Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

DANIEL T. SO [deceased], substituted by his heirs, namely: JESUSA H. SO; DANALAINE H. SO; and DARRIEN DERRICK H. SO,[1] Petitioners,	**G.R. No. 261784** Present: CAGUIOA, *J.*, *Chairperson*, INTING, GAERLAN, DIMAAMPAO, and SINGH,* *JJ.*
- versus -	
FOOD FEST LAND, INC., Respondent.	**Promulgated:** APR 02 2025

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D E C I S I O N

INTING, *J.*:

Before the Court is a Petition for Review on *Certiorari*[2] (Petition) under Rule 45 of the Rules of Court assailing the Resolutions dated February 10, 2021,[3] and June 23, 2022,[4] of the Court of Appeals (CA) in

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1 As stated in the Notice of Death with Substitution of Parties dated July 10, 2024, *rollo*, pp. 203–204; *see also* Certificate of Death, *id.* at 205, Daniel T. So passed away on June 26, 2024; Resolution dated January 15, 2025, *id.* at 210–211. Daniel T. So is also referred to as "Danny So" in some parts of the *rollo*.

* On leave.

2 *Rollo*, pp. 11–50.

3 *Id.* at 51–53. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Angelene Mary W. Quimpo-Sale of the Special Seventeenth Division, Court of Appeals, Manila.

4 *Id.* at 54–57. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon, and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Angelene Mary W. Quimpo-Sale of the Former Special Seventeenth Division, Court of Appeals, Manila.

CA-G.R. SP No. 167340. The CA dismissed the Petition for Review of petitioner Daniel T. So (So) from the Resolution[5] dated November 10, 2020, of Branch 147, Regional Trial Court (RTC), Makati City on the ground of non-compliance with Rule 42, Section 2 of the Rules of Court.

The Antecedents

On September 14, 1999, So, as lessor, entered into a Contract of Lease with respondent Food Fest Land, Inc. (Food Fest), as lessee, over a commercial space in San Antonio Village, Makati City for a period of three years, where Food Fest intended to operate a Kentucky Fried Chicken store.[6]

On April 26, 2001, for Food Fest's failure to pay rent, So filed a Complaint for Ejectment and Damages against Food Fest (Ejectment Case) before Branch 64, Metropolitan Trial Court (MeTC), Makati City.[7]

In a Decision dated July 4, 2005, the MeTC ruled in favor of So, ordered the forfeiture of the security deposit in the amount of PHP 64,000.00 in his favor, and directed Food Fest to pay him unpaid rentals from August 2000 until March 2001 in the amount of PHP 64,000.00, with penalties accrued thereon, liquidated damages in a sum equivalent to 25% of the total sum due and demandable, and attorney's fees.[8]

Food Fest appealed the MeTC Decision to Branch 143, RTC, Makati City (RTC-Branch 143).

First Appeal

In a Decision dated November 30, 2006, the RTC-Branch 143 reversed the MeTC Decision and ordered So to pay Food Fest the reimbursement for rentals paid for the months of July and August 2000 in the amount of PHP 32,000.00, exemplary damages, and attorney's fees.[9] The dispositive portion of the RTC Decision states:

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5 CA *rollo*, pp. 29–32. Penned by Acting Presiding Judge Maria Amifaith S. Fider-Reyes.
6 *Rollo*, pp. 13–14.
7 *Id.* at 14.
8 *Id.*
9 *Id.* at 15.

> WHEREFORE, premises considered, the judgment of the lower court dated 04 July 2005 is hereby REVERSED and SET ASIDE, ordering plaintiff Daniel T. So to pay defendant Food Fest the amount of Thirty Two Thousand Pesos ([PHP] 32,000.00) as reimbursement for rentals paid for the months of July and August 2000; Twenty Thousand Pesos ([PHP] 20,000.00) as exemplary damages; Twenty Thousand Pesos ([PHP] 20,000.00) as attorney's fees and costs of suit.
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> SO ORDERED.[10]

On appeal, the CA reversed the RTC's ruling in its Decision dated April 18, 2008. The CA held that Food Fest's obligation to pay rent was not extinguished upon its failure to secure permits to operate. Thus, it ordered Food Fest to pay So the unpaid rentals from August 2000 until March 2001, temperate damages, attorney's fees, and costs of suit.[11] The *fallo* of the CA Decision reads:

> WHEREFORE, premises considered, the assailed [D]ecision dated November 30, 2006 of the RTC, Branch 143, Makati City is hereby REVERSED and SET ASIDE, ordering respondent [Food Fest] to pay petitioner Daniel T. So the following:
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> 1. Unpaid rentals from August 2000 until March 31, 2001 with penalties accrued thereon. The security deposit is forfeited in favor of petitioner So;
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> 2. Temperate damages in the amount of [PHP] 50,000.00;
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> 3. [PHP] 20,000.00 as attorney's fees; and
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> 4. Costs of suit.
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> SO ORDERED.[12]

The case reached the Court on appeal. The Court docketed the case as G.R. Nos. 183628 and 183670. In the Decision dated April 7, 2010, the Court ruled in favor of So, affirmed with modification the CA Decision, and imposed in favor of So liquidated damages and attorney's fees, both in the amount of 25% of the total sum due.[13] The Court disposed of the case as follows:

> WHEREFORE, the Court of Appeals Decision of April 18, 2008 is AFFIRMED with MODIFICATION.

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10 *Id.* at 14–15, Petition.
11 *Id.* at 15.
12 *Id.*
13 *Id.* at 16.

> Food Fest is ORDERED to pay So liquidated damages in the amount equivalent to 25% of the total sum due and demandable. Further, So is ORDERED to pay attorney's fees in the amount equivalent to 25% of the total sum due and demandable. In all other respects, the decision is AFFIRMED.
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> SO ORDERED.[14]

In the Resolution dated February 9, 2011, the Court modified the Decision dated April 7, 2010, and clarified that So is entitled to, and not liable for, the 25% attorney's fees. The *fallo* of the Resolution reads:

> WHEREFORE, the dispositive portion of the Court's Decision of April 14, 2010 is AMENDED to read as follows:
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> WHEREFORE, the Court of Appeals Decision of April 18, 2008 is AFFIRMED with MODIFICATION.
>
> Food Fest is ORDERED to pay *So* liquidated damages in the amount equivalent to 25% of the total sum due and demandable. Further Food Fest is ORDERED to pay So attorney's fees in the amount equivalent to 25% of the total sum due and demandable. In all other respects, the decision is AFFIRMED.[15]

Motion for Execution before the MeTC

After the entry of the Court's Decision on March 16, 2011, So lost no time in filing a Motion for Execution[16] with the MeTC on May 23, 2011. As the records of the case were still with the Court, Food Fest filed a Reply with Motion to Hold in Abeyance the Motion for Execution, which the MeTC granted. When the records of the case were already in the MeTC's possession, So again filed a Motion for Execution; the MeTC granted it.[17]

In the Order[18] dated January 29, 2013, the MeTC did not state in the Writ of Execution the exact amount to be paid by Food Fest. Food Fest thus refused to pay its obligation, moved to quash the Writ of Execution, and thereafter, filed a motion asking the MeTC to fix the amount to be paid by Food Fest to So.[19]

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14 *Id.*
15 *Id.*
16 CA *rollo*, pp. 51–55.
17 *Rollo*, p. 17.
18 CA *rollo*, p. 56.
19 *Rollo*, p. 18.

So was then surprised when the MeTC fixed the obligation of Food Fest at only PHP 213,312.00, without taking into account the accrual of interest. So also pointed out that the sum fixed by the MeTC did not even amount to one-third of Food Fest's obligation to him which he alleged to be PHP 785,748.64 at that time.[20]

The MeTC refused to include interest in the judgment amount and ruled that the Court's Decision was silent as to the 12% interest per annum and penalty charge of 1% per month for the months subsequent to the due date of the rents.[21]

Second Appeal

Aggrieved, So filed a Petition for *Certiorari* with Branch 59, RTC, Makati City. However, it dismissed the Petition.[22]

So once more elevated the case to the CA, which docketed the case as CA-G.R. SP No. 140181.

