

TONGDONEN GISOBEN, TOMAS FOCASAN, CORNELIO MALINANG, MARCELO GISOBEN, AND THE HEIRS OF THE LATE ANDOY FANIKER, PETITIONERS, VS. SPS. BENJAMIN AND FILIPINAS PIMENTEL, DUCAR GONGC...

Ponente: SADANG, J.

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SADANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to set aside the February 10, 2012 Decision[1] of the Regional Trial Court (RTC) of Bulanao, Tabuk City, Kalinga, Branch 25 in Civil Case No. 466, as well as the June 7, 2012 Order[2] denying petitioners' Motion for Reconsideration of the decision and ordering the issuance of the entry of judgment[3] and writ of execution,[4] and the August 10, 2012 Order[5] denying the Formal Entry of Appearance with Manifestation and Motion for Reconsideration and Omnibus Motion to Set Aside Entry of Judgment and to Recall/Lift and/or Quash Writ of Execution.

Antecedents of the Petition

On June 4, 1999, spouses Benjamin and Filipinas F. Pimentel, Ducar Gongcao, Jimmy Gongcao, and Lucia Gongcao (hereafter, respondents) filed a Complaint[6] against Andoy Faniker,[7] Tongdonen Gisoben, Tomas Focasan, Cornelio Malinang, and Marcelo Gisoben (hereafter, petitioners) in the RTC for declaration of ownership, possession, recovery of owner's duplicate copy of Original Certificate of Title (OCT) No. P-6432 with prayer for preliminary injunction and damages, or specific performance, consignment and damages.

Respondents alleged that: spouses Benjamin and Filipinas Pimentel, are the registered owners of Lot No. 15228-F situated in Maleda, Bulanao, Tabuk, Kalinga, covered by OCT No. P-6432;[8] in June 1988, spouses Andrew and Aurora Chinalpan and spouses Filamer and Consuelo Alaestante, in separate special powers of attorney[9] authorized Benjamin Pimentel (Benjamin) to sell their lots, Lot No. 15228-G (covered by OCT No. 6596) and Lot No. 15228-H (covered by OCT No. 6595), respectively, both adjacent to the lot of the Pimentels; thereafter, Benjamin sold the three lots, with a total area of about 7.5 hectares, in favor of Ducar Gongcao at total price of P50,000.00 of which Ducar paid P30,000.00 on January 24, 1989;[10] later, petitioners offered to buy the three lots but Benjamin turned it down in view of the sale to Ducar but he told petitioners that it would be up to Ducar to share the lots with them; on February 13, 1989, Faniker told Benjamin that he and Ducar had an agreement that petitioners will share in the purchase of the lots and he gave Benjamin a photocopy of a written document[11] purportedly evidencing said agreement; Benjamin asked Ducar about the agreement and Ducar told him that it was executed without his consent; Benjamin informed petitioners that Ducar did not confirm the agreement and only wants to share one-half of the total area to which petitioners agreed; after sometime, the petitioners paid P25,000.00 to the respondents as full payment of the one-half portion but asked that they retain P1,000.00 as payment of realty taxes in arrears; Benjamin received the P24,000.00 from petitioners, making it clear that it was for the one-half portion, and returned P5,000.00 to Ducar; subsequently, Benjamin was surprised to learn that Faniker and Tongdonen Gisoben (Tongdonen) came to see his father, Severo Sr., and gave him P25,000.00; Faniker and Tongdonen had convinced Severo Sr. to turn over to them the owner's duplicate of OCT No. P-6595;

