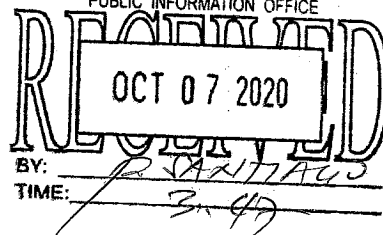




Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 15, 2020**, which reads as follows:

“G.R. No. 226436 (*Juan Pablo P. Bondoc and Paula Camille L. Bondoc v. Eduardo L. Rayo and Teresita H. Rayo*). – This is a Petition for Review on *Certiorari* seeking to annul the twin Resolutions promulgated by the Court of Appeal (CA) on November 13, 2015¹ and June 29, 2016.² In both resolutions, the CA denied the petition for *certiorari* filed by the petitioners for being a wrong remedy in assailing the orders of the Regional Trial Court, Quezon City, Branch 88 (RTC) which granted the Motion for Summary Judgment filed by herein respondents.

Antecedents

The petitioners purchased from the Philippine National Bank (PNB) a property covered by TCT No. 004-2011002766 located at 139 Scout Limbaga Street, Barangay Sacred Heart, Quezon City. The title carried an annotation of *lis pendens* referring to a civil case docketed as Civil Case No. Q02-46592³ pending before the RTC Quezon City, Branch 222, whereby the respondents sought to nullify the Extrajudicial Foreclosure Sale between the bank and Spouses Victor and Anita Garcia who allegedly assigned the property over to them.⁴ On November 15, 2005, the RTC issued an Order dismissing the complaint.⁵

On appeal, the CA rendered a May 31, 2010 Decision, declaring the foreclosure sale as null and void.⁶ Consequently, the respondents filed a

¹ *Rollo*, pp. 32-34; penned by Court of Appeals Associate Justice Romeo F. Barza (now Retired) with Associate Justices Andres B. Reyes, Jr. and Ramon Paul L. Hernando (now Members of this Court), concurring.

² *Id.* at 36-38.

³ Entitled “*Eduardo L. Rayo v. Philippine National Bank*”.

⁴ *Rollo*, p. 12.

⁵ *Id.* at 73.

⁶ *Id.* at 12.

Complaint for Reconveyance docketed as Civil Case No. Q-12-72221 which was eventually raffled to RTC Branch 88, Quezon City.⁷

During the Pre-Trial Conference, the respondents manifested that they will not present any witnesses. On March 10, 2014, the trial court issued an Order⁸ terminating the pre-trial.

On April 4, 2014, the respondents submitted their Formal Offer of Evidence together with a Motion for Summary Judgment.⁹

On August 20, 2014, Judge Rosanna Fe Romero-Maglaya (*Judge Romero-Maglaya*) issued an Order denying the Motion for Summary Judgment.¹⁰ Respondents filed a Motion for Reconsideration which was granted through the Order dated December 10, 2014.¹¹ The trial court decreed:

WHEREFORE, finding the ground to cancel the title of the [petitioners] over the subject property, [respondents'] prayer in the complaint for the cancellation of TCT No. 004-2011002766 in the names of Spouses Juan Pablo P. Bondoc and Paula Camille L. Bondoc is hereby GRANTED. However, the title to the subject property shall be reverted in the name of Anita C. Garcia, married to Victor B. Garcia, subject to all encumbrances including the real estate mortgage in favor of PNB originally annotated thereon, before the same was transferred in the name of PNB by virtue of the foreclosure sale, and without prejudice to any administrative proceedings relative to a transfer of title by virtue of the Deed of Assignment dated April 8, 2002 in favor of the [respondents].

