

**SPOUSES JOSE MACARIO LAZARO AND FLORDELIZA D. LAZARO,
REPRESENTED BY THEIR ATTORNEY-IN-FACT, CARMELITA D.
PERALTA, PLAINTIFFS-APPELLEES, V. BEATRIZ MAHINAY, WILLIAM
FUNGO, MAURO...**

Ponente: BARZA, J.

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BARZA, J.:

On appeal before this Court is the Judgment rendered on the basis of a compromise agreement by the Regional Trial Court of Quezon City, Branch 76 (hereinafter referred to as “RTC”) in Civil Case No. Q-07-59644 dated April 20, 2010. The dispositive portion of the said Decision states as follows:

“WHEREFORE, judgment is rendered in accordance with the said compromise agreement. The parties are hereby directed to comply strictly and faithfully with the terms and conditions thereof.

SO ORDERED.[1]

THE FACTS

The present case stemmed from a Complaint[2] for Recovery of Possession of real property filed by herein plaintiffs-appellees, Spouses Jose Macario and Flordeliza Lazaro (Spouses Lazaro), through their attorney-in fact[3] Carmelita D. Peralta, wherein they sought to oust herein defendants-appellants Beatriz Mahinay, William Fungo, Mauro Payos, Wenceslao Selma, Feliciano Vidal, Allan Allolor, Genes Torres, Marino Aquino, Shirley Labayen, Braulio Payos and Babelonia Dacuyam (hereinafter collectively referred to as “defendants-appellants”) from their possession of a 20,513-square meter parcel of land (subject property) covered by Transfer Certificate of Title (TCT) No. N-207109[4] of the Register of Deeds of Quezon City, registered under the name of the Spouses Lazaro.

In the said complaint, the Spouses Lazaro alleged that they are the owners of the subject property by virtue of a Deed of Sale[5] executed in their favor by the previous owner of the property, a certain Ms. Amparo Ramos (Amparo). At the time of the sale thereof, several families, including herein defendants-appellants, were already occupying the subject property without the knowledge and consent of Amparo. Most of them, however, moved out of the subject property after the spouses offered to shoulder their expenses for relocating.

The defendants-appellants, however, refused the offer of the Spouses Lazaro and allegedly demanded that the land on which their houses stood made of light materials be given to them for free. The Spouses Lazaro were thus constrained to file the above-mentioned complaint against them on January 3, 2007, which was thereafter raffled to the court a quo and docketed as Civil Case No. Q-07-59644.

On April 14, 2010, the parties filed before the RTC a Joint Manifestation[6] informing the court a quo that they have entered into a Compromise Agreement[7] and ask that the same be approved. One of the matters agreed upon in the said agreement was that the defendants-appellants shall be given a grace period of two months from

the approval of the compromise agreement to vacate the subject property.

Finding the terms and conditions thereof to be not contrary to law, morals, good customs and public policy, the RTC approved the same on April 20, 2010, which is now being assailed in this appeal.

However, despite their agreement to vacate the subject property and remove their houses thereon within two months from the approval of the compromise agreement on April 20, 2010, the defendants-appellants refused to vacate the subject property thereby forcing the Spouses Lazaro to file a Motion for Execution of Judgment before the RTC praying for the issuance of a writ of execution to enforce its April 20, 2010 Judgment.

On July 3, 2010, the defendants-appellants, in turn, filed a Motion to Set Aside Judgment[8] seeking to set aside the April 20, 2010 Judgment of the RTC by claiming they were misled by their former counsel, Atty. Ernesto Jacinto, into signing the Compromise Agreement on which the said judgment of the RTC was based.

In its Order[9] dated April 25, 2011, the RTC granted the Spouses Lazaro's prayer for the issuance of a writ of execution and denied Defendants-appellants Motion to Set Aside Judgment, viz:

“WHEREFORE, the Court resolves to:

1. Order the issuance of a writ of execution;
2. Not to give cognizance to the MOTION TO SET ASIDE JUDGMENT dated July 1, 2010; and
3. Grant plaintiff's motion not to give due course to the MOTION TO SET ASIDE JUDGMENT.”

Pursuant to this order, a writ of execution was issued addressed to Branch Sheriff Andrew B. Alviar, directing him to implement the April 20, 2010 judgment of the RTC.

