



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PAOLO MARTIN M. ORTIGAS, G.R. No. 260118
DENISE MARIE O. TING and
CARISSA KATRINA O. KO,
HEIRS OF JOCELYN M.
ORTIGAS,

Petitioners,

Members:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JJ.

-versus-

COURT OF APPEALS and
HESILITO N. CARREDO,

Respondents.

Promulgated:

FEB 12 2024

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for *Certiorari*¹ under Rule 65 assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 167025 entitled *Paolo*

¹ *Rollo*, pp. 3-22.

Martin M. Ortigas, Denise Marie O. Ting, and Carissa Katrina O. Ko, Heirs of Jocelyn M. Ortigas, v. Hesilito N. Carredo and Hon. Wilfredo L. Maynigo in his capacity as Acting Presiding Judge of Branch 91, Regional Trial Court, Quezon City:

- 1) Resolution² dated January 25, 2021, dismissing outright the Petition for Annulment of Judgment filed by the Heirs of Jocelyn M. Ortigas (Ortigas Heirs) against the dispositions of the trial court in Civil Case No. R-QZN-18-10658-CV for cancellation of encumbrance on Transfer Certificate of Title (TCT) No. 004-2017014143;
- 2) Resolution³ dated October 7, 2021, denying their motion for reconsideration; and
- 3) Resolution⁴ dated February 10, 2022, noting without action their Motion for Clarification.

Antecedents

In their Petition for Annulment of Judgment docketed as CA-G.R. SP No. 167025, the Ortigas Heirs, namely Paolo Martin M. Ortigas (Paolo), Denise Marie O. Ting, and Carissa Katrina O. Ko sought to set aside and nullify the Decision dated June 17, 2020 of the Regional Trial Court, Branch 91, Quezon City in Civil Case No. R-QZN-18-10658-CV (petition for cancellation of a memorandum of encumbrance annotated on TCT No. 004-2017014143 covering a parcel of land acquired by private respondent Carredo through a public auction sale conducted by the City Treasurer of Quezon City for real property tax delinquency of spouses Cicero and Maria Luz Lumauig, the previous owners of the property).⁵ They alleged that on October 29, 1999, Spouses Lumauig, for a consideration of PHP 5,000,000.00, mortgaged to their predecessor in interest Jocelyn M. Ortigas (Jocelyn) their property in Quezon City covered by TCT No. N-198628. The parties agreed that in case of default, the mortgagor shall pay 5% compounded interest per month plus 1% penalty per month. On September 1, 2000, the corresponding deed of real estate mortgage was annotated on the title of the property.⁶

Upon the death of Jocelyn, they succeeded to her estate, including all her rights to the subject property. In the course, they came across the deed of real estate mortgage in question and discovered that Spouses Lumauig defaulted in the payment of their mortgage debt. Consequently, they demanded from Spouses Lumauig the total amount of PHP 20,000,000.00 comprising the principal amount plus interest, payable within 10 days from

² Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Ronaldo B. Martin and Florencio M. Mamauag, Jr. *Id.* at pp. 126-131.

³ *Id.* at 170-174.

⁴ *Id.* at 184-187.

⁵ *Id.* at 27-43.

⁶ *Id.* at 6-7.

notice. Demand letters, the last of which was dated September 19, 2017, were sent by personal service to the address of Spouses Lumauig as indicated in the mortgage agreement. These demand letters, however, were returned unserved because Spouses Lumauig were no longer residing in their given address.⁷

They later on discovered that the mortgaged property was already foreclosed and sold at public auction on July 4, 2013 due to non-payment of real estate taxes.⁸ It was sold to Carredo in whose name TCT No. 004-2017014143 was issued.⁹

Thereafter, they filed a petition for extrajudicial foreclosure of mortgage with the Quezon City Office of the Clerk of Court acting as Ex-Officio Sheriff.