In the Decision[23] dated March 22, 2016, the CA held that the imposition of legal interest upon the total judgment award should be included, despite it not being stated in the *fallo* of the Decisions of the Court and the CA. It added that jurisprudence has settled that the imposition of legal interest is not to be considered as an alteration of the final judgment to be executed, as it is deemed read into the Decision.[24] The dispositive portion of the CA Decision reads:

> WHEREFORE, premises considered, the instant appeal is hereby GRANTED. Accordingly, the February 17, 2015 Decision of the Regional Trial Court, Branch 59 of Makati City, in Case No. 14-1024 is hereby ANNULLED and SET ASIDE.
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> The Metropolitan Trial Court, Branch 64 of Makati City is hereby ORDERED to make a re-computation according to the above directives.
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> SO ORDERED.[25]

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20 *Id.* at 18.
21 *Id.* at 19.
22 *Id.*
23 CA *rollo*, pp. 223–235.
24 *Id.* at 231.
25 *Id.* at 234.

Thus, the CA imposed on the judgment award 12% legal interest per annum, the prevailing rate at that time, reckoned from the date when the Court's Decision became final and executory on March 16, 2011, to June 30, 2013. From July 1, 2013, until full satisfaction of the judgment award, the CA imposed the interest of 6% per annum,[26] following *Nacar v. Gallery Frames*.[27]

The CA also clarified the payable sums of money from Food Fest to So in accordance with the Court's Decision and Resolution in G.R. Nos. 183628 and 183670, to wit: (1) the 1% monthly penalty charge shall be applied on the unpaid rentals from August 2000 until March 16, 2011, the date of the finality of the Court's Resolution in G.R. Nos. 183628 and 183670; and (2) the 25% liquidated damages and 25% attorney's fees shall be imposed on the total unpaid rentals and penalty charges as of March 16, 2011.[28]

No further appeal was taken from the CA Decision, which had attained finality.[29]

Motion to Implement Writ of Execution before the MeTC

So then filed a Motion to Implement Writ of Execution with the MeTC on July 19, 2017.[30]

The MeTC issued an Order[31] dated March 12, 2018, which declared that it could no longer order the execution of the Court's Decision as the life of the Writ of Execution that was issued in January 2013 had already expired.

This prompted So to file a Motion for Issuance of a New Writ of Execution[32] on May 4, 2018. He argued that the period that lapsed since the MeTC issued the Writ of Execution in January 2013 should not be included in computing the five-year period provided in Rule 39, Section 6[33] of the Rules of Court because of the following: it was caused by Food

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26 *Id.* at 233.
27 716 Phil. 267, 281 (2013).
28 CA *rollo*, p. 233.
29 *Rollo*, pp. 20, 110 and 151. *See* Petition for Review on *Certiorari*, Motion to Implement Writ of Execution, and Comment to the Petition for Review on *Certiorari*.
30 *Id.* at 20.
31 CA *rollo*, p. 62.
32 *Rollo*, p. 20.
33 SECTION 6. *Execution by motion or by independent action.* – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by

Fest's delay through the filing of several motions; So's attempt at correcting the error of the MeTC in not fixing the amount to be paid; and the time it took for the appellate courts to decide on the extant issues on appeal.[34]

In the Order[35] dated May 9, 2018, the MeTC denied the Motion.

Third Appeal

Determined, So again appealed the case to Branch 147, RTC, Makati City (RTC-Branch 147).[36]

During a hearing held on October 16, 2020, the RTC-Branch 147 directed the parties to file their respective memoranda within 15 days.[37] It also scheduled a status hearing on December 1, 2020.[38]

When So appeared before the RTC-Branch 147 to attend the December 1, 2020 status hearing, RTC-Branch 147 suddenly informed him that it had already rendered a Resolution[39] which dismissed his appeal and held that a final and executory judgment may only be executed on motion within five years from the date of its entry.[40] So alleged that he was surprised by the news as he had not yet received a copy of any memorandum that was supposed to be filed by Food Fest.[41]

Aggrieved, So filed his Petition for Review[42] with the CA, which docketed the Petition as CA-G.R. SP No. 167340.

In the now assailed Resolution[43] dated February 10, 2021, the CA dismissed the Petition outright on technicalities, particularly, on the following grounds: (1) the Petition did not include the specific material dates showing that it was filed on time; and (2) So did not attach the copies of the material pleadings and documents that would support the

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action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

34 *Rollo*, pp. 20–21.
35 CA *rollo*, p. 222.
36 *Rollo*, p. 21.
37 *Id.* at 68.
38 *Id.*
39 *Id.* at 29–32.
40 *Id.* at 30
41 *Id.* at 22.
42 CA *rollo*, pp. 3–28.
43 *Rollo*, p. 52.

allegations in the Petition before the CA, apart from the assailed RTC Resolution.[44]

So filed a Motion for Reconsideration,[45] which the CA denied in the assailed Resolution[46] dated June 23, 2022.

Hence, the present Petition.[47]

So's Arguments

Anent the dismissal of CA-G.R. SP No. 167340 for alleged violation of the material date rule, So asserts that he was never validly served a copy of the RTC Resolution based on the modes of service recognized in Rule 13, Section 13 of the Rules of Court. Still, his counsel preferred to err on the side of caution and filed a Petition for Review with the CA wherein the counsel explained the peculiarity of the situation and asserted that the reglementary period within which to assail the Resolution has not yet commenced.[48]

So also seeks to be excused from his failure to attach the required documents to his Petition before the CA; he cited the difficulty of securing documents from courts due to the enforced community quarantine during that time.[49]

On the merits, petitioner argues that the CA's dismissal of his Petition in effect sustained the MeTC's misapplication of Rule 39, Section 6 of the Rules of Court.[50] So points out that the Court's Decision, being the conclusion of the Ejectment Case, became final and executory on March 16, 2011; hence, he opines that he timely filed the Motion for Execution on May 23, 2011. He avers that the MeTC and the RTC mistakenly believed that it is the entire execution process and not the filing of the motion that must be done within the five-year period,[51] as clarified by the Court in *Jacinto v. IAC*.[52]

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44 *Id.*
45 CA *rollo*, pp. 188–200.
46 *Rollo*, pp. 54–57.
47 *Id.* at 11–50.
48 *Id.* at 26.
49 *Id.* at 31.
50 *Id.* at 33.
51 *Id.* at 35.
52 247-A Phil. 59 (1988).

Food Fest's Arguments

In its Comment,[53] Food Fest maintains that the CA correctly dismissed So's appeal due to his failure to comply with the requirements of Rule 42 of the Rules of Court.[54] It points to So's admission that his counsel, through electronic mail, received a copy of the RTC Resolution that dismissed the appeal.[55]

Food Fest further cites the case of *Villareal v. Metropolitan Waterworks and Sewerage System*[56] wherein the Court held that for a motion for execution to be valid, the two acts of filing of the motion and actual issuance by the court of the writ of execution must concur within the five year period enunciated in Rule 39, Section 6 of the Rules of Court.[57] Thus, at the time when So filed his Motion for Issuance of New Writ of Execution on May 4, 2018, it is clear that more than five years had already lapsed from March 16, 2011, the date when the Decision and Resolution of the Court in G.R. Nos. 183628 and 183670 became final and executory.[58]

Issue

The core issue to be resolved in the case is whether the CA gravely erred in dismissing the Petition for Review filed by So under Rule 42 of the Rules of Court.

The Ruling of the Court

The Court finds merit in the Petition.

So's failure to strictly comply with the requirements of Rule 42, Section 2 of the Rules of Court is excusable

At the crux of the issue in the case is So's failure to comply with Rule 42, Section 2 of the Rules of Court, which states:

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53 *Rollo*, pp. 145–165.
54 *Id.* at 153.
55 *Id.* at 154–157.
56 826 Phil. 967, 977 (2018), *citing Olongapo City v. Subic Water and Sewerage Co., Inc.*, 740 Phil. 502, 520–521 (2014).
57 *Rollo*, p. 161.
58 *Id.* at 163–164.

