MARY GRACE M. VENERACION, REPRESENTING HERSELF AND MINORS DAISY M. VENERACION AND RICHARD M. VENERACION, PETITIONERS, VS. CHARLIE MANCILLA BY HIS HEIRS, NAMELY, GIAR CHENG LINDA...

G.R. NO. 158238. July 20, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court of the Resolution[1] of the Court of Appeals (CA), in CA-G.R. SP No. 74005, dismissing the petition for partial annulment of judgment filed by petitioner Mary Grace M. Veneracion under Rule 47 of the Rules of Court.

The Antecedents

On February 14, 1995, Elizabeth B. Mendinueta, married to Geronimo

Veneracion, secured a P1,200,000.00 loan from Charlie Mancilla. She executed a promissory note on said date in which she bound and obliged herself to pay the said amount on or before August 14, 1995 at 5% monthly interest, payable within the first five days of the month, with stipulated liquidated damages. To secure the payment thereof, Elizabeth executed a real estate mortgage over her residential lot located at Better Living Subdivision, Barangay Wawa, Parañaque City, Metro Manila, covered by Transfer Certificate of Title No. 87140, including the residential house situated thereon.[2] It appears on the face of the title that Elizabeth was "single" at that time. In said deed, the parties stipulated that in the event of Elizabeth's failure to pay the loan, the real estate mortgage may be foreclosed, judicially or extra-judicially. The deed was annotated on the dorsal portion of the said title on April 24, 1995.[3]

Due to Elizabeth's failure to pay the loan on maturity date and after demand, Mancilla filed a petition with the Regional Trial Court (RTC) for the judicial foreclosure of the real estate mortgage on October 11, 1993. The case was docketed as Civil Case No. C-425.[4]

In the meantime, Charlie Mancilla died and was survived by his heirs, Giar Cheng Linda, Caitlin, and Erica Tiffany, all surnamed Mancilla. In due course, they were impleaded as parties-plaintiffs in substitution of Charlie Mancilla.

During the pre-trial on October 18, 1996, the parties stipulated on the following facts:

- Both parties admit their capacity to sue and be sued.

- Both parties admit that the defendant borrowed money from the plaintiff in the amount of P1,200,000.00.

- Both parties admit that the defendant has executed on February 14, 1995 a promissory note relative to the obligation obtained by the defendant from the plaintiff.

> - That the obligation is secured by a Real Estate Mortgage designated as TCT No. 87140 of the Registry of Deeds of Parañaque, Metro Manila (now a city).
>
> - Both parties admit that the defendant has paid an advance interest of P60,000.00 on the date of the execution of the promissory note on February 14, 1995.
>
> - Both parties admit that demand both orally and written were made by plaintiff upon the defendant to settle the obligation, the last of which was executed on December 5, 1995.[5]

When she testified, Elizabeth admitted that she failed to pay her loan, which prompted Mancilla to file the complaint against her. She claimed, however, that she was able to secure a P1,200,000.00 loan from the Banco Filipino Savings Mortgage Bank which she intended to use to pay Mancilla. She later asked for the reduction of the monthly interest from 5% per month to 3%.

On September 25, 1997, the RTC rendered judgment in favor of the Mancillas. The fallo of the decision reads:

> WHEREFORE, premises considered and by preponderance of evidence, judgment is hereby rendered in favor of plaintiffs Giar Cheng Linda T. Ang-Mancilla, Caitlin Mancilla and Erica Tiffany Mancilla and against defendant Elizabeth Mendinueta who is accordingly ordered to pay (1) the loan of P1,200,000.00, (2) interest equivalent to 5% per month commencing March 14, 1995 until the principal obligation is paid, (3) interests on accrued interest at the rate of 5% per month, within a period of ninety (90) days from the entry of judgment and that in default of such payment the property shall be sold at public auction to satisfy the judgment.
>
> The defendant is also ordered to pay attorney's fees in the amount of 10% of the whole amount due and demandable as well as the costs of the suit.
>
> SO ORDERED.[6]

Elizabeth appealed the decision to the CA which dismissed the appeal on May 12, 1999 for failure to file her appeal brief.[7] She then filed a manifestation with the appellate court that she was no longer filing a brief but prayed that the accrued interest she was to pay the plaintiff be reduced.[8] The CA, nonetheless, dismissed the appeal. This prompted the filing of a petition for review with this Court docketed as G.R. No. 139944, seeking the reversal of the CA Resolution. On October 18, 1999, the Court denied the petition for Elizabeth's failure to sufficiently show that the CA committed any reversible error in the challenged resolution as to warrant the exercise by this Court of its discretionary appellate jurisdiction.[9] The Resolution of the Court became final and executory, and entry of judgment[10] was made of record in due course on November 15, 1999.