Benjamin confronted Faniker and warned him that he will not execute the deed of sale unless the latter turned over OCT No. P-6595; thereafter, while Benjamin was out of town, Faniker and his companions went to the house of the Pimentels and, by machinations, convinced Filipinas Pimentel to give them the owner's duplicate of OCT No. P-6432;[12] Benjamin reported the matter to Barangay Captain Rudy Juan who summoned Ducar, Benjamin and petitioners to a mediation meeting but petitioners refused to return the three titles or to accept the P25,000.00 which Benjamin was prepared to refund; on May 12, 1989, Benjamin executed a Deed of Sale[13] in favor of respondent Jimmy Gongcao (son of Ducar) over one-half portion of Lot No. 15228-H, a Deed of Sale[14] in favor of respondent Lucia Gongcao (daughter of Ducar) over one-half portion of Lot 15228-G, and a Deed of Sale in favor of Ducar over one-half portion of Lot 15228-F; respondents were surprised to learn that petitioners were able to effect these transfers: 1) from OCT No. P-6595 in the name of Filamer Alaestante to TCT No. T-10318 in the names of Faniker and Focasan, 2) from OCT No. P-6596[15] in the name of Andrew Chinalpan to TCT No. T-10319[16] in the name of Malinang and Marcelo Gisoben; Benjamin never executed a deed of sale in favor of petitioners; there is a pending civil case in the RTC of Bulanao, Tabuk, Kalinga for annulment of sale and reconveyance involving Lot No. 15228-H filed by Filamer Alaestante; despite referral to the barangay, petitioners refused to return the owner's duplicate of OCT No. P-6432 and to vacate the premises; Benjamin is willing to return the P25,000.00 to petitioners and respondents have tendered said amount to them but they refused to receive it; the original contract of sale of the parties may be complied with such that one-half of the total area shall go to the respondents and the other half to the petitioners. Respondents prayed for the award of moral and exemplary damages, as well as litigation expenses.

On June 28, 1999, petitioners filed a Motion to Dismiss to which respondents filed an Opposition. In its December 10, 1999 Resolution, the RTC deferred the proceedings and directed the parties to go to the Lupon Barangay of Bulanao. On June 27, 2000, respondents filed a motion to declare petitioners in default which the RTC denied on July 4, 2000.[17]

In their Answer,[18] petitioners alleged that: Benjamin referred them to his father Severo, Sr. in Bontoc, Mt. Province and the remaining P25,000.00 for the full payment of the purchase price was received by Benjamin in Tabuk, Kalinga; Benjamin was with his wife Filipinas when TCT No. 6432 was given to petitioners after he received the P25,000.00; Benjamin knew of the processing of the papers and the registration of TCT No. T-10318 in the names of Faniker and Focasan and TCT No. 10319 in the names of Malinang and Marcelo Gisoben; and OCT No. P-6432 is in the custody of Tongdonen.

By way of affirmative defense, petitioners alleged that they legally bought the three lots for which they paid a total of P50,000.00; that the titles were voluntarily given to them and they are in possession of the land and introduced improvements therein; that the titles issued in their names are evidence of ownership and the validity thereof cannot be collaterally attacked; that if there was a deed of sale executed by Benjamin in favor of the other respondents, it was simulated, otherwise, respondents could have secured titles in their name; that for a long time, their occupation of the lots was not questioned by respondents.[19]

As counterclaim, petitioners alleged that respondents filed the case in bad faith, knowing that petitioners are the true owners of the lots, hence, respondents should pay moral and exemplary damages and actual and incidental expenses.[20]

In an Order, dated July 4, 2000, the RTC denied respondents' motion to declare petitioners in default.[21]

After respondents filed a Reply,[22] pre-trial[23] and trial ensued.

In a Decision,[24] dated February 10, 2012, the RTC ruled in favor of respondents. The fallo reads:

As a result of the foregoing premises, by a preponderance of evidence, judgment is hereby rendered favorable

to the plaintiffs (respondents) and against the defendants (petitioners): Accordingly, this Court declares the following to wit:

(1) Affirming and declaring plaintiffs Benjamin Pimentel and Filipinas Pimentel the lawful and registered owners of Lot No. 15228-F situated at Maledda, Bulanao, Tubuk, Kalinga covered by OCT No. P-6432 containing an area of 29,292 square meters and thus this court orders the defendants to surrender unto spouses Benjamin and Filipinas Pimentel the owner's duplicate copy of OCT No. P-6432;

(2) Declaring Plaintiff Ducar Gongcao the lawful owner/ vendee of one half portion of Lot No. 15228-F; plaintiff-Lucia Gongcao to be the lawful vendee and owner of one-half portion of Lot No. 15228-G; and plaintiff Jimmy Gongcao to be the lawful vendee and owner of the whole portion of Lot No. 15228-H which is the Court of Appeals decision in Civil Case No. 431 affirming with modification this Court's decision in said Civil Case No. 431 and which meant that all the defendants, their representatives, their agents or assigns are ordered to mandatorily and specifically perform their respective obligation by complying with the judgment of this Court.