> SECTION 2. *Form and contents.* – The *petition shall* be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) *indicate the specific material dates showing that it was filed on time;* (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) *be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts,* certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or 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 Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. (Emphasis supplied)

In relation thereto, Rule 42, Section 3[59] of the Rules of Court categorically states that the failure of the petitioner to comply with any of the requirements regarding the contents of the petition shall be a sufficient ground for its dismissal.

It is well-established that because appeal is not a natural right but is only of statutory origin, the appellant must strictly comply with the requirements of appeal.[60] However, the Court has long been cognizant of certain instances when strict adherence to the rules of procedure must yield to the interest of substantial justice. It has been repeatedly emphasized that procedural rules are mere tools to facilitate the attainment of justice. As such, a strict and rigid application of the rules which would result in technicalities that tend to frustrate rather than promote substantial justice must be avoided.[61]

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59 SECTION 3. *Effect of failure to comply with requirements.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

60 *Sps. Lanaria v. Planta*, 563 Phil. 400, 416 (2007).

61 *Rovira v. Heirs of Deleste*, 630 Phil. 565, 573–574 (2010), *citing Ace Navigation Co., Inc. v. Court of Appeals*, 392 Phil. 606, 613 (2000).

In *Barnes v. Padilla*,[62] citing *Sanchez v. CA*,[63] the Court enumerated the circumstances which may justify the relaxation of the rules of procedure and allow an appellate court to give due course to an appeal despite the procedural defects involved therein, to wit:

> In the Sanchez case, the Court restated the range of reasons which may provide justification for a court to resist a strict adherence to procedure, enumerating the elements for an appeal to be given due course by a suspension of procedural rules, such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby[.]

Upon review of the case, the Court finds that the rules of procedure may be relaxed in So's favor and in the interest of substantial justice. As further discussed below, there are circumstances that justify a relaxation of the rules considering that the defects in the Petition for Review before the CA are not entirely attributable to So. There are merits in the arguments raised in the Petition. Moreover, a strict application of the rules will result in undue prejudice to So, who, despite being the judgment creditor in the Ejectment Case, still has not been paid to this day after almost 14 years since the Court rendered its Resolution in G.R. Nos. 183628 and 183670. On the other hand, a relaxation of the rules will not unjustly prejudice Food Fest as the losing party and judgment debtor in the Ejectment Case.

A. Non-compliance with the material date rule is not entirely attributable to So

The CA faulted So for failing to indicate the date when he received the Resolution of the RTC-Branch 147, which dismissed his appeal. The rationale behind the material date rule under Rule 42, Section 2 of the Rules of Court is for the CA to be informed of the *timeliness* of the petition before it.[64] This is because the timely filing of an appeal is mandatory and

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62 500 Phil. 303, 311 (2005), *citing Ginete v. Court of Appeals*, 357 Phil. 36, 54 (1998).

63 452 Phil. 665, 674 (2003).

64 *Sps. Cordero v. Octaviano*, 876 Phil. 533, 539 (2020), *citing Technological Institute of the Philippines Teachers and Employees Organization (TIPTEO) v. Court of Appeals*, 608 Phil. 632, 649 (2009).

jurisdictional, as the failure to perfect an appeal within the reglementary or statutory period renders the judgment final and executory.[65]

As justification for his non-compliance with the material date rule, So argues that he was not validly served a copy of the RTC Resolution because under Rule 13, Section 13 of the Rules of Court, as amended, the RTC Resolution should have been served by personal service or registered mail, not by electronic mail. According to So, he caused the filing of the Petition for Review with the CA only in the exercise of caution. In refutation, Food Fest insists that So's counsel received the RTC Resolution by electronic mail, as evidenced by a Certification[66] issued by the RTC.

The Court finds merit in So's argument.

Rule 13, Section 5 of the Rules of Court, as amended, indeed provides for electronic mail as a valid manner of filing and service of pleadings and other court processes:

> SECTION 5. *Modes of service. – Pleadings, motions, notices, orders, judgments, and other court submissions shall be served personally or by registered mail, accredited courier, electronic mail, facsimile transmission, other electronic means* as may be authorized by the Court, or as provided for in international conventions to which the Philippines is a party. (Emphasis supplied)

Nonetheless, Rule 13, Section 13 of the Rules of Court mandates:

> SECTION 13. *Service of Judgments, Final Orders or Resolutions. – Judgments, final orders, or resolutions shall be served either personally or by registered mail.* Upon ex parte motion of any party in the case, a copy of the judgment, final order, or resolution may be delivered by accredited courier at the expense of such party. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him or her shall be served upon him or her also by means of publication at the expense of the prevailing party. (Emphasis supplied)

Relevantly, an elementary rule in statutory construction is that a special and specific provision prevails over a general provision.[67] The

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65 *Sumaway v. Urban Bank, Inc.*, 526 Phil. 91, 96 (2006); *Almeda v. Court of Appeals*, 354 Phil. 601, 607 (1998).

66 CA *rollo*, p. 201.

67 *Batangas City v. Pilipinas Shell Petroleum Corp.*, 763 Phil. 312, 326 (2015).

principle applies even in the interpretation of the Rules of Court.[68] Thus, Rule 13, Section 13 must prevail over Rule 13, Section 5 of the Rules of Court insofar as the service of final orders, judgments, and resolutions is concerned, because Section 13 expressly provides *specific* modes of service on the matter, while Section 5 merely enumerates *general* modes of service that may be availed of by the parties and the courts.

In other words, based on the foregoing provisions of Rule 13, *interlocutory* orders of a court may be served "personally or by registered mail, accredited courier, electronic mail, facsimile transmission, other electronic means as may be authorized by the Court, or as provided for in international conventions to which the Philippines is a party," in accordance with Section 5.[69] However, following Section 13, *final* orders, judgments, or resolutions of a court shall be served either personally or by registered mail.[70]

Importantly, in several cases[71] involving the applicable rules of procedure then in force, the Court held that a judgment cannot be considered final and executory in view of the absence of a valid service, *whether personally or by registered mail*, on the party's counsel of record, even though the records indicate that the judgment was served by *ordinary mail*. Rule 13, Section 13 of the Rules of Court therefore imposes a rule that final judgments, orders, or resolutions of a court may only be served by personal service or by registered mail; *it does not allow service by electronic mail*.[72] To hold otherwise would subvert the procedural rules. It would certainly result in confusion if any mode of service other than those respectively fixed by the rules for each particular situation expressly contemplated therein were to be sanctioned and given legal effect.[73]

It is not difficult to comprehend why the service of a court's final judgment, order, or resolution must be limited to personal service and service by registered mail. Of the modes of service enumerated in Rule 13, Section 5 of the Rules of Court, only personal service and service by registered mail involve the preparation of a *return by a public officer* that will inform the issuing court of the date when the final judgment, order,

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68 *Metropolitan Bank and Trust Co. v. Absolute Management Corp.*, 701 Phil. 200, 207 (2013); *Warner v. Municipality of Pasay*, 1 Phil. 227 (1902).

69 *See Echaus v. Court of Appeals*, 265 Phil. 721, 723 (1990).

70 *Id.*

71 *Hrs. of Leung v. Hrs. of Madio*, 905 Phil. 289, 301–302 (2021); *Sps. Topacio v. Banco Filipino Savings and Mortgage Bank*, 649 Phil. 331, 345 (2010).

72 *See Vda. de Espiritu v. Court of First Instance of Cavite*, 150-C Phil. 142, 150 (1972). *See also Heirs of Leung v. Heirs of Madio*, 905 Phil. 289, 300 (2021).