After the records were remanded to the trial court, plaintiff moved for the issuance of a writ of execution. The trial court granted the motion on October 19, 2000, and a Writ of Execution was issued on November 7, 2000.[11] The Sheriff levied on the property covered by TCT No. 87140[12] and caused its sale at public auction at 10:00 a.m. on December 20, 2000. Elizabeth did not attend the public auction sale nor oppose the same.

During the public bidding, the Heirs of Charlie Mancilla were the winning bidders, and the Sheriff thereafter executed a Certificate of Sale on December 21, 2000 in their favor.

On April 17, 2002, the Register of Deeds annotated the Certificate of Sale executed by the Sheriff at the dorsal portion of TCT No. 87140.

It turned out that Elizabeth had been living with Geronimo Veneracion (a businessman from Iloilo City) without the benefit of marriage. They had three children: Mary Grace M. Veneracion born on November 14, 1982; Dysie M. Veneracion, born on July 16, 1985; and Richard M. Veneracion, born on July 22, 1986. The couple and their children had been residing on the subject mortgaged property. The couple was finally married on December 17,

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1993. By then, Geronimo was already 71 years old, while Elizabeth was 41.[13] On May 26, 1999, Geronimo died at the age of 74.

On November 15, 2002, petitioners Mary Grace M. Veneracion and her siblings filed a Petition in the CA against the Heirs of Charlie Mancilla, the Presiding Judge of the RTC of Caloocan City, the Sheriff, and the Register of Deeds of Parañaque City, for the partial annulment of the decision of the RTC in Civil Case No. C-425. In their petition, they alleged the following: in the early 1980's, Elizabeth and Geronimo fell in love and lived together as common-law spouses; the couple bought the property, but title thereto was placed under the name of Elizabeth and her marital status therein was indicated as "single"; since Elizabeth had no source of income, Geronimo paid for the monthly installments of the property; upon full payment of its purchase price, TCT No. 87140 was issued in her name as owner; Elizabeth could not have been expected to know that the conformity of her husband to the real estate mortgage was necessary; and Charlie Mancilla was fully aware of the marital status of Elizabeth, as in fact, he met Geronimo Veneracion during the negotiations for the loan. Petitioners also alleged that the trial court committed a gross violation of Article 154 of the Family Code when it declared the family home liable for the execution of the decision and sustained the validity of the real estate mortgage despite the absence of Geronimo's conformity thereto as required by Article 158 of the Family Code. Petitioners prayed that judgment be rendered in their favor, thus:

> WHEREFORE, premises considered, it is respectfully prayed that judgment be rendered:
>
> - Partially annulling the dispositive portion of the Decision of the Honorable Public Respondent dated 25 September 1997 insofar as the family home is being held liable to satisfy the judgment, as well as, the ancillary orders issued by the Honorable Public Respondent incidental to the execution of the subject family home, more particularly the 19 October 2000 Order (granting the motion for issuance of writ of execution), the 7 November 2000 Writ of Execution, the 17 November 2000 Notice of Levy on Execution issued by Public respondent Sheriff Salayon, the 24 November 2000 Sheriff's Notice of Auction Sale on Execution, the 11 December 2000 Certificate of Posting of Public Respondent Salayon, and the 20 December 2000 Minutes of Auction Sale issued by Public Respondent Sheriff Salayon.
>
> - Ordering respondents to pay petitioners in solidum the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00) as and by way of moral damages;
>
> - Ordering respondents to pay petitioners in solidum the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00) as and by way of attorney's fees;
>
> - Ordering respondents to pay the costs of suit and expenses of litigation; and
>
> - In the meantime and in the interest of justice, let a Temporary Restraining Order and, after notice and hearing, a Writ of Preliminary Injunction, be issued enjoining the Register of Deeds of Parañaque City and the private respondents from canceling TCT No. 87140 and transferring said title in the name of private respondents and further restraining private respondents from making any acts of dispossession of petitioners in regard to the subject property until the issues raised in the instant petition had been definitely resolved.
>
> Other reliefs, just and equitable, are likewise prayed for.[14]