On June 15, 2020, Carredo received a notice of extrajudicial sale of the property covered by TCT No. 004-2017014143. Carredo's counsel claimed to have requested the Quezon City Office of the Clerk of Court for documents pertaining to the said notice. He also allegedly informed the said office of a pending action for cancellation of encumbrance before the Regional Trial Court, Branch 91, Quezon City. It turned out that Carredo was referring to the petition entitled *Hesilito N. Carredo v. Jocelyn Ortigas and the Register of Deeds for Quezon City*, docketed as Civil Case No. R-QZN-18-10658-CV and filed on September 5, 2018 specifically for cancellation of the real estate mortgage annotated on TCT No. 004-2017014143.¹⁰

By Decision¹¹ dated June 17, 2020, Regional Trial Court, Branch 91 Quezon City granted Carredo's petition for cancellation of encumbrance, thus:

WHEREFORE, the petition for cancellation of the encumbrance or Entry No. PE-5670 annotated on the memorandum of encumbrance of TCT No. 004-2017014143 which is registered under the name of petitioner Hesilito N. Carredo, is hereby **GRANTED**.

The Register of Deeds of Quezon City is directed to cancel, after proper annotation, the subject encumbrance pursuant to Sec. 108 of P.D. 1529 upon finality of this decision and payment of the necessary fees.

SO ORDERED.¹² (Emphasis in the original)

⁷ *Id.* at 62-63.

⁸ *Id.* at 65.

⁹ *Id.* at 81-82.

¹⁰ *Id.*

¹¹ *Id.* at 92-94.

¹² *Id.* at 93.

The trial court found that all the requirements for cancellation of encumbrance under Section 108 of Presidential Decree No. 1529 were complied with.¹³ It further held that Jocelyn was properly impleaded through a valid service of summons by publication per Order¹⁴ dated April 2, 2019, granting Carredo's "Urgent Motion to Serve Summons to Private Respondents through Publication" since Jocelyn's whereabouts at that time were unknown and could not be ascertained despite diligent efforts.¹⁵ As it was, Jocelyn did not interpose any objection to the petition.

On the same date the Decision was rendered, Carredo's counsel sent a letter to Ortigas Heirs, informing them of Civil Case No. R-QZN-18-10658-CV. Only then did they learn for the first time about the case.

On October 13, 2020, Carredo received a second notice of extrajudicial sale of the same property to be held on October 15, 2020 or on October 22, 2020 as an alternative date. On October 15, 2020, Carredo filed with the Quezon City Office of the Clerk of Court a very urgent motion to suspend and terminate proceedings of the extra judicial foreclosure sale.¹⁶ There is nothing in the records showing how the said office acted on the motion.

Ortigas Heirs asserted that the trial court's Decision was issued without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction since a petition for cancellation of encumbrance is not a proper action to attack the real estate mortgage in question. Further, the Decision violated their right to due process as it was issued without their participation as Jocelyn's heirs or successors in interest. They argued that jurisdiction could not have been acquired over the person of Jocelyn as she was already deceased at the time the Petition for Cancellation of Encumbrance was filed in 2020.¹⁷

Dispositions of the Court of Appeals

By Resolution¹⁸ dated January 25, 2021, the Court of Appeals denied the petition for annulment of judgment for alleged lack of *prima facie* merit as it failed to bear Annexes "S," "T," and "U" pertaining to pleadings, summons, and orders issued in Civil Case No. R-QZN-18-10658-CV in violation of Section 4, Rule 47 of the Rules of Court. Petitioners also failed to state in their verification and certification of non-forum shopping that the petition was not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation.¹⁹ Too, the petition failed to *prima facie* show that the decision was issued without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. The trial court did

¹³ *Id.* at 93.

¹⁴ *Id.* at 98.

¹⁵ *Id.* at 92.

¹⁶ *Id.* at 149-151.

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 126-131.

¹⁹ *Id.* at 127.

acquire jurisdiction over the person of the mortgagee Jocelyn through service of summons by publication which the trial court allowed on Carredo's motion following the report of the court sheriff that personal service could not be effected despite diligent efforts to locate her.²⁰

In their Motion for Reconsideration,²¹ the Ortigas Heirs reiterated that the trial court could not have acquired jurisdiction over Jocelyn nor any of her heirs as the petition was filed by Carredo only on September 5, 2018, almost nine years after the death of Jocelyn.