(3) Ordering the defendant to receive the amount of P25,000.00 representing the return of the money which defendants gave to Severo Pimentel Sr. which amount was already consigned with the Court; and

(4) Ordering all the defendants to pay the plaintiffs attorney's fees of P50,000.00, other litigation expense of P30,000.00 and moral damages in the amount of P20,000.00 plus costs of the proceedings.

SO ORDERED.[25]

On March 27, 2012, petitioners, without the assistance of a lawyer, filed a Motion for Reconsideration[26] alleging that they received a copy of the decision on March 19, 2012. They claimed that they are buyers in good faith and for value, that petitioner Malinang can not be bound by the decision because it violated the rule against collateral attack on a title, and that the decision is not supported by the evidence.

Respondents filed an omnibus motion[27] praying for entry of judgment and issuance of writ of execution and the denial of petitioners' motion for reconsideration. They alleged that, per records, petitioners' counsel, Atty. Calsiyao, received a copy of the decision on February 15, 2012 and the reglementary period of 15 days had elapsed without an appeal having been taken by the petitioners, hence, the decision had attained finality.

Petitioners filed a comment and/or opposition to respondents' omnibus motion[28] averring that Atty. Calsiyao no longer represents them; that the omnibus motion is litigious and should have contained a notice of hearing but it did not, hence, it is a mere scrap of paper. They also alleged that the decision has not yet become final and executory in view of the pendency of their motion for reconsideration filed on March 27, 2012.

In its Order[29] dated June 7, 2012, the RTC deemed respondents' omnibus motion as their opposition to the motion for reconsideration of. The RTC also noted the oral manifestation of Atty. Calsiyao that he should be discharged as counsel of petitioners.

In an Order,[30] also dated June 7, 2012, the RTC denied petitioners' motion for reconsideration and granted the prayer of respondents for entry of judgment and issuance of a writ of execution.

Accordingly, an Entry of Final Judgment[31] was issued on June 26, 2012, followed by the Writ of Execution.[32]

On August 1, 2012, Atty. Randy Bayubay Bulwayan, as the new lawyer of Tongdonen and Malinang, filed a Formal Entry of Appearance with Manifestation and Motion for Reconsideration[33] seeking to set aside the June 7, 2012 Order.

On August 6, 2012, petitioners also filed an Omnibus Motion to Set Aside Entry of Judgment and to Recall/Lift and/or Quash Writ of Execution on the ground that they were issued without prior resolution of their second motion for reconsideration.

In his Order,[34] dated August 10, 2012, respondent judge denied petitioners' second motion for reconsideration and omnibus motion; hence, the present petition on these grounds:

- THE RESPONDENT HONORABLE ASSISTING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 25, TABUK CITY, KALINGA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION FOR RECONSIDERATION, AND THEREAFTER HIS ISSUANCE OF AN ENTRY OF JUDGMENT, AND HIS ISSUANCE OF A WRIT OF EXECUTION.
- THE RESPONDENT HONORABLE ASSISTING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 25, TABUK CITY, KALINGA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN APPLYING THE TECHNICAL RULES OF PROCEDURE WHEN IT RULED THAT THE MOTION FOR RECONSIDERATION WAS FILED OUT OF TIME.
- THE RESPONDENT HONORABLE ASSISTING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 25, TABUK CITY, KALINGA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN COMING UP WITH THE ASSAILED DECISION DATED FEBRUARY 10, 2012.[35]

Respondents filed a Comment[36] to the petition to which petitioners filed a Reply.[37]

RULING

The petition is not impressed with merit.