However, petitioners failed to append to their petition the duplicate original/certified true copy of the complaint filed with the RTC in Civil Case No. C-425, the motion for execution filed by the respondent in the same court and the entry of judgment in G.R. No. 139944. Petitioners likewise failed to incorporate in their petition any explanation why service of the petition on respondents was not done personally, and to submit an affidavit of service of said petition on the respondents on January 7, 2003. Thus, the CA dismissed the petition outright for failure to comply with Section 4, Rule 47 of the 1997 Rules of Civil Procedure.[15] Petitioner filed a Motion for

Reconsideration of the resolution of the CA, contending that:

- PETITIONERS COMPLIED WITH THE PROCEDURAL REQUIREMENTS IN SECTION 4 OF RULE 47 OF THE RULES OF COURT IN FILING THE INSTANT CIVIL ACTION FOR ANNULMENT OF JUDGMENT;

- AS THE INSTANT PETITION IS IN THE NATURE OF AN INITIATORY COMPLAINT WHERE THE HONORABLE TRIBUNAL IS OBLIGATED TO SERVE SUMMONS TO RESPONDENTS UPON FINDINGS OF PRIMA FACIE MERIT, THE REQUIREMENTS MENTIONED IN SECTION[S] 11 AND 13 OF RULE 13 (ON AFFIDAVIT OF SERVICE AND WRITTEN EXPLANATION) DO NOT APPLY; AND

- AS THE DISMISSAL OF THE INSTANT CIVIL CASE STANDS TO FATALLY DIM THE LIGHT ON WHAT APPEARS TO BE THE ONLY REMEDY LEFT OF THE PETITIONERS AGAINST AN IRREPARABLE INJUSTICE OF ILLEGALLY LOSING A FAMILY HOME, PETITIONERS BESEECH THE HONORABLE TRIBUNAL TO LOOK BEYOND THE PROCEDURE WHICH THEY BELIEVED TO HAVE BEEN SUBSTANTIALLY COMPLIED WITH, AND ALLOW THE HONORABLE TRIBUNAL TO SEE THE MERITS OF THE INSTANT CASE.[16]

Petitioners appended to their motion a certified copy of the complaint in Civil Case No. C-425 and its appendages.[17] Petitioners also filed a Manifestation on February 11, 2003 appending thereto a certified copy of the motion for issuance of a writ of execution in Civil Case No. 425 and Entry of Judgment in G.R. No. 139944.[18]

On May 9, 2003, the CA resolved to deny petitioners' motion for reconsideration, declaring that the Rules of Civil Procedure do not provide that Sections 11 and 13, Rule 13 need not be observed in initiatory pleadings. A party who fails "to observe very elementary rules of procedure which are mandatory" causes his "own predicament" and "to exculpate [him/her] from the compulsory coverage of such rules is to undermine the stability of the judicial process, as the bench and the bar will be confounded by such irritating uncertainties as when to obey and when to ignore the Rules."

The appellate court likewise ruled that annulment of judgment may be based only on the grounds of extrinsic fraud and lack of jurisdiction. The action before the court a quo was for foreclosure of mortgage on real property, which was within the exclusive and original jurisdiction of the RTC. Even supposing that the court a quo committed acts amounting to lack or excess of jurisdiction such judgment cannot be the proper subject of an action for annulment under Rule 47. If at all, the alleged lack or excess of jurisdiction may be a ground for certiorari under Rule 65 of the Rules of Court.

Finally, the appellate court declared that petitioners are seeking the annulment of the court a quo's judgment on the ground that it committed a violation of substantive law in holding a family home subject of execution even as its mortgage was made by their mother without their father's consent. Since it is not an appeal, the correctness of the judgment is not in issue. Accordingly, there is no need to address each error allegedly committed by the trial court.

Petitioners forthwith filed a petition for review on certiorari with this Court for the reversal of the CA Resolution.