In his Comment²² on the Motion for Reconsideration, Carredo countered that the trial court validly acquired jurisdiction over the person of Jocelyn. He also argued that the petition for annulment of judgment was pursued by the Ortigas Heirs only because they already lost the other legal remedies available to them due to their own fault.²³

The Ortigas Heirs filed their Reply, reiterating the trial court's lack of jurisdiction over the person of Jocelyn and the void decision that resulted therefrom.

The Court of Appeals subsequently denied the Motion for Reconsideration of the Ortigas Heirs under Resolution²⁴ dated October 7, 2021. It focused on their continuous failure to cure the infirmities of their petition for annulment of judgment notwithstanding that the court even enumerated these infirmities in its assailed decision.

Still dissatisfied, the Ortigas Heirs filed a motion for clarification, calling the attention of the appellate court to its alleged omission to resolve the issue of jurisdiction raised in their Motion for Reconsideration. Too, they asserted that they did not commit forum-shopping when they filed the Petition for Annulment of Judgment before the Court of Appeals in addition to their Petition for Extrajudicial Foreclosure before Regional Trial Court, Branch 91.²⁵

In its Resolution²⁶ dated February 10, 2022, the Court of Appeals noted without action the Motion for Clarification as it supposedly took the form of a second motion for reconsideration.

²⁰ *Id.* at 128–130.

²¹ *Id.* at 132–140.

²² *Id.* at 141–146.

²³ *Id.*

²⁴ *Id.* at 135.

²⁵ *Id.* at 175–182.

²⁶ *Id.* at 184–186.

The Present Petition

The Ortigas Heirs now seek affirmative relief under Rule 65 of the Rules of Court from the Decision and Resolutions that were allegedly issued with grave abuse of discretion amounting to lack or excess of jurisdiction in violation of their constitutional right to due process.

In his Comment²⁷ dated January 17, 2024, Carredo ripostes that the Ortigas Heirs committed forum shopping. Too, they allegedly violated Section 4, Rule 47 of the Rules of Court as they failed to cure the procedural defects in their pleading as the annexes required by law to be attached have remained omitted. Lastly, Rule 65 should not be made available to the Ortigas Heirs as such is a wrong remedy and cannot substitute for a lost one.²⁸

Ruling

On the procedural aspect, while Rule 45 of the Rules of Court prescribes petitions for review on *certiorari* as the remedy for errors of law committed by the appellate court, it does not preclude the availment of Rule 65 in cases of grave abuse of discretion amounting to excess or lack of jurisdiction or denial of due process where Rule 45 does not appear to be a plain, speedy, or adequate remedy in the ordinary course of law, as in the present case.

In *Tanenglian v. Lorenzo*,²⁹ we held that while a petition for *certiorari* is dismissible for being the wrong remedy, there are exceptions to this rule: (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority. Here, to afford protection to rights of petitioners at the earliest possible time, the petition for *certiorari* should be allowed to promptly prevent a miscarriage of justice.

The term grave abuse of discretion is well defined in jurisprudence. Grave abuse of discretion means a capricious and whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law.³⁰ It is a form of limited review that is only confined to errors of jurisdiction.³¹ *Sarol v. Spouses Diao*³²

²⁷ *Id.* at 197-205.

²⁸ *Id.*

²⁹ See 573 Phil. 472 (2008) [Per J. Chico-Nazario, Third Division].

³⁰ *Rodriguez v. Hon. Presiding Judge, et al.*, 518 Phil. 455, 462 (2006) [Per J. Quisumbing, *En Banc*], citing *Zarate v. Maybank Philippines, Inc.*, 498 Phil. 825 (2005) [Per J. Callejo, Sr., Second Division].

³¹ *Fernando v. Vasquez*, G.R. No. L-26417, 30 January 1970, 31 SCRA 288, 292.

³² 892 Phil. 435 (2020) [Per J. Carandang, First Division].

instructs that a decision rendered in violation of due process, such as one issued despite improper service of summons, suffers a jurisdictional defect.

