

PHILIPPINE VETERANS BANK, PETITIONER, VS. HON. MATIAS M. GARCIA II IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 19, REGIONAL TRIAL COURT OF BACOR, CAVITE, METRO ALLIANCE HOLDIN...

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GALAPATE-LAGUILLES, J:

Before Us is a Petition for Certiorari assailing the twin Orders dated October 4, 2013[1] and October 23, 2014[2] of the Regional Trial Court, Branch 19, of Bacoor City, Cavite, denying Philippine Veterans Bank's Motion to Lift Order of Default[3] and Motion for Reconsideration, respectively, in Civil Case No. BCV 2011-175.

At first glance, We dismiss the Petition outright based on procedural infirmity. The petitioner failed to attach the original or certified true copies of the assailed Orders as well as the Motion for Reconsideration of the Order dated October 4, 2013, in direct contravention of Section 3, Rule 46 of the Revised Rules of Court, viz:

Sec. 3. Contents and filing of petition; effect of non-compliance with requirements. xxx

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative. xxx

xxx

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

Petitioner is reminded that only petitions which are accompanied by or which comply strictly with the requirements specified under the above-mentioned rule shall be entertained. In *Pet Plans, Inc., et al v. Court of Appeals*,[4] the Supreme Court emphasized the importance of strict observance of the rules of procedure to ensure the orderly and speedy administration of justice, thus:

xxx[S]ettled is the rule that save for the most persuasive of reasons, strict compliance with procedural rules is enjoined to facilitate the orderly administration of justice. The liberality in the application of rules of procedure may not be invoked if it will result in the wanton disregard of the rules or cause needless delay in the administration of justice. Indeed, it cannot be gainsaid that obedience to the requirements of procedural rule is needed if we are to expect fair results therefrom.

At any rate, We find no grave abuse of discretion on the part of the respondent judge in denying petitioner's Motion to Lift Order of Default as well as its Motion for Reconsideration. The records show that petitioner filed a Motion to Dismiss the private respondents' Complaint in Civil Case No. BCV 2011-175, which the trial court denied in an Order dated February 6, 2012. The petitioner sought reconsideration but the same was also denied

per Order dated October 17, 2012. Consequently, without filing an Answer to the Complaint, the petitioner assailed the denial of its Motion to Dismiss via Petition for Certiorari, docketed as CA-G.R. No. 127699, filed before this Court on November 27, 2012. Meantime, no temporary restraining order or an injunctive writ was issued in CA-G.R. No. 127699 enjoining the suspension of the proceedings before the trial court.[5] Accordingly, petitioner bank should have complied with the rule enunciated under Section 4, Rule 16, to wit:

Sec. 4. Time to plead. - If the motion is denied, the movant shall file his answer within the balance of the period prescribed by Rule 11 to which he was entitled at the time of serving his motion, but not less than five (5) days in any event, computed from his receipt of the notice of the denial. If the pleading is ordered to be amended, he shall file his answer within the period prescribed by Rule 11 counted from service of amended pleading, unless the court provides a longer period.

Again, petitioner was unable to file an Answer within the period prescribed by the rules.[6] Hence, on February 4, 2014, the private respondents filed a Motion to Declare Defendant in Default[7] to which the petitioner filed its Comment[8] on February 5, 2013 with the attached Motion to Admit Attached Answer AD CAUTELAM.[9] Indeed, the filing of the Answer AD CAUTELAM could no longer aid the petitioner in its bid to participate in the proceedings before the trial court because the said Answer was filed beyond the reglementary period. Accordingly, the trial court properly declared petitioner in default in pursuance to Section 3, Rule 9.[10]

Furthermore, the petitioner miserably failed to justify its failure to file Answer on time. Its Motion to Lift Order of Default did not allege any fact that the non-filing of the required responsive pleading was due to the grounds of fraud, accident, mistake or excusable negligence. Instead, the petitioner latched on the propriety of the trial court Order denying its Motion to Dismiss the private respondents' Complaint in Civil Case No. BCV 2011-175. Consequently, the trial court did not err, much more committed grave abuse of discretion, when it denied petitioner's Motion to Lift Order of Default and Motion for Reconsideration.

We reiterate the jurisprudential precept that certiorari is a remedy designed for the correction of errors of jurisdiction or grave abuse of discretion. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction. It connotes exercise of power in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.[11] We find none in this case.

IN VIEW OF THE FOREGOING, the instant Petition for Certiorari is DISMISSED.

SO ORDERED.

[*]Ybañez, E. A., Acting Chairperson and Macalino, F. S., J.J., concur.

[*] Vice J. Punzalan Castillo, M.P., per Office Order No. 33-15-ABR dated January 30, 2015

[1] Rollo, p. 37.

[2] Id., p. 38.

[3] Id., pp. 316-320.

[4] G.R. No. 148287, November 23, 2004 citing *El Reyno Homes, Inc. v Ong*, 397 SCRA 563, 570 (2003) and *Mariveles Shipyard Corp. v Court of Appeals*, 415 SCRA 573, 584 (2003).

[5] The petitioner was dismissed by this Court's former Fourteenth Division in its Decision dated October 25, 2013.

Rollo, pp. 295-301.

[6] In its Motion to Lift Order of Default, petitioner bank admitted that it only filed its Answer after it “discovered its failure to file on time its answer to the complaint.” Id., p. 316.

[7] Id., pp. 256-257.

[8] Id., pp. 306-308.

[9] Id., pp. 309-315.

[10] Sec. 3. Default; declaration of. If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court. xxx

[11] Tagle v. Equitable PCI Bank, G.R. No. 172299, April 22, 2008.

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