On June 17, 2011, defendants-appellants filed a Motion to Suspend Execution of Notice to Vacate[10] seeking for the stay of the execution of the April 20, 2010 judgment of the RTC on the ground of a prejudicial question contending that they have filed on August 9, 2010 a Complaint for Annulment of Compromise Judgment[11] before Branch 105 of the Regional Trial Court of Quezon City, which was docketed as Civil Case No. Q-10-67674, to annul the compromise agreement entered into by them and the Spouses Lazaro on the ground that their signatures therein were forged.

On November 8, 2011, a new counsel for the defendants-appellants, Atty. Casan B. Macabanding, filed an Entry of Appearance with Urgent Motion to Extend Period to file a Motion for Reconsideration in Civil Case No. Q-07-59644 and for the consolidation of the same with Civil Case No. Q-10-67674.

Thereafter, on November 14, 2011, the defendants-appellants, through said counsel, filed a “Motion for Reconsideration with Prayer to Consolidate Hearing with Civil Case No. Q-10-67674, RTC, Branch 105 of these Honorable Court”[12] seeking for the consolidation of the case for Recovery of Possession (Civil Case No. Q-07-59644) with the case for the Annulment of the Compromise Agreement (Civil Case No. Q-10-67674).

On November 18, 2011, the Spouses Lazaro filed a “Motion to Demolish Illegally Constructed Defendant's Houses”[13] to demolish the houses of defendants-appellants on the subject property.

In its Order[14] dated March 19, 2012, the RTC (a) denied defendants-appellants' Motion to Suspend Execution and Notice to Vacate; (b) did not give due course to defendants-appellants' Motion to Extend Period to File A Motion for Reconsideration and Motion to Consolidate with Civil Case No. Q-10-67674; (c) did not give due course to Defendants-Appellants' Motion for Reconsideration with Prayer to Consolidate Hearing with Civil Case No. Q-10-67674; and (d) denied the Spouses Lazaro's Motion to demolish the houses of defendants-appellants.

Hence, the present appeal filed by the defendants-appellants assailing the April 20, 2010 Judgment of the RTC.

ISSUES

Defendants-Appellants raise the following issues for Our Resolution, to wit:

I

WHETHER OR NOT, THE FACT THAT PLAINTIFF-APPELLEE'S LAND AS INDICATED IN THEIR TITLE, TCT NO. N-207109 THAT HAD SOURCED (sic) ON DECREE NO. 4974 (sic) WAS LOCATED IN OZAMIS CITY, CAN PLAINTIFF-APPELLEE'S (sic) FILE A COMPLAINT CLAIMING THE LAND OCCUPIED BY THE DEFENDANT-APPELLANT (sic) IN QUEZON CITY (sic) TO BE THEIR LAND.?(sic)

II

WHETHER OR NOT, THE CFI DECISION ON DECREE NO. 4974 AND THE SUCCESSIVE DECISION ON THE COMPLAINT OF AMPARO RAMOS FILED AT MCTC BRANCH 42- QUEZON CITY IN CIVIL CASE NO. 18883 FOR EJECTMENT AND THE RTC BRANCH 80 DECISION IN Q-98-35467 ON THE APPEAL OF AMPARO RAMOS IS BINDING AGAINST THE PLAINTIFF-APPELLEE'S (sic) BEING SUCCESSOR-IN-INTEREST (sic) ON THE TITLE OF AMPARO RAMOS, TCT NO. RT-115851 (152622) THAT WAS TRANSFERRED TO PLAINTIFF-APPELLEE (sic) AS TCT NO. N-207109.? (sic)

III

WHETHER OR NOT THE COMPROMISED (sic) AGREEMENT ILLEGALLY MADE BY ATTY. ERNESTO JACINTO AND (sic) FORGING THE SIGNATURE OF THE INDIVIDUAL DEFENDANT-APPELLANT (sic) THAT WAS APPROVED BY THE LOWER COURT CAN AMEND AND SET ASIDE THE PREVIOUS CFI DECISION ON THE (sic) DECREE NO. 4974 AND THE PREVIOUS RTC DECISION IN Q-98-35467 AND BECOME BINDING ON THE DEFENDANT-APPELLANT(sic).?(sic)[15]

RULING OF THE COURT

The appeal is not meritorious.

After perusing the appeal made by the defendants-appellants, We find the same should be dismissed on account of several technical infirmities.