Petitioners aver that, under Section 4, Rule 47 of the 1997 Rules of Civil Procedure, only copies of decisions and final orders sought to be annulled are required to be court certified. They had complied with the Rules and appended to their petition a certified true copy of the decision of the trial court's decision in Civil Case No. C-425; they likewise submitted to the CA the original and/or certified true copies of the trial court's Order granting the motion of the respondents for the issuance of a writ of execution, the Writ of Execution, the Notice of Levy on

Execution issued by the Sheriff, the Sheriff's Notice of Public Auction Sale along with the Minutes of the December 20, 2000 Public Auction Sale.

Petitioners contend that they could not have availed of the remedy of an appeal or a certiorari petition under Rule 65, given that they were not parties in the original action where the assailed decision was rendered. Petitioners point out that from the time the action for foreclosure was filed in 1995 against the mother of petitioners up to the time the trial court rendered the assailed judgment in 1997, they were all minors, and therefore could not have validly participated in the court proceedings. Also, they came to know of the civil case and the decision therein only on September 4, 2002, when their mother first told them of her "problem" or after more than 4 years from the time the RTC decision was issued.

Petitioners insist that the decision of the trial court prejudiced their right to their family home and their hereditary rights that accrued when their father died in 1999; thus, the filing of a petition for annulment of judgment under Rule 47 was the proper remedy.

Petitioners further assert that the CA erred when it failed to resolve the substantial grounds raised in their petition, and instead opted to dismiss the case citing purported procedural errors.

The issues for resolution are the following: (1) whether the petition before the CA complied with Section 4, Rule 47 of the Rules of Court; (2) whether a petition for partial annulment of judgment/final order is the proper remedy of petitioners; and (3) whether the petition before the CA states a cause of action for partial annulment of judgment under Rule 47 of the Rules of Court.

We rule to deny the petition.

Section 4, Rule 47 of the Rules of Court reads:

> SEC. 4. Filing and contents of petition.-The action shall be commenced by filing a verified petition alleging therein with particularity the facts and the law relied upon for annulment, as well as those supporting the petitioner's good and substantial cause of action or defense, as the case may be.
>
> The petition shall be filed in seven (7) clearly legible copies, together with sufficient copies corresponding to the number of respondents. A certified true copy of the judgment or final order or resolution shall be attached to the original copy of the petition intended for the court and indicated as such by the petitioner.
>
> The petitioner shall also submit together with the petition affidavits of witnesses or documents supporting the cause of action or defense and a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same, and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

We agree with petitioners' contention that, under Section 4, Rule 47 of the Rules of Court, they were required to attach to the original copy of their petition a certified true copy of the assailed decision, final order or resolution. Although petitioners are also required to attach the affidavits of witnesses or documents supporting the cause of action or defense, they are not required to submit certified copies of such documents. Petitioners may just submit plain copies thereof.

It must be stressed, however, that petitioners are required to allege with particularity in their petition the facts and the law relied upon for annulment as well as those supporting their cause of action or defense, as the case may be. Such requirement, as well as the requirement for petitioners to attach to the original copy of their petition the

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affidavits of their witnesses and documents supporting their cause of action or defense, are designed to convince the appellate court of the substantive merit of their petition to avoid its outright dismissal; or for the CA to make a finding of a prima facie merit in their petition and give due course thereto and order the service of the petition and summons on the respondents.[19] Unless petitioners append to their petition the appropriate documents, the appellate court might dismiss the petition outright or deny due course to the petition.

After all, an action to annul a final judgment is an extraordinary remedy. Annulment of judgment is not a relief to be granted indiscriminately by the Court. It is a recourse equitable in character allowed only in exceptional cases. The reason for the restriction is to prevent this extraordinary action from being used by a losing party to make a complete farce of a duly promulgated decision that has long become final and executory.[20] There would be no end to litigations if the parties who have unsuccessfully availed of any of the appropriate remedies or lost them through their fault could still bring an action for annulment of judgment.[21] Moreover, if only plain copies of documents are appended to the original copy of the petition, the CA may not give probative weight to such documents and opt to dismiss the petition outright for lack of substantive or prima facie merit.