The Court, therefore, takes cognizance of, and accepts the present petition for *certiorari* as the proper remedy to nullify the affirmance of the trial court's dispositions which were rendered without jurisdiction and in violation of the constitutional right to due process of the Ortigas Heirs as well as of their predecessor in interest.

We now resolve the case on the merits.

A petition for annulment of judgment is a remedy in equity which courts view with an attitude of reluctance and one that should not be granted indiscriminately by the Court. It is allowed only in exceptional cases as it is an exception to the time honored doctrine of immutability of final judgments. Since it disregards the time-honored rule of immutability of final judgments, the Rules of Court imposes stringent requirements before a litigant may avail of it.³³ On this score, Section 1 of Rule 47 of the Rules of Civil Procedure provides:

Section 1. *Coverage.* This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

As worded, since an action for annulment of judgment is only a remedy of last resort, it may not be invoked: (1) where the party has availed himself or herself of the remedy of new trial, appeal, petition for relief, or other appropriate remedy and lost; or (2) where he or she has failed to avail of those remedies through his or her own fault or negligence.³⁴

Further, Section 2 of Rule 47 of the Rules of Court provides the specific grounds for annulment of judgment, which are: 1) extrinsic fraud; and 2) lack of jurisdiction, *viz.*:

Section 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 or petition for relief.

³³ G.R. No. 251669, *Spouses Flores v. Spouses Estrellado*, December 7, 2021 [Per J. Lazaro-Javier].

³⁴ *Heirs of Maura So v. Oblisca, et al.*, 566 Phil. 297, 406 (2008) [Per J. Nachura, Third Division], citing *Macalalag v. Ombudsman*, 468 Phil. 918, 923 [Per J. Vitug, Third Division].

A third ground is also recognized by the Court. In *Arcelona v. Court of Appeals*,³⁵ denial of due process was found to be a valid ground for a petition for annulment of judgment. *Pinausukan Seafood House v. Far East Bank & Trust Company*³⁶ reiterated the requirements which a petitioner must comply with before a petition for annulment of judgment may be allowed to proceed:

1. The remedy is available only when the petitioner can no longer resort to the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies through no fault of the petitioner;
2. The grounds for the action of annulment of judgment are limited to either extrinsic fraud or lack of jurisdiction;
3. The action must be filed within four years from the discovery of the extrinsic fraud; and if based on lack of jurisdiction, must be brought before it is barred by laches or estoppel; and
4. The petition must be verified, and should allege with particularity the facts and the law relied upon for annulment, as well as those supporting the petitioner's good and substantial cause of action or defense, as the case may be.³⁷

On the first requisite, there is no question that Jocelyn was never made aware of Civil Case No. R-QZN-18-10658-CV simply because it was filed in 2018, and by then, she had already been dead for almost nine years. Her heirs came to know of the case too late in the day and only when they received a letter from Carredo's counsel informing them of the decision in Civil Case No. R-QZN-18-10658-CV. In any event, neither Jocelyn nor her heirs (petitioners) legally became parties to the case. As stated, Jocelyn died even before the case was filed while her heirs had never been impleaded at all, let alone, brought within the trial court's jurisdiction.

We therefore have a case here wherein although named as a party respondent, it was no longer feasible for Jocelyn to have been named or impleaded as such because she had then ceased to be vested with the legal personality to sue and be sued. But it cannot be denied that despite this situation, a judgment was rendered against her, and her heirs will now suffer its consequences if the judgment is not annulled. This cannot be allowed, lest we allow injustice to prevail.

At any rate, in view of the peculiar circumstances affecting Jocelyn and her heirs, as heretofore stated, it is readily clear, nay, explicable why they could not have availed of the remedies of a motion for reconsideration, appeal, new trial, or relief from judgment. Foremost, not one of these remedies could have provided a speedy and full relief to Jocelyn and her heirs for the purpose of preserving their right of maintaining the encumbrance on the property.

³⁵ 345 Phil. 250, 282 (1997), citing *Macabingkit v. People's Homesite and Housing Corporation*, 164 Phil. 328 (1976).

³⁶ See 725 Phil. 19 (2014) [Per J. Bersamin, First Division].

