

**BASILIO RIVERA, TOMAS RIVERA, CORNELIO RIVERA AND
LADISLAO RIVERA, PETITIONERS, VS. THE HONORABLE COURT OF
APPEALS, AND SPOUSES DANILO DEATO AND DIVINA LEGASPI,
RESPONDENTS.**

G.R. No. 141863. June 26, 2003

Ponente: CORONA, J.

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CORONA, J.:

Before us is a petition for review of the resolution[1] dated October 8, 1999 of the Court of Appeals[2] denying petitioners' motion for new trial on the ground that the document sought to be introduced is not a newly discovered evidence.

The facts of the case follow.

On December 28, 1993, petitioners Basilio Rivera, Tomas Rivera, Cornelio Rivera and Ladislao Rivera filed before the Regional Trial Court of Valenzuela, Branch 75, a complaint docketed as Civil Case No. 4275-V-93 for quieting of title and ownership with cancellation of title against respondent spouses Danilo and Divina Deato.

In their complaint, petitioners claimed ownership by virtue of acquisitive prescription over Lot 7 of the Malinta Estate, situated in the province of Bulacan.

On the other hand, respondent spouses claimed that the said lot was bought as patrimonial property by Calixto Bautista from the Republic of the Philippines. When Calixto died, his daughter, Beatriz Bautista, inherited the same. Upon the death of Beatriz, her heirs had the said lot titled in their name and thereafter sold it to herein respondent Danilo Beata. Accordingly, TCT No. V-24759 was issued by the Registry of Deeds of Valenzuela, Metro Manila, in favor of the respondent spouses.

Respondent spouses contend that petitioners are the agricultural tenants of Lot 7 of the Malinta Estate whom they agreed to pay disturbance compensation just to vacate the property. Later on, however, petitioners changed their mind and decided to sue respondents, claiming ownership over the said property.

On April 28, 1995, the trial court rendered a decision[3] in favor of petitioners, the dispositive portion of which read:

WHEREFORE, premises considered the plaintiffs' claim having been established by the quantum of evidence which is preponderance of evidence, judgment is hereby rendered in favor of plaintiffs BASILISO RIVERA, TOMAS RIVERA, CORNELIO RIVERA and LADISLAO RIVERA and against defendants-spouses Danilo Deato and Divina Legaspi and thus declare:

- 1) the plaintiffs as the rightful owners of lot 7 of the Malinta Estate;
- 2) the titles and tax declarations issued to the defendants-spouses and their predecessors-in-interest commencing from Beatriz Bernabe as null and void and the cancellation of the same by the Register of Deeds

of Valenzuela, Metro Manila and a new title be issue (sic) to herein plaintiffs;

3) the defendants to pay the plaintiffs the amount of Ten Thousand (P10,000.00) pesos by way of attorney's fees and Ten Thousand (P10,000.00) PESOS by way of moral damages.

SO ORDERED.[4]

Respondent spouses filed a motion for reconsideration. After petitioners filed their comment, the trial court reversed its earlier judgment and ruled in favor of respondent spouses, thus:

WHEREFORE, PREMISES CONSIDERED, and finding the instant Motion for Reconsideration to be in Order, another Order/Decision is hereby entered as follows: viz—

1) ORDERING, this Court's Decision dated April 28 1995, as vacated or is hereby set-aside, and a new one is hereby entered as follows: viz —

a) Declaring the defendants as the true and lawful owners of that parcel of land situated at Bignay, Valenzuela, Metro Manila, presently covered by or embraced in TCT no. V- 24759 of the Registry of Deeds for Valenzuela, Metro Manila, with an area of 44,300 square meters, more or less;

b) Declaring defendants' present title over subject property, TCT V-24759 of the Registry of Deeds of Valenzuela, Metro Manila, as valid, legal and subsisting; and —

c) Declaring plaintiffs and all persons claiming rights under them, to respect the title of the defendants over subject property, and ordering said plaintiffs and all persons claiming rights under them, to peacefully surrender possession of subject landholding to defendants.

SO ORDERED.[5]

On appeal, the Court of Appeals affirmed the decision of the trial court in a decision[6] dated April 20, 1999. On May 14, 1999, petitioners filed a motion for reconsideration to which respondent spouses filed their comment. On July 1, 1999, Atty. Bienvenido M. Tagorio, for and in behalf of petitioners, filed a motion to enter appearance together with a motion for leave to file and admit motion for new trial. The respondent spouses filed their comment thereto which elicited a reply from the petitioners. On October 8, 1999, the appellate court issued the assailed resolution, to wit:

xxx xxx xxx.

After a judicious consideration of the Appellant's motions, (a) Appellants' 'Motion to Withdraw Motion for Reconsideration' is granted and their 'Motion for Reconsideration' is deemed withdrawn. Anent Appellants' 'Motion for Leave to file Motion for New Trial,' the same is granted. Acting on the 'motion to admit motion for new trial,' the same is hereby denied. The document sought to introduced (sic) by the Appellants (a) is not a newly-discovered evidence; (b) contrary to and eschews Appellants' theory in the Court a quo and in this Court.

