MILAGROS SIMON AND LIBORIO BALATICO, PETITIONERS, VS. GUIA W. CANLAS, RESPONDENT.

G.R. NO. 148273. April 19, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) dated May 23, 2001 in CA-G.R. CV No. 62789 which affirmed the Decision of the Regional Trial Court (RTC), Branch 65, Tarlac City dated July 31, 1998 in Civil Case No. 7384.

The factual background of the case is as follows:

On February 11, 1991, Edgar H. Canlas (Edgar) filed a complaint for judicial foreclosure of real estate mortgage against Milagros Simon (Milagros) and her husband, Liborio Balatico (petitioners). In the complaint, Edgar alleges that: on September 10, 1987, Milagros obtained a loan from him in the amount of P220,000.00 secured by a real estate mortgage[2] over her paraphernal property, a 748-square meter parcel of land located at San Nicolas, Victoria, Tarlac, covered by Transfer Certificate of Title (TCT) No. 139884; the loan was payable within a period of three years or until September 18, 1990; Milagros defaulted in the payment of the loan and repeated demands for payment went unheeded, prompting the filing of a case in court.[3]

On March 25, 1991, petitioners filed their Answer with Counterclaim, alleging that Milagros never transacted any business with Edgar and she did not receive the consideration of the alleged mortgage.[4]

On March 26, 1991, Edgar filed his Reply and Answer to Counterclaim, reiterating validity and due execution of the real estate mortgage.[5]

On November 12, 1991, with leave of court,[6] petitioners filed a Third-Party Complaint against Virginia Canlas (Virginia) and Aurelia Delos Reyes (Aurelia), claiming that they duped Milagros to part with her title and sign the mortgage documents without giving her the consideration and refusing to return her title when demanded.[7]

On November 18, 1991, Virginia and Aurelia filed their Answer with Counterclaim to Third-Party Complaint, alleging that the complaint states no cause of action against them since they are not privies to the real estate mortgage and Aurelia is only a witness to the mortgage document.[8]

On November 28, 1991, petitioners filed their Reply and Answer to Counterclaim, reiterating their claims in the third-party complaint.[9]

Edgar died during the pendency of the case. On December 4, 1991, upon proper motion,[10] the RTC ordered that Edgar be substituted by his wife, Guia W. Canlas (respondent), as plaintiff.[11]

On August 12, 1996, the RTC issued a pre-trial order stating that the parties failed to arrive at a settlement. However, they agreed to stipulate on the following: "[t]hat the defendant executed a deed of real estate mortgage in favor of the plaintiff involving a parcel of land covered by TCT No. 139884 located at San Nicolas, Victoria,

Tarlac."[12]

Thereafter, trial on the merits ensued with respondent presenting her witnesses, namely: Nelson Nulud, the records custodian of the Registry of Deeds of Tarlac; Aurelia, the third-party defendant and one of the instrumental witnesses to the real estate mortgage; and respondent herself. When petitioners' turn came, they presented Crisostomo Astrero, the other instrumental witness to the real estate mortgage.

On April 15, 1998, petitioner's counsel, Atty. Norberto De Jesus, filed an Ex-Parte Urgent Motion for Postponement since he is busy campaigning as a candidate in the coming elections.[13] There being no objection from respondent, the RTC reset the hearing to May 28, 1998.[14]

On May 28, 1998, Atty. De Jesus and petitioners failed to appear in court. The RTC reset the hearing on June 17, 1998 with a warning that if the petitioners will still fail to appear on said date, they will be considered to have waived their right to present further evidence.[15]

On June 17, 1998, Atty. De Jesus failed to appear in court but petitioners were present. Milagros informed the RTC that Atty. De Jesus withdrew his appearance as their counsel. In view thereof, the RTC directed petitioners to secure the services of another counsel and the hearing was reset to June 24, 1998 with a warning that should petitioners still fail to present evidence at said hearing, they will be considered to have waived their right to present further evidence.[16] On June 23, 1998, Atty. De Jesus filed his Withdrawal of Appearance as Counsel for the Defendants with the conformity of Milagros.[17]

