ANTONIO P. TAN, PETITIONER, VS. HON. COURT OF APPEALS (SPECIAL FORMER FOURTH DIVISION), THE HONORABLE WILFREDO D. REYES, ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 31,...

G.R. NO. 157194. June 20, 2006

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-157194/

QUISUMBING, J.:

Before us is a petition for review on certiorari which seeks to reverse the Decision[1] dated September 10, 2001 of the Court of Appeals in CA-G.R. SP No. 56873, and its Resolution[2] dated February 17, 2003. The Court of Appeals affirmed the Order[3] dated July 29, 1998, of the Regional Trial Court of Manila, Branch 31, which dismissed petitioner Antonio P. Tan's complaint for cancellation/annulment of Transfer Certificate of Title No. 169146 in the name of private respondent DPG Development & Management Corporation.

The facts are as follows:

Petitioner Antonio P. Tan is the lessee of a parcel of land covered by Transfer Certificate of Title (TCT) No. 165501 located at No. 3658 Ramon Magsaysay Boulevard, Sta. Mesa, Manila. Private respondent, DPG Development & Management Corporation bought the land and was issued TCT No. 169146 on April 22, 1986.[4]

On January 24, 1990, the petitioner filed a Complaint[5] for the cancellation/annulment of TCT No. 169146 before the Regional Trial Court of Manila, Branch 31. Petitioner claimed that TCT No. 169146, originally TCT No. 165501, covered an area outside of Sampaloc, Manila, where the subject property was located.

For failing to file a responsive pleading, the trial court declared the private respondent in default. The petitioner was allowed to present evidence ex parte.

On October 5, 1990, the trial court ordered the cancellation of TCT No. 169146. The property reverted to the government for distribution to qualified applicants. On November 3, 1990, the private respondent filed a motion for new trial and a motion to admit its answer, which were both denied by the trial court.

Elevated to the Court of Appeals, the trial court's decision was reversed and it was directed to conduct a new trial and to admit the answer of the private respondent. Likewise, the appellate court ordered the use of the evidence recorded during the first trial insofar as they were material in the resolution of the issues in the case.

The Supreme Court affirmed the appellate court's decision.

During the trial in the lower court, the private respondent filed on November 6, 1992, a motion to dismiss the complaint, which the petitioner opposed. On July 29, 1998, the trial court dismissed the complaint. Citing Bishop v. Court of Appeals,[6] that likewise cited Legarda and Prieto v. Saleeby,[7] it ruled that upon the expiration of one year from and after the date of entry of the registration, the certificate of title becomes indefeasible and collateral attack is not allowed.[8]

Petitioner's motion for reconsideration was denied in the Order dated October 13, 1998. Petitioner's notice of appeal was likewise denied on January 6, 1999 for having been filed late.[9]

On January 26, 2000, the petitioner filed a petition for annulment of judgment before the Court of Appeals, praying to annul and set aside the Orders dated July 29, 1998, October 13, 1998, and January 6, 1999 of the Regional Trial Court. On September 10, 2001, the appellate court affirmed the assailed orders of the trial court.

The Court of Appeals ruled that for a petition for annulment of judgment to prosper, it is required that: (1) the judgment is void for want of jurisdiction or for lack of due process of law; or (2) the judgment has been obtained by fraud. It explained that the fraud referred to must either be extrinsic or collateral fraud to set aside a judgment. Such fraud should have been neither revealed nor deliberately suppressed from the opposing party and the court. Absent these requisites, relief could be available only subject to certain conditions.

According to the appellate court, the petitioner failed to meet these requisites. It also added that the petitioner's innuendos that the legal infirmity emanated from his former counsel's negligence cannot be given weight since it is a well-settled rule that the negligence of counsel binds the client just as the latter is bound by the mistakes of his lawyer. The appellate court also said that the petitioner failed to avail of the remedies provided for in Rule 47,[10] Section 2 of the Revised Rules of Court without any justification. Hence, he must suffer the consequences of his own inaction or negligence. The dispositive portion of the appellate court decision reads:

> WHEREFORE, premises considered, the petition is DISMISSED, hereby AFFIRMING the assailed orders of the Regional Trial Court (Branch 31) in Manila in Civil Case No. 90-51767. Let the records of said case be remanded to the court a quo immediately upon the finality hereof.
>
> SO ORDERED.[11]

Petitioner's motion for reconsideration was also denied.