Certiorari lies where a court has acted with grave abuse of discretion or without or in excess of jurisdiction. "Grave abuse of discretion" implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a refusal to perform the duty enjoined or to act at all in contemplation of law.[38] "Without jurisdiction" means that the court acted with absolute want of jurisdiction.[39] There is "excess of jurisdiction" where the court has jurisdiction but has transcended the same or acted without any statutory authority.[40]

A writ of certiorari may be issued when the following requisites concur: 1) a tribunal, board, or officer exercising judicial functions; 2) it or he acts without or in excess of jurisdiction or with grave abuse of discretion; and 3) there is no appeal nor plain, speedy, and adequate remedy in the ordinary course of law.[41]

Petitioners do not deny that Atty. Calsiyao received the decision on February 15, 2012 but contend that Atty. Calsiyao was no longer their lawyer and there was no more communication between them. They ascribe negligence on the part of Atty. Calsiyao arguing that he could have easily obtained the records of the case from the court which was just a "wall away" from the PAO Office and he could have easily communicated with them because their residence was only twelve kilometers away from the PAO Office. Petitioners argue that these circumstances denied them of their right to appeal and are compelling reasons to warrant suspension of the technical rules of procedure.

Contrary to petitioners' claim, Atty. Calsiyao was still their counsel of record when he received the decision. This is precisely why the RTC sent a copy of the decision to said counsel. Further, at the hearing of petitioners' motion for reconsideration on June 7, 2012, Atty. Calsiyao still asked to be relieved as counsel for petitioners.

In essence, the issue is whether Atty. Calsiyao's alleged negligence in not communicating with petitioners after receiving a copy of the decision and in not seasonably filing a motion for reconsideration or an appeal would justify the setting aside of the June 7, 2012 and August 10, 2012 Orders of respondent judge.

Upon due consideration, we find that respondent judge did not commit grave abuse of discretion in issuing the assailed orders.

Jurisprudence is replete with pronouncements that clients are bound by the actions of their counsel in the conduct of their case. If it were otherwise, and a lawyer's mistake or negligence were admitted as a reason for the opening of a case, there would be no end to litigation so long as counsel had not been sufficiently diligent or experienced or learned.[42] The only exception to the general rule is when the counsel's actuations are gross or palpable, resulting in serious injustice to client, that courts should accord relief to the party. Indeed, if the error or negligence of the counsel did not result in the deprivation of due process to the client, nullification of the decision grounded on grave abuse of discretion is not warranted.[43]

On this point, respondent judge states in his June 7, 2012 Order, thus:

During the hearing conducted today, there was a manifestation from Atty. Francis Calsiyao that when he received the copy of the Decision of February 15, 2012, there was no record of the case existing and in possession of the office and he exerted efforts to contact the defendants but it took several weeks before the defendants appeared before his Office. He intimated to this Court that since there was no record of the instant case in his office, he advised the defendants to seek another counsel to handle their appeal. After that, he never heard from the defendants whether or not they sought the services of another counsel. Atty. Francis Calsiyao asked that he now be relieved as counsel for the defendants. The Court took note of the manifestation.[44]

The efforts exerted by Atty. Calsiyao to contact petitioners are not set forth in detail in the assailed order and it is not for this Court to speculate thereon. But even assuming that the lawyer's efforts were not sufficient, such does not warrant deviation from the general rule that clients are bound by the acts or omissions of their counsel considering that petitioners were not deprived of due process. There is no question that they actively participated in the proceedings a quo and were duly represented by counsel. While it is true that they lost their right to appeal, however, it bears to stress that said right is not a natural right or a part of due process but only a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. As long as a party was given the opportunity to defend his interests in due course, he would have no reason to complain, for it is the opportunity to be heard that makes up the essence of due process.[45]

Further, when a petitioner is at fault or not entirely blameless as when he failed to act with prudence and diligence, his plea that he was not accorded the right to due process cannot elicit the Court's approval or even sympathy. It is the petitioner's duty, as a client, to stay in touch with his counsel so as to be constantly posted on the case. He is mandated to inquire from his counsel about the status and progress of the case from time to time and cannot expect that all he has to do is sit back, relax and await the outcome of the case.[46] Thus, it was not just the duty of petitioners' counsel to keep them posted on the case, it was equally the obligation of the petitioners to constantly communicate with their counsel for that purpose, which they failed to do so. That they are farmers does not excuse petitioners from their obligation. If they had sufficient understanding of their rights they should also have the corresponding sense of vigilance to protect said rights.