On June 24, 1998, Milagros informed the RTC that they have retained Atty. Alejo Y. Sedico[18] as new counsel. The hearing was again reset to July 2, 1998 with the final warning that should petitioners' witnesses fail to appear at the said hearing, they would be considered to have waived their right to present further evidence.[19]

On July 1, 1998, Atty. Sedico formally filed his Entry of Appearance with Urgent Ex-Parte Motion to Reset, praying that the hearing scheduled on July 2, 1998 be reset to August 12, 1998 due to conflict of schedule and his trial calendar for July is fully occupied, as well as to give him more time to study the case since he had just been retained.[20]

On July 2, 1998, the RTC allowed, in the interest of justice, the resetting of the hearing for presentation of petitioners' evidence for the last time on July 15, 1998. The RTC directed petitioners to secure the services of a counsel of their choice to represent them in the said hearing considering that it postponed motu propio the hearing in the interest of justice over the vigorous objection of the respondent due to failure of petitioners' counsel to appear for three successive times. It warned petitioners that in case they would be unable to present evidence in the next scheduled hearing, they would be deemed to have waived their right to present further evidence.[21]

On July 9, 1998, Atty. Sedico filed an Urgent Motion to Reset the scheduled hearing on July 15, 1998 due to a previously scheduled hearing on the same date of Criminal Case Nos. 6463 to 6510 for Estafa entitled "People of the Philippines v. Eddie Sentero" before the Regional Trial Court, Branch 172, Valenzuela. He reiterated that his trial calendar for the whole month of July is fully occupied and requested the hearing be reset to August 10 or 19, 1998.[22]

At the scheduled hearing on July 15, 1998, the RTC was apprised of the Urgent Motion to Reset filed by petitioners' counsel. In view of the vigorous objection of respondent's counsel on the ground that the case has been postponed several times at petitioners' instance, the RTC denied the motion to reset and petitioners were deemed to have waived their right to present evidence. The case was then considered submitted for decision.[23]

Sixteen days later, on July 31, 1998, the RTC rendered its decision, the dispositive portion of which reads:

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> WHEREFORE, the plaintiff having substantiated her claim by a preponderance of evidence, this Court hereby renders judgment in her favor, ordering the defendants to pay the plaintiff within a period of ninety (90) days from the entry of judgment hereof, the following sums of:
>
> (1) P220,000.00, representing the principal obligation plus interest thereof of 12% per annum from the filing of the complaint until fully paid;
>
> (2) P30,000.00 as attorney's fees; and
>
> (3) The costs of suit.
>
> It is further adjudged that in the event defendants default in the payment of the above determined amounts, Lot No. 2763, with an area of 748 square meters situated in San Nicolas, Victoria, Tarlac and covered by Transfer Certificate of Title No. 13984 - Tarlac Registry, particularly identified and described in the Real Estate Mortgage contract (Exhibit "A"), shall be sold at public auction to satisfy this judgment.
>
> SO ORDERED.[24]

The RTC held that Milagros executed a deed of real estate mortgage in favor of Edgar and she received the consideration for the mortgage in the amount of P220,000.00; that petitioners' inaction for three years before the filing of the complaint against them to protest the alleged non-receipt of the consideration for the mortgage casts serious doubts on their claim; and that the deed of real estate mortgage was duly notarized and assumed the character of a public instrument.

