

VICTORY LINER, INC., PETITIONER, VS. RESPONDENT.

G.R. No. 151170. May 29, 2007

Ponente: TINGA, J.

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TINGA, J.:

The matter began as a simple civil suit for damages arising from an unremarkable traffic accident. However, the procedural aspect of the case has since taken on a life of its own, transforming what should be a molehill into a mountain built on sediments of compounded errors.

This case finds its origin from a vehicular collision that occurred in La Union on 19 March 1996 between a bus owned by petitioner Victory Liner, Inc. and an Isuzu Truck used by respondent Michael Malinias.[1] Nobody died, but both vehicles were damaged from the accident. A complaint for sum of money and damages was instituted by respondent against petitioner and the bus driver, Leoncio Bulaong, alleging pecuniary damage to the truck in the amount of P47,180.00, representing lost income for the non-use of the truck as it underwent repairs in the amount of P15,000.00. Claims for exemplary damages and attorney's fees were also lodged in the complaint,[2] which was filed with the Municipal Trial Court (MTC) of La Trinidad, Benguet. After pre-trial, the bus driver was dropped as defendant in the case after summons could not be served on him and respondent agreed to waive his cause of action against said driver.[3]

In the course of trial, respondent finished presenting his evidence and rested his case. In the meantime, counsel for petitioner filed a motion to withdraw as counsel, but the same was denied by the MTC in an Order dated 15 September 1997 as the motion did not bear any signature of conformity from the petitioner. When the case was called for the reception of petitioner's evidence on the previously

scheduled date of 27 October 1997, no appearance was made for the bus company. Respondent thus immediately moved that petitioner be declared to have waived its right to adduce evidence in its favor and that the case be deemed submitted for judgment. The MTC found merit in respondent's contention, and ordered the case be deemed submitted for decision as of 27 October 1997. On 13 January 1998, the MTC rendered judgment in favor of respondent, awarding him the sum of P82,180.00.

Through its new counsel, petitioner filed a Motion for Reconsideration. The Notice of Hearing therein stated: "Please submit the foregoing Motion for Reconsideration for hearing before the Honorable Court at a schedule and time convenient to this Honorable Court and the parties." [4] The MTC ruled in an Order [5] dated 23 February 1998 that the notice did not conform with the mandatory requirements of Section 5, Rule 15 of the 1997 Rules of Civil Procedure, and that the motion was thus a mere scrap of paper which did not suspend the period to appeal. Accordingly, the MTC declared that its earlier judgment dated 13 January 1998 had become final and executory. In the same order and upon the same predicates, the MTC also granted the Motion for Issuance of Writ of Execution filed by respondent.

Petitioner responded to the foregoing developments by filing a Notice of Appeal, as well as a motion for the inhibition by the MTC judge which motion was immediately granted. The case was assigned to a new MTC

judge, who was then tasked with ruling on the Notice of Appeal. It was only on 28 September 1999, or eighteen (18) months after the Notice of Appeal was filed, that the MTC acted on the same and ruled that it had been filed beyond the reglementary period. Again, the MTC reiterated that the Judgment dated 13 January 1998 had long become final and executory since the fatally defective Motion for Reconsideration did not toll the reglementary period for appeal.[6]

What then followed was a series of unsuccessful attempts by petitioner to have the lower courts set aside or stay the now-final judgment against it. First, petitioner filed a Petition for Relief from Judgment with the MTC on 25 October 1999.[7] This was denied by the MTC in an Order[8] dated 13 March 2000 on the ground that it had been filed out of time. The MTC explained that the petition for relief from judgment must have been filed either within sixty (60) days from the date petitioner's new counsel learned of the judgment, or sixty (60) days after learning that the Motion for Reconsideration had been denied for having been filed out of time. Neither circumstance was met by petitioner. Subsequently, the MTC likewise denied a Motion for Reconsideration filed by petitioner.[9]

Second, petitioner filed on 26 June 2000 a petition for certiorari[10] under Rule 65 with the Regional Trial Court (RTC) of La Trinidad, Benguet, imputing grave abuse of discretion to the MTC, and seeking to annul four (4) of the MTC's rulings, namely: the original 1998 judgment against petitioner; the 1999 order which declared that the Notice of Appeal was filed out of time; and the two orders dismissing the Petition for Relief from Judgment. The petition for certiorari was dismissed by the RTC in an Order[11] dated 21 November 2000. The RTC agreed with the MTC that the Petition for Relief from Judgment had been belatedly filed. The RTC also reiterated the consistent ruling that the judgment in question had already become final in February of 1998. Thus, the RTC could not ascribe grave abuse of discretion to the MTC.[12]