SO ORDERED.[7]

Petitioners then filed the instant petition for review under Rule 45 of the 1997 Rules of Civil Procedure raising a lone assignment of error:

I

WHETHER OR NOT RESPONDENT HONORABLE COURT OF APPEALS ERR (SIC) IN CONCLUDING THAT THE GROUND RAISED BY PETITIONERS IN THEIR APPLICATION FOR NEW TRIAL IS BASED ON NEWLY DISCOVERED EVIDENCE AND NOT ON THE GROSS NEGLIGENCE OR INCOMPETENCE OF THEIR PREVIOUS COUNSEL TO PRESENT IN EVIDENCE THE ASSIGNMENT

OF SALES CERTIFICATE NO. 668 DATED MAY 26, 1909 BEFORE THE COURT A QUO.[8]

After respondent spouses filed their comment and supplemental comment with leave of court, petitioners filed a reply. On January 5, 2001, petitioners filed a motion for leave to file supplemental petition with entry of appearance of Atty. Jose Reyes, another collaborating counsel for petitioners. Attached to the motion was petitioners' supplemental petition. On February 12, 2001, this Court issued a resolution[9] granting the motion and noting the supplemental petition which posits two additional assignments of errors, to wit:

I

THE COURT OF APPEALS ERRED IN DENYING THE MOTION TO ADMIT MOTION FOR NEW TRIAL.

II

THE COURT OF APPEALS ERRED IN UPHOLDING RESPONDENTS' TITLE TO THE LOT IN QUESTION DESPITE THE PATENT ERRORS THEREIN.[10]

Petitioners filed the present petition to question the resolution of the appellate court denying their motion for new trial. They allege that the appellate court erroneously ruled that their motion for new trial was premised on newly discovered evidence when in fact the basis of their contention was the excusable negligence committed by their previous counsel, Atty. Braulio Darum. They argue that Section 1, Rule 37 of the 1997 Rules of Civil Procedure considers excusable negligence as one of the grounds for new trial. According to petitioners, their previous counsel committed gross negligence in failing to present in evidence Assignment of Sales Certificate No. 668 dated May 25, 1909 which is material to establishing their right of ownership over the subject lot. They contend that said document belonged to their grandmother and served as their title over the subject parcel of land. They allege that during the trial of the case, their former counsel, Atty. Darum, deliberately disregarded said document in favor of his own erroneous theory of the case — that their title to the land was based on prescription. Darum overlooked the fact that the said mode of acquiring ownership cannot prevail over titled property as in the case at bar. Branding Atty. Darum's action as gross negligence, petitioners invoke the ruling of this Court in *Legarda vs. Court of Appeals*[11] rendered on March 18, 1991 where we held that losing the case because of the gross negligence of counsel was tantamount to depriving the client of the latter's property without due process of law.

We deny the petition.

The instant petition for review seeking a reversal of the resolution denying petitioners' motion for new trial is an erroneous remedy. Section 1, Rule 41 of the 1997 Rules of Civil Procedure provides that:

Section 1. Subject of appeal. — 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 these Rules to be appealable.

No appeal may be taken from:

(a) An order denying a motion for new trial or reconsideration;

xxx xxx xxx

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65. (Emphasis supplied)

In *Oro vs. Judge Diaz*,[12] we held that the right to appeal is not a natural right or a part of due process. Rather, it is a procedural remedy of statutory origin and, as such, may be availed only in the manner prescribed by the provisions of law authorizing its exercise. We thus cannot confer on petitioners a right that the Rules of Court does not give and in fact even prohibits.

Interlocutory orders, like a resolution denying a motion for new trial, cannot be the subject of an appeal. What must be appealed is the judgment which completely disposes of the case. Petitioners should have joined the denial of said motion as an additional assignment of error in a petition for review of the judgment that finally and completely disposed of the case.[13] Clearly, the assailed resolution in the case at bar is a non-appealable order. Petitioners cannot by right seek a reversal of such order without formally disputing the decision on the merits.

According to petitioners, the prohibition in Rule 41 of the 1997 Rules of Civil Procedure does not apply in the present case because said rule is only applicable to a judgment or final order of the Regional Trial Court and not to a final order or resolution issued by the Court of Appeals. We disagree.

It must be emphasized that Section 1, Rule 41 of the 1997 Rules of Civil Procedure was crafted by this Court to codify the long-established jurisprudence prohibiting an appeal from an interlocutory order such as an order denying a motion for new trial. Inasmuch as a petition for review is similar to an ordinary appeal of a decision of the Regional Trial Court in that both are modes of appeal, the prohibition against appeals from interlocutory orders applies to petitions for review as well. The common objective of the prohibition, that is, to avoid multiplicity of appeals in a single action, applies to both modes of appeal.[14] Thus, whether issued by a trial court or an appellate court, interlocutory orders cannot be the subject of an appeal separate from the judgment that completely or finally disposes of the case. The only alternative remedy is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction.