On September 2, 1998, petitioners filed a Motion for Reconsideration, claiming that they were denied due process when the RTC decided the case without petitioners' evidence.[25] On October 16, 1998, the RTC denied the motion for reconsideration, holding that petitioners were given ample opportunity to hire a counsel, prepare for trial and adduce evidence, which they took for granted and they should bear the fault.[26]

Dissatisfied, petitioners filed an appeal with the CA. On May 23, 2001, the CA affirmed the decision of the RTC.[27] The CA ruled that petitioners were not denied due process since they were duly accorded all the opportunities to be heard and present evidence to substantiate their defense but they forfeited their right for not appearing in court together with their counsel at the scheduled hearings; that since Milagros admitted the existence, due execution, authenticity and validity of the Deed of Real Estate Mortgage during the Pre-Trial Conference on June 7, 1995, absence of consideration is no longer an issue; that, in any case, the amount of P220,000.00 was actually received by Milagros per the testimony of Aurelia; that petitioners slept on their rights, if they had any, since they never lifted a finger to protect and preserve their alleged rights and interests; and that the mortgaged property is not conjugal property but the exclusive property of Milagros which she could validly dispose of or encumber without her husband's consent.

The CA merely noted that the RTC failed to dispose of petitioners' third-party complaint and without any further discussion, dismissed the third-party complaint in the dispositive portion of its decision, to wit:

> WHEREFORE, the Decision appealed from is hereby AFFIRMED in toto as to the main case. The third-party complaint is hereby DISMISSED.
>
> **SO ORDERED.[28]**

Hence, the present petition for review on certiorari anchored on the following Assignment of Errors:

> - THE RESPONDENT COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR IN EXCESS OF JURISDICTION WHEN IT UPHELD THE VALIDITY OF THE QUESTIONED REAL ESTATE MORTAGE EVEN AS THERE

WAS LACK OF CONSIDERATION AND THAT THE SAME WAS EXECUTED THROUGH FRAUDULENTLY [sic] SCHEME;

- THE RESPONDENT COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THE DUE EXECUTION OF THE REAL ESTATE MORTGAGE WAS ADMITTED WHILE WHAT WAS ADMITTED ONLY IS ITS EXECUTION;

- THE RESPONDENT COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THE SUBJECT REAL PROPERTY IS PARAPHERNAL EVEN AS EXISTING LAW AND JURISPRUDENCE HAD CONSIDERED IT CONJUGAL OR ABSOLUTE COMMUNITY OF PROPERTY;

- THE RESPONDENT COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT DESPITE OF [sic] HAVING DENIED PETITIONER TO BE REPRESENT [sic] BY A COUNSEL OF CHOICE DUE PROCESS IS SATISFIED.[29]

Petitioners contend that the real estate mortgage was fraudulently executed and there was lack of consideration but material facts relating thereto were not fully ventilated because the RTC denied petitioners' motion to reset the hearing. They maintain that they never admitted the due execution of the real estate mortgage, but only its execution or existence. They further insist that the mortgaged property is conjugal, not paraphernal, and therefore, Milagros could not dispose of or encumber without her husband's consent; and the CA disregarded Article 99[30] of the Family Code which provides that all the property owned by the spouses at the time of the celebration of the marriage or acquired thereafter forms part of the community property. Lastly, they submit that while they were given the opportunity to secure the services of a new counsel to defend them, the RTC's apathy to the plight of petitioners' counsel on the latter's conflict of schedule amounted to stripping such right to counsel and denial of due process.

For her part, respondent contends that the petition should be dismissed outright for impleading the CA as respondent, despite the clear directive of the 1997 Rules of Civil Procedure against it. She further points out that the petition lacks verification, a certification against forum shopping, a copy of the assailed CA decision, and it fails to raise any specific question of law but only presents and discusses an "assignment of errors."

In any event, even if these procedural defects are disregarded, respondent argues that petitioners were not denied due process when the RTC denied their motion for postponement since they were duly accorded all the opportunities to be heard and to present their evidence to substantiate their defense but they forfeited this right for not appearing in court together with their counsel at the scheduled hearings. They also aver that the real estate mortgage is valid and duly executed and the mortgaged property is the paraphernal property of Milagros such that she can validly dispose of or encumber it without her husband's consent.

