

WILFREDO N. ONG. PETITIONER, MEMBERS: vs. HON. JENNIFER S. LOVERIA, IN HER CAPACITY AS PRESIDING JUDGE OF MTCC, BRANCH I, SANTIAGO CITY, THE SHERIFF OF MTCC-BR. I OF SANTIAGO PR...

Ponente: VILLON, J.

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VILLON, J.:

A perusal of the records shows that instead of an ordinary appeal under Rule 41, petitioner erroneously filed the instant Petition for Review under Rule 42 of the 1977 Rules of Civil Procedure in assailing the Order[1] dated September 3, 2012 of the Regional Trial Court (RTC), Branch 35, Santiago City.[2] The said Order was a final order of the RTC because it dismissed SCA Case No. 35-0383, thereby terminating the proceedings therein. And it was issued by the RTC in the exercise of its original jurisdiction. Under Section 1, Rule 41 of the 1997 Rules of Civil Procedure, as amended, 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 the Rules of Court to be appealable. The manner of appealing an RTC judgment or final order is also provided in Rule 41 as follows:

“Section 2. Modes of appeal. —

“(a) Ordinary appeal. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. x x x”

Thus, in *Macawiwili Gold Mining and Development Co., Inc. et al. v. CA, et al.*, [3] it was held that:

“Thus, judgments of the regional trial courts in the exercise of their original jurisdiction are to be elevated to the Court of Appeals in cases where the appellant raises questions of fact or mixed questions of fact and law. xx xx xx

This procedure is now embodied in Rule 41, Section 2(a) of the 1997 Rules of Civil Procedure which distinguishes the different modes of appeal from judgments of regional trial courts as follows:

Modes of Appeal.-

(a) Ordinary appeal. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.”

xx xx xx xx

Too, Section 4 of Supreme Court Circular 2-90 provides that “an appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.”

It is true that a litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, it does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.[4] It cannot be overemphasized that procedural rules have their own wholesome rationale in the orderly administration of justice. Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality.[5]

WHEREFORE, in view of all the foregoing, the instant petition is hereby DISMISSED.

The “Entry of Appearance & Comment/Opposition (for Respondent Edmundo C. Miranda)” filed by Atty. Raymond M. Caraos of the Tabalingcos Caraos & Mongan Law Offices as counsel for respondent is hereby NOTED.

SO ORDERED.

Macalino, and *Antonio-valenzuela JJ., concur.

* Vice Justice P.B. Corales per Office Order No. 138-14-RSF dated April 10, 2014.

[1]Rollo, p. 36

[2] The Order reads: “The petition is not accompanied by a certified copy of the Order dated June 26, 2012, as well as the assailed writ of execution, as mandatorily required by Rule 65 of the Rules of Court.

WHEREFORE, the petition is hereby dismissed.”

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[3] G.R. No. 115104, October 12, 1998.

[4] Sea Power Shipping Enterprises, Inc. v. Court of Appeals, G.R. 138270, June 28, 2001

[5] Republic v. Hernandez, G.R. 117209, February 9, 1996.

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