In the instant petition for review, the petitioner now submits the following issues for our consideration:

> - WHETHER OR NOT PETITIONER IS ENTITLED TO DUE PROCESS FOR THE SINGLE NEGLIGENCE COMMITTED BY HIS PREVIOUS COUNSEL FOR FAILURE TO APPEAL ON TIME.
>
> - WHETHER OR NOT PETITIONER CAN AVAIL [OF] THE PREFERENTIAL RIGHT TO FIRST REFUSAL UNDER [ARTICLES] 1279, 1380, 1381, 1403, SUB-PARAGRAPH 2, 1479, AND 1544 OF THE [NEW] CIVIL CODE OF THE PHILIPPINES.[12]

While the petitioner admits that he failed to file the notice of appeal seasonably, he contends that it was due to the patent negligence of his previous counsel who failed to inform him of the denial of the notice of appeal and the motion for reconsideration filed thereafter. According to the petitioner, his counsel's negligence amounted to betrayal of confidence and a serious violation of a lawyer's oath, which should have prompted the appellate court to take cognizance of the notice of appeal and the petition for annulment of judgment.

The private respondent, on the other hand, maintains that no extrinsic fraud existed in the case to warrant the relief under Rule 47. The petitioner had the chance to ventilate his case before the lower court but the case was dismissed with finality due to his failure to perfect his appeal to the Court of Appeals.

After considering the circumstances in this case, and the submission of the parties, we agree that the petition should be denied for lack of merit.

Jurisprudence teems with pronouncements that the perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but also jurisdictional. Failure to perfect the appeal renders the judgment of the court final and executory.[13] Just as a losing party has the privilege to file an appeal within the prescribed

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

period, so does the winner also have the correlative right to enjoy the finality of the decision.[14] Furthermore, a denial of a petition for being time-barred is a decision on the merits.[15]

Although the Court may extend the time or allow the perfection of the appeal beyond the prescribed period if it is satisfactorily shown that there is justifiable reason, such as fraud, accident, mistake or excusable negligence, or similar supervening cause, without fault of the appellant, and the appeal is deemed taken and perfected on time, and the appellate court acquires appellate jurisdiction,[16] the circumstances here do not convince us to take exception. While the petitioner made a painstaking effort to attribute the loss of the remedy of appeal to the fault entirely of his former counsel, this Court cannot turn a blind eye to his own negligence and apathy.

The findings of the appellate court, as fully substantiated by the records, showed that the petitioner was equally guilty of negligence, thus,[17]

> In the first place, the remedy of appeal was lost through the fault of petitioner, particularly of his counsel. Thus, the first requisite [abovecited] is clearly not satisfied here. Besides, it is incredible that petitioner did not bother to check the status of his case with his lawyer in spite that he stood to lose his alleged property on which he was operating his business. He therefore could not complain of the negligence of his counsel in not informing him of the outcome of the case when he himself did not bother to check with his counsel or to find out the status of his case. It is the duty of a party-litigant to be in contact with this counsel from time to time in order to be informed of the progress of his case. (Underscoring ours.)

Both the petitioner and his former counsel offered no justification why the notice of appeal was filed eleven days beyond the reglementary period. Likewise, the petitioner failed to explain why he only learned of the dismissal of his case five months later. Involving as it did the loss of the property where both his residence and business establishment are built, no less than staunch vigilance in safeguarding his rights was expected from the petitioner.

The petitioner manifestly failed to display in the proceedings below the expected degree of concern or attention to his case. In Leonardo v. S.T. Best, Inc.,[18] we reiterated that:

> As clients, petitioners should have maintained contact with their counsel from time to time, and informed themselves of the progress of their case, thereby exercising that standard of care "which an ordinarily prudent man bestows upon his business."

Even in the absence of the petitioner's negligence, the rule in this jurisdiction is that a party is bound by the mistakes of his counsel. In the earlier case of Tesoro v. Court of Appeals,[19] we emphasized -

> It has been repeatedly enunciated that "a client is bound by the action of his counsel in the conduct of a case and cannot be heard to complain that the result might have been different had he proceeded differently. A client is bound by the mistakes of his lawyer. If such grounds were to be admitted as reasons for reopening cases, there would never be an end to a suit so long as new counsel could be employed who could allege and show that prior counsel had not been sufficiently diligent or experienced or learned."

Thus, with the ordinary remedy of appeal lost through the petitioner's own fault, we affirm that no reversible error was committed in the dismissal of the petition by the appellate court.

The remedy of annulment of judgment can be resorted to only where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.[20] In the case at bar, the loss of the remedy of appeal is attributable to the petitioner's and his former counsel's fault.

Moreover, annulment of judgment may either be based on the ground that the judgment is void for want of jurisdiction or that the judgment was obtained by extrinsic fraud.[21] By no stretch of the imagination can we equate the negligence of the petitioner and his former counsel to extrinsic fraud as contemplated in the cited rules.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

Extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent.[22] The fraud or deceit cannot be of the losing party's own doing, nor must it contribute to it. The extrinsic fraud must be employed against it by the adverse party, who, because of some trick, artifice, or device, naturally prevails in the suit.[23] This Court notes that no such fraud or deceit was properly proved against the private respondent. Indeed, the petitioner has no reason to protest his own negligence.