Anent the procedural defects raised by respondent, the Court agrees that the correct procedure, as mandated by Section 4, Rule 45 of the 1997 Rules of Civil Procedure, is not to implead the lower court which rendered the assailed decision.[31] However, impleading the lower court as respondent in the petition for review on certiorari does not automatically mean the dismissal of the appeal but merely authorizes the dismissal of the petition.[32] Besides, formal defects in petitions are not uncommon. The Court has encountered previous petitions for review on certiorari that erroneously impleaded the CA. In those cases, the Court merely called the petitioners' attention to the defects and proceeded to resolve the case on their merits.[33]

The Court finds no reason why it should not afford the same liberal treatment in this case. While unquestionably,

the Court has the discretion to dismiss the appeal for being defective, sound policy dictates that it is far better to dispose of cases on the merits, rather than on technicality as the latter approach may result in injustice.[34] This is in accordance with Section 6, Rule 1 of the 1997 Rules of Civil Procedure[35] which encourages a reading of the procedural requirements in a manner that will help secure and not defeat justice.[36]

As to respondent's claim that the petition lacks verification, a certification against forum shopping and a copy of the assailed CA decision, the Court has carefully examined the rollo of the case and found them to be attached to the petition.[37]

Anent respondent's submission that the petition failed to raise a question of law, the Court disagrees. For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by the litigants or any of them.[38] Petitioners' contention that they were denied substantive due process is a pure question of law.[39]

As a rule, the grant or denial of a motion for postponement is addressed to the sound discretion of the court, which should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case, the ends of justice and fairness should be served thereby. After all, postponements and continuances are part and parcel of our procedural system of dispensing justice."[40] When no substantial rights are affected and the intention to delay is not manifest with the corresponding motion to transfer the hearing having been filed accordingly, it is sound judicial discretion to allow the same to the end that the merits of the case may be fully ventilated.[41] Thus, in considering motions for postponements, two things must be borne in mind: (1) the reason for the postponement, and (2) the merits of the case of the movant.[42] Unless grave abuse of discretion is shown, such discretion will not be interfered with either by mandamus or appeal.[43]

In the present case, there are circumstances that justify postponement of the July 15, 1998 hearing. Atty. Sedico had only been formally retained as petitioners' new counsel as of July 1, 1998, or merely two weeks before July 15, 1998. Atty. Sedico also had a previously intransferable hearing in a criminal case before the Regional Trial Court, Branch 172, Valenzuela scheduled on the same date of July 15, 1998. The distance factor, from Valenzuela to Tarlac, is enough consideration to call for postponement. Moreover, Atty. Sedico twice informed the RTC that his entire calendar for July is already full such that he requested specific dates in August for the hearing.[44] The motion to reset the hearing has not been shown to be manifestly dilatory. Besides, except for the May 28, 1998 scheduled hearing,[45] petitioners have always been present in court. They cannot be said to have lost interest in fighting the civil case to the end; only that Atty. De Jesus withdrew his appearance as their counsel and petitioners had to look for new counsel to take their case on short notice. Absolutely wanting from the records is any evidence that the change of counsel was intended to delay the proceedings. In fact, only 48 days have lapsed from the time Atty. De Jesus failed to appear on May 28, 1998[46] to the time when Atty. Sedico's motion to reset was denied on July 15, 1998.[47] Such intervening time cannot be said to have greatly impaired the substantial rights of respondent. Thus, absent unreasonable delay and manifest intent to employ dilatory tactic prejudicial to the respondent and trifling court processes, Atty. Sedico's request for resetting should have been granted.

It cannot be disputed that the case has been pending since February 11 1991,[48] or more than seven years until petitioners were able to start their presentation of their evidence on March 11, 1998.[49]

The Court is as aware as anyone of the need for the speedy disposition of cases. However, it must be emphasized that speed alone is not the chief objective of a trial. It is the careful and deliberate consideration for the administration of justice, a genuine respect for the rights of all parties and the requirements of procedural due process, and an adherence to this Court's standing admonition that the disposition of cases should always be predicated on the consideration that more than the mere convenience of the courts and of the parties in the case,

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the ends of justice and fairness would be served thereby. These are more important than a race to end the trial.[50] Indeed, court litigations are primarily for the search for truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth.[51]

Ironically, the precipitate action of the RTC prolonged the litigation and unnecessarily delayed the case, in the process, causing the very evil it apparently sought to avoid. Instead of unclogging dockets, it has actually increased the workload of the justice system as a whole. Such action does not inspire public confidence in the administration of justice.