ACCORDINGLY, summary judgment is hereby rendered:

1) Ordering the Register of Deeds of Quezon [C]ity to cancel TCT No. 004-2011002766 in the names of Spouses Juan Pablo P. Bondoc and Paula Camille L. Bondoc; and,

2) Ordering the Register of Deeds of Quezon City to revert the title to the subject property in the name of Anita C. Garcia, married to Victor B. Garcia (formerly TCT No. 113258) subject to all encumbrances including the real estate mortgage in favor of PNB originally annotated thereon, before the same was transferred in the name of PNB by virtue of the foreclosure sale, and without prejudice to any administrative proceeding relative to a transfer title by virtue of the Deed of Assignment dated April 8, 2002 in favor of the [respondents], upon payment of appropriate fees.

⁷ Id. at 12-13.

⁸ Id. at 169-170.

⁹ Id. at 144-160.

¹⁰ Id. at 171-172.

¹¹ Id. at 14.

[Respondents'] prayer for an order directing the [petitioners] to vacate and surrender the premises in question shall be considered and passed upon after a plenary trial on the issue on damages.

x x x x

[SO ORDERED.]¹²

Petitioners filed a Motion for Reconsideration, but the same was denied by the RTC through an Order rendered on June 25, 2015.¹³

Undeterred, petitioners filed a Petition for *Certiorari* with the CA.

CA Ruling

On November 13, 2015, the CA promulgated a Resolution dismissing the petition and holding that the petitioners improperly resorted to a Petition for *Certiorari* under Rule 65. The appellate court ruled that in view of the summary judgment which adjudicated on the issues raised by the parties, the appropriate remedy should be that of an ordinary appeal and not a Petition for *Certiorari*.

The petitioners filed their Motion for Reconsideration, but the CA in its Resolution dated June 29, 2016 denied said motion and maintained that the summary judgment rendered by the trial court is a final order.

Hence, this petition.

Issues

The petitioners raise the following issues:

I

WHETHER OR NOT AN ORDINARY MODE OF APPEAL IS
THE CORRECT REMEDY;

II

¹² Id. at 37-38.

¹³ Id. at 68-72.

WHETHER OR NOT RESPONDENTS' MOTION FOR SUMMARY JUDGMENT WAS PROPER UNDER A.M. NO. 11-6-10-SC OTHERWISE KNOWN AS THE GUIDELINES FOR LITIGATION IN QUEZON CITY TRIAL COURTS AND PERTINENT JURISPRUDENCE;

III

WHETHER OR NOT THE INSTANT CASE DOES NOT HAVE GENUINE ISSUES OF FACT TO BE RESOLVED IN A PROPER TRIAL PROCEEDING.¹⁴

Petitioners contend that the Order issued by the trial court is an interlocutory order which is a proper subject in a Petition for *Certiorari*; that under A.M. No. 11-6-10 ("*Guidelines for Litigation in Quezon City Trial Courts*"), a Motion for Summary Judgment should be filed before the scheduled date of pre-trial; that the respondents were barred from filing their Motion for Summary Judgment after the pre-trial had terminated; and that summary judgment is inappropriate because there remained genuine issues of fact which should be resolved by the trial court.¹⁵

On the other hand, respondents counter that a decision for summary judgment is a final order; that the proper remedy is an ordinary appeal; that the RTC took into consideration the impracticability of filing a Motion for Summary Judgment before pre-trial;¹⁶ that even if the trial court erroneously took cognizance of the subject motion, it only committed an error of judgment which may only be reviewed *via* an ordinary appeal; and that the petitioners did not interpose any genuine issue in their Answer which would necessitate a trial.¹⁷

Ruling

The petition lacks merit.

*The Orders of the RTC were final judgments
and may be challenged via an ordinary appeal*

The petitioners maintain that since their right for damages and to possession of the subject property remained unresolved, the Orders issued by

¹⁴ Id. at 15-16.

¹⁵ Id. at 16-24.

¹⁶ Id. at 209.

¹⁷ Id. at 209-210.

the RTC were not final orders but merely interlocutory which may be challenged through a Petition for *Certiorari*.¹⁸

The contention is erroneous.