Petitioner filed a motion for reconsideration of the RTC ruling, while respondent filed with the same court a motion for execution. On 3 July 2001, at a point when petitioner had allegedly not yet received any order acting on its motion for reconsideration, petitioner received instead an Order dated 21 June 2001[13] where the RTC directed the issuance of a writ of execution in favor of respondent, the MTC judgment having already become final and executory.

Third, petitioner filed on 17 July 2001 with the Court of Appeals a "Petition for Certiorari to Annul Judgment" under the aegis of Rule 47 of the 1997 Rules of Civil Procedure. Interestingly, based on the first paragraph and the express relief prayed for in this petition, the "judgment" sought to be annulled was not the final and executory judgment of the MTC, but rather, the two orders of the RTC which successively dismissed the special civil action for certiorari, and directed the issuance of a writ of execution in favor of respondent.[14] However, in explaining the "nature of the petition," petitioner claimed that it was seeking to annul the judgment and orders of both the RTC and the MTC,[15] although the issues identified in the petition pertain only to "serious errors" and "grave abuse of discretion" on the part of the RTC.[16] There is a general allegation that the acts of the RTC in granting the motion for execution even before petitioner's motion for reconsideration was acted upon constituted an extrinsic fraud,[17] but no particular arguments were offered to explain why that was so.

The petition for annulment of judgment was accompanied by a Verification and Certification Against Forum Shopping which was signed by counsel for petitioner. On that basis, the Court of Appeals dismissed the petition outright in a Resolution[18] dated 26 July 2001, stressing the rule that it should be the petitioner, not its counsel, which should execute the verification and certification against forum shopping.

Petitioner filed a Motion for Reconsideration[19] where it pointed out that it had simultaneously filed with its petition for annulment of judgment a Motion for Extension[20] to submit the certificate of authority to file the petition. The day after the petition was filed, or on 18 July 2001, petitioner filed with the Court of Appeals the

said Certificate of Authority.[21] The Certificate of Authority prepared by petitioner's corporate secretary, dated 17 July 2001, certified that on 10 July 2001, petitioner's board of directors authorized counsel for petitioner to file "the necessary action, petition or any other pleadings necessary in any and all hierarchy of courts" with respect to the instant case.[22]

Nonetheless, the Court of Appeals, on 5 December 2001, issued a Resolution[23] denying the Motion for Reconsideration. The appellate court observed that in petitioner's Motion for Extension to submit the certification of authority, it was explained that petitioner's counsel was constrained to sign the verification and certification against forum shopping because "the certificate of authority granted to the petitioner's station manager in Baguio City has been misplaced." [24] The Court of Appeals thus concluded that "the one really authorized to represent the petitioner is Operations Manager Rogelio Ortega stationed in Baguio City, but whose authority has been misplaced or lost, as in fact, the latter signed the certification on non-forum shopping in the petition filed before the [RTC]." [25] The Court of Appeals also reiterated that subsequent compliance such as petitioner's counsel's subsequent submission of her authority to represent the petitioner, would not excuse petitioner's failure to comply with the required certification against forum-shopping in the first instance.

The Court of Appeals further held that upon a "judicious reading of the instant petition for the annulment of judgment and its annexes," it was clear that the ground of extrinsic fraud raised by petitioner had already been availed of in its earlier petition for relief from judgment before the MTC. Such circumstance contradicted Section 2 of Rule 47, which provides that "extrinsic fraud shall not be a valid ground (for annulment of judgment) if it was availed of, or could have been availed of, in a motion for new trial or petition for relief." [26]

Hence this petition for review under Rule 45, seeking that the Court "annul and set aside the questioned Resolutions of the Court of Appeals x x x as well as the twin Orders of [the RTC] x x x and remand the case [to] the court of origin for further proceedings and give petitioner its right to present its case in the interest of due process and substantial errors." [27]

Two sets of arguments are raised. The first concerns the errors ascribed to the Court of Appeals in dismissing outright the petition for annulment of judgment. The second concerns the alleged grave abuse of discretion on the part of the RTC in directing the issuance of the writ of execution even without resolving petitioner's motion for reconsideration.