Respondent judge correctly reckoned the period to file a motion for reconsideration or a notice of appeal from February 15, 2012, the date of receipt by Atty. Calsiyao of the decision. Clearly, petitioners' motion for reconsideration which was filed on March 27, 2012 was filed out of time and respondent judge did not commit grave abuse of discretion in denying it.

It is immaterial that the entry of judgment was made without the prior resolution of the second motion for reconsideration filed by petitioners' new lawyer. The propriety of the issuance of the entry of judgment must be based on the date of receipt of the decision by petitioners' first lawyer. Petitioners' having filed a second motion for reconsideration and other motions neither prevented the decision from attaining finality nor barred the entry of judgment. The reasons for this rule were stated in *Alivado v. Procter & Gamble Phils., Inc.*[47] thus: 1) the Rules of Court and the Internal Rules of the Supreme Court prohibit the filing of a second motion for reconsideration; 2) some crafty litigants may resort to filing prohibited pleadings just to delay entry of judgment.

Indeed, to rule that the finality of judgment shall be reckoned from receipt of the order denying the second motion for reconsideration would result in an absurd situation whereby courts will be obliged to issue orders or resolutions denying what is a prohibited motion in the first place in order that the period for the finality of judgment shall continue to run, thereby, prolonging the disposition of cases. Moreover, such a ruling would allow a party to forestall the running of the period of finality of judgments by filing a prohibited pleading; such a situation is not only illogical but also unjust to the winning party.[48]

That respondents' omnibus motion for the issuance of the entry of judgment and writ of execution does not contain a notice of hearing did not make it a scrap of paper, as contended by petitioners. Where, as in this case, the judgment has become final and executory, the losing party is not entitled to notice of hearing. As held in *Anama v. Court of Appeals*:[49]

Elementary is the rule that every motion must contain the mandatory requirements of notice and hearing and that there must be proof of service thereof. The Court has consistently held that a motion that fails to comply with the above requirements is considered a worthless piece of paper which should not be acted upon. The rule, however, is not absolute. There are motions that can be acted upon by the court *ex parte* if these would not cause prejudice to the other party. They are not strictly covered by the rigid requirement of the rules on notice and hearing of motions.

The motion for execution of the Spouses Co is such kind of motion. It cannot be denied that the judgment sought to be executed in this case had already become final and executory. As such, the Spouses Co have every right to the issuance of a writ of execution and the RTC has the ministerial duty to enforce the same. This right on the part of the Spouses Co and duty on the part of the RTC are based on Section 1 and Section 2 of Rule 39 of the 1997 Revised Rules of Civil Procedure provides, as follows:

Section 1. Execution upon judgments or final orders. - Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

SEC. 2. Discretionary execution.--

(a) Execution of a judgment or final order pending appeal.-- On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

(b) Execution of several, separate or partial judgments.--A several, separate or partial judgment may be executed under the same terms and conditions as execution of a judgment or final order pending appeal. (2a) [Emphases and underscoring supplied in the original.]

As can be gleaned therefrom, under Paragraph 1 of Section 1 of Rule 39 of the 1997 Revised Rules of Civil Procedure, the Spouses Co can have their motion for execution executed as a matter of right without the needed notice and hearing requirement to petitioner. This is in contrast to the provision of Paragraph 2 of Section 1 and Section 2 where there must be notice to the adverse party.

It is evident that Section 1 of Rule 39 of the Revised Rules of Court does not prescribe that a copy of the motion for the execution of a final and executory judgment be served on the defeated party, like litigated motions such as a motion to dismiss (Section 3, Rule 16), or motion for new trial (Section 2, Rule 37), or a motion for execution of judgment pending appeal (Section 2, Rule 39), in all of which instances a written notice thereof is required to be served by the movant on the adverse party in order to afford the latter an opportunity to resist the application. (Emphasis in the original.)