73 *Echaus v. Court of Appeals*, *supra* note 69.

or resolution was received by the parties concerned. This is evident in Rule 13, Section 17, to wit:

> SECTION 17. *Proof of Service*. – Proof of personal service shall consist of a written admission of the party served, *or the official return of the server*, or the affidavit of the party serving, containing a statement of the date, place, and manner of service. If the service is made by:
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> (a) Ordinary mail. – Proof shall consist of an affidavit of the person mailing stating the facts showing compliance with Section 7 of this Rule.
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> (b) Registered mail. – Proof shall be made by the affidavit mentioned above and the registry receipt issued by the mailing office. The *registry return card* shall be filed immediately upon its receipt by the sender, or in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given by the *postmaster* to the addressee.
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> (c) Accredited courier service. – Proof shall be made by an affidavit of service executed by the person who brought the pleading or paper to the service provider, together with the courier's official receipt or document tracking number.
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> (d) Electronic mail, facsimile, or Other Authorized electronic means of transmission. – Proof shall be made by an affidavit of service executed by the person who sent the e-mail, facsimile, or other electronic transmission, together with a printed proof of transmittal. (Emphasis supplied)

The court's sheriff or process servers undertake the *personal service* of court processes. Part of their duty is to prepare an *official return* or certificate after service of court processes. Considering that sheriffs and process servers are public officials, it is presumed that they regularly performed their official duty; further, the returns or certificates that they prepare in connection with the service of court processes is *prima facie* evidence of the facts stated therein.[74]

Similarly, service by *registered mail* is carried out by postal officials who, as public officers, likewise enjoy the presumption of regularity in the performance of their official duties.[75] One of their official functions is to provide to the issuing court a *registry return card*, which states the date when a mail matter was received by the addressee.[76] Given

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74 *Guanzon v. Arrazada*, 539 Phil. 367, 375 (2006); *Umandap v. Judge Sabio, Jr.*, 393 Phil. 657, 668 (2000); *Sps. Madrigal v. Court of Appeals*, 377 Phil. 345, 352 (1999).

75 *Gold Line Transit, Inc. v. Ramos*, 415 Phil. 492, 502 (2001).

76 *See Club Filipino, Inc. v. Araullo*, 538 Phil. 430, 438 (2006).

that registry return cards are accomplished by postal officials, who are public officers, they are considered as official records and therefore stand as *prima facie* proof of the facts therein stated.[77] A *certification by the postmaster* on the date when a mail matter was received by the addressee also enjoys the presumption that official duty was regularly performed.[78]

Personal service and service by registered mail, being undertaken by public officials, ensure that the court is in possession of reliable proof of service and the addressee's receipt of the court process in issue. This not only facilitates the determination of when a judgment, order, or resolution becomes final, but also ensures that the parties are afforded due process. Certainly, due process dictates that the losing parties be *served* a copy of the final judgment, order, or resolution rendered against them and which will affect their interests;[79] otherwise, they may be deprived of the right to appeal within the reglementary period, or of such remedy as they may avail of to protect their interest.[80]

Here, the RTC Resolution dismissing the appeal is a final order, as it terminates the proceedings and leaves nothing more to be done by the RTC.[81] Based on the Certification by the RTC, a copy of the Resolution was served upon So's counsel by *electronic mail*.[82] However, the records before the Court do not establish whether the Resolution was served upon So's counsel personally or by registered mail, as mandated by Rule 13, Section 13 of the Rules of Court.

Relevantly, "[w]hen service of notice is an issue, the rule is that the person alleging that the notice was served must prove the fact of service," and "[t]he burden of proving notice rests upon the party asserting its existence."[83] Food Fest thus bears the burden to prove service of the RTC Resolution upon So's counsel, either personally or by registered mail. Absent any proof thereof, the Court concludes that there was no valid service of the RTC Resolution, as service by electronic mail is insufficient compliance with Rule 13, Section 13.

Neither may it be said that the 2019 Amendments to the Rules on Civil Procedure now allows the service of final judgments, orders, or resolutions through other modes not expressly recognized in Rule 13,

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77 *Id.; Eureka Personnel & Management Services, Inc. v. Valencia*, 610 Phil. 444, 453 (2009).
78 *Aportadera, Sr. v. Court of Appeals*, 242 Phil. 420, 425 (1988).
79 *See Government Service Insurance System v. Court of Appeals,* 278 Phil. 673 (1991).
80 *Paluay v. Bacudao*, 97 Phil. 561 (1955).
81 *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, 479 Phil. 768, 778 (2004); *Quelnan v. VHF Philippines, Inc.*, 477 Phil. 740, 750 (2004).
82 *Id.*
83 *Republic v. Resins, Inc.*, 654 Phil. 369 (2011).

Section 13. In the analogous case of *Estrella v. SM Prime Holdings,*[84] the Court pointed out that service by electronic mail as introduced by the amendments to the Rules is not applicable to all forms of filing and service, thus:

> In the 2019 Amendments, *Rule 13 was revised and now provides for other forms of filing and service such as* (1) through accredited courier; and (2) transmitting them by *electronic means such as electronic mail* and (in the case of service) facsimile transmission. These modes of filing and service may be availed of by the parties to the action. This is *reflected in Section 3*, Rule 13 of the 2019 Amendments, which reads:
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> . . . .
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> However, *the additional modes of filing and service are not applicable to initiatory pleadings and initial responsive pleadings.* Considering that *a petition for review on certiorari is an initiatory pleading, its service or filing is governed by Section 14, Rule 13* of the 2019 Amendments, which expressly provides:
>
> . . . .
>
> The *foregoing provision means that despite the additional modes of filing and service introduced in the 2019 Amendments, initiatory pleadings such as the present Petition should be filed either personally or through registered mail.*[85] (Emphasis supplied)

It is clear that *Estrella* continues to recognize case precedents wherein it was held that the validity of the service of a notice, order, judgment, or other papers and processes issued by a court will depend on whether there has been compliance with the particular rule of procedure governing it. That is, despite the general provision on modes of service under Rule 13, Section 5, it cannot apply to service of *final* judgments, orders, or resolutions, because the latter continues to be governed by Rule 13, Section 13.

Consequently, as correctly argued by So before the CA, the 15-day period within which to appeal the RTC Resolution had not yet lapsed or commenced. The Court agrees with So that he was placed in a peculiar situation, in light of the RTC's failure to validly serve the Resolution, rendering him unable to allege the material dates in his Petition for Review. Such failure must be deemed by the Court as excusable under the circumstances.

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84 936 Phil. 388 (2023).

85 *Id.* at 402–404.

Nonetheless, the Court clarifies that the requirement of indicating the material dates in the petition is separate from the requirement that the petition be timely filed, as both must be complied with. Considering that the Petition before the CA did not include a statement of material dates, it cannot be faulted for citing non-compliance with the rule as a ground to dismiss the appeal.

Thus, for the guidance of the bench and the bar, the Court holds that in instances when the mode of service of a final decision, order, or resolution is improper, i.e., not through personal delivery or registered mail, the party must indicate in the material dates portion of the petition the circumstances of their receipt of the assailed ruling, that the reglementary period has not yet began, and that the petition is being filed with an abundance of caution even without valid service of the assailed ruling.

B. There was substantial compliance with the required attachments to So's Petition for Review before the CA

In dismissing his Petition for Review, the CA faulted So[86] for failing to attach the necessary orders, pleadings, and documents, and for attaching only the assailed Resolution[87] of the RTC dated November 10, 2020.

The rationale behind the requirement in Rule 42, Section 2 of the Rules of Court for the petitioner to attach copies of the material portions of the records is to enable the CA to determine at the earliest possible time the existence of *prima facie* merit in the petition.[88] The Court has laid down three guideposts in determining the necessity of attaching the pleadings and portions of the records to the petition, to wit:

> *First*, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a *prima facie* case of grave abuse of discretion as to convince the court to give due course to the petition.

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86 *Rollo*, p. 31.

87 CA *rollo*, pp. 29–32.

88 *Aguilar v. Lightbringers Credit Cooperative*, 750 Phil. 194, 207 (2015), *citing Canton v. City of Cebu and/or Metro Cebu Devt. Project*, 544 Phil. 369, 377 (2007).

> *Second,* even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also [be] found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.
>
> *Third,* a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.[89]

With the foregoing guideposts, the Court has deemed a petition sufficient even though a copy of the contract that was being assailed therein was not attached, considering that the material portions of the contract were reproduced *verbatim* in the assailed decision of the lower court, which was attached to the petition.[90] The appendment of the assailed lower court decision has also been deemed sufficient if the petitioner is not assailing the factual findings of the lower court but only the conclusions that it reached, and only questions of law were raised in the petition.[91] In such cases, the CA is in a position to judiciously determine the merits of the petition from a reading of the attached decision, judgment, or order of the lower court.