An order or resolution granting a motion for summary judgment, which fully determines the rights and obligations of the parties relative to the case and leaves no other issue unresolved, except the amount of damages, is a final judgment.¹⁹ In leaving out the determination of the amount of damages, a summary judgment is not removed from the category of final judgments. Pursuant to Section 1, Rule 41 of the Rules of Court, the appropriate remedy would be that of an appeal.²⁰

In here, the trial court had adjudicated on the parties' rights over the subject property by annulling the TCT in the name of the petitioners' assignor and ordering the Registry of Deeds to revert the title in the name of the respondents' predecessor. In so ruling, the trial court had already settled the rights and obligations of the parties with respect to the contested property, and the remaining issue to be settled was the damages being claimed by the petitioners. Evidently, the petitioners erred in maintaining that the challenged orders were interlocutory which merits the filing of a Petition for *Certiorari*.

Nonetheless, We may allow a Petition for *Certiorari* despite the availability and propriety of an appeal when the challenged orders are issued with grave abuse of discretion.²¹

*The RTC did not commit grave abuse of discretion
in allowing the Motion for Summary Judgment*

The petitioners contend that the respondents' Motion for Summary Judgment was already barred for having been filed beyond the period allowed under A.M. No. 11-6-10-SC. Accordingly, a summary judgment must be rendered before trial.²²

While We agree with the petitioners' assertion, there is still no grave abuse of discretion on the part of the RTC.

¹⁸ Id. at 16-17.

¹⁹ *Trade and Investment Development Corporation of the Philippines v. Philippine Veterans Bank*, G.R. No. 233850, July 1, 2019.

²⁰ Id.; citing *Ybiernas v. Tanco-Gabaldon*, 665 Phil. 297 (2011).

²¹ See *Republic of the Philippines v. Coalbrine International Philippines, Inc.*, 631 Phil. 487 (2010).

²² *Rollo*, pp. 18-21.

This Court issued A.M. No. 11-6-10-SC on February 21, 2012, in line with its mandate of ensuring speedy disposition of cases under R.A. No. 8493 (*The Speedy Trial Act of 1998*).²³ In the said Resolution, We emphasized the instruction for the trial courts to uniformly and consistently apply and enforce the provisions of the rule, and for all practitioners in the Quezon City trial courts to observe and comply with them. The rule also provides for the period of filing a motion for summary judgment:

B. Guidelines for Civil Cases

1. *Mediation, judicial dispute resolution, preliminary conference as mandatory parts of pre-trial.* – x x x.

x x x x

2. *Motions relating to pre-trial matters.* – (a) **Motions relating to the following pre-trial matters shall be filed before the scheduled date of pre-trial, otherwise they shall be barred:**

i. **Summary judgment and judgment on the pleadings**

x x x x

(b) **The courts must resolve said motions not later than 30 days after submission. Pre-trial proper shall only be conducted after such resolution.** (emphasis supplied)

The rule is unambiguous and does not allow for exceptions. The use of the word “shall” in a statute or rule expresses what is mandatory and compulsory.²⁴ The compulsory tenor of the rule imposes an obligation on the part of the parties who intend to avail of a motion for summary judgment, and a corresponding duty on the part of the courts to resolve the motion before conducting a pre-trial.

Despite the apparent disregard by the RTC of the express prohibition against entertaining a motion for summary judgment after pre-trial, We find that such did not amount to grave abuse of discretion.

Grave abuse of discretion refers to the rendition of judgment in a capricious, whimsical or arbitrary manner tantamount to lack of jurisdiction. “Grave” connotes that the abuse of discretion is so gross and patent that

²³ *Re: Letter of Secretary Vitaliano N. Aguirre II, Department of Justice Relative to the Request of the Prosecutors League of the Philippines (PLP) and the Chief Prosecutors Association of the Philippines (CIPROSA)*, A.M. No. 18-03-09-SC, June 26, 2018.

