because a judgment rendered or final order issued by the RTC without jurisdiction is null and void and may be assailed any time either collaterally or in a direct action or by resisting such judgment or final order in any action or proceeding whenever it is invoked, unless barred by laches.²⁷ (Citations omitted)

Third, in attempting to resolve the merits of the petition, the CA found it unbelievable that petitioners were not aware of the filing of the case against them as in fact, before Entry of Judgment of the RTC's Decision, petitioners filed with the RTC a Motion to Set Aside Judgment By Way of Special Appearance. Petitioners claimed that they only knew of the case, when the RTC Decision was served on them. At the time they filed the Motion to Set Aside Judgment By Way of Special Appearance, no entry of judgment was known to them.

The rule is that jurisdiction of the court over the person of the defendant or respondent cannot be acquired notwithstanding his knowledge of the pendency of a case against him unless he was validly served with summons.²⁸ The Court has emphasized the importance of service of summons in order to acquire jurisdiction over the person of the defendant. Thus:

x x x *The service of summons upon the defendant becomes an important element in the operation of a court's jurisdiction upon a party to a suit, as service of summons upon the defendant is the means by which the court acquires jurisdiction over his person. Without service of summons, or when summons are improperly made, both the trial and the judgment, being in violation of due process, are null and void, unless the defendant waives the service of summons by voluntarily appearing and answering the suit.*

When a defendant voluntarily appears, he is deemed to have submitted himself to the jurisdiction of the court. This is not, however, always the case. Admittedly, and without subjecting himself to the court's jurisdiction, *the defendant in an action can, by special appearance object to the court's assumption on the ground of lack of jurisdiction.* If he so wishes to assert this defense, he must do so seasonably by motion for the purpose of

²⁷ *Ancheta v. Ancheta*, 468 Phil. 900, 911 (2004); also cited in *City of Taguig v. City of Mukati*, 787 Phil. 367, 397 (2016).

²⁸ *Frias v. Alcayde*, supra note 8.

objecting to the jurisdiction of the court, otherwise, he shall be deemed to have submitted himself to that jurisdiction.²⁹ (Citation omitted)

As can be gleaned from the petitioners' Motion to Set Aside Judgment By Way of Special Appearance,³⁰ they consistently maintained that the RTC did not acquire jurisdiction over their persons, due to invalid and improper service of summons (for petitioner Nora Alvarez) and failure to implead one of the heirs in the case (for petitioner Edgar Alvarez). It was notable from the said motion that it was filed by way of special appearance, that is, to question only the jurisdiction of the Court over their persons. No other affirmative relief was being sought. Hence, the said filing of the Motion cannot be considered as a voluntary submission to the jurisdiction of the RTC. The Court explained:

As a general rule, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court. Thus, it has been held that the filing of motions to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration is considered voluntary submission to the trial court's jurisdiction. This, however, is tempered by the concept of conditional appearance, such that a party who makes a special appearance to challenge, among others, the court's jurisdiction over his person cannot be considered to have submitted to its authority.³¹ (Citations omitted)

To repeat, the instant Petition for Annulment of Judgment was anchored on lack of jurisdiction over the persons of the petitioners. Annexed to the said petition are the following documents: (a) the assailed RTC Decision dated December 18, 2007; (b) Transfer Certificate of Title No. 128750; (c) petitioner Edgar Alvarez's Certificate of Live Birth; (d) proof of receipt by petitioner Nora Alvarez of the RTC Decision; (e) RTC Order dated December 10, 2008, submitting for resolution petitioners' "Motion to Set Aside Judgment by Way of Special Appearance"; (f) Entry of Final Judgment of the RTC Decision; (g) Summons; and (h) Sheriff's Return. Added to these are the following documents appended in the Motion for Reconsideration: (a) the Petition for Consolidation of Ownership, (b) two copies of the Deed of Sale with Right to Repurchase; (c) a Copy of the Motion for Leave to Intervene; and the (d) Motion to Set Aside Judgment By Way of Special Appearance. Thus, on the bases of the allegations in the petition as well as the appropriate supporting documents, there is a prima facie case of annulment of judgment that could warrant the CA's favorable action.

The bottom line is that if the allegations in the Petition for Annulment of Judgment turned out to be true, then the RTC Decision would be void and the CA would have been duty-bound to strike it down.³² Thus, the CA has exceeded the bounds of its jurisdiction when it outrightly dismissed the Petition on a very strict interpretation of technical rules. The Court finds it

²⁹ Id., citing *Guiguinto Cooperative, Inc. (GUCCI) v. Torres*, 533 Phil. 476, 488-489 (2006)

³⁰ Supra note 26.

³¹ *Interlink Movie Houses, Inc. v. Court of Appeals*, G.R. No. 203298, January 17, 2018.


³² *Coombs v. Castañeda*, 807 Phil. 383, 393-394 (2017).

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more prudent to remand the case to the CA for further proceedings to first resolve the above-discussed jurisdictional issue.³³

WHEREFORE, the petition is hereby **GRANTED**. The Resolutions dated December 16, 2009 and April 21, 2010 of the Court of Appeals in CA-G.R. SP No. 111420 are **SET ASIDE**. **ACCORDINGLY**, the instant case is **REMANDED** to the Court of Appeals for further proceedings.

SO ORDERED.



JOSE C. REYES, JR.
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. BERLAS-BERNABE
Associate Justice

(On Official Leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

³³ *Sebastian v. Spouses Cruz*, supra note 13, at 746.

ATTESTATION

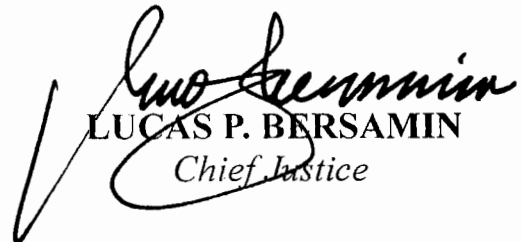
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**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

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