

ROGELIO GUEVARRA AND EDGARDO BANTUGAN, PETITIONERS, VS. SPOUSES ENGRACIO AND CLAUDIA BAUTISTA, JESUS DANAOS AND CECILIA LACSON, RESPONDENTS.

G.R. No. 148435. November 28, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to set aside the Court of Appeals (CA) Resolutions dated January 24, 2001[1] and May 30, 2001[2] in CA-G.R. CV No. 59563.

On June 9, 1988, spouses Engracio and Claudia Bautista (spouses Bautista) filed a Complaint[3] for Reimbursement of Loan Payments and/or Collection of Money with Damages against petitioners Rogelio Guevarra and Edgardo Bantugan, and spouses Aguinaldo and Remegia Santos (spouses Santos), before the Regional Trial Court (RTC) of Olongapo City. The case was raffled to Branch 73, and was docketed as Civil Case No. 294-0-88. Petitioners, in turn, filed a Third-Party Complaint against Jesus Danao (Danao) and Cecilia Lacson (Lacson), as the amount borrowed was invested in the latter's project.

After trial, or on January 5, 1996, the RTC rendered a Decision[4] in favor of the spouses Bautista and against the petitioners, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs and against defendants Rogelio Guevarra and Edgardo Bantugan.

- The defendants Guevarra and Bantugan are hereby ordered to pay the plaintiffs jointly and severally the amount of Two Hundred Thousand Pesos (P200,000.00) with interest at 18% per annum from the date it was borrowed on February 20, 1987 up to the time that the full amount shall have been paid.
- To pay the said amount within a period of sixty (60) days from receipt of this decision; and
- To pay P15,000.00 as attorney's fees and P7,000.00 as litigation expenses.

SO ORDERED.[5]

Petitioners' motion for reconsideration was denied on June 4, 1996. No appeal was taken; instead, on July 15, 1996, they filed a Petition for Relief From Judgment[6] as they failed to seasonably appeal allegedly because of accident, honest mistake and excusable negligence. In their petition for relief, petitioners attributed their failure to appeal the January 5, 1996 RTC Decision to the excusable negligence of their counsel, who, at the time of the receipt of said decision, was busy preparing for a conference in Baguio City. To strengthen their claim for relief from judgment, petitioners raised anew their defense[7] set up in the collection case.

On September 16, 1996, the RTC denied the petition for relief for lack of merit.[8] The court held that the issues raised by petitioners were the same as those raised in their motion for reconsideration which had already been resolved by the court. It added that there was no showing of fraud, accident, mistake or excusable negligence, to

warrant a relief from judgment.[9]

Aggrieved, petitioners appealed the matter to the Court of Appeals; the same was docketed as CA-G.R. CV No. 59563. After the filing of the appellants' brief by the petitioners, Lacson filed a Motion to Dismiss[10] on the ground that the issues raised were questions pertaining to the merits of the collection case and not to the denial of the petition for relief.

In a Resolution dated January 24, 2001, the appellate court granted the motion and thus dismissed the appeal pursuant to Section 1(b), Rule 50[11] of the Rules of Court.[12] While petitioners apparently questioned the September 16, 1996 Order of the RTC denying their petition for relief, it appeared from their appellants' brief that they were, in fact, assailing the January 5, 1996 decision of the court on the merits of the case. As such, the appeal before the CA was filed beyond the reglementary period. The CA further held that no appeal may be taken from an order denying a petition for relief from judgment pursuant to Section 1(a), Rule 41 of the Rules.[13]

Acting on petitioners' motion for reconsideration, the appellate court sustained the denial of the appeal. The CA reiterated its findings that the issues raised were supportive of an appeal on the merits of the January 5, 1996 Decision and not of the September 16, 1996 Order.

Hence, the instant petition raising the following issues:

I.

WHETHER OR NOT ERRED (SIC) THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE APPEAL INTERPOSED BY HEREIN PETITIONERS.

II.

WHETHER OR NOT THE TRIAL COURT ERRED IN DECLARING HEREIN PETITIONERS CIVILLY LIABLE IN THE INSTANT CASE.[14]

Before ruling on the petition, the Court notes that respondents Lacson and the spouses Bautista filed their respective Comments. For failure to serve the Resolution requiring respondent Danao to comment on the petition, we have repeatedly ordered the petitioners to furnish this Court with Danao's correct and present address. Considering the length of time that lapsed since Danao was first ordered to comment on the petition, he is now deemed to have waived his right to file the same.