Here, the Court finds that the facts are undisputed, and the issue raised by So is purely legal, i.e., whether under the present circumstances, the judgment may still be enforced by motion. The material dates that were considered by the RTC in rendering its Resolution are stated therein and further laid out in the Petition for Review. Significantly, these matters are not disputed by the parties. So's attachment of the RTC Resolution to his Petition for Review is therefore deemed sufficient, considering that the issue at hand on whether the MeTC may still issue a Writ of Execution may already be determined from the Petition for Review and the RTC Resolution.

The Court takes cognizance of the substantial issues raised in the Petition in the higher interest of justice and in light of protracted years of litigation

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89 *Galvez v. Court of Appeals*, 708 Phil. 9, 20 (2013), *citing Air Philippines Corp. v. Zamora*, 529 Phil. 718, 727–728 (2006).

90 *Aguilar v. Lightbringers Credit Cooperative*, *supra*, at 207, *citing Cusi-Hernandez v. Sps. Diaz*, 390 Phil. 1245, 1251 (2000).

91 *Republic of the Philippines v. Juan Fule and Delia Fule,* 872 Phil. 152 (2020); *Galvez v. Court of Appeals*, *supra* note 89, at 9 (2013).

In *Duremdes v. Jorilla*,[92] the Court underscored the principle that compliance with procedural rules entails its application in a manner that will help secure and not defeat justice. The Court explained that in situations where the CA's dismissal of cases on the ground of technicalities was reversed, a remand of the proceedings is appropriate.

Still, there are also circumstances when remand should be avoided, as when it would not serve the ends of justice and when the Court is in a position to decide the case on the merits based on the records before it:

> As a rule, *remand is avoided in the following instances*: (a) where the *ends of justice would not be subserved by a remand*; or (b) where public interest demands an early disposition of the case; or (c) where the trial court had already received all the evidence presented by both parties, and the *Supreme Court is in a position, based upon said evidence, to decide the case on its merits.*[93] (Emphasis supplied; citation omitted)

In the present case, the Court finds that a remand is not judicious considering the delay suffered by So in seeking the execution of a Decision which has long been affirmed not only by the CA, but also by the Court.

To recall, So's right to attorney's fees and the rentals unpaid by Food Fest was upheld by the MeTC, CA, and, finally, by the Court in G.R. Nos. 183628 and 183670 (First Appeal) way back in February 2011. Unfortunately, the case at hand stemmed from the MeTC's grave error in failing to fix and state in the Writ of Execution the exact amount to be paid by Food Fest to So. Lamentably, when the insufficiency of the Writ was brought to the attention of the MeTC, the latter again erred at imposing the amount to be paid at only PHP 213,312.00, without including the accrued interest. This error was then rectified by the CA in CA-G.R. SP No. 140181 (Second Appeal), wherein it imposed interest on the amount to be paid. So thus returned to the MeTC for the implementation of the judgment in his favor, but the MeTC refused to issue an appropriate writ of execution, thereby forcing So to again institute an appeal and file the present petition (Third Appeal).

Despite the judgment in favor of So, its execution turned out to be an unfortunate saga. So instituted the Ejectment Case against Food Fest in 2001, or around 24 years ago. He finally obtained a favorable judgment

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92 871 Phil. 810, 819 (2020).

93 *Sioland v. Fair Distribution,* 945 Phil. 542, 560 (2023), *citing Dela Peña v. Court of Appeals*, 598 Phil. 862, 876 (2009).

from the Court in 2011, yet almost 14 years later, he still has not been paid the amount that is undeniably due him. Irrefragably, the delay in the execution of judgment works great injustice to So, who even mentioned that his resources have been greatly depleted in litigating the case. Worse, even if the judgment is finally enforced, So may no longer enjoy it, as he passed away on June 26, 2024. The adage that justice delayed is justice denied finds particular application in the present case and to remand it would only cause further prejudice to So and his heirs. The deplorable situation behooves the Court to put an end to the protracted litigation between the parties.

Further, the records before the Court are sufficient to resolve the issue at bar. The Court notes that the facts and antecedent proceedings are not seriously disputed by the parties. "When the facts are admitted, the conclusion to be drawn from those facts is a question of law which may be resolved by this Court."[94] Hence, the Court is left with the *purely* legal issue of whether under the circumstances and the applicable law and jurisprudence, the judgment in So's favor may still be enforced by motion.[95]

The Court is aware of its earlier pronouncement that the period to appeal the RTC Resolution had not yet commenced, much less lapsed. Still, the foregoing does not prevent the Court from reviewing the merits of the case. Pertinently, in *Heirs of Leung v. Heirs of Madio,*[96] a case wherein a final judgment was likewise unserved by personal service or registered mail, the Court held that although the period to appeal had not yet commenced, the judgment was still reviewable by the appropriate appellate tribunal. Following *Heirs of Leung,* the Court may properly rule on the substantive issues raised in the present Petition.

Accordingly, in the interest of substantial justice and as prayed for by So, the Court resolves on the merits the sole issue he presented: whether the Decision sought to be enforced may still be enforced by motion.

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94 *Alto Sales Corp. v. Judge Lood*, 213 Phil. 83 (1984), *citing Cunanan v. Lazatin*, 74 Phil. 719, 724 (1944).

95 *See Torrefranca v. Albiso*, 102 Phil. 732 (1957). *See also New Regent Sources, Inc. v. Tanjuatco, Jr.*, 603 Phil. 321 (2009), which states that "[t]here is a question of law when the issue does not call for an examination of the probative value of evidence presented, *the truth or falsehood of facts being admitted, and the doubt concerns the correct application of law and jurisprudence on the matter.*" (Emphasis supplied)

96 905 Phil. 289, 301–302 (2021).

The Court's Decision in G.R. Nos. 183628 and 183670 may still be enforced by motion

So asserts that the Court's Decision and Resolution in G.R. Nos. 183628 and 183670 may still be enforced by motion because the time that lapsed in relation to the defective Writ of Execution and the Second Appeal should not have been considered in counting the five-year period under Rule 39, Section 6 of the Rules of Court. Food Fest disagrees and argues that the five-year period, counting from the date of Entry of Judgment, had already lapsed; thus, the Court's Decision may no longer be enforced by motion.

The Court rules in favor of So.

Food Fest correctly points out that in *Villareal v. MWSS,*[97] the Court instructed that for execution by motion to be valid, the filing of the motion for the issuance of the writ of execution and the court's actual issuance of the writ must concur within five years from the date of entry of the judgment or order.[98] If the five-year prescriptive period for execution by motion had already elapsed, the judgment must be enforced by independent action, following Rule 39, Section 6 of the Rules of Court.[99]

Nonetheless, it is equally settled in jurisprudence that there are instances when the five-year period under Rule 39, Section 6 may be tolled or suspended, as summarized in *Basilonia v. Villaruz*,[100] to wit:

> Nonetheless, jurisprudence is replete with a number of exceptions wherein the Court, on meritorious grounds, allowed execution of judgment despite non-observance of the time bar. In Lancita, et al. v. Magbanua, et al., it was held:
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> . . . .
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> Thus, the demands of justice and fairness were contemplated in the following instances: *dilatory tactics and legal maneuverings of the judgment obligor which redounded to its benefit*; agreement of the parties to defer or suspend the enforcement of the judgment; *strict*

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97 826 Phil. 967(2018); *Phil. Veterans Bank v. Solid Homes, Inc.*, 607 Phil. 14, 21 (2009).

98 *Villareal v. MWSS, id.* at 977.

99 SECTION 6. *Execution by motion or by independent action.* – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

100 766 Phil. 1 (2015).

> *application of the rules would result in injustice to the prevailing party to whom no fault could be attributed* but relaxation thereof would cause no prejudice to the judgment obligor who did not question the judgment sought to be executed; and *the satisfaction of the judgment was already beyond the control of the prevailing party as he did what he was supposed to do*. Essentially, We allowed execution even after the prescribed period elapsed *when the delay is caused or occasioned by actions of the judgment debtor and/or is incurred for his benefit or advantage*. (Emphasis supplied)

Several of the exceptional circumstances enumerated in *Basilonia* apply to the present case.