The reasoning employed by the Court of Appeals in dismissing the petition for annulment of judgment is fraught with error and thus cannot be sustained. At the same time, however, the petition now before the Court cannot be granted.

As indicated in the 5 December 2001 Resolution of the Court of Appeals, the two main grounds relied upon for dismissing the petition for annulment of judgment were petitioner's failure to comply with the requirements in the execution of the verification and certification against forum-shopping, and the petition's reliance on the ground of extrinsic fraud which could have been raised or availed of in a motion for new trial or petition for relief. We turn our attention to the first ground.

It is of importance that, as borne by the Certificate of Authority executed by petitioner's Corporate Secretary, counsel for petitioner had been authorized by petitioner's Board of Directors to prepare and file with the Court of Appeals the petition herself as of 10 July 2001, or seven (7) days before the petition was indeed filed. We fail to understand the significance attached by the Court of Appeals on the prior authority of the Baguio station manager to perform the same acts. The impression left by the disquisition of the appellate court is that such prior authority was beyond recall by petitioner's Board of Directors, and that no new person could be similarly authorized by the corporation to perform such acts.

The fact that the previous authority may have been misplaced or lost, thus causing petitioner to authorize a new person to file the necessary pleadings or petitions in the case involving the respondent, is of no consequence if the new authority is issued before the filing of the pleading that requires verification or certification against forum-shopping. The circumstance is similar to a situation where the previously authorized person had died or severed his or her connection with the corporate litigant. Juridical persons appearing before the courts are not perpetually bound to maintain the same authorized representatives in the preparation and certification of pleadings.

The appellate court cited the rule that substantial compliance could not cure the defect in the verification or certification requirements. Yet the bare fact remains that counsel for petitioner was authorized to prepare the petition and to execute the verification and certification requirements at the time the petition was filed with the Court of Appeals, a fact borne out by the Certificate of Authority itself. The error consisted in petitioner counsel's failure to attach such certificate to the petition, but she did submit said certificate to the Court of Appeals the very next day. Petitioner emphasizes that the certificate of authority submitted on 18 July 2001 was filed "on the 15th day of the 60-day reglementary period to file appeal," perhaps to stress the point that if the petition itself was filed on the same day as

the certificate of authority, the petition would have still been timely. However, petitioner seems to forget that under Rule 47, its petition for annulment of judgment based on extrinsic fraud[28] actually had a term of four (4) years[29] as "reglementary period."

In any event, the observation of the Court of Appeals that substantial compliance "will not suffice in the matter involving strict observance" of the certification requirement on non-forum shopping contradicts our recent jurisprudence which holds that "[t]he rule of

substantial compliance may be availed of with respect to the contents of the certification [against forum shopping]."[30] While the lack of certification against forum shopping is generally not cured by its submission after the filing of the petition, and the submission of a certificate against forum shopping is deemed obligatory, the requirement has been relaxed under justifiable circumstances under

the rule on substantial compliance.[31] The same characteristics hold true as to the verification requirement.[32]

We hold and so rule that the appellate court's utilization on petitioner's belated submission of the complete verification and certification requirements as anchor for the dismissal of the petition for annulment of judgment does not merit affirmance.

The Court of Appeals did rely on another ground for the dismissal of the petition for annulment of judgment, the reliance on the ground of extrinsic fraud which could have been availed of in a motion for new trial or petition for relief. The formulation by the appellate court on that score cannot be fully adopted by the Court. However, to demonstrate why the Court of Appeals erred in that regard, it is necessary to discuss the more fundamental errors that have attended the facts of this case, errors for which petitioner is mostly to blame, errors which militate against the grant of this petition.

From the timeline, it appears that petitioner's woes began after the motion to withdraw as counsel filed by its former lawyer was not allowed by the MTC due to the absence of the written conformity thereto of the petitioner.[33] At the next hearing date, when petitioner was to commence its presentation of evidence, nobody appeared in its behalf, causing the MTC, upon motion, to consider as waived petitioner's right to present its evidence. The subsequent rendition of the MTC Judgment without considering the evidence of petitioner would form its initial cause of distress.