Assuming arguendo that petitioners are allowed to appeal said resolution, we find no excusable negligence to merit the grant of a new trial. Petitioners consider as gross negligence their previous counsel's failure to present Assignment of Sales Certificate No. 668 dated May 25, 1909 issued in favor of their grandmother, and his erroneous reliance on the theory that petitioners owned the subject lot by virtue of acquisitive prescription. However, as a general rule, the client is bound by the action of his counsel in the conduct of his case and he cannot therefore complain that the result of the litigation might have been otherwise had his counsel proceeded differently. It has been held time and again that blunders and mistakes made in the conduct of the proceedings in the trial court as a result of the ignorance, inexperience or incompetence of counsel do not qualify as a ground for new trial. If such were to be admitted as valid reasons for re-opening cases, there would never be an end to litigation so long as a new counsel could be employed to allege and show that the prior counsel had not been sufficiently diligent, experienced or learned. This will put a premium on the willful and intentional commission of errors by counsel, with a view to securing new trials in the event of conviction.[15]

The 1991 Legarda decision[16] invoked by petitioners does not buttress their cause because it was already reversed by our Resolution[17] dated October 16, 1997. We held in said Resolution that the final judgments being disputed in the case could no longer be nullified despite the gross negligence of Legarda's counsel. First, nullifying the subject decisions would unjustly deprive the innocent purchasers for value of the property subject of the case which they acquired after the finality of said decisions. It would violate the right to due process of the innocent purchasers for value who were neither impleaded nor given an opportunity to file their answer. Apart from this, the Torrens system made their title conclusive and indefeasible. Second, Legarda was given the opportunity to defend her interests in due course and thus could not be said to have been denied due process of law. The order of default, the execution sale and the decision on her petition to annul judgment were all done without any irregularity. She was even partly at fault; she was constructively notified of the auction sales that were duly published but she failed to attend the proceedings to redeem her property. We also held that "(i)f she may be said to be 'innocent' because she was ignorant of the acts of negligence of her counsel, with more reason are the respondents truly 'innocent.' As between two parties who may lose due to the negligence or incompetence

of the counsel of one, the party who was responsible for making it happen should suffer the consequences."

In the case at bar, the acts of Atty. Darum could not even qualify as gross negligence. Petitioners were duly represented by and heard through Atty. Darum, petitioners' previous counsel, who filed the necessary pleadings and actively participated in the trial. Although he advocated an erroneous legal position, the effects thereof, which did not amount to a deprivation of their right to be heard, must bind petitioners. The question is not whether petitioners succeeded in defending their interests, but whether petitioners had the opportunity to present their side.[18]

WHEREFORE, the petition is hereby DENIED. Costs against the petitioners.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice Romeo Callejo, Sr. (now Associate Justice of this Court), and concurred in by Associate Justices Quirino Abad-Santos and Mariano Umali; Rollo, p.20.

[2] Sixth Division.

[3] Penned by Judge Jaime Bautista.

[4] Rollo, p. 112.

[5] Rollo, p. 129.

[6] Rollo, pp. 119-141.

[7] Rollo, p. 20.

[8] Rollo, p. 14.

[9] Rollo, p. 143.

[10] Rollo, p. 89.

[11] 195 SCRA 418 [1991].

[12] G.R. No. 140974, July 11, 2001.

[13] Sta. Ana vs. Sta. Ana, 28 Phil. 65, 67 [1914].

[14] *Pagtakhan vs. Court of Industrial Relations*, 39 SCRA 455 [1971], citing the former Section 2, Rule 41, Rules of Court; *People vs. Doriques*, 24 SCRA 167 [1968]; *Ramos vs. Ardant Trading Corporation*, 23 SCRA 947 [1968]; *Sy vs. Dalman*, 22 SCRA 834 [1968]; *Chuatoco vs. Aragon*, 22 SCRA 346 [1968]; *People vs. Macandog*, 7 SCRA 195 [1963]; *Bautista vs. De la Cruz*, 9 SCRA 725 [1963]; *Harrison Foundry & Machinery vs. Harrison Foundry Workers Association*, 8 SCRA 430 [1963]; *Phil. Refining Co., Inc. vs. Ponce*, 99 Phil. 269 [1956]; *PLDT Employees Union vs. PLDT Co. Free Tel. Workers Union*, 97 Phil. 424 [1955]; *Sitchon vs. Sheriff of Occidental Negros*, 80 Phil. 397 [1948].

[15] *People vs. Villanueva*, G.R. No. 135330, August 31, 2000; *U.S. vs. Umali*, 15 Phil. 33 [1910].

[16] The facts of the case showed that the counsel defaulted in filing an answer to the complaint; the consequence was an order of default. And when judgment was rendered against his client, he allowed the same to become final

and executory. Moreover, he did nothing to prevent the public auction sale of the subject property and issuance of a certificate of sale in favor of the opposing party. Although he subsequently filed a petition to annul the judgment, he nevertheless allowed the adverse judgment of the appellate court to lapse.

[17] 280 SCRA 642 [1997].

[18] Villa Rhecar Bus vs. de la Cruz, 157 SCRA 13 [1988].

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