First, as early as May 23, 2011, or just 68 days from the time that the Court's Resolution in G.R. Nos. 183628 and 183670 became final and executory on March 16, 2011, So had already filed his Motion for Execution with the MeTC. By then, he had already performed what was incumbent upon him as the judgment creditor—to file the necessary motion for the issuance of a writ of execution.[101] The proceedings for the satisfaction of judgment that came after he filed the said motion, including the Second Appeal, were already beyond his control, considering that they were ultimately caused by the defective Writ of Execution issued by the MeTC in 2013.

Second, a strict application of the rules would result in injustice to So through no fault of his. After he filed the Motion for Execution within the five-year period under Rule 39, Section 6 of the Rules of Court, delays in the satisfaction of judgment occurred due to reasons that are not attributable to So. To repeat, the delay was ultimately caused by the MeTC's issuance of a defective Writ of Execution that then prompted the Second Appeal, which, of course, made it impossible for the execution of the judgment to prosper.

Neither may So be faulted in assailing the defects of the Writ of Execution through the Second Appeal. It was incontrovertibly his right as a judgment creditor to be paid the correct amount due him. Surely, it would be absurd to count the period of the Second Appeal against So when it was ultimately caused by the MeTC's defective Writ of Execution and was instituted precisely to cause the *correct* satisfaction of judgment.

Finally, the delays in the satisfaction of judgment were caused by Food Fest or at the very least, redounded to its benefit. Thus, the five-year

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101 *Zamboanga Barter Traders Kilusang Bayan, Inc. v. Plagata*, 588 Phil. 464 (2008).

period for the execution of judgment by motion should be deemed interrupted.

In the similar case of *Francisco Motors Corp. v. Court of Appeals*,[102] the execution was likewise delayed despite a timely-filed motion for execution because of several errors committed by the implementing court concerning the designation of the properties that were covered by the final judgment. In that case, the trial court committed mistakes in the orders for execution by including some properties that were not part of the proceedings, or omitted others that should have been included in the order. In holding that the five-year period for execution was suspended, the Court explained that the delay was not attributable to the judgment creditor, who did not sleep on his rights. Further, while the delay was not entirely attributable to the judgment debtor, it nonetheless worked to its advantage:

> Nevertheless, during the five (5)-year period from the finality of judgment, private respondent filed several motions for and in support of execution. His persistence is manifest in the number of motions, manifestations, oppositions, and memoranda he had filed since the judgment became final on July 13, 1981. He obtained three writs of execution (February 10, 1982; February 5, 1986 and June 6, 1986) and two orders in aid of execution (October 8, 1982 and February 18, 1986) but the alleged loss of the title, *incorrect orders*, and the subsequent refusal of petitioner FMC to surrender its title prevented the satisfaction of judgment. *While the delay was not wholly attributable to FMC, it nevertheless worked to FMC's advantage*. FMC's motion for reconsideration of the order of execution prevented the implementation of said order, especially considering that it was filed on July 8, 1986. Said motion effectively suspended the five (5) year prescriptive period which was supposed to expire on July 13, 1986.
>
> Subsequently, an order quashing the writ of execution was issued by the court *a quo* on September 23, 1986 which private respondent questioned in a motion for reconsideration. Before the lower court released its Decision, on private respondent's motion for reconsideration, Raquiza filed the assailed Motion to Enforce the Motion to Execute. In view of the foregoing circumstances and for reasons of equity, we are constrained to treat the Motion to Enforce the Motion to Execute as having been filed within the reglementary period. *The purpose of the law in prescribing time limitations for enforcing judgments or actions is to prevent obligors from sleeping on their rights. Private respondent, on the contrary, persistently sought the execution of the judgment in his favor.*[103] (Emphasis supplied)

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[102] 535 Phil. 736 (2006).

[103] *Id.* at 753–754.

In *Zabarte v. Puyat,*[104] another analogous case, the Court held that the five-year period to cause the execution of judgment by motion was likewise tolled because of the therein judgment creditor's dilatory tactics and opportunism:

> *Petitioner could not be said to have slept on his right*. From the entry of judgment on 16 July 2001, he seasonably moved for execution of the same, and thus obtained a writ on 04 September 2002. However, the *Writ could not be enforced fully because of respondent's opportunism.*
>
> The Court does not fail to see that *respondent was willing to spend on a costly litigation, but refused, for no valid reason, to pay a dime to petitioner*. When petitioner filed a motion to examine respondent, the latter vigorously opposed the same, all because he was a resident of Mandaluyong City. Moreover, clarificatory hearings on the matter were postponed several times due to respondent's absence. The case was even sent to the archives for a while because of the settlement talks between the parties. The negotiation ultimately fell through because respondent was bargaining unreasonably. Also, as repeatedly pointed out by petitioner, respondent tried to evade the satisfaction of judgment by selling his parking lots only two days after Sheriff Boco caused the annotation of the notice of levy on the certificates of title of said properties.
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> . . . .
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> All these dire consequences surely reek of travesty of justice. Indeed, what good does a favorable decision serves to petitioner, if its execution becomes a malarkey. Hence *although it is not lost to this Court that the proceedings below had already gone beyond 10 years – which is more than the period allowed to execute a judgment by mere motion, as well as to enforce a judgment by court action – the Court is not wont to stamp its imprimatur on this deplorably unfair situation.* Manifestly, *the peculiar circumstances herein merit the relaxation of the rules, so that justice can be rightfully dispensed, and for the winning litigant to be given what he truly deserves.*
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> In fine, the Court holds that, *in view of the confluence of events herein, the five-year period for enforcing the judgment by motion was interrupted or suspended by petitioner's filing of his first motion for examination of the judgment debtor in October 2005*. Hence, the case should be remanded to the RTC for continuation of the execution proceedings.[105] (Emphasis supplied; citations omitted)

The Court finds *Francisco Motors* and *Zabarte* to be squarely applicable to the case at bar.

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104 935 Phil. 903 (2023).

105 *Id.* at 919–924.

Similar to *Zabarte,* the records show that in several instances, Food Fest itself filed several motions to delay the satisfaction of the judgment debt against it. To recall, after So filed the Motion for Execution on May 23, 2011, Food Fest filed a Reply with Motion to Hold in Abeyance the Motion for Execution, which the MeTC granted. When the records of the case reached the MeTC, So again filed a Motion for Execution, and in response, the MeTC issued the Order dated January 29, 2013. Given that the Writ of Execution did not indicate the actual amount to be paid by Food Fest, it then filed the Motion to Quash the Writ of Execution.

Thereafter, So instituted the Second Appeal because the MeTC omitted to impose interest on the judgment award. Notably, the records show that Food Fest *opposed*[106] the inclusion of the interest due on the judgment award upon the argument that the dispositive portion of the Court's Decision in G.R. Nos. 183628 and 183670 did not include it. It should be emphasized that the Court has long decreed that "a judgment is not confined to what appears on the face of the decision, *but extends as well to those necessarily included therein or necessary thereto.*"[107] Thus, the inclusion of interest is not barred by immutability of judgment because it is compensatory interest arising from a final judgment that is imposed by law,[108] i.e., the Civil Code,[109] and jurisprudence.[110] It cannot be denied that Food Fest's opposition to the inclusion of interest caused further delay in the proceedings; hence, the same should be taken against it and in favor of So.

At the very least, similar to *Francisco Motors*, even if the delay is not entirely attributable to Food Fest, the delay in the proceedings arising from the erroneous Writ of Execution definitely redounded to its benefit. Certainly, the pendency of the execution proceedings worked to Food Fest's advantage, as it was not ordered to pay its judgment obligation to So in the meantime.[111] The delay in the proceedings caused by the errors committed by the MeTC, which also benefitted Food Fest, should therefore be excluded from the computation of the five-year period to

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106 CA *rollo,* p. 231.

107 *Raymundo v. Galen Realty and Mining Corp.*, 719 Phil. 557 (2013); *Tumibay v. Sps. Soro*, 632 Phil. 179 (2010).

108 *Consolidated Distillers of the Far East, Inc. v. Zaragoza*, 833 Phil. 888, 899 (2018), *citing Bani Rural Bank, Inc. v. De Guzman*, 721 Phil. 84, 97 (2013).