But what proved to be the most crucial failure on the part of petitioner was to file a Motion for Reconsideration of the MTC Judgment which contained a defective Notice of Hearing, failing as it did to set a date for hearing. Under Sections 5 and 6 of Rule 15, the notice of hearing shall be addressed to the parties concerned and shall specify the time and date of the hearing of the motion; no motion shall be acted upon by the court without proof of service of the notice thereof, except when the court is satisfied that the rights of the adverse party are not affected.[34]

Not only did the defect render the motion for reconsideration itself unworthy of consideration, it more crucially failed to toll the period to appeal. A motion without a notice of hearing is pro forma, a mere scrap of paper that does not toll the period to appeal, and upon the expiration of the 15-day period, the questioned order or decision becomes final and executory. The rationale behind this rule is plain: unless the movant sets the time and place of hearing, the court will be unable to determine whether the adverse party agrees or objects to the motion, and if he objects, to hear him on his objection, since the rules themselves do not fix any period within which he may file his reply or opposition.[35]

Thus, the MTC judgment became final and executory despite the filing of the Motion for Reconsideration thereto, as said motion did not toll the period for filing an appeal therefrom. Yet that did not mean that petitioner was left bereft of further remedies under our Rules. For one, petitioner could have assailed the MTC's denial of the Motion for Reconsideration through a special civil action for certiorari under Rule 65 alleging grave abuse of discretion amounting to lack of jurisdiction on the part of the MTC in denying the motion. If that remedy were successful, the effect would have been to void the MTC's denial of the Motion for Reconsideration, thus allowing petitioner to again pursue such motion as a means towards the filing of a timely appeal.

Another remedy for the petitioner is found under Rule 38 of the 1997 Rules of Civil Procedure, which governs petitions for relief from judgment. Indeed, Section 2, Rule 38 finds specific application in this case, as it provides that "[w]hen a judgment or final order is rendered by any court in a case, and a party thereto, by fraud, accident, mistake, or excusable negligence, has been prevented from taking an appeal, he may file a petition [for relief from denial of appeal] in such court and in the same case praying that the appeal be given due course." [36] Such petition should be filed within sixty (60) days after the petitioner learns of the judgment or final order, and not more than six (6) months after such judgment or final order was entered. The facts of this case indicate that petitioner could have timely resorted to this remedy.

What the petitioner undertook instead was to pursue the notice of appeal, despite the unequivocal statement in the MTC Order of 23 February 1998 that "the Judgment [sought to be reconsidered] has now become final and executory." [37] The Rules mandate that an appeal by notice of appeal is deemed perfected upon the filing of the notice of appeal in due time, [38] due time being within fifteen (15) days after notice to the appellant of the judgment or final order appealed from. [39] While the period of appeal shall be interrupted by a timely motion for reconsideration, [40] the MTC deemed, with legal basis, that the motion interposed by petitioner could not have been deemed filed and should instead be treated as "a mere scrap of paper."

The apposite reaction on the part of petitioner would have been to seek the reversal of the MTC Order which disregarded its motion for reconsideration, through either of the remedies we explained above. Certiorari has as its object the nullification of the MTC Order on the basis that it was rendered with grave abuse of discretion, while a petition for relief seeks that the MTC allow the appeal despite the finality of judgment on the ground that petitioner was prevented from taking an appeal due to fraud, accident, mistake, or excusable negligence. Either remedy would have had the benefit of intellectual honesty, as they recognized the MTC declaration that the judgment had become final. At the same time, either remedy provides the appropriate recourse to the petitioner in the face of such declaration, since both petitions for certiorari and for relief from judgment would be aimed at

setting aside the adverse ill-effects of the MTC's pronouncement.

On the other hand, a notice of appeal pursued even with a prior pronouncement by the trial court that the judgment sought to be appealed was already final is either misconceived or downright obtuse. It may have been a different matter if the notice of appeal was undertaken without there being any prior express ruling from the trial court that the appealed judgment was already final and that statement was instead expressed at the time the trial court denies the notice of appeal, for at least in that case, the appellant proceeded with the appeal with the comfort that the trial court had not yet said that the appeal was barred. However, as in this case, where the trial court already notified the would-be appellant that the judgment was already final, executory and thus beyond appeal, appellant should suffer the consequences if the notice of appeal is nonetheless stubbornly pursued.