In this case, petitioners alleged in their petition before the CA that their parents, who were then living together as husband and wife, purchased the property on installment basis, and that their father paid all the installments of the property because their mother had no source of income. However, they failed to append to their petition copies of the receipts for the installment payments their father allegedly made. Their claim that their mother had no source of income is belied by the trial court's finding that their mother was able to secure a loan from the Banco Filipino for P1,200,000.00, which she intended to pay to Charlie Mancilla. It is quite incredible that Elizabeth would be granted a P1,200.000.00 loan if she had no source of income, as claimed by petitioners.

Petitioners averred in their petition that the mortgaged property, their family home, was the conjugal property of their parents, but that their father's consent to the real estate mortgage was not obtained by their mother as mortgagor. By their claim, petitioners imply that, as beneficiaries and co-owners of the family home, they were indispensable parties in Civil Case No. C-425; consequently, the RTC had no jurisdiction over their persons, and as such, all the proceedings before the RTC were null and void.[22] To support this claim, petitioners should have appended to their petition parts of the records of the RTC showing that the property is indeed their family home and part of the conjugal property of their parents. This could have established the need for them to be impleaded as parties-defendants. As the Court ruled in Arcelona v. Court of Appeals:[23]

Admittedly, in this case, the want of jurisdiction of the trial court in rendering its decision in Civil Case No. D-7240 is not patent on the face of said judgment. However, there were glaring documentary and testimonial pieces of evidence referred to by the trial court in its decision which should have prompted it to inquire further whether there were other indispensable parties who were not impleaded. These facts and circumstances should have forewarned the trial court that it had not acquired jurisdiction over a number of indispensable parties. In American jurisprudence, the nullity of a decision arising from lack of jurisdiction may be determined from the record of the case, not necessarily from the face of the judgment only. We believe that this rule should be applied to this case, considering that in the assailed trial court's decision, referrals were made to crucial evidence which if scrutinized would readily reveal that there were indispensable parties omitted.[24]

In this case, petitioners failed to append to their petition copies, if any, of the pleadings in Civil Case No. C-425 in which their mother had alleged that the mortgaged property was the family home and conjugal in nature; and thus, exempt from forced sale under Article 155 of the Family Code. However, the records of the RTC do not contain such pleadings, as petitioners' mother never alleged therein that said property was conjugal and was the family home.

Moreover, as gleaned from the Resolution of the CA in CA-G.R. CV No. 57083 dated May 12, 1999, Elizabeth filed a Manifestation that she was no longer filing any brief, and merely prayed that the accrued interests be reduced.[25] She never claimed in the CA, and even in this Court when she sought relief via a petition for review on certiorari, that the subject lot was conjugal property and constituted their family home.

In sum, Elizabeth Mendinueta never alleged in the trial court, in the CA and in this Court that the property is their family home and is conjugal in nature.

On its face, therefore, petitioners' annulment petition in the CA has no prima facie or substantive merit.

Further, Section 2, Rule 47 of the Rules of Court provides that a judgment or final order or resolution in civil actions of the RTC may be annuled only on grounds of extrinsic fraud and lack of jurisdiction. Jurisdiction is the power and authority of the tribunal to hear, try and decide a case. Jurisdiction does not depend upon the regularity of the exercise by the Court of that power or on the correctness of its decision.[26] Lack of jurisdiction refers to either lack of jurisdiction over the person of the defending party or over the subject matter of the action. Lack of jurisdiction or absence of jurisdiction presupposes that the court should not have taken cognizance of the complaint because the law or the Constitution does not vest it with jurisdiction over the subject matter.

Jurisdiction over the person of the defendant or respondent is acquired by voluntary appearance or submission by the defendant/respondent to the court, or by coercive process issued by the court to such party through service of summons.

Jurisdiction over the subject matter of the claim is conferred by law and is determined by the allegations of the complaint and the relief prayed for.[27] Whether the plaintiff is entitled to recovery upon all or some of the claims prayed therein is not essential. Jurisdiction over the subject matter is conferred by the Constitution or by law and not by agreement or consent of the parties.[28] Neither does it depend upon the defenses of the defendant in his/her answer or in a motion to dismiss.