²⁴ *Mejillano v. Lucillo*, 607 Phil. 660, 667 (2009).

amounts to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.²⁵

It is notable that in the June 25, 2015 Order,²⁶ Judge Romero-Maglaya cited the factual circumstances which led to the filing of the respondents' motion, thus:

By way of comment/opposition, [respondents] emphasized that they were required, in the course of the pre-trial, to submit a Compliance regarding their ability to personally handle the litigation, in view of their manifestation of intention to file a motion for summary judgment. x x x

x x x x

A.M. No. 11-6-10-SC bars the filing of a motion of summary judgment after the scheduled date of pre-trial. In this case, the [respondents] filed their Motion for Summary Judgment, together with their Formal Offer of Evidence.

Be that as it may, records show that during the Pre-Trial, [respondent] Eduardo L. Rayo manifested that [respondents] do not intend to present any witness and that they will just file the appropriate pleading to support their cause of action. However, the Court required him to prove his competence to represent himself per Pre-Trial Order dated February 3, 2014. On the next date set for the continuation of Pre-Trial, the parties proceeded to stipulate on facts and issues to be resolved. Thereafter, he filed a Compliance dated February 15, 2014, attaching therewith a Court of Appeals Decision dated January 13, 2005 recognizing his legal representation on his behalf. It was only after this Court's recognition of his representation that he filed the [respondent's] Motion for Summary Judgment.

Evaluating the foregoing circumstances, the Court finds the same to have justified what appears to be a belated filing of the motion for summary judgment. Besides, the Court prefers to resolve the incident on the merits rather than dwell on its technical defects.²⁷

Based on the above chronology of events, the respondents cannot be faulted for belatedly filing their Motion for Summary Judgment. For the same reason, Judge Romero-Maglaya cannot be said to have acted whimsically and arbitrarily in entertaining the belated motion filed by the respondents, or to have purposely evaded her duties pursuant to A.M. No. 11-6-10-SC. Accordingly, Judge Romero-Maglaya cannot be held liable for grave abuse of discretion.

²⁵ *Inocentes v. R. Syjuco Construction, Inc.*, G.R. No. 237020, July 29, 2019; *Sps. Chugani v. Philippine Deposit Insurance Corporation*, 828 Phil. 538 (2018).

²⁶ *Supra* note 13.

²⁷ *Rollo*, pp. 70-71.

*No genuine issues of fact remain to be resolved;
the Order of summary judgment was proper*

The petitioners posit that one of the issues identified by the trial court in the Pre-Trial Order which reads:

I

Whether or not the [respondents] have a ground to nullify TCT No. 00402011002766 and corollarily, whether or not a new title should be issued in the names of the [respondents.]

is genuine, and should be threshed out and resolved in a full-blown trial; that respondents anchored their legal personality to institute the case on a Deed of Assignment executed by their predecessor; that since the respondents failed to comment on the Pre-Trial Order, they were already estopped from claiming that their complaint does not contain genuine issues of fact; and that respondents admitted the genuine issues in their Pre-Trial Brief.²⁸

Summary judgment is a procedural device resorted to in order to avoid long drawn out litigations and useless delays where the pleadings on file show that there are no genuine issues of fact to be tried. A “genuine issue” is such issue of fact which requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim.²⁹ In *Calubaquib v. Republic*,³⁰ We explained how trial courts may determine genuine issues in this manner:

“A summary judgment is permitted only if there is no genuine issue as to any material fact and [the] moving party is entitled to a judgment as a matter of law.” The test of the propriety of rendering summary judgments is the existence of a genuine issue of fact, “as distinguished from a sham, fictitious, contrived or false claim.” “[A] factual issue raised by a party is considered as sham when by its nature it is evident that it cannot be proven or it is such that the party tendering the same has neither any sincere intention nor adequate evidence to prove it. This usually happens in denials made by defendants merely for the sake of having an issue and thereby gaining delay, taking advantage of the fact that their answers are not under oath anyway.”

²⁸ Id. at 22-24.

²⁹ *First Leverage and Services Group, Inc. v. Solid Builders, Inc.*, 690 Phil. 1, 13 (2012).

³⁰ 667 Phil. 653 (2011).