Within this context, it does not even really matter whether petitioner's legal rights were unduly impaired by the MTC's abject refusal to recognize its motion for reconsideration, thus giving rise to the finality of the judgment in question. Even if the petitioner has the right to feel aggrieved over the MTC's action in this case, it should not have pretended that its right to appeal remained undiminished and viable by filing the notice of appeal. It should have instead undertook first to remove the cloud that hovered on its right to appeal. As earlier explained, our procedural rules give ample guidance and method as to how petitioner could have removed such cloud. A notice of appeal under these circumstances is unresponsive to the main impediment to petitioner's cause – the prevailing finality of the MTC judgment.

Truth be told, the fact that the MTC had taken more than eighteen (18) months before it acted on the Notice of Appeal is close to scandalous, even if such delay was caused in part by the inhibition of the original judge who heard the case. Still, the delay could not have extenuated the defunctness of appeal as a remedy available to petitioner. A notice of appeal presupposes that appeal still exists as a right to the appellant, hence the use of the term "notice," since the function of the submission is merely to notify the trial court that the appellant was availing of the right to appeal, and not to seek the court's permission that it be allowed to pose an appeal. In the same vein, the "denial" or refusal to take cognizance of a notice of appeal is predicated on a finding that the right to appeal did not or no longer existed, and not on the refusal of the trial court to allow the appellant to pursue the appeal.

Hence, petitioner could not, by way of notice of appeal, seek the restoration of its extinct right to appeal. Despite the egregious delay by the MTC in acting on the Notice of Appeal, the fact remains that the MTC could not have given due course to the appeal whether it had acted the day after the notice of appeal was filed, or more than eighteen (18) months later.

Notably, it was only after the Notice of Appeal was denied that the petitioner had pursued the two remedies it could have undertaken from the MTC Order declaring its motion for reconsideration as a mere scrap of paper. First, petitioner filed a Petition for Relief from Judgment with the MTC. The problem with this remedy was the utter belatedness in the resort thereto. Section 3 of Rule 38 requires that said petition must be filed within sixty (60) days after 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. Neither benchmark was met by the petitioner, since the petition was filed only on 25 October 1999, or some sixteen (16) months after the rendition of the judgment sought to be set aside, and around fourteen (14) months after such judgment was declared final and executory. Petitioner had opportunely learned of both the rendition of the judgment and the Order refusing to give cognizance to the motion for reconsideration. Had it simply consulted the rulebook, it should have realized that a petition for relief from judgment was a remedy available to it, and certainly one more appropriate than the Notice of Appeal it ultimately resorted to.

Following the denial of the Petition for Relief from Judgment, petitioner then filed a petition for certiorari under Rule 65 with the RTC. Said petition was designed to be omnibus in nature, as it sought to assail all the adverse rulings handed down by the MTC, including the original Judgment which had been promulgated over two (2) years earlier. It is extremely dubious to propose that certiorari still avails to set aside a two (2) year old decision, and indeed Section 4 of Rule 65 requires that the special civil action be filed not later than sixty days from notice of the judgment, order or resolution sought to be assailed.[41]

On those MTC rulings that still fell within the timely scope of certiorari, particularly the rulings denying the petition for relief from judgment,[42] we agree with the RTC that there could have been no grave abuse of discretion on the part of the MTC in denying the petitions since the latter was merely enforcing the reglementary period under Section 3, Rule 38.

At this juncture, petitioner filed a petition for annulment of judgment with the Court of Appeals. One might presume that the judgment sought for annulment would have been that rendered by the MTC. Yet what petitioner expressly sought to be nullified were mainly the RTC rulings dismissing the petition for certiorari. The sense of this remedial action is lost on the Court.

Admittedly, there appears to have been a half-hearted or incomplete attempt to have the MTC rulings annulled as well.[43] Disregarding for the nonce the merits of the annulment of the MTC decisions, Section 10 of Rule 48 of the 1997 Rules of Civil Procedure makes it clear that “[a]n action to annul a judgment or final order of a

Municipal Trial Court shall be filed in the Regional Trial Court having jurisdiction over the former,”[44] and not with the Court of Appeals. Considering the periods prescribed under Rule 47 for the filing of an action for annulment of judgment are quite broad or capable of discretionary appreciation,[45] the petitioner could have filed such action for annulment of the MTC’s judgment with the RTC which would not have been lightly disregarded with timeliness as premise.

