

**STA. LUCIA REALTY AND DEVELOPMENT, INC. AND LANDCO, INC.,
PETITIONERS, VS. COURT OF APPEALS, HON. ROGELIO ANGELES,
PRESIDING JUDGE, REGIONAL TRIAL COURT OF ANTIPOLO, RIZAL,
BRAN...**

G.R. No. 120697. October 16, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition for review on certiorari seeking to annul and set aside the Decision of the Court of Appeals in CA-G.R. SP No. 35346, dated January 30, 1995, as well as the Resolution dated June 23, 1995 denying herein petitioners' motion for reconsideration. The assailed decision denied the petition filed by petitioners to review the order of the Regional Trial Court of Antipolo, Rizal, Branch 72, in Civil Case No. 94-3353, which dismissed their petition for relief from judgment.

The factual antecedents to the instant petition are as follows:

On January 11, 1992, petitioners offered to renew the contract of lease with private respondent doing business under the name and style of "Smokey's" at petitioners' Sta. Lucia East Commercial Complex in Cainta, Rizal for a period of one year to commence on February 1, 1993. On May 27, 1993, private respondent signified his conformity. However, on June 8, 1993, petitioner ejected private respondent from their premises when the latter failed to pay rentals despite due demand and notice.

Private respondent then instituted on June 9, 1993, Civil Case No. 75-AF (93) for Forcible Entry against petitioners before the Municipal Trial Court of Cainta, Rizal. He also filed on September 21, 1993 another action, Civil Case No. 88-AF (93) for consignation, before the same court.

On May 19, 1994, the MTC disposed of Civil Case No. 75-AF (93) as follows:

"WHEREFORE, in view of all the foregoing, this Court hereby finds for Plaintiff JAMES KOA and hereby renders judgment in his favor and against defendants SANTA LUCIA REALTY AND DEVELOPMENT, INC. and LANDCO, INC., hereby directing the latter to

respect and abide by the terms and conditions of the herein parties' renewed contract of lease, this Court's 'Writ of Preliminary Mandatory Injunction' issued on 16 July 1993 being hereby made permanent subject only to the terms and conditions of the aforestated lease agreement;

pay herein plaintiff the amount of THREE HUNDRED FORTY TWO THOUSAND PESOS (P342,000.00), Philippine currency, for the latter's having been dispossessed of subject premises for a period of Thirty-Eight (38) calendar days [from 08 June 1993 through 15 July 1993 inclusive], by way of actual compensatory damages, for which amount herein defendants shall be held jointly and solidarily liable; and

'pay herein plaintiff attorney's fees which this Court hereby fixes at TWENTY THOUSAND PESOS (P20,000.00), Philippine currency, and to pay costs of suit, for which amounts herein defendants shall be held

jointly and severally liable.

"SO ORDERED." [1]

That same day, the MTC of Cainta dismissed Civil Case No. 88-AF (93) for being moot and academic, in view of its decision in Civil Case No. 75-AF (93). [2] On June 19, 1994, private respondent moved for the execution of judgment in Civil Case No. 75-AF (93). On June 20, 1994, petitioners appealed the decision in Civil Case No. 75-AF (93). Consequently, the MTC directed the Clerk of Court to forward the entire records of the above-entitled case to the Regional Trial Court of Antipolo, Rizal (now Antipolo City). On August 26, 1994, petitioners filed Civil Case No. 94-3335, which was denominated as a petition for relief from judgment, before the RTC of Antipolo, Branch 72. The RTC meantime issued a temporary restraining order enjoining the MTC from issuing the writ of execution prayed for by private respondent in Civil Case No. 75-AF (93). On August 29, 1994, petitioners filed their opposition to the motion for execution of judgment, alleging inter alia, the excusable oversight and mistake committed by their counsel's clerk-typist. The latter had apparently typed the wrong case number, in the notice of appeal. On September 1, 1994, the MTC granted the motion for issuance of writ of execution of the judgment in Civil Case No. 75-AF (93).

On September 10, 1994, private respondent moved for the dismissal of Civil Case No. 94-3335 on the grounds that: (1) a petition for relief from judgment is a prohibited pleading under the Rules on Summary Procedure, (2) the petition was not sufficient in form and substance for failure to attach an affidavit of merit, and (3) the act committed constituted gross and inexcusable negligence on the part of petitioners' counsel. On September 23, 1994, petitioners filed their opposition to the motion to dismiss. On September 26, 1994, the RTC of Antipolo granted the motion to dismiss on the ground that the petition for relief from judgment lacked the requisite affidavit of merit. The decretal portion of its order reads:

"WHEREFORE, premises considered, respondent's Motion to Dismiss is hereby GRANTED.

"ACCORDINGLY, petitioners' Petition for Relief from Judgment is hereby DISMISSED for lack of merit. IN VIEW THEREOF, Petitioners' prayer for preliminary injunction has been rendered moot and academic.