The petition is without merit.

Relief from judgment is a remedy provided by law to any person against whom a decision or order is entered through fraud, accident, mistake, or excusable negligence.[15] It is a remedy, equitable in character, that is allowed only in exceptional cases when there is no other available or adequate remedy. When a party has another remedy available to him, which may either be a motion for new trial or appeal from an adverse decision of the trial court, and he was not prevented by fraud, accident, mistake, or excusable negligence from filing such motion or taking such appeal, he cannot avail of the remedy of petition for relief.[16]

Petitioners' counsel received the June 4, 1996 Order denying their motion for reconsideration. However, he failed to file a notice of appeal because, allegedly, the receipt of said order was not brought to his attention, as he was then busy preparing to leave for a conference in Baguio City.[17] This, according to the petitioners, is a clear case of excusable negligence on the part of his counsel, warranting relief from judgment.

Unfortunately for the petitioners, negligence, to be "excusable," must be such that ordinary diligence and prudence could not have guarded against it. Their counsel's oversight can hardly be characterized as excusable,

much less unavoidable. It is settled that clients are bound by the mistakes, negligence and omission of their counsel. While, exceptionally, the client may be excused from the failure of counsel, the circumstances obtaining in the present case do not convince this Court to take exception.[18]

To strengthen their claim for relief from judgment, petitioners relied on their alleged meritorious defense, thereby focusing mainly on the grounds warranting the reversal of the January 5, 1996 Decision. We would like to emphasize at this point that fraud, accident, mistake, or excusable negligence should first be established before relief from judgment can be granted. Indeed, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own (or that of his counsel) negligence; otherwise, the petition for relief can be used to revive the right to appeal which had been lost through inexcusable negligence.[19]

As held in *Insular Life Savings & Trust Co. v. Spouses Runes*,[20] relief cannot be granted on the flimsy excuse that the failure to appeal was due to the neglect of the petitioners' counsel. Otherwise, all that a defeated party has to do to salvage his case would be to claim neglect or mistake on the part of his counsel as a ground for reversing the adverse judgment, and there would then be no end to litigation, as every shortcoming of counsel could be the subject of challenge by his client.

To reiterate, as clearly attempted by the petitioners, petition for relief from judgment cannot be availed of to revive a lost appeal. It must be established that the decision became final and executory, or that the judgment or order had been entered, by reason of fraud, accident, mistake, or excusable negligence. No such circumstance has been shown to exist in this case.

WHEREFORE, premises considered, the petition is DENIED. The Resolutions of the Court of Appeals dated January 24, 2001 and May 30, 2001 are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Oswaldo D. Agcaoili and Mercedes Gozo-Dadole, concurring; rollo, pp. 100-101.

[2] *Id.* at 110-111.

[3] Rollo, pp. 28-33.

[4] Penned by Judge Alicia L. Santos; *id.* at 75-81.

[5] *Id.* at 81.

[6] *Id.* at 53-56.

[7] The grounds relied upon in their petition for relief are as follows:

- a) That out of the P200,000.00 defendant-petitioner and the other defendants obtained from plaintiffs, the amount of P131,714.00 was given to third-party defendants Jesus Danao and Cecilia Lacson x x x.
- b) That there are other documents x x x presented by herein petitioner to prove the liability of third-party defendants which unfortunately [were] not given weight and probative value by the Honorable Court;
- c) That aside from documentary evidence, testimonial evidence were proffered which are sufficient enough to

establish the culpability of third-party defendants. It is noteworthy that third-party defendants never appeared in Court to testify to rebut the allegations of herein defendant-petitioner which remained uncontested/unrebutted to date. (Id. at 54.)

[8] Id. at 57-59.

[9] Id. at 58.

[10] Id. at 94-95.

[11] Section 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(b) Failure to file the notice of appeal or the record on appeal within the period prescribed by these Rules. x x x

[12] Rollo, p. 101.

[13] Id. at 100-101.

[14] Id. at 18.

[15] Basco v. Court of Appeals, 392 Phil. 251, 263 (2000).

[16] Insular Savings & Trust Company v. Spouses Runes, 479 Phil. 995, 1006 (2004); Basco v. Court of Appeals, id.

[17] Rollo, p. 53.

[18] Insular Savings & Trust Company v. Spouses Runes, supra note 16, at 1006-1007.

[19] Tuason v. Court of Appeals, 326 Phil. 169, 178-179 (1996).

[20] Id. at 16.

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