Still, it was the RTC rulings which were subject of the petition for annulment filed with the Court of Appeals which had jurisdiction over such actions.[46] This recourse was ill-advised, to say the least, for varied reasons. For one, the RTC rulings dismissing petitioner’s special civil action for certiorari could have been the subject of an ordinary appeal to the Court of Appeals under Section 1, Rule 41 of the 1997 Rules of Civil Procedure, since such dismissals partake of a final order that completely disposed of the original petition filed with the RTC. It may have been that petitioner was threatened by the impending execution of the adverse MTC decision, despite the fact that it had a pending motion for reconsideration of the RTC’s dismissal of its certiorari petition. That notwithstanding, annulment of judgment still stands as a most incongruous remedy if such impending execution did impel an active recourse on the part of the petitioner.

More fundamentally, the annulment of the RTC decision dismissing the special civil action for certiorari would not properly engender the annulment of the adverse MTC judgment. In fact, the annulment of such RTC decision would not give rise to any viable or useful right or benefit to the petitioner, since it would not stay in any way the MTC judgment or its execution. At most, the only possible implication of the annulment of the RTC decision is that relief still existed to extenuate the MTC rulings dismissing the petition for relief from judgment, the same rulings which were timely assailed in the petition for certiorari.

We do have to offer some clarification regarding the citation by the Court of Appeals as ground for dismissing the petition for annulment the fact that “the ground raised by petitioner is extrinsic fraud, which ground petitioner has already availed of in its petition for relief from judgment in the Municipal Trial Court.”[47] Section 2 of Rule 47 does disqualify extrinsic fraud as a valid ground “if it was availed of, or could have been availed of, in a motion for new trial or petition for relief,”[48] and such provision would have found incontestable relevance had the clear

object of the petition for annulment been the MTC judgment.[49] But petitioner's action for annulment of judgment did not provide clarity in that regard, and in fact does devote considerable effort in imputing errors on the part of the RTC with the objective of annulling, in particular, the RTC decision. If that were so, reliance on Section 2 of Rule 47 would have been misplaced, since the judgment subject of the petition for relief was different from the decision subject of the action for annulment of judgment. Still, given the confused nature of the petition for annulment of judgment, blame could hardly be attributed to the RTC.

All told, even if we were to hold that the Court of Appeals erred in dismissing the petition on the perceived defect in the verification and certification requirements, the appellate court would have been left with an action stigmatized by error upon error interminably. Most frustratingly, for every procedural misstep committed by petitioner, there existed a corresponding viable alternative which would have necessitated a ruling on the merits, and which petitioner could have chosen with ease. Instead of filing a Notice of Appeal, it could have instead filed a special civil action for certiorari or a petition for relief from judgment. Instead of filing the no longer timely petition for relief from judgment, it could have instead by then filed a petition for annulment of judgment. When it did file a petition for annulment with the Court of Appeals, it could have instead filed a more feasible petition for annulment with the RTC.

If the consequences for pursuing the wrong remedial tack in this case seem harsh, it should be remembered that there is no innate right to appeal. Appeal is a statutory right which may be exercised within the prescribed limits. The 1997 Rules of Civil Procedure provides for a rational and orderly method by which appeal can be pursued, and even contingency remedial measures if appeal could no longer be timely pursued. The failure of petitioner to undertake a timely appeal, or to engage in the available modes of relief even if appeal was no longer possible, simply has to bear consequence. The lower court rulings germane to this case were, consistently cognizant of this fact, transformed to legal conclusion, and we are hard-pressed to find any cause for annulment of any of those judgments. The dismissal of the petition by the Court of Appeals is ultimately correct.

All the errors could have been avoided had petitioner, at the onset, recognized that the judicial system deemed the original MTC Judgment dated 13 January 1998 as having become final and executory after no valid motion for reconsideration was filed thereto. On many levels, there existed ample remedies to undo such deleterious consequence, yet petitioner ended up each time selecting the wrong answer among the varied options. In the end, all petitioner accomplished was to persistently water a dead plant.

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

[1] The registered owner of the truck was Lina Malinias, presumably a relation of the respondent. The trial court would rule Michael as the "user or a usufructuary of the truck." See rollo, p. 122.

[2] Docketed as Civil Case No. R-370.

[3] Rollo, pp. 117-118.

[4] Id. at 138.

[5] Id. at 124-125.

[6] Id. at 140.

[7] Id. at 142-148.

[8] Id. at 154-163.

[9] Id. at 162-163.

[10] Id. at 165-185.

[11] Id. at 53-54.

[12] Id. at 54.

[13] Id. at 52.