Moreover, it is noted that petitioners filed a third-party complaint which the RTC simply disregarded. On the other hand, the CA, while stating in its Decision that "[a]ll thus told, we find no reversible error in the judgment of the trial court, except that it failed to dispose of the third-party complaint,"[52] it simply proceeded to dismiss the third-party complaint in the dispositive portion of herein assailed decision, without giving any reason or justification therefor.

As to the effect of petitioners" admission of the due execution of the real estate mortgage during the pre-trial conference, it must be noted that in Benguet Exploration, Inc. v. Court of Appeals,[53] this Court ruled that the admission of the genuineness and due execution of a document simply means that the party whose signature it bears admits that he voluntarily signed the document or it was signed by another for him and with his authority; that at the time it was signed it was in words and figures exactly as set out in the pleading of the party relying upon it; that the document was delivered; and that any formalities required by law, such as a seal, an acknowledgment, or revenue stamp, which it lacks, are waived by him. However, it does not preclude a party from arguing against it by evidence of fraud, mistake, compromise, payment, statute of limitations, estoppel and want of consideration. Petitioners therefore are not barred from presenting evidence regarding their claim of want of consideration.

It bears stressing that the matter of absence of consideration and alleged fraudulent scheme perpetuated by third-party defendants, being evidentiary, should be threshed out in a proper trial. To deny petitioners their right to present evidence constitutes a denial of due process, since there are issues that cannot be decided without a trial of the case on the merits.

Ordinarily, when there is sufficient evidence before the Court to enable it to resolve the fundamental issues, the Court will dispense with the regular procedure of remanding the case to the lower court, in order to avoid further delays in the resolution of the case.[54] However, a remand in this case, while time-consuming, is necessary, because the proceedings had in the RTC are grossly inadequate to settle factual issues. Petitioners were unduly deprived of the full opportunity to present evidence on the merits of their defense and third-party complaint.

Considering the foregoing, the Court need not delve on the other issues raised by petitioners. Suffice it to say that such matters are best decided by the RTC only after full reception of petitioners" evidence.

WHEREFORE, the present petition is GRANTED. The assailed Decision dated May 23, 2001 of the Court of Appeals and the Decision dated July 31, 1998 of the Regional Trial Court, Branch 65, Tarlac City in Civil Case No. 7384, are REVERSED and SET ASIDE. The case is REMANDED to the said Regional Trial Court for reception of petitioners" evidence and further proceedings.

No pronouncement as to costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Delilah Vidallon-Magtolis (now retired) and concurred in by Associate Justices Teodoro P. Regino (now retired) and Josefina Guevara-Salonga.

[2] Records, p. 4.

[3] Id. at 1-2.

[4] Id. at 14-15.

[5] Id. at 22.

[6] Id. at 39.

[7] Id. at 35-37.

[8] Id. at 40-41.

[9] Id. at 48.

[10] Id. at 49.

[11] Id. at 50.

[12] Id. at 145.

[13] Id. at 185.

[14] Id. at 187.

[15] Id. at 192.

[16] Id. at 194.

[17] Id. at 194-A.

[18] Stated in the Order as "Angel", id. at 196.

[19] Id.

[20] Id. at 197.

[21] Id. at 200.

[22] Id. at 201.

[23] Id. at 203.

[24] Id. at 209.

[25] Id. at 211.

[26] Id. at 213.

[27] CA rollo, p. 52.

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[28] Id. at 64.

[29] Rollo, p. 11.

[30] Should be Article 91.

