

VIRGINIA MAEJAN, PETITIONER, VS. THE HONORABLE JUDGE VINCENT EDEN C. PANAY, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF BAMBANG, NUEVA VIZCAYA, BRANCH 30; ...

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MACALINO, J:

On May 6, 2014, Petitioner Virginia Maejan (“Petitioner”) filed a Petition for Certiorari[1] with this Court assailing the January 27, 2014 Decision[2] (“Assailed Decision”) of the Regional Trial Court (“RTC”) of Bambang, Nueva Vizcaya, Branch 30, presided by Public Respondent Vincent Eden C. Panay (“Public Respondent”), in Civil Case No. 1006. She also filed an Amended and Supplemental Petition[3] on May 16, 2014.

The Assailed Decision dismissed Petitioner's Complaint[4] for “Declaration as Null and Void the Deed of Sale and Original Certificate of Title No. P-9341” against Private Respondent Vicenta Perez (“Private Respondent”) for Petitioner's failure to allege the assessed value of the subject lot, which would serve as the basis in determining whether the RTC has jurisdiction over the case.

In her Petition, Petitioner explained her failure to file a motion for reconsideration of the Assailed Decision by alleging that her former counsel received the same on February 10, 2014 but deliberately did not inform her of his receipt thereof and did not file a motion for reconsideration of the same. According to Petitioner, she was notified of the Assailed Decision only on April 3, 2014 upon her inquiry at her former counsel's office.[5]

Generally, certiorari as a special civil action will not lie unless a motion for reconsideration is filed before the respondent tribunal to allow it an opportunity to correct its imputed errors. One of the recognized exceptions to the rule is where the petitioner was deprived of due process and there is extreme urgency for relief.[6]

However, in *Sofio v. Valenzuela*[7], the Supreme Court reiterated the rule that a counsel's failure to file a motion for reconsideration only amounted to simple negligence, which did not necessarily deny due process to a party who had the opportunity to be heard at some point of the proceedings. Verily, so long as a party is given the opportunity to advocate her cause or defend her interest in due course, it cannot be said that there was denial of due process. Hence, the alleged simple negligence of Petitioner's former counsel cannot exempt Petitioner from the general rule.

The Supreme Court has consistently stressed the importance of the seasonable filing of a motion for reconsideration prior to filing the certiorari petition. Failure to file the motion for reconsideration would be fatal to the cause of the petitioner. Due to its extraordinary nature as a remedy, certiorari is to be availed of only when there is no appeal, or any plain, speedy or adequate remedy in the ordinary course of law. A timely filed motion for reconsideration would have been an adequate remedy in the ordinary course of law, which was not however availed of by Petitioner.[8]

In addition, Petitioner's verification and certification[9] are likewise defective for lack of competent evidence of her identity, as well as the notary public's serial number of his notarial commission, place of commission and

office address, which are requirements under the 2004 Rules on Notarial Practice. While this Court may order the correction of the said defects, the instant Petition still fails on the merits.

Petitioner argues that her failure to allege the assessed value of the subject lot in the Complaint does not ipso facto give the RTC the authority to dismiss a complaint if it could determine its assessed value through some other evidence such as: (1) the memorandum of encumbrances[10] in OCT No. P-9341 stating that the subject property was used as a security for a loan worth PhP50,000.00; and (2) Private Respondent's Deed of Conventional Redemption[11] in which the subject property secured a loan in the amount of PhP200,000.00.

In no uncertain terms, the Supreme Court has already held that a complaint must allege the assessed value of the real property subject of the complaint or the interest thereon to determine which court has jurisdiction over the action.[12] Accordingly, the jurisdictional element is the assessed value of the property. Assessed value is understood to be "the worth or value of property established by taxing authorities on the basis of which the tax rate is applied. Commonly, however, it does not represent the true or market value of the property." [13] Since the documents alluded to by Petitioner do not mention the assessed value of the subject lot, they are insufficient to establish whether the RTC has jurisdiction over the case. Indeed, absent any allegation in the complaint of the assessed value of the property, it cannot readily be determined which of the two trial courts (the MTC or the RTC) had original and exclusive jurisdiction over the case.[14]

At any rate, since the RTC's dismissal of Petitioner's Complaint was grounded on lack of jurisdiction over the subject matter, the same was a dismissal without prejudice which does not preclude the refiling of the same action with the proper court.[15]

WHEREFORE, premises considered, the instant Petition is hereby DISMISSED.

SO ORDERED.

Villon (Chairperson) and Corales, JJ., concur.

[1] Rollo, pp. 3-19.

[2] Id., pp. 20-48.

[3] Id., pp. 81-109.

[4] Id., pp. 49-52.

[5] Id., pp. 9-10; p. 87.

[6] Merck Sharp and Dohme (Philippines) v. Robles, G.R. No. 176506, November 25, 2009.

[7] G.R. No. 157810, February 15, 2012.

[8] Lepanto Consolidated Mining Company v. The Lepanto Capataz Union, G.R. No. 157086, February 18, 2013.

[9] Rollo, pp. 18-19.

[10] Id., p. 78-a.

[11] Id., p. 79.

[12] Padlan v. Dinglasan, G.R. No. 180321, March 20, 2013.

[13] Vda. De Barrera v. Heirs of Vicente Legaspi, G.R. No. 174346, September 12, 2008.

[14] Quinagoran v. Court of Appeals, G.R. No. 155179, 24 August 2007.

[15] See Strongworld Construction Corporation v. Hon. N.C. Perello, G.R. No. 148026, July 27, 2006.

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