"SO ORDERED." [3]

On September 30, 1994, petitioners elevated the matter to the Court of Appeals by way of a petition for review on certiorari with prayer for preliminary injunctive relief, docketed as CA-G.R. SP No. 35346. On October 10, 1994, private respondent moved to dismiss the petition.

On October 26, 1994, the appellate court resolved to treat private respondent's motion to dismiss as his comment on the petition for review and ruled the case deemed submitted for decision. On January 30, 1995, the Court of Appeals sustained the RTC of Antipolo as follows:

"IN VIEW OF THE FOREGOING PREMISES, the assailed Order dated September 26, 1994 in Civil Case No. 94-3335 is hereby AFFIRMED. The instant petition for review on certiorari is hereby DENIED for lack of merit. No costs.

"IT IS SO ORDERED." [4]

Petitioners seasonably moved for reconsideration, but the appellate court denied it in a resolution dated March 30, 1995. Hence, the instant petition, with petitioners raising a single issue:

WHETHER OR NOT PETITIONERS SUFFICIENTLY ALLEGED THEIR GOOD AND VALID DEFENSES IN THE PETITION FOR RELIEF FILED WITH THE RTC, OR THROUGH ITS EQUIVALENT. [5]

In their memorandum, petitioners added two more issues for our consideration, thus:

A

WHETHER OR NOT THE ERROR WHICH RESULTED IN THE DISMISSAL OF THE APPEAL A QUO WAS DUE TO MISTAKE OR EXCUSABLE NEGLIGENCE.

x x x

C

WHETHER OR NOT PETITIONERS' PLEA FOR LIBERALITY BASED ON THEIR SUBSTANTIVE RIGHTS SHOULD OVERRIDE SHEER TECHNICALITY.[6]

Before touching on the issues raised by petitioners, we must first resolve whether a petition for a relief from judgment is prohibited under the 1991 Rule on Summary Procedure.

In the present case, the Regional Trial Court of Antipolo dismissed the petition for relief from the judgment in Civil Case No. 75-AF (93) on the ground that the petition was not accompanied by an affidavit of merit. The RTC held that Civil Case No. 75-AF (93) was not covered by the Rules of Summary Procedure.[7] In affirming the rulings of the RTC, the Court of Appeals noted that an affidavit of merit is an indispensable requirement under Rule 38, Section 3[8] of the Rules of Court, considering that the affidavit of merit serves as the jurisdictional basis for a court to entertain a petition for relief from judgment.

The dismissal of the petition for relief from judgment by the Regional Trial Court and the upholding of that dismissal by the appellate court were correct, but for the wrong reason. Neither of the two courts took cognizance of the fact that Civil Case No. 75-AF (93) decided by the MTC of Cainta and from whose decision a petition for relief from judgment was filed, is a suit for forcible entry. Under Section 1, A (1) of the Revised Rule on Summary Procedure, "all cases of forcible entry and unlawful detainer irrespective of the amount of damages or unpaid rentals sought to be recovered" fall under the scope of the 1991 Rule on Summary Procedure. Note further that under Section 19(d) of the said Rule, a petition for relief from judgment is a prohibited pleading. We have ruled that a petition for relief from judgment is not allowed in cases falling under the coverage of the 1991 Rule on Summary Procedure.[9]

In their opposition to private respondent's motion to dismiss in Civil Case No. 94-3335, appellants contended that, since the complaint in Civil Case No. 75-AF (93) sought damages in the amount of P118,000.00, summary procedure would not apply.[10] Clearly, petitioners were citing and relying upon the old Rule on Summary Procedure, which limited the application of the rule to ejectment suits involving damages or unpaid rentals not exceeding P20,000.00. This rule was no longer in effect at the time Civil Case No. 75-AF (93) was filed. In ruling that the petition for relief from the judgment in Civil Case No. 75-AF (93) was not covered by the Revised Rule on Summary Procedure, the RTC of Antipolo obviously relied upon the obsolete rule cited by petitioners in their pleadings. The RTC should have immediately dismissed petitioners' petition for relief from judgment for violating the 1991 Rule on Summary Procedure, thus settling once and for all this controversy. The RTC of Antipolo could have then disposed of all the issues raised in this petition and avoided further recourse to this Court to save its time and attention for more pressing concerns. Now, having clarified that the petition for relief from judgment in a forcible entry is not countenanced by the 1991 Rule on Summary Procedure, we need not tarry on the issues raised by petitioner in his memorandum for being moot and academic.

WHEREFORE, the instant petition is DISMISSED for lack of merit. Costs against petitioners.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] CA Rollo, p. 27.

[2] Id. at 34-35.

[3] Id. at 65.

[4] Id. at 95-96.

[5] Rollo, p. 11.

[6] Id. at 205.

[7] Supra Note 1, at 64.

[8] SEC. 3. Time for filing petition, contents and certification. - A petition provided for in either of the preceding sections of this rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

[9] Bayog v. Natino, 258 SCRA 378, 397 (1996).

[10] Supra Note 1, at 58-59.

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