³⁷ *Id.*

Their only protection against being totally stripped of their real and substantial right to the subject property. To be sure, only a petition for annulment of judgment could provide such speedy and full relief.

As for the second requisite, neither the trial court nor the appellate court or even Carredo himself has denied the fact that by the time Civil Case No. R-QZN-18-10658-CV was filed in 2018, Jocelyn had long passed away for almost nine years already as she died on November 24, 2009 due to cardio pulmonary arrest.³⁸

*Gaffney v. Butler*³⁹ ordained that a deceased person does not have the capacity to be sued. We decreed further in *Spouses Berot v. Siapno*⁴⁰ that upon the death of a party, such party can no longer be impleaded as a respondent. Consequently, no court can acquire jurisdiction for the purpose of trial or judgment until a party defendant who actually or legally exists and is legally capable of being sued, is brought before it. The rule was expounded in *Ventura v. Militante*,⁴¹ thus:

Parties may be either plaintiffs or defendants. The plaintiff in an action is the party complaining, and a proper party plaintiff is essential to confer jurisdiction on the court. In order to maintain an action in a court of justice, the plaintiff must have an actual legal existence, that is, he, she or it must be a person in law and possessed of a legal entity as either a natural or an artificial person, and no suit can be lawfully prosecuted save in the name of such a person.

The rule is no different as regards party defendants. It is incumbent upon a plaintiff, when he institutes a judicial proceeding, to name the proper party defendant to his cause of action. In a suit or proceeding in personam of an adversary character, the court can acquire no jurisdiction for the purpose of trial or judgment until a party defendant who actually or legally exists and is legally capable of being sued, is brought before it. It has even been held that the question of the legal personality of a party defendant is a question of substance going to the jurisdiction of the court and not one of procedure.

...

Neither a dead person nor his estate may be a party plaintiff in a court action. A deceased person does not have such legal entity as is necessary to bring action so much so that a motion to substitute cannot lie and should be denied by the court. An action begun by a decedent's estate cannot be said to have been begun by a legal person, since an estate is not a legal entity; such an action is a nullity and a motion to amend the party plaintiff will not likewise lie, there being nothing before the court to amend. Considering that capacity to be sued is a correlative of the capacity to sue, to the same extent, a decedent does not have the capacity to be sued

³⁸ CA rollo, p. 00133.

³⁹ See 820 Phil. 789 (2017) [Per J. Caguioa, Second Division].

⁴⁰ 738 Phil. 673; (2014) [Per CJ. Serceno, First Division].

⁴¹ 374 Phil. 562, 571-572 (1999) [Per J. Puno, First Division].

and may not be named a party defendant in a court action. (Emphasis supplied; citations omitted.)⁴²

Verily, the trial court could not have validly acquired jurisdiction over the person of the decedent named Jocelyn Ortigas even though it approved a supposed service of summons by publication, received evidence ex-parte for Carredo, and rendered judgment in his favor. For as a consequence of a void petition initiated against a dead party, the entire proceedings become equally void and jurisdictionally infirm.

This brings us to another ground for annulment of judgment: denial of due process. As elucidated in *De Pedro v. Romasan Development Corporation*,⁴³ there exists a defect in jurisdiction if there is a violation of one's right to due process. Since as stated, Jocelyn has already been dead for about nine years, when Civil Case No. R-QZN-18-10658-CV was filed against her, she and her heirs were never brought into the jurisdiction of the trial court. Hence, they were never given their day in court specifically for the purpose of opposing the Petition for Cancellation of Encumbrance pertaining to the mortgage in favor of their predecessor-in-interest Jocelyn. In *Arcelona v. Court of Appeals*,⁴⁴ we declared that annulment of judgment is an available remedy when the patent nullity of the ruling sought to be set aside can be proven. In that case, the parties (Arcelonas) were indispensable parties that should have been impleaded but the same was never done until after the proceedings got resolved in the trial court. We consequently allowed the trial court's ruling to be assailed via a petition for annulment of judgment since the parties therein were denied their right to due process.⁴⁵

In the same vein, in *Chico v. Ciudadano*,⁴⁶ we affirmed the Court of Appeals in granting a petition for annulment of judgment as summons was not served on the real party in interest, Ciudadano. We declared as well that a final and executory judgment may still be set aside if, upon mere inspection thereof, its patent nullity can be shown for having been issued without jurisdiction or for lack of due process of law. It was emphasized therein that as a rule, if a defendant has not been summoned, the court acquires no jurisdiction over his person, and a personal judgment rendered against such defendant is void. Service of summons suffers a defect in jurisdiction.

