

SPOUSES JUANITO AND LOIDA BODANIO, PETITIONERS, V. HON. FERNANDO T. SAGUN, JR., ACTING EXECUTIVE JUDGE, REGIONAL TRIAL COURT AND HON. BAYANI V. VARGAS, PRESIDING JUDGE, BRANCH 2...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Before Us is a Petition for Certiorari and Prohibition[1] ("Petition" for brevity) filed by petitioners Spouses Juanito Bodanio and Loida Bodanio ("petitioners" for brevity) under Rule 65 of the Rules of Court. The Petition assails the Order[2] of the Regional Trial Court ("respondent court" for brevity) of Quezon City, Branch 78 in Civil Case No. Q-02-46175 for "Cancellation of Transfer Certificate of Title".

To begin with, the Petition[3] at bench is dismissible for petitioners' failure to file the required Motion for Reconsideration of respondent court's Order below. This is because the filing of a Motion for Reconsideration is a condition precedent before the filing of a Petition for Certiorari under Rule 65 of the Rules of Court. The fatal consequence for petitioners' failure to file the required Motion for Reconsideration had already been declared by the Supreme Court in *People's Air Cargo and Warehousing Co., Inc. vs. Honorable Francisco G. Mendiola, et al.*, G.R. No. 181068, May 4, 2010, which is that:

"The petition should be dismissed outright. Firstly, no motion for reconsideration was filed before petitioner filed this petition under Rule 65.

Certiorari is not a defense against the unfavorable consequences of a failure to file the required motion for reconsideration. Petitioner may not designate to itself the determination of whether a motion for reconsideration is necessary or not. The plain and adequate remedy referred to in Section 1 of Rule 65 is a motion for reconsideration of the assailed decision. The purpose of this requirement is to enable the court or agency to rectify its mistakes without the intervention of a higher court. To dispense with the requirement of filing a motion for reconsideration, petitioner must show a concrete, compelling, and valid reason for doing so. In this case, the petitioner failed. Thus, petitioner should have first interposed a motion for reconsideration.

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The Court cannot bear petitioner's utter disregard of procedural rules and frustrate the objective of attaining just, speedy and orderly judicial proceedings." (Emphasis and italics supplied)

The only cognizable exceptions are those declared by the Supreme Court in *St. Mary of the Woods School, Inc. and Marcial P. Soriano vs. Office of the Registry of Deeds of Makati City and Hilario P. Soriano*, G.R. No. 174290, January 20, 2009 as follows:

".... A Motion for Reconsideration of the order or resolution is a condition precedent for the filing of a Petition for Certiorari challenging the issuance of the same.

The general rule that the filing of a Motion for Reconsideration before resort to certiorari will lie is intended to

afford the public respondent an opportunity to correct any factual or fancied error attributed to it by way of re-examination of the legal and factual aspects of the case. This rule, however, is subject to certain recognized exceptions, to wit: (1) where the order or a resolution, is a patent nullity, as where the court a quo has no jurisdiction; (2) where the questions raised in the certiorari proceeding have been duly raised and passed upon in the lower court; (3) where there is an urgent necessity for the resolution of the question, and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (4) where, under the circumstances, a Motion for Reconsideration would be useless; (5) where petitioner was deprived of due process and there is extreme urgency for relief; (6) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (7) where the proceedings in the lower court are a nullity for lack of due process; (8) where the proceedings were ex parte or were such that the petitioner had no opportunity to object; and (9) where the issue raised is one purely of law or where public interest is involved." (Emphasis and italics supplied)

However, here, petitioners failed to expound their reasons why they dispensed with the filing of the required Motion for Reconsideration of respondent court's assailed Order[4]. Petitioners merely stated as follows:

"On June 23, 2011 herein petitioner, received by registered mail a copy of the herein assailed ORDER June 7, 2011. There being no filed reconsideration considering the hasty setting of trials by the newly re-assigned predetermined Presiding Judge acting with partiality xxx."[5]

Besides, even considering that the required Motion for Reconsideration of respondent court's assailed Order[6] could be dispensed with, the Petition[7] is nevertheless dismissible for petitioners' failure to attach to their Petition[8] respondent court's assailed Order[9], in contravention of Section 3 of Rule 46 of the Rules of Court, which violation warrants the dismissal of the Petition[10] under the same Rule, to wit:

"Section 3. Contents and filing of petition; effect of noncompliance with requirements. — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

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, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

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The failure of the petitioner to comply with any of the requirements shall be sufficient ground for the dismissal of the petition." (Emphasis supplied)

Thus, no choice is given but to dispose this matter accordingly as stated below.

IN VIEW OF ALL THESE, the Petition is DISMISSED.

SO ORDERED.

Didican (Chairman) and Paredes, JJ., concur.

[1] Rollo, pp. 13-38.

[2] Rollo, p. 23.

[3] Rollo, pp. 13-38.

[4] Rollo, p. 23.

[5] Rollo, p. 15.

[6] Rollo, p. 23.

[7] Rollo, pp. 13-38.

[8] Rollo, pp. 13-38.

[9] Rollo, p. 23.

[10] Rollo, pp. 13-38.

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