The appellant's brief is defective

First among the procedural rules violated by defendants-appellants is Sec.13 of Rule 44 of the Rules of Court which enumerates what should be contained in an appellant's brief, viz:

“Sec. 13. Contents of appellant’s brief. - The appellant’s brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

(b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;

(c) Under the heading ‘Statement of the Case,’ a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;

(d) Under the heading ‘Statement of Facts,’ a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;

(e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;

(f) Under the heading ‘Argument,’ the appellant’s arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;

(g) Under the heading ‘Relief,’ a specification of the order or judgment which the appellant seeks; and

(h) In cases not brought up by record on appeal, the appellant’s brief shall contain, as an appendix, a copy of the judgment or final order appealed from.”

In the present case, an examination of the appellant’s brief of the defendants-appellants shows that the same failed to comply with Section 13 of Rule 44 in the following instances:

- There is no subject index of the matters alleged in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited as required under par. (a);
- There is no “Statement of the Case” containing a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record as required under par. (c);
- Under the heading “Statement of the Facts,” there is no clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record as required under par. (d);
- Under the heading “Argument,” there is no page reference to the record as required under par. (f).

Section 1(f) of Rule 50 of the Rules of Court provides that an appeal may be dismissed by this court for failure to comply with Sec.13 of Rule 44, viz:

“SEC. 1. Grounds for dismissal of appeal. – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

xxx xxx xxx

(f) Absence of specific assignment of errors in the appellant’s brief or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44;”

Consequently, for failing to comply with Section 13, Rule 44 of the Rules of Court, We find the instant petition should be dismissed. This Court has to stress that adherence by the parties to the formal requirements stated under the Rules of Court should never be taken lightly for they serve a purpose. This was explained by the High Court in the case of *De Liano v. Court of Appeals*[16] when it upheld the dismissal of an appeal for failure of the appellant’s brief to contain a subject index and a table of cases and authorities with page reference, viz:

“Relative thereto, Section 13, Rule 44 of the Revised Rules of Court governs the format to be followed by the appellant in drafting his brief, as follows:

x x x x

This particular rule was instituted with reason, and most certainly, it was not intended to become ‘a custom more honored in the breach than in the observance.’ It has its logic, which is to present to the appellate court in the most helpful light, the factual and legal antecedents of a case on appeal.

The first requirement of an appellant's brief is a subject index. The index is intended to facilitate the review of appeals by providing ready reference, functioning much like a table of contents. Unlike in other jurisdiction, there is no limit on the length of appeal briefs or appeal memoranda filed before appellate courts. The danger of this is the very real possibility that the reviewing tribunal will be swamped with voluminous documents. This occurs even though the rules consistently urge the parties to be "brief" or "concise" in the drafting of pleadings, briefs, and other papers to be filed in court. The subject index makes readily available at one's fingertips the subject of the contents of the brief so that the need to thumb through the brief page after page to locate a party's arguments, or a particular citation, or whatever else needs to be found and considered, is obviated.

x x x x

Some may argue that adherence to these formal requirements serves but a meaningless purpose, that these may be ignored with little risk in the smug certainty that liberality in the application of procedural rules can always be relied upon to remedy the infirmities. This misses the point. We are not martinets; in appropriate instances, we are prepared to listen to reason, and to give relief as the circumstances may warrant. However, when the error relates to something so elementary as to be inexcusable, our discretion becomes nothing more than an exercise in frustration. It comes as an unpleasant shock to us that the contents of an appellant's brief should still be raised as an issue now. There is nothing arcane or novel about the provisions of Section 13, Rule 44. The rule governing the contents of appellants' briefs has existed since the old Rules of Court, which took effect on July 1, 1940, as well as the Revised Rules of Court, which took effect on January 1, 1964, until they were superseded by the present 1997 Rules of Civil Procedure. The provisions were substantially preserved, with few revisions.”

Highlighting just how important compliance with Section 13 of Rule 44 is in relation to Section 1(f) of Rule 50 of the Rules of Court, the above ruling in *De Liano* was repeated by the High Court in the case of *Estate of Tarcila Vda. de Villegas v. Gaboya*[17] when it held as proper the dismissal of an appeal for failure of the appellant's brief to likewise comply with Sec.13 (a) (c) and (d) of Rule 44, viz:

“Petitioner contends that it has substantially complied with the requirements of Sec. 13 (a), (c) and (d), Rule 44 of the Rules of Civil Procedure. It prays for a liberal construction of the Rules in accordance with Sec. 6, Rule 1 of the Rules of Court in order to promote its objective of securing a just, speedy and inexpensive determination of every action and proceeding.