In determining the genuineness of the issues, and hence the propriety of rendering a summary judgment, **the court is obliged to carefully study and appraise, not the tenor or contents of the pleadings, but the facts alleged under oath by the parties and/or their witnesses in the affidavits that they submitted with the motion and the corresponding opposition.** Thus, it is held that, even if the pleadings on their face appear to raise issues, a summary judgment is proper so long as "the affidavits, depositions, and admissions presented by the moving party show that such issues are not genuine."³¹ (emphasis supplied)

Furthermore, for a summary judgment to proceed in lieu of a full-blown trial, the party who moves for summary judgment has the burden of demonstrating clearly the absence of genuine issues of fact, or that the issue posed is patently insubstantial as to constitute a genuine issue.³²

We concur with the ruling of the RTC that there is no genuine issue in the case at bar. Based on the stipulations and admissions made by the parties, the propriety of cancelling the subject title borne out of the void foreclosure sale is no longer an issue that needs to be resolved in a full-blown trial. We quote with approval the following observation made by the trial court:

In the case a[t] bench, the records show that there is a clear absence of a genuine factual issue. [Petitioners] have admitted in their Answer that the Court of Appeals in its Decision dated May 31, 2010 annulled the foreclosure sale due to procedural defects in the manner the property was extra-judicially foreclosed by the Philippine National Bank. They do not deny the finality of the Court of Appeals['] Decision per Entry of Judgment issued by the Supreme Court on March 9, 2011. Records further show that the parties have stipulated on the following facts:

- a) That the subject property is now registered in the names of the [petitioners] Spouses Bondoc;
- b) That they have purchased the same from the Philippine National Bank for the price of Php17,468,500.00 with a Notice of *Lis Pendens* in relation to Civil Case No. Q-02- 45692 entitled "*Eduardo L. Rayo vs. Philippine National Bank*", praying for the nullification of the Real Estate Mortgage Contract, as well as the Extra-judicial Foreclosure Sale;
- c) That the Order, granting the Demurrer to Evidence, issued by the Regional Trial Court of Quezon City, Branch 222 was appealed, reversed, and set aside by the Court of Appeals in its Decision dated May 31,

³¹ Id. at 662-663.

³² *Globe Asiatique Realty Holdings Corp. v. Union Bank of the Philippines*, G.R. No. 229339, July 29, 2019.

2010, wherein the real estate mortgage contract was declared valid while the extra-judicial foreclosure and sale conducted on September 18, 2000 were declared null and void.

From the foregoing therefore, it can be gleaned that the [petitioners] were well aware of the pendency of the case before the Court of Appeals and are thus bound by the outcome thereof. They merely stepped into the shoes of PNB, their predecessor-in-interest, insofar as title over the subject property is concerned. Hence, with the nullification of the foreclosure sale in favor of PNB by virtue of which the latter and the [petitioners] acquired title over the subject property, said title of the [petitioners] now has no leg to stand on and thus, may be cancelled.³³ (citations omitted)

WHEREFORE, the Court **DENIES** the petition for review; **AFFIRMS** the Resolutions rendered by the Court of Appeals on November 13, 2015 and June 29, 2016 in CA-G.R. SP No. 142360; and **ORDERS** the petitioners to **PAY** the costs of suit.

SO ORDERED.”

By Authority of the Court:

Misael DC Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *July 15/2020*

OCAMPO & MANALO LAW FIRM
Counsel for Petitioners
6/F, Pacific Star Bldg.
Sen. Gil Puyat cor. Makati Avenue
1200 Makati City

COURT OF APPEALS
CA G.R. SP No. 142360
1000 Manila

The Presiding Judge
REGIONAL TRIAL COURT
Branch 88, Quezon City Hall, Diliman Quezon City
(Civil Case No. Q-12-72221)

Mr. Eduardo L. Rayo and
Ms. Teresita H. Rayo
Respondents
Unit 36-B Embassy Terraces, Mira-Nila Subdivision
T.M. Kalaw Avenue corner
Congressional Avenue Extension
1107 Quezon City

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Supreme Court, Manila
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³³ Rollo, p. 66.