Anent the second issue, records show that the same had been resolved with finality by the Regional Trial Court of Manila, Branch 40 in Civil Case No. 86-37402 in an Order[24] dated June 5, 1987. We do not see any compelling reason to allow the same issue to be opened anew either before the appellate court or in the instant petition. A decision that has become final and executory can no longer be disturbed.[25]

WHEREFORE, the instant petition is DENIED for lack of merit.

Costs against petitioner.

SO ORDERED.

Carpio, Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

---

[1] Rollo, pp. 14-24. Penned by Associate Justice Ramon Mabutas, Jr., with Associate Justices Roberto A. Barrios, and Edgardo P. Cruz concurring.

[2] Id. at 11-12. Penned by Associate Justice Roberto A. Barrios, with Associate Justices Portia Aliño-Hormachuelos, and Edgardo P. Cruz concurring.

[3] CA rollo, pp. 31-34.

[4] Id. at 61; Rollo, p. 166.

[5] Id. at 59-62.

[6] G.R. No. 86787, May 8, 1992, 208 SCRA 636, 641-642.

"The real purpose of the Torrens system of land registration is to quiet title to land; to put a stop forever to any question of the legality of the title, except claims which were noted at the time of registration in the certificate, or which may raise subsequent thereto. That being the purpose of the law, it would seem that once the title was registered, the owner may rest secure, without the necessity of waiting in the portals of the court, or sitting in the 'mirador de su casa', to avoid the possibility of losing his land."

[7] 31 Phil 590 (1915).

[8] CA rollo, p. 33.

[9] Id. at 36.

[10] SEC. 2. Grounds for annulment. - The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

[11] Rollo, p. 24.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[12] Id. at 203.

[13] See Cuevas v. Bais Steel Corporation, G.R. No. 142689, October 17, 2002, 391 SCRA 192, 202; Dayrit v. Philippine Bank of Communications, G.R. No. 140316, August 1, 2002, 386 SCRA 117, 125; Videogram Regulatory Board v. Court of Appeals, G.R. No. 106564, November 28, 1996, 265 SCRA 50, 56; Bank of America, NT & SA v. Gerochi, Jr., G.R. No. 73210, February 10, 1994, 230 SCRA 9, 15; Ceniza v. Court of Appeals, G.R. No. 95296, February 3, 1993, 218 SCRA 390, 397-398; Imperial Textile Mills, Inc. v. NLRC, G.R. No. 101527, January 19, 1993, 217 SCRA 237, 246.

[14] See Cuevas v. Bais Steel Corporation, supra; Dayrit v. Philippine Bank of Communications, supra; Neplum, Inc. v. Orbeso, G.R. No. 141986, July 11, 2002, 384 SCRA 466, 485; Videogram Regulatory Board v. Court of Appeals, supra.

[15] See Videogram Regulatory Board v. Court of Appeals, supra.

[16] See Trans International v. Court of Appeals, G.R. No. 128421, January 26, 1998, 285 SCRA 49, 57-58 citing Santiago and Flores v. Valenzuela and Pardo, 78 Phil. 397 (1947).

[17] Rollo, pp. 14-24, citing Bernardo v. Court of Appeals (Special Sixth Division), G.R. No. 106153, July 14, 1997, 275 SCRA 413, 428.

[18] G.R. No. 142066, February 6, 2004, 422 SCRA 347, 354; See Fernandez v. Tan Tiong Tick, No. L-15877, April 28, 1961, 1 SCRA 1138, 1144.

[19] No. L-36666, December 19, 1973, 54 SCRA 296, 304; See Amil v. Court of Appeals, G.R. No. 125272, October 7, 1999, 316 SCRA 317, 322-323; Velasquez v. Court of Appeals, G.R. No. 124049, June 30, 1999, 309 SCRA 539, 549; Pallada v. Regional Trial Court of Kalibo, Aklan, Br. 1, G.R. No. 129442, March 10, 1999, 304 SCRA 440, 445.

[20] RULES OF COURT, Rule 47, Sec. 1.

[21] Id. at Sec. 2.

[22] See Teodoro v. Court of Appeals, G.R. No. 140799, September 10, 2002, 388 SCRA 527, 535; Heirs of Antonio Pael v. Court of Appeals, G.R. Nos. 133547 & 133843, February 10, 2000, 325 SCRA 341, 359.

[23] See People v. Verra, G.R. No. 134732, May 29, 2002, 382 SCRA 542, 548.

[24] CA rollo, pp. 78-80.

[25] See Pallada v. Regional Trial Court of Kalibo, Aklan, Br. 1, supra note 19, at 447; Garbo v. Court of Appeals, G.R. No. 100474, September 10, 1993, 226 SCRA 250, 255-256; Enriquez v. Court of Appeals, G.R. No. 83720, October 4, 1991, 202 SCRA 487, 491-492; Zansibarian Residents Asso. v. Municipality of Makati, No. L-62136, February 28, 1985, 135 SCRA 235, 241; Gonzales v. Hon. Secretary of Labor, No. L-49524, September 11, 1982, 116 SCRA 573, 583.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.