An examination of the Appellant's Brief shows that, indeed, petitioner failed to comply with the requirements of Sec. 13 (a), (c) and (d), Rule 44 of the Rules of Civil Procedure, which provides:

x x x x

The Appellant's Brief does not have a subject index of the matter in the brief as specified in Sec. 13 (a), Rule 44 of the Rules of Court. Moreover, the Statement of the Case has no statement of the summary of the proceedings, the appealed rulings and orders of the court, with page references to the record as required by Sec. 13 (c), Rule 44 of the Rules of Court. Further, the Appellant's Brief has no portion entitled “Statement of Facts,” and, therefore, no clear and concise statement in narrative form of the facts admitted by both parties

and those in controversy, with page references to the record, in violation of Sec. 13 (d), Rule 44 of the Rules of Court.

The Court of Appeals was, therefore, justified in dismissing the appeal under Sec. 1 (f), Rule 50 of the Rules of Court x x x”

Finally, in *Mendoza v. United Coconut Planters Bank*,^[18] the Supreme Court also upheld the dismissal of an appeal for failure of the appellant’s brief to contain a subject index, an assignment of errors, and page references to the record in the Statement of Facts.

Defendants-appellants' Motion for Reconsideration and Notice of Appeal was filed out of time.

The second and more important reason to dismiss the present appeal filed by the defendants-appellants is because it was filed out of time.

Before going, however, into a discussion of such topic, it is necessary first to explain the proper remedy by which a party, who believes his consent in a compromise agreement was vitiated, may assail the same. Such matter was succinctly explained by the Supreme Court in the case of *Domingo Realty Inc. v. Court of Appeals*,^[19] viz:

“There is no question that a contract where the consent is given through mistake, violence, intimidation, undue influence, or fraud is voidable under Article 1330 of the Civil Code. If the contract assumes the form of a Compromise Agreement between the parties in a civil case, then a judgment rendered on the basis of such covenant is final, unappealable, and immediately executory. If one of the parties claims that his consent was obtained through fraud, mistake, or duress, he must file a motion with the trial court that approved the compromise agreement to reconsider the judgment and nullify or set aside said contract on any of the said grounds for annulment of contract within 15 days from notice of judgment. Under Rule 37, said party can either file a motion for new trial or reconsideration. A party can file a motion for new trial based on fraud, accident or mistake, excusable negligence, or newly discovered evidence.

On the other hand, a party may decide to seek the recall or modification of the judgment by means of a motion for reconsideration on the ground that 'the decision or final order is contrary to law' if the consent was procured through fraud, mistake, or duress. Thus, the motion for a new trial or motion for reconsideration is the readily available remedy for a party to challenge a judgment if the 15-day period from receipt of judgment for taking an appeal has not yet expired. This motion is the most plain, speedy, and adequate remedy in law to assail a judgment based on a compromise agreement which, even if it is immediately executory, can still be annulled for vices of consent or forgery.

Prior to the effectivity of the 1997 Rules of Civil Procedure on July 1, 1997, an order denying a motion for new trial or reconsideration was not appealable since the judgment in the case is not yet final. The remedy is to appeal from the challenged decision and the denial of the motion for reconsideration or new trial is assigned as an error in the appeal. Under the present [1997] Rules of Civil Procedure, the same rule was maintained that the order denying said motion is still unappealable and the rule is still to appeal from the judgment and not from the order rejecting the motion for reconsideration/new trial.

If the 15-day period for taking an appeal has lapsed, then the aggrieved party can avail of Rule 38 by filing a petition for relief from judgment which should be done within 60 days after the petitioner learns of the judgment, but not more than six (6) months after such judgment or final order was entered. x x x Under the 1997 Rules of Civil Procedure, the aggrieved party can no longer appeal from the order denying the petition since this is proscribed under Section 1 of Rule 41. The remedy of the party is to file a special civil action for certiorari under Rule 65 from the order rejecting the petition for relief from judgment.