109 CIVIL CODE, art. 2209 states:
ARTICLE 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum.

110 *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, 929 Phil. 754 (2022); *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, 929 Phil. 754 (2022); *Nacar v. Gallery Frames*, 716 Phil. 267 (2013); *Eastern Shipping Lines, Inc. v. Court of Appeals*, 304 Phil. 236 (1994).

111 *See Zamboanga Barter Traders Kilusang Bayan, Inc. v. Plagata*, 588 Phil. 464 (2008).

execute the subject judgment by motion.

Anent Food Fest's argument that it is the Motion for Issuance of New Writ of Execution filed on May 4, 2018, which must be reckoned for the purpose of counting the period of prescription, this has no merit.

So merely designated such motion as a Motion for Issuance of *New* Writ of Execution only after the MeTC, in the Order dated March 12, 2018, refused to order the execution upon the finding that the life of the writ had expired. In accordance with *Zabarte,* it is the original Motion for Execution filed on May 23, 2011, which must be considered for purposes of counting prescription. At any rate, as discussed below, the Courts finds that the Motion for Issuance of *New* Writ of Execution was filed within the five-year prescriptive period under Rule 39, Section 6 of the Rules of Court.

In sum, the Court finds that the prescriptive period to enforce a judgment was effectively interrupted due to the legal proceedings that followed So's filing of the Motion for Execution on May 23, 2011. Counting from the Entry of Judgment in G.R. Nos. 183628 and 183670 on March 16, 2011, only 68 days have lapsed when So filed the Motion for Execution, but when he filed the Motion for Issuance of New Writ of Execution, around *seven years and two months* had already lapsed. The afore-mentioned proceedings that caused delay in the satisfaction of judgment, i.e., the incidents after So filed the Motion for Execution to the time when the CA rendered its Decision dated March 22, 2016 in CA-G.R. SP No. 140181, or a period of about three years, five months, and 23 days must be *excluded* therefrom.

The net result is that only three years and eight months have lapsed from the Entry of Judgment to the time when So filed the Motion for Issuance of New Writ of Execution. Thus, both the Motion for Execution and Motion for Issuance of New Writ of Execution were timely filed and in accordance with Rule 39, Section 6 of the Rules of Court, as shown below:

Incident	Date of Issuance/Filing	Period Lapsed	
		Excluded	Included
Entry of Judgment in G.R. Nos. 183628 and 183670	March 16, 2011		
So's filing of the Motion for Execution in the Ejectment Case	May 23, 2011		68 days (2 months and 8 days) from Entry of

			Judgment on March 16, 2011
Food Fest filed an Opposition to the Motion for Execution	July 14, 2011		52 days (1 month and 22 days) May 23, 2011
Transmittal of the case records to the MeTC	October 1, 2012		445 days (1 year and 2 months) from July 14, 2011
Issuance of the Order of Execution and the defective Writ of Execution	January 29, 2013	120 days (4 months) from October 1, 2012	
Denial of So's Motion for Reconsideration of the Order and Writ of Execution	July 3, 2014	520 days (1 year and 5 months) from January 29, 2013	
So assailed the defective writ of execution through the Second Appeal proceedings	September 24, 2014	83 days (2 months and 23 days) from July 3, 2014	
Issuance of the CA Decision in CA-G.R. SP No. 140181	March 22, 2016	545 days (1 year and 6 months) from September 24, 2014	
So's Motion to Implement the Writ of Execution following the CA Decision in CA-G.R. SP No. 140181	July 19, 2017		484 days (1 year and 4 months) from March 22, 2016
So's filing of the Motion for Issuance of New Writ of Execution	May 4, 2018		289 days (9 months and 19 days) from July 19, 2017
Total period lapsed from Entry of Judgment in G.R. Nos. 183628 and 183670 to Motion for Issuance of New Writ of Execution (March 16, 2011 to May 4, 2018)	2,606 days (7 years and 2 months)		
Less excluded period	1,268 days (3 years, 5 months, and 23 days)		
Net period lapsed from Entry of Judgment	1,338 days (3 years and 8 months)		

In fine, following the tenets of substantive justice, the Court holds that the prescriptive period within which to execute the judgment in issue was tolled; hence, the enforcement of the judgment in So's favor may still be had by motion.

Judgment Award

To put an end to the controversy and prevent further confusion between the parties, the Court finds it proper to clarify the judgment award in favor of So.

In G.R. Nos. 183628 and 183670, the Court found Food Fest liable to So for *unpaid rentals* from August 2000 until March 31, 2001. The rentals due under the lease contract was at the rate of PHP 17,600.00 per month.[112] Thus, the unpaid rentals due to So from August 2000 to March 31, 2001, are in the total amount of PHP 140,800.00.

In addition, the lease contract provides a penalty clause at the rate of 1% per month chargeable against the unpaid accounts of Food Fest, to wit:

> 23. PENALTY CLAUSE – Any and all accounts payable by LESSEE under this Contract of Lease and other charges which may be claimed against LESSEE, but not paid by LESSEE to LESSOR within fifteen (15) days from due date shall be subject to penalty charges of ONE PERCENT (1%) per month from due date until the account is paid in full.

Pursuant to Article 2209[113] of the Civil Code in relation to *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*,[114] compensatory interest must accrue on the monetary award based on the stipulated interest in the penalty clause of the lease contract, which must be taken as the law between the parties. As such, the award of interest by way of actual or compensatory damages must refer to the 1% monthly penalty charge, to be computed from default, i.e., extrajudicial or judicial demand.

Here, the date of Food Fest's receipt of the extrajudicial demand is not evident in the records.[115] Default must therefore be counted from judicial demand, i.e., the date of filing of the Complaint for Ejectment on April 26, 2001.[116] Accordingly, Food Fest's outstanding obligation for the unpaid rentals in the amount of PHP 140,800.00 must earn interest at the

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112 CA *rollo*, p. 229, Decision in CA-G.R. SP No. 140181.

113 ARTICLE 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six percent per annum.

114 *Supra* note 110.

115 *See Diño v. Jardines,* 516 Phil. 575 (2006), where it was held that legal interest begins to run from the date of receipt of the extrajudicial demand letter.

116 *So v. Food Fest Land, Inc.*, 631 Phil. 537 (2010).

rate of 1% per month, from the date of judicial demand on April 26, 2001, to the date of finality of the Court's Decision in G.R. Nos. 183628 and 183670, or on March 16, 2011. In addition, following Article 2212[117] of the Civil Code and *Lara's Gifts*, the interest due on the sum payable must itself earn legal interest or must be *compounded* from the time that it was judicially demanded by So.

Further, from August 2000 until March 31, 2001, the 1% monthly penalty charge accrued on the unpaid rentals, for a total of PHP 1,408.000. The penalty charges that were unpaid as of the filing of the Complaint in the Ejectment Case must be made subject to clause 23 of the Lease Contract, as it expressly states that "*other charges* which may be claimed against the LESSEE [Food Fest]" shall be subject to penalty charges of ONE PERCENT (1%) per month from due date." It should also be subject to compounded interest in accordance with Article 2212 of the Civil Code.

Apart from the foregoing, in the event that So is compelled to seek judicial relief against Food Fest, the lease contract included a provision for Food Fest to Pay So, *in addition to any other claim for damages*, liquidated damages and attorney's fees in the amount equivalent to 25% of the amount claimed, to wit:

> 23.1. Should LESSOR be compelled to seek judicial relief against LESSEE the latter shall, in addition to any other claim for damages pay as liquidated damages to LESSOR an amount equivalent to twenty-five percent (25%) of the amount due, but in no case less than P500.00: and an attorney's fee in the amount equivalent to 25% of the amount claimed but in no case less than P3,000.00 as well as all expenses of litigation.[118]

In the CA Decision in CA-G.R. SP No. 140181, which had already become final and executory, the CA stated that the liquidated damages and attorney's fees should be based on the total rent and penalties due until March 16, 2011, the date of the finality of the Court's Resolution in G.R. Nos. 183628 and 183670. Pertinently, Article 2226[119] in relation to Article 1226[120] of the Civil Code expressly allows the parties to stipulate on the

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117 ARTICLE 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

118 *So v. Food Fest Land, Inc.*, *supra* note 116.