Going now to the third requisite, a petition for annulment of judgment based on lack of jurisdiction, such as here, may be allowed until the action is barred by laches or estoppel. For as a rule, the issue of jurisdiction may be raised at any time in the proceedings, even on appeal. By way of exception, estoppel by laches may bar a party from invoking lack of jurisdiction when

⁴² *Id.*

⁴³ 748 Phil. 706, (2014) [Per J. Leonen, Second Division].

⁴⁴ 345 Phil. 250, (1997) [Per J. Pangalanan, Third Division].

⁴⁵ *Id.*

⁴⁶ See G.R. No. 249815, July 4, 2022 [Per C.J. Gesmundo, First Division].

the issue is raised later in the proceedings of the case and only after the party raising the argument has actively participated during trial and lost.

Laches, in a general sense, is failure or neglect, **for an unreasonable and unexplained length of time**, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.⁴⁷

As ruled in *Amoguis v. Ballado*,⁴⁸ by reason of estoppel by laches, a claimant loses the right to pursue a remedy if he or she has a right that he or she could have exercised if not for his or her own delay in the assertion of the same. Allowing the belated claim to proceed despite the circumstances surrounding it would be unjust.⁴⁹

Here, we find that the Ortigas Heirs have been consistently proactive and diligent in their pursuit of the available remedy to annul the adverse judgment of the trial court. Notably, the same was filed on November 3, 2020. The short period of five months or so between June 17, 2020 when the cancellation of encumbrance was granted, and November 3, 2020 when the petition therefor was filed, negates the application of laches against petitioners. Too, they were not shown to have acted or incurred any omission which would otherwise amount to estoppel. Another. The fact that they filed an application for extrajudicial foreclosure of mortgage, before the Office of the Clerk of Court of Quezon City, did not preclude them from seeking the annulment of the Decision dated June 17, 2020 rendered by the trial court in Civil Case No. R-QZN-18-10658-CV which decision ordered the cancellation of the annotation of real estate mortgage. If at all, the annulment of the said decision is a condition precedent to the application for extrajudicial foreclosure.

As for the fourth and last requisite, the Court of Appeals cited as one of the grounds for dismissal of the petition the supposed failure of the Ortigas Heirs to comply with the documentary and verification requirements cited in *Pinausukan Seafood House*,⁵⁰

The fourth requirement demands that the petition should be verified, and should allege with particularity the facts and the law relied upon for annulment, as well as those supporting the petitioner's good and substantial cause of action or defense, as the case may be. The need for particularity cannot be dispensed with because averring the circumstances constituting either fraud or mistake with particularity is a universal requirement in the rules of pleading. The petition is to be filed in seven clearly legible copies, together with sufficient copies corresponding to the number of respondents,

⁴⁷ See *Figueroa v. People*, 580 Phil. 58 (2008) [Per J. Nachura, Third Division].

⁴⁸ See 839 Phil. 1 (2018) [Per J. Leonen, Third Division].

⁴⁹ *Id.*

⁵⁰ *Supra* note 36.

and shall contain essential submissions, specifically: (a) the certified true copy of the judgment or final order or resolution, to be attached to the original copy of the petition intended for the court and indicated as such by the petitioner; (b) the affidavits of witnesses or documents supporting the cause of action or defense; and (c) the sworn certification that the petitioner has not theretofore commenced any other action involving the same issues in the Supreme Court, the CA or the different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same, and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the CA, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the said courts and other tribunal or agency thereof within five days therefrom.

