

ELENA LUBRICO-TAPANGAN, PETITIONER, VS. HON. CESAR MANUEL U. CADIZ JR., BRANCH 36 OF THE REGIONAL TRIAL COURT OF NEGROS ORIENTAL, AGAPITA TUMLAD AND PABLO TUMLAD, RESPONDENTS.

Ponente: LAGURA-YAP, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/21a4e7070439/>

LAGURA-YAP, J.:

Before this Court is a Petition for Annulment of Judgment[1], under Rule 47 of the Rules of Court seeking to annul the Decision[2] dated April 5, 2004 rendered by the Regional Trial Court (RTC), Dumaguete City, Branch 36, the fallo whereof reads:

“WHEREFORE, premises considered, judgment is hereby rendered.

1. Declaring Certificate of Title No. FV-13-11330 covering Lot No. 11 GSS 615 in the name of Beatriz Pal-ing Tumlad as Null and Void.
2. Ordering defendants to deliver Lot No. 3 GSS-615 declared in the name of Mansueto Tumlad under Tax Declaration 4539[3] to plaintiffs.
3. Declaring null and void TCT over No. 10 GSS-615 registered in the name of Rogelio Tapangan null and void and ordering the latter to deliver said lot to plaintiffs.
4. Further ordering defendants Tumlad and Spouses Marcelino and Julieta Toralde to solidarily pay plaintiffs:
 - a. the amount of P50,000.00 representing actual damages or lost of income from Lot Nos. 3, 10, 11 GSS 615;
 - b. the amount of P20,000.00 as moral damages;
 - c. the amount of P15,000.00 as attorney's fees;
 - d. and P10,000.00 as exemplary damage.

SO ORDERED.”

Factual Antecedents

Stripped of the non-essentials, the facts are as follows:

Petitioner, Elena Lubrico-Tapangan filed a Petition for Annulment of Judgment[4] with prayer for issuance of a Temporary Restraining Order and Preliminary Prohibitory Injunction dated September 25, 2007, against respondents, Hon. Cesar Manuel U. Cadiz, Judge of RTC, Dumaguete City, Branch 36 (public respondent), Agapita Tumlad and Pablo Tumlad (private respondents).

Petitioner, averred in the petition that she is a retired public school teacher who married Rogelio Tapangan (Rogelio) on December 21, 1968[5]. To cushion the impact of their growing old age as well as her retirement from public service, the petitioner and her husband bought a parcel of land identified as Lot No. 10, GSS-615 on

June 21, 1982. The property is located at Bayawan City, Negros Oriental with an area of 82,042 sq. m. more or less. They bought the land from a certain Juliana Torres who was its registered owner as indicated by her Original Certificate of Title (OCT) No. FV-9858 issued on 27 October 1970. Her title also appeared to have been issued on the basis of a Free Patent issued on September 25, 1970. By virtue of the sale, the petitioner and her husband obtained in their favor Transfer Certificate of Title (TCT) No. No. FT-4240[6] issued on July 26, 1982. Immediately after the sale, the couple took possession of the subject land and planted thereon 300 mango and other trees.[7]

On February 5, 2005, in Bayawan City, the petitioner was with her husband, Rogelio when the latter received a copy of a writ of execution directing the provincial sheriff to execute a Decision[8] rendered by the public respondent dated April 5, 2004, which inter alia declared as null and void the TCT over Lot No. 10 GSS-615 registered in the name of Rogelio. It likewise ordered Rogelio to deliver the lot to the private respondents.[9]

Thus, petitioner who is the wife of Rogelio and allegedly not a party in the civil case before the RTC filed this case praying[10] for the annulment of the RTC's decision on the ground of lack of jurisdiction.

On November 20, 2007, this Court issued a Resolution[11] dismissing the case and denying petitioner's prayer for injunctive relief.

Petitioner filed a Motion for Reconsideration[12] which was granted by this Court in a Resolution[13] rendered on September 3, 2008 reinstating the instant case and directed the Court's Division Clerk of Court to issue summonses.

After the summons were issued, the private respondents through their counsel Atty. Enrique S. Empleo filed their Answer[14] to the petition on October 6, 2008.

As an affirmative defense the private respondents asserted that issue of jurisdiction was never raised by the parties in Civil Case No. 10473 including petitioner's husband, Rogelio. The petitioner did not intervene in the said case despite her obvious knowledge thereto considering that it was filed against her husband. The private respondents admitted that the petitioner's husband filed a petition for relief of judgment in Civil Case No. 10473 but they averred that it was filed only on February 18, 2005 or more than nine months after the Tapangans' lawyer received the Decision on April 23, 2004. Further, private respondents alleged that after Rogelio's petition for relief of judgment was denied by the RTC he also filed before this Court a Petition for Certiorari under Rule 65 of the Rules of Court dated August 28, 2007, docketed as CA-G.R. SP No. 02957, likewise against respondents Hon. Cesar Manuel U. Cadiz, Jr., Agapita Tumlad and Pablo Tumlad. Lastly, the private respondents insist that petitioner's husband was never deprived of the remedy of appeal but he lost it due to his counsel's inexcusable negligence.[15]

On June 13, 2011, the Court rendered a Resolution[16] directing the parties to submit simultaneous memoranda of authorities in amplification/support of their respective positions within fifteen days from notice. However, the Judicial Records Division's verification report[17] dated January 27, 2012, revealed that none of the parties submitted their memorandum. Hence, the Court declared the instant case as submitted for decision per Resolution[18] dated April 29, 2013.