[31] SEC. 4. Contents of petition. - The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner; and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; x x x (Emphasis supplied)

[32] SEC. 5. Dismissal or denial of petition. - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. x x x (Emphasis supplied)

[33] Bejoc v. Cabreros, G.R. No. 145849, July 22, 2005, 464 SCRA 78, 80; Miguel v. JCT Group, Inc., G.R. No. 157752, March 16, 2005, 453 SCRA 529, 531; Villamor v. National Power Corporation, G.R. No. 146735, October 25, 2004, 441 SCRA 329, 330; Payongayong v. Court of Appeals, G.R. No. 144576, May 28, 2004, 430 SCRA 210, 212; Asia Traders Insurance Corporation v. Court of Appeals, G.R. No. 152537, February 16, 2004, 423 SCRA 114, 118; Hanil Development Co., Ltd. v. Court of Appeals and M.R. Escobar Explosive Engineers, Inc. v. Court of Appeals, 414 Phil. 267, 273 (2001).

[34] Gutierrez v. Cabrera, G.R. No. 154064, February 28, 2005, 452 SCRA 521, 529; Armed Forces of the Philippines Mutual Benefit Association, Inc. v. Court of Appeals, 370 Phil. 150, 166 (1999).

[35] SEC. 6. Construction. - These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.

[36] Gutierrez v. Cabrera, supra note 34, at 529-530; Paras v. Baldado, G.R. No. 140713, March 8, 2001, 354 SCRA 141, 145.

[37] Rollo, p. 17 (Verification and Certification), p. 53 (CA Decision).

[38] Microsoft Corporation v. Maxicorp, Inc., G.R. No. 140946, September 13, 2004, 438 SCRA 224, 232; Manila Bay Club Corp. v. Court of Appeals, 315 Phil. 805, 820 (1995).

[39] See Autencio v. Mañara, G.R. No. 152752, January 19, 2005, 449 SCRA 46, 52.

[40] People v. Leviste, 325 Phil. 525, 534 (1996); De Guia v. Guerrero, Jr., A.M. No. RTJ-93-1099, August 1, 1994, 234 SCRA 625, 629; People v. Maceda, G.R. No. 89591-96, August 13, 1990, 188 SCRA 532, 551.

[41] People v. Leviste, supra.

[42] De Guzman v. Elbinias, G.R. No. 57395, April 17, 1989, 172 SCRA 240, 246.

[43] People v. Leviste, supra note 40; Intestate Estate of the Late Ricardo P. Presbitero, Sr. v. Court of Appeals, G.R. No. 102432, January 21, 1993, 217 SCRA 372, 381; Garces v. Valenzuela, G.R. No. 55226, February 28, 1989, 170 SCRA 745, 749.

[44] Records, pp. 197, 201.

[45] Id. at 192.

[46] Id.

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[47] Id. at 203.

[48] Id. at 1.

[49] Id. at 184.

[50] Habana v. National Labor Relations Commission, 372 Phil. 873, 881 (1999); Reyes v. Court of Appeals, 335 Phil. 206, 217 (1997); De Guzman v. Elbinias, supra note 42, at 245; Amberti v. Court of Appeals, G.R No. L-41808, March 30, 1979, 89 SCRA 240, 249-250.

[51] Acance v. Court of Appeals, G.R. No. 159699, March 16, 2005, 453 SCRA 548, 564; Go v. Tan, G.R. No. 130330, September 26, 2003, 412 SCRA 123, 129-130.

[52] CA rollo, p. 64.

[53] G.R. No. 117434, February 9, 2001, 351 SCRA 445, 459; Heirs of Amparo del Rosario v. Aurora Santos, 194 Phil. 670, 684 (1981).

[54] National Commercial Bank of Saudi Arabia v. Court of Appeals, G.R. No. 124267, August 18, 2004, 437 SCRA 1, 9; Basco v. Court of Appeals, 392 Phil. 251, 267 (2000); Basco v. Court of Appeals, 383 Phil. 671, 689 (2000).

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