119 ARTICLE 2226. Liquidated damages are those agreed upon by the parties to a contract, to be paid in case of breach thereof.

120 ARTICLE 1226. In obligations with a penal clause, the penalty shall substitute the indemnity for damages and the payment of interests in case of noncompliance, if there is no stipulation to the contrary. Nevertheless, damages shall be paid if the obligor refuses to pay the penalty or is guilty of fraud in the fulfillment of the obligation.
The penalty may be enforced only when it is demandable in accordance with the provisions of this Code.

payment of liquidated damages in the event of contractual breach, which may be imposed *in addition to* legal interests due for the purpose of strengthening the coercive force of the obligation with the threat of greater responsibility in the event of breach,[121] as in this case.

Accordingly, the judgment award to be paid by Food Fest to So is as follows:

Payable Item	Amount Due
1. Unpaid Rentals at PHP 17,600.00 per month from August 2000 to March 2001 or for a total of 8 months	PHP 17,600.00 monthly rental x 8 months PHP 140,800.00
1.1. Compensatory interest on the unpaid rentals at the rate of 1% per month from judicial demand on April 26, 2001, until finality of the Court's Resolution in G.R. Nos. 183628 and 183670 on March 16, 2011, or for a total of 120 months, with compounding of interest pursuant to Article 2212 of the Civil Code	principal of PHP 140,800.00 unpaid rentals x (1 + 1% monthly interest) $^{120\ months}$ *less* principal PHP 323,894.47
2. Penalty charges under Clause 23 of the lease contract at the rate of 1% per month for the unpaid rentals from August 2000 to March 2001, or for a total of 8 months	PHP 17,600.00 x 1% monthly interest x 8 months PHP 1,408.00
2.1. Interest on the accrued penalty on the unpaid rentals from August 2000 to March 2001, computed from judicial demand on April 26, 2001, until finality of the Court's Resolution in G.R. Nos. 183628 and 183670 on March 16, 2011, or for a total of 120 months, in accordance with Article 2212 of the Civil Code	Principal of PHP 1,408.00 penalty charges x (1 + 1% monthly interest) $^{120\ months}$ *less* principal PHP 3,238.94
TOTAL UNPAID RENTALS AND ACCRUED PENALTY CHARGES WITH COMPOUND INTEREST AS OF MARCH 16, 2011	**PHP 469,341.41**
3. Liquidated damages in the amount of 25% of the total rent and penalties due plus interest as of March	25% x PHP 469,341.41

[121] *Tan v. First Malayan Leasing and Finance Corp.*, 904 Phil. 880, 894 (2021); *Filinvest Land, Inc. v. Court of Appeals*, 507 Phil. 259, 267 (2005); *Social Security System v. Moonwalk Development and Housing Corp.*, 293 Phil. 129 (1993).

16, 2011 pursuant to Clause 23.1 of the Lease Contract	PHP 117,335.35
4. Attorney's fees in the amount of 25% of the total rent and penalties due plus interest as of March 16, 2011 pursuant to Clause 23.1 of the Lease Contract	25% x PHP 469,341.41 PHP 117,335.35
TOTAL JUDGMENT AWARD AS OF MARCH 16, 2011	Total unpaid rentals and accrued penalty charges with compound interest + liquidated damages + attorney's fees **PHP 704,012.12**

As provided in the Court's Decision and Resolution in G.R. Nos. 183628 and 183670, Food Fest must also pay So or his heirs the costs of suit.

In addition, pursuant to *Lara's Gifts* and as stated in the CA Decision in CA-G.R. SP No. 140181, the *total monetary award*, i.e., comprised of the: (1) unpaid rentals and accrued penalty charges with compound interest; (2) liquidated damages; (3) attorney's fees; and (4) costs of suit, shall itself earn legal interest at the rate of 12% per annum from finality of the Court's Resolution in G.R. Nos. 183628 and 183670 on March 16, 2011, until June 30, 2013. Thereafter, the award shall earn interest at the rate of 6% per annum from July 1, 2013 until its full payment or satisfaction.

The Court reiterates that the inclusion of the foregoing legal interests is *not* barred by immutability of judgment because they pertain to compensatory interest arising from a final judgment that is imposed by law, i.e., the Civil Code and jurisprudence.[122] Verily, the imposition of interests upon a monetary award, in accordance with and as provided in law, is only a legal and natural consequence of a final judgment.[123] The doctrine of immutability of judgment cannot preclude the application of such legal interests that are provided by statute.[124]

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122 *Consolidated Distillers of the Far East, Inc. v. Zaragoza*, 833 Phil. 888, 899 (2018); *Bani Rural Bank, Inc. v. De Guzman*, 721 Phil. 84, 104–105 (2013).

123 *Bani Rural Bank, Inc. v. De Guzman*, 721 Phil. 84, 97 (2013); *Gonzales v. Solid Cement Corp.*, 697 Phil. 619 (2012); *BPI Employees Union-Metro Manila v. Bank of the Philippine Islands*, 673 Phil. 599 (2011).

124 *Bani Rural Bank, Inc. v. De Guzman, id.*; *Gonzales v. Solid Cement Corp., id.*

As a final note, the Court stresses that the judgment would have been right away satisfied, and a decade of litigation avoided, were it not for the MeTC's fatal error in specifying the amount due to So.[125] The delay in this case was not caused by So, who has been burdened with the time and costs of an unnecessarily prolonged litigation and denied the rightful payment of what is due him for more than a decade. A contrary disposition of the present case would mean that the judgment may no longer be enforced by motion or independent action, as more than a decade had already lapsed from the time that the Court's Resolution in G.R. Nos. 183628 and 183670 became final and executory. It would be the height of injustice to sanction such a situation that leaves So and his heirs with no remedy to enforce the judgment award in their favor.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The Resolution dated February 10, 2021, and the Resolution dated June 23, 2022, of the Court of Appeals in CA-G.R. SP No. 167340 are hereby **REVERSED** and **SET ASIDE**. The Order dated March 12, 2018, of the Metropolitan Trial Court, Branch 64, Makati City, and the Resolution dated November 10, 2020, of Branch 147, Regional Trial Court, Makati City, are likewise **REVERSED** and **SET ASIDE**.

Food Fest Land, Inc. is hereby ordered to pay petitioner Daniel T. So or his heirs the following amounts:

1. Unpaid rentals from August 2000 until March 31, 2001, in the total amount of PHP 140,800.00;

    1.1. Compensatory interest on the unpaid rentals from judicial demand until finality of the Court's Decision in G.R. Nos. 183628 and 183670, with compounding of interest, in the total amount of PHP 323,894.47;

    1.2. The security deposit is forfeited in favor of Daniel T. So or his heirs;

2. Accrued penalty charges on the unpaid rentals from August 2000 until March 31, 2001, in the total amount of PHP 1,408.00;

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[125] The dispositive portion of a decision must state the exact amount due to the winning party. However, the deductions therefrom, such as taxes, as well as additions thereto, such as interests and costs of suit, being capable of exact determination without need of resorting to complex mathematical computation, need not be computed by the judge herself or himself. The sheriff who will implement the decision may compute the net amount due, considering the lawful deductions and add-ons. [*Spouses Monterola v. Caoibes, Jr.*, 429 Phil. 59 (2002)]

2.1. Interest on the accrued penalty charges from judicial demand until finality of the Court's Decision in G.R. Nos. 183628 and 183670, in the total amount of PHP 3,238.94;

3. Liquidated damages in the amount of 25% of the total unpaid rentals and penalties due as of March 16, 2011, in the amount of PHP 117,335.35;

4. Attorney's fees in the amount of 25% of the total unpaid rentals and penalties due as of March 16, 2011, in the amount of PHP 117,335.35; and

5. Costs of suit.

The total monetary awards shall earn interest of 12% per annum from finality of the Court's Decision in G.R. Nos. 183628 and 183670, or from March 16, 2011, until June 30, 2013. Thereafter, the total monetary awards shall earn interest of 6% per annum from July 1, 2013, until their full satisfaction.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

On leave
MARIA FILOMENA D. SINGH
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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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