The purpose of these requirements of the sworn verification and the particularization of the allegations of the extrinsic fraud in the petition, of the submission of the certified true copy of the judgment or final order or resolution, and of the attachment of the affidavits of witnesses and documents supporting the cause of action or defense is to forthwith bring all the relevant facts to the CA's cognizance in order to enable the CA to determine whether or not the petition has substantial merit. Should it find *prima facie* merit in the petition, the CA shall give the petition due course and direct the service of summons on the respondent; otherwise, the CA has the discretion to outrightly dismiss the petition for annulment.⁵¹

Two points. For one, the Ortigas Heirs were not parties to Civil Case No. R-QZN-18-10658-CV and it is even undisputed that no factual issues are involved in the case. In view thereof, the attachment of the records to the petition itself is no longer necessary. For another, a verified statement that the petition was not intended to harass or cause injustice or delay applies only to cases wherein the annulment of judgment is sought on the ground of fraud and not when the ground brought to fore is lack of jurisdiction which is a question of law, as in the present case. More so because, as stated, the existence of this ground was not even contested by respondent nor negated by the respective decisions and resolutions of both the trial court and the appellate court.

That the aforesaid requirement applies only to cases where annulment of judgment is sought on ground of fraud is clearly ordained in *Pinausukan Seafood House*⁵² viz.:

Pinausukan's failure to include the affidavits of witnesses was fatal to its petition for annulment. Worthy to reiterate is that the objective of the requirements of verification and submission of the affidavits of witnesses is to bring all the relevant facts that will enable the CA to immediately determine whether or not the petition has substantial merit. **In that regard, however, the requirements are separate from each other, for only by the affidavits of the witnesses who had competence about the circumstances constituting the extrinsic fraud can the petitioner detail the extrinsic fraud being relied upon as the ground for its petition for annulment. This is because extrinsic fraud cannot be presumed from**

⁵¹ *Id.*

⁵² *Id.*


the recitals alone of the pleading but needs to be particularized as to the facts constitutive of it. The distinction between the verification and the affidavits is made more pronounced when an issue is based on facts *not appearing of record*. In that instance, the issue may be heard on affidavits or depositions presented by the respective parties, subject to the court directing that the matter be heard wholly or partly on oral testimony or depositions.⁵³ (Emphasis supplied)

In any event, the Court reiterates that procedural rules were established to ensure that justice will be served at the earliest possible time through an expeditious resolution of cases. The main objective, therefore, is prompt and efficient administration of justice and nothing else. Consequently, whenever the application of procedural rules would defeat the ends of justice, the same must be set aside.


ACCORDINGLY, the petition is **GRANTED**. The Resolutions dated January 25, 2021, October 7, 2021, and February 10, 2022 of the Court of Appeals in CA-G.R. SP No. 167025 are **NULLIFIED** and **SET ASIDE**. The Decision dated June 17, 2020 of the Regional Trial Court, Branch 91, Quezon City in Civil Case No. R-QZN-18-10658-CV is declared **VOID**.

The Register of Deeds of Quezon City is ordered to immediately cause the re-annotation of the deed of real estate mortgage between Jocelyn Ortigas and Spouses Cicero Lumauig and Maria Luz Lumauig on TCT No. 004-2017014143 or any and all of its derivative titles.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

⁵³ *Id.*



MARIO N. LOPEZ
Associate Justice



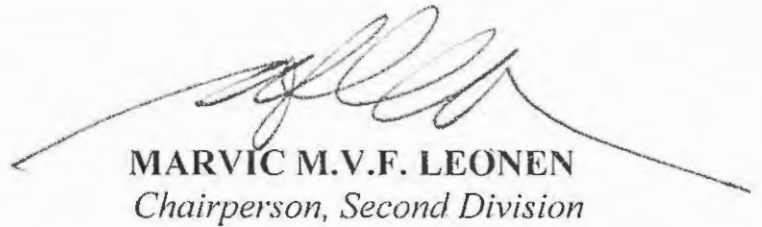
JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

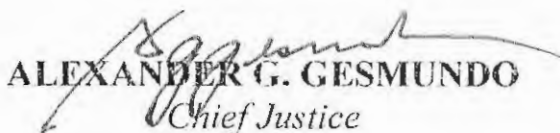
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice