

**BENJAMIN CAHANAP, PETITIONER, VS. JUDGE MARIAM G. BUEN,
PRESIDING JUDGE, BRANCH 153, RTC, TAGUIG CITY, PUBLIC
RESPONDENT,**

Ponente: DIAMANTE, J.

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DIAMANTE, J.:

This is a Petition for Annulment of Judgment[1] pursuant to Rule 47 of the 1997 Rules on Civil Procedure seeking the annulment of the Decision[2] dated August 6, 2014 issued by the Pasig City (sitting in Taguig City) Regional Trial Court (RTC), Branch 153, in Civil Case No. 71969.

For a Petition for Annulment of Judgment to prosper, compliance with specific requirements set forth in Rule 47 of the Rules of Court is necessary.

Sections 1 & 2 of Rule 47 of the Rules of Court provide, to quote:

Section 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.

Section 2. Grounds for annulment.- The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

Section 1, Rule 47 of the Rules of Court is explicit that for annulment of judgment to prosper it is essential 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.

In his petition, petitioner made no mention of when he was able to receive a copy of the assailed Decision of the Pasig City RTC. It was not established that the reason for his inability to seek the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies was through no fault of his. He merely stated that he could no longer avail of the ordinary remedies provided for by law. Hence, the possibility that he may have been remiss in availing the aforesaid ordinary remedies could not be discounted.

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.[3]

Because of the extraordinary nature and objective of the remedy of final judgment or final order, it behooves petitioner to be mindful and to closely comply with the statutory requirements for the remedy as provided for under Rule 47 of the Rules of Court. Petitioner's petition must, therefore, aver that he failed to move for a new trial, or to appeal, or to file a petition for relief without fault on his part. It is not enough to simply state that he could no longer avail of the ordinary remedies, save the instant petition.

Moreover, the following infirmities were noted: (1) absence of actual address of private respondent; (2) copy of the Complaint was not attached to the Petition; (3) no copy of the Answer; and (4) the IBP and PTR Official Receipt numbers of counsel are not recent as required under A.M. No. 287.

WHEREFORE, premises considered, the instant petition for annulment of judgment is hereby **OUTRIGHTLY DISMISSED** pursuant to Sections 4 and 5, Rule 47 of the 1997 Rules on Civil Procedure.

SO ORDERED.

Dimaampao, J.B., Chairperson and Manahan, C.S., J.J., concur.

[1] Rollo, pp. 3-9.

[2] Id. at 10-20.

[3] *Dare Adventure Farm Corporation vs. Court of Appeals*, G.R. No. 161122, September 24, 2012, as cited in *Pinausukan Seafood House, Roxas Bouly Ard, Inc. vs. Far East Bank & Trust Company, now Bank of the Philippine Islands and Galura*, G.R. NO. 159926, January 20, 2014.

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