Based on the foregoing, to assail a judgment based on a compromise agreement on the ground of fraud, a party can either a) file a motion for new trial or reconsideration within 15 days from notice of the judgment being

sought to be assailed or if the said period has already lapsed, b) by filing a petition for relief from judgment under Rule 38 which should be filed within 60 days after the petitioner learns of the judgment sought to be assailed, but not more than six (6) months after such judgment or final order was entered. In the event the motion for reconsideration filed was denied, the remedy of the party is to appeal from the judgment and not from the order rejecting the motion for reconsideration. If a petition for relief from judgment on the other hand was filed and denied, the remedy of the party is to file a special civil action for certiorari under Rule 65 from the order rejecting the petition for relief from judgment.

Here, the defendants-appellants resorted to filing a Motion to Set Aside Judgment on July 3, 2010 to assail the Judgment of the RTC dated April 20, 2010. Assuming the said motion can be treated as the Motion for Reconsideration/New Trial mentioned above by the Supreme Court to properly assail a judgment based on a compromise agreement, it is nonetheless clear the same has been filed out of time as the said motion has been filed more than two months from notice of the judgment it seeks to assail.

The records of the case show that the defendants-appellants' Motion to Set Aside Judgment was not given due course by the RTC in its Order[20] dated April 25, 2011. As explained above, the proper course of action for the defendants-appellants now is to appeal the judgment rendered by the RTC based on their compromise agreement.

Section 3, paragraph 2 of Rule 41 prescribes the period for filing an appeal, viz:

Section 3. Period of ordinary appeal. — The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.

Assuming arguendo that the motion for reconsideration filed by the defendants-appellants was timely filed, the same had the effect of interrupting the period to appeal. Thus, the reckoning period for filing an appeal should be made from the date of the receipt by the defendants-appellants of the RTC Order denying their Motion to Set Aside Judgment.

While the records do not show exactly when the defendants-appellants received a copy of the April 25, 2011 Order of the RTC denying their Motion to Set Aside Judgment, it nevertheless appears they acquired actual knowledge of the same on June 14, 2011 when they were personally served by the Branch Sheriff of the RTC of the Notice to Vacate and Writ of Execution issued by the RTC by virtue of its April 25, 2011 Order.[21]

Hence, the defendants-appellants have fifteen days from June 14, 2011 or until June 29, 2011 within which to file their appeal.

However, instead of filing their Notice of Appeal within the said period, the defendants-appellants instead filed a Motion to Suspend Execution of Notice to Vacate which was thereafter denied by the RTC in its Order on March 19, 2012.

It was only then that the defendants-appellants filed their Notice of Appeal on April 27, 2012.

As aptly pointed out by the Spouses Lazaro, it took the defendants-appellants almost one year from the time they received knowledge of the Order of the RTC denying their Motion to Set Aside Judgment on June 14, 2011 to file their appeal thereto. Hence, it clearly appears the said appeal was filed beyond the fifteen day period to file the same as stated under Section 3, Rule 41 of the Rules of Court. Consequently, the instant appeal should be dismissed pursuant to Section 1(b), Rule 50[22] of the said Rules.

The right to appeal is neither a natural right nor a component of due process. Being a mere statutory privilege, it must be exercised only in the manner and in accordance with the provisions of law.[23] With the glaring violations committed here by the defendants-appellants in relation to their appeal, We have no choice but to order the dismissal of the same.

WHEREFORE, the foregoing considered, the appeal is hereby DISMISSED.

SO ORDERED.

Abdulwahid (Chairperson) and Cruz, JJ., concur.

[1] Records, p. 137.

[2] Rollo, pp. 113-119.

[3] Records, p. 7.

[4] Records, p. 21

[5] Records, p. 19.

[6] Records, p. 134.

[7] Records, pp. 135-136.

[8] Records, pp. 143-144.

[9] Records, p. 162.

[10] Records, pp. 163-166.

[11] Records, pp. 167-170.

[12] Records, pp. 193-205.

[13] Records, pp. 207-208.

[14] Records, pp. 215-216.

[15] Rollo, p.15.

[16] G.R. No. 142316, November 22, 2001.

[17] G.R. No. 143006, July 14, 2006.

[18] G.R. No. 165575, February 2, 2011.

[19] G.R. No. 126236, January 26, 2007.

[20] Supra, note 8.

[21] Records, p.183.

[22] Section 1. Grounds for dismissal of appeal. — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(b) Failure to file the notice of appeal or the record on appeal within the period prescribed by these Rules;

x x x x

[23] Boardwalk Business Ventures v. Villareal, G.R. No. 181182, April 10, 2013.

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