[14] See id. at 72-102. The petition's "prayer" expressly sought the annulment of "the questioned Orders (Annexes 'BB' to 'DD'), id. at 102, said annexes being identified in the petition as, respectively, the RTC Order dated 4 December 2000 (Annex "BB") dismissing the petition for certiorari, id. at 87; the Motion for Reconsideration (Annex "CC") filed by petitioner with the RTC, id. at 87; and the 21 June 2001 RTC Order (Annex "DD") directing the issuance of the writ of execution, id. at 88.

[15] Id. at 71.

[16] Id. at 88.

[17] Id. at 71.

[18] Id. at 43-44. Resolution penned by Associate Justice E. Labitoria of the Eighth Division, and concurred in by Associate Justices E. Bello, Jr. and P. Tria Tirona.

[19] Id. at 105-111.

[20] Id. at 113-114.

[21] See id. at 115.

[22] Id.

[23] Id. at 47-49.

[24] Id. at 48.

[25] Id.

[26] Id.

[27] Id. at 39.

[28] See rollo, p. 48.

[29] See 1997 Rules of Civil Procedure, Rule 47, Sec. 3. The four (4) year period reckons from the discovery of the extrinsic fraud.

[30] See *Iglesia ni Cristo v. Hon. Ponferrada*, G.R. No. 168943, 27 October 2006. "The substantial compliance rule has been applied by this Court in a number of cases: *Cavile v. Heirs of Cavile*, where the Court sustained the validity of the certification signed by only one of petitioners because he is a relative of the other petitioners and co-owner of the properties in dispute; *Heirs of Agapito T. Olarte v. Office of the President of the Philippines*, where the Court allowed a certification signed by only two petitioners because the case involved a family home in which all the petitioners shared a common interest; *Gudoy v. Guadalquiver*, where the Court considered as valid the certification signed by only four of the nine petitioners because all petitioners filed as co-owners pro indiviso a

complaint against respondents for quieting of title and damages, as such, they all have joint interest in the undivided whole; and *DAR v. Alonzo-Legasto*, where the Court sustained the certification signed by only one of the spouses as they were sued jointly involving a property in which they had a common interest.” Citations omitted.

[31] See *Valdecantos v. People*, G.R. No. 148852, 27 September 2006; citing *Torres v. Specialized Packaging Development Corporation*, G.R. No. 149634, 6 July 2004, 433 SCRA 455, 465; *Robern Development Corporation v. Judge Quitain*, 373 Phil. 773, 787 (1999).

[32] “The requirement regarding verification of a pleading is formal, not jurisdictional. Such requirement is simply a condition affecting the form of pleading, the non-compliance of which does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. The court may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.” *Valdecantos v. People*, supra; citing *Uy v. Land Bank of the Philippines*, 391 Phil. 303, 312 (2000).

[33] See Revised Rules of Court, Rule 138, Sec. 26.

[34] *People v. Court of Appeals*, 357 Phil. 415, 427 (1998).

[35] *Id.* at 427-428.

[36] See 1997 Rules of Civil Procedure, Rule 38, Sec. 2.

[37] *Rollo*, p. 125.

[38] See 1997 Rules of Civil Procedure, Rule 41, Sec. 9 in relation to 1997 Rules of Civil Procedure, Rule 40, Sec. 9.

[39] See 1997 Rules of Civil Procedure, Rule 40, Sec. 2.

[40] *Id.*

[41] See 1997 Rules of Civil Procedure, Rule 65, Sec. 4.

[42] The special civil action of certiorari permissible in such instance since there can be no appeal from an order denying a petition for relief or any similar motion seeking relief from judgment. See Rule 41, Sec. 1(b) in relation to 1997 Rules of Civil Procedure, Rule 40, Sec. 9.

[43] *Supra* note 8.

[44] See 1997 Rules of Civil Procedure, Rule 47, Sec. 10.

[45] “If based on extrinsic fraud, the action must be filed within four (4) years from its discovery; and if based on lack of jurisdiction, before it is barred by laches or estoppel.”

[46] See 1997 Rules of Civil Procedure, Rule 47, Sec. 1.

[47] See *rollo*, p. 48.

[48] See 1997 Rules of Civil Procedure, Rule 47, Sec. 2.

[49] While reiterating that it is the RTC and not the Court of Appeals which would have jurisdiction over such

actions in the first place.

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