Where the petition is grounded on lack of jurisdiction over the person of the defendant/respondent or over the nature or subject matter of the action, petitioners need not allege in the petition that the ordinary remedy of new trial or reconsideration of the decision or final order or resolution is no longer available through no fault of his own. This is so because a judgment rendered or a final order or resolution issued by the RTC without jurisdiction is null and void and may be assailed at any time either collaterally or in a direct action or by resisting such judgment or final order or proceeding whenever it is invoked unless barred by laches.[29] A judgment rendered without jurisdiction over the subject matter is void. If a judgment is not void on its face, or from the recitals contained in the decision, is regular in form, the aggrieved party may file a direct action to annul the judgment and enjoin its enforcement. If the property subject of the judgment has already been disposed of, he may institute a suit to recover the property and collaterally attack the judgment. Whether the challenged decision is void on its face or if the nullity of the judgment is apparent by virtue of its own recital, the judgment may still be attacked by direct action such as certiorari or by a collateral attack. A judgment which is void on its face and which requires only an inspection of the judgment roll to demonstrate its want of vitality is a dead limb upon the judicial tree which should be lopped off.[30]

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. The overriding

consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[31]

In the present recourse, the assailed decision, on its face, is valid. The RTC had jurisdiction over the person of the defendant. Petitioners do not also assail the jurisdiction of the RTC over the action of the private respondents for the judicial foreclosure of the real estate mortgage executed by their mother, Elizabeth Mendinueta, in favor of Charlie Mancilla. Petitioners merely alleged that the RTC erred in ordering the sale of the property mortgaged to Mancilla, on their claim that it is the conjugal property of their parents and constitutes their family home.

Assuming, for the nonce, that petitioners' claims are correct, despite which the trial court rendered judgment in favor of the respondents and ordered the sale thereof at public auction, this error is but an error in the exercise of its jurisdiction. It is merely an error of judgment which does not affect its authority to decide the case.[32] Thus the remedy of the defendant therein was to appeal the decision to the CA,[33] which, although resorted to, resulted in dismissal for failure to file brief as appellant. Except for her plea that the accrued interest that she was ordered to pay under the trial court's decision was inequitable, Elizabeth Mendinueta impliedly admitted the correctness of the appealed decision.

IN LIGHT OF THE FOREGOING, the petition is DENIED. Costs against the petitioners.

SO ORDERED.

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

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[1] Penned by Associate Justice Edgardo P. Cruz, with Associate Justices Salvador J. Valdez, Jr. (Retired), and Mario L. Guariña III concurring; rollo, p. 73.

[2] CA rollo, pp. 56-58.

[3] Id. at 50.

[4] Rollo, pp. 160-173.

[5] CA rollo, pp. 37-38.

[6] Id. at 41-42.

[7] Id. at 60-62.

[8] Id. at 135-136.

[9] Id. at 63.

[10] Id. at 64.

[11] Id. at 44.

[12] Id. at 45.

[13] Id. at 55.

[14] Id. at 33-34.

[15] Id. at 75.

[16] Id. at 76-77.

[17] Id. at 76-100.

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[18] Id. at 128-138.

[19] Section 5, Rule 47, Rules of Court; REGALADO, REMEDIAL LAW COMPENDIUM, VOL. I, 6[th] ed., 560.

[20] Id.

[21] Cerezo v. Tuazon, G.R. No. 141538, November 23, 2004, 426 SCRA 164; Orbeta v. Sendiong, G.R. No. 155236, July 8, 2005, 463 SCRA 180.

[22] Arcelona v. Court of Appeals, 345 Phil. 250 (1997).

[23] Supra.

[24] Id. at 270-271.

[25] CA rollo, pp. 135-137.

[26]Platinum Tours and Travel, Inc. v. Panlilio, G.R. No. 133365, September 16, 2003, 411 SCRA 142, 146.

[27] Tolentino v. Leviste, G.R. No. 156118, November 19, 2004, 443 SCRA 274, 284.

[28] Arnado v. Buban, A.M. No. MTJ-04-1543, May 31, 2004, 430 SCRA 382, 386.

[29] Ancheta v. Ancheta, G.R. No. 145370, March 4, 2004, 424 SCRA 725, 735.

[30] Arcelona v. Court of Appeals, supra note 22, at 263.

[31] Tolentino v. Leviste, supra note 27, at 282.

[32] Platinum Tours and Travel, Inc. v. Panlilio, supra note 26, at 146.

[33] Agbaba v. Inter-Urban Developers, Inc., 438 Phil. 168, 189 (2002).

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