On June 9, 2013, Atty. Jose G. Hernando filed a Motion to Withdraw Appearance[19] with the conformity of the private respondents.

ISSUE

The sole issue that should be resolved in this case is:

WHETHER OR NOT THE DECISION OF THE REGIONAL TRIAL COURT DATED APRIL 5, 2004, BE ANNULLED ON THE GROUND OF LACK OF JURISDICTION.

The Ruling of this Court

The petition is bereft of merit.

Significantly, Sec. 1, Rule 47 of the Rules of Court provides:

“Sec. 1. Coverage. - This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. (Emphasis Ours)

In the case of *Dare Adventure Farm Corp. v. Hon. Court of Appeals*[20], the Supreme Court illustrates the nature of a petition for annulment of judgment, thus:

“A petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud. Yet, the remedy, being exceptional in character, is not allowed to be so easily and readily abused by parties aggrieved by the final judgments, orders or resolutions. The Court has thus instituted safeguards by limiting the grounds for the annulment to lack of jurisdiction and extrinsic fraud, and by prescribing in Section 1 of Rule 47 of the Rules of Court that the petitioner should show that the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. A petition for annulment that ignores or disregards any of the safeguards cannot prosper.” (Emphasis Ours)

In this case, the petitioner failed to prove the essential element that other remedies provided by the rules are no longer available without any fault on the part of the petitioner. The assailed Decision of the RTC dated April 5, 2004, is appealable under Rule 41 of the Rules of Court. The petitioner and her husband could have interposed an appeal from the decision of the RTC and raised as one of its grounds the alleged lack of jurisdiction for failure to include an indispensable party. However they failed to avail of the remedy of appeal and they did not present any evidence to show that they lost it without any fault on their part. On the contrary it seems from the allegation in the petition that they failed to appeal the case due to the negligence of their counsel. Besides, it appears from the records of this case that there are other remedies available which are not lost. In fact, as alleged by the petitioner, her husband even filed a petition for relief of judgment on February 18, 2005[21]. Again, they could include as one of its grounds the alleged lack of jurisdiction for failure to include an indispensable party. Although the petition for relief was dismissed by the RTC on June 22, 2007[22], the dismissal thereof is still reviewable by certiorari in accordance with Sec. 1, Rule 41[23] of the Rules of Court. Thus, the instant petition will not prosper for petitioner's failure to comply with Sec. 1, Rule 47 of the Rules of Court[24].

WHEREFORE, the petition is hereby DISMISSED for lack of merit.

The Motion to Withdraw Appearance filed by Atty. Jose G. Hernando, Jr. is NOTED.

SO ORDERED.

Delos Santos, and Azcarraga-Jacob,[*] JJ., concur.

[*] In lieu of Justice Jhosep Y. Lopez, per Office Order No. 18-14-GTI.

[1] Rollo, pp. 2-8

[2] Rollo, pp. 11-18

[3] The portion in fallo is not legible. The Court inferred the correct no. from the body of the decision.

[4] Supra note 1

[5] See Marriage Contract, Rollo, p. 9

[6] Rollo, p. 10

[7] Culled from the Petition, supra note 1 (at p. 4)

[8] Supra note 2

[9] Id., (at pp. 4-5)

[10] Culled from the petition, prayer portion, supra note 1 (at p. 4)

[11] Rollo, pp. 20-22, penned by Associate Justice Pampio Abarintos with Associate Justices Francisco P. Acosta and Amy C. Lazaro-Javier concurring.

[12] Rollo, pp. 23-27

[13] Rollo, pp. 30-35, penned by Associate Justice Amy C. Lazaro-Javier with Associate Justices Francisco P. Acosta and Edgardo L. Delos Santos concurring.

[14] Rollo, pp. 37-43

[15] Culled from private respondents Answer, id.

[16] Rollo, p. 62

[17] Rollo, p. 62 (dorsal portion)

[18] Rollo, pp. 66-67

[19] Rollo, pp. 68-70

[20] G.R. No. 161122, Sept. 24, 2012

[21] Culled from the petition, supra note 1 (at p. 6)

[22] Id.

[23] Section 1. Subject of appeal. An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

1. An order denying a petition for relief or any similar motion seeking relief from judgment;

xxx

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65.

[24] supra

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.