Petitioners contend that they are buyers in good faith and that the decision of the RTC is not supported by the evidence. Suffice it to state, that these contentions concern the merits of the case or the correctness of the decision. They are beyond the province of a petition for certiorari under Rule 65. In a petition for certiorari, the only issue before the court is whether the lower court acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[50]

Finally, it is a hornbook rule that once a judgment has become final and executory, it may no longer be modified in any respect, even if the modification is meant to correct an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land, as what remains to be done is the purely ministerial enforcement or execution of the judgment.[51]

The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional errors, the judgment of adjudicating bodies must become final and executory on some definite date fixed by law. The doctrine of immutability of final judgment is adhered to by necessity notwithstanding occasional errors that may result thereby, since litigations must somehow come to an end for otherwise, it would even be more intolerable than the wrong and injustice it is designed to correct.[52]

WHEREFORE, the petition is DISMISSED. The Decision of the Regional Trial Court of Bulanao, Tabuk City, Kalinga, Branch 25 in Civil Case No. 466, as well as the June 7, 2012 Order denying petitioners' motion for reconsideration and the August 10, 2012 Order denying the subsequent motion for reconsideration and other motions are AFFIRMED.

SO ORDERED.

Dimaampao, J., Chairperson, and Diamante, JJ., concur.

[1] Penned by Assisting Judge Anastacio D. Anghad, rollo, pp. 69-104.

[2] Id. at 120-122.

- [3] Id. at 123.
- [4] Id. at 124-125.
- [5] Id. at 137-139.
- [6] Id. at 38-45.
- [7] Represented in this appeal by his heirs.
- [8] Id. at 59.
- [9] Id. at 47-48.
- [10] Id. at 49.
- [11] The agreement was in the Ilocano dialect. Id. at 50.
- [12] Id. at 59.
- [13] Id. at 52.
- [14] Id. at 53.
- [15] Id. at 54-55.
- [16] Id. at 56-57.
- [17] RTC Decision, id. at 76.
- [18] Rollo, pp. 60-64.
- [19] Id. at 61-62.
- [20] Id. at 62-63.
- [21] Id. at 77.
- [22] Id. at 77-79.
- [23] Pre-trial Order dated August 16, 2000, id. at 65-68.
- [24] Supra note 1.
- [25] Id. at 103-104.
- [26] Id. at 105-111.
- [27] Id. at 113-115.
- [28] Id. at 116-117.
- [29] Id. at 119.
- [30] Id. at 120-122.
- [31] Id. at 123.
- [32] Id. at 124-125.
- [33] Id. at 128-133.

[34] Id. at 137-139.

[35] Id. at 7.

[36] Id. at 154-165.

[37] Id. at 196-199.

[38] *Miranda v. Abaya*, G.R. No. 136351, July 28, 1999 (citations omitted).

[39] *Esguerra v. Court of Appeals*, G.R. No. 119310, February 3, 1997 (citations omitted).

[40] *China Banking Corp. v. Lozada*, G.R. No. 164919, July 4, 2008 (citations omitted).

[41] *Camacho v. Coresis Jr.*, 387 SCRA 628; *Del Mar v. Court of Appeals*, 379 SCRA 295.

[42] *GCP-Manny Transport Services, Inc. v. Hon. Principe*, G.R. No. 141484, November 11, 2005. (Citations omitted.)

[43] Id. (Citations omitted.)

[44] *Rollo*, pp. 120-121.

[45] Id. (Citations omitted.)

[46] Id. (Citations omitted.)

[47] G.R. No. 160506, June 6, 2011. (Citation omitted).

[48] Id.

[49] G.R. No. 187021, January 25, 2012.

[50] *Spouses Wee v. Galvez*, G.R. No. 147394, August 11, 2004.

[51] *Alivado v. Procter & Gamble Phils, Inc.*, *supra* note 47.

[52] Id.

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