

SPOUSES ELBE LEBIN AND ERLINDA LEBIN, PETITIONERS, VS. VILMA S. MIRASOL, AND REGIONAL TRIAL COURT OF ILOILO, BRANCH XXVII, RESPONDENTS.

G.R. No. 164255. September 07, 2011

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The perfection of an appeal in the manner and within the period laid down by law is mandatory and jurisdictional.

The Case

In Special Proceedings No. 1307 involving the settlement of the estate of the late L.J. Hodges, the Regional Trial Court (RTC), Branch 27, in Iloilo City, issued an order dated May 3, 1995 (ruling that a property of the estate sold to the petitioners be divided in two equal portions between the petitioners and the respondent).[1] On March 2, 1998, the RTC affirmed the order dated May 3, 1995.[2] The petitioners filed a notice of appeal and, later on, a record on appeal, but the respondents moved to dismiss their appeal on June 15, 2000 on the ground of tardiness of the record on appeal. The RTC granted the motion to dismiss on February 1, 2002. On March 13, 2002, the petitioners moved for reconsideration of the dismissal,[3] but the RTC denied the motion for reconsideration on May 21, 2004.[4] Thus, on June 23, 2004, the petitioners directly appealed to the Court, assailing the orders of February 1, 2002 and May 21, 2004.

Antecedents

In January 1985, the petitioners relayed their offer to the administrator of the Estate of L.J. Hodges to purchase for P22,560.00 Lot 18, Block 7 of 971 (Lot 18), an asset of the Estate situated on D.B. Ledesma Interior, Jaro, Iloilo City. They made a deposit of P4,512.00, the equivalent of 20% of the offer.[5] On August 1, 1985, the administrator sought judicial approval of the offer,[6] stating to the RTC that petitioner Erlinda Lebin was the actual occupant of Lot 18.[7] The RTC commissioned one Atty. Tabares to conduct an ocular inspection of Lot 18 to ascertain if Erlinda Lebin was really the occupant. In his report, Atty. Tabares confirmed that Erlinda Lebin was the only occupant of Lot 18.[8] Accordingly, on August 28, 1985, the RTC granted the administrator's motion for approval of the offer.[9]

In the meanwhile, respondent Vilma S. Mirasol (Mirasol) also offered to purchase the lot containing an area of 188 square meters where her house stood. The lot was initially identified as Lot No. 4, Block 7 of 971 (Lot 4), but a later survey revealed that her house was actually standing on Lot 18, not Lot 4.[10] Learning on November 11, 1985 of the approval of the petitioners' offer to purchase Lot 18, therefore, Mirasol filed on December 6, 1985 a petition for relief from the order dated August 28, 1985.[11]

On December 17, 1987, pending resolution of the petition for relief, the petitioners paid the last installment for Lot 18, and moved for the execution of the deed of sale.[12] Apparently, the motion was not acted upon by the RTC.

At last, on May 3, 1995, the RTC resolved the petition for relief, viz:

WHEREFORE, the Court, under the auspices of equity and justice tempered with humanitarian reasons, hereby declare each of the offeror-claimants after complying with their respective obligation with the estate, should there be any, to be the owner where their respective houses stand, and therefore, DIRECTS and ENJOINS for the following matters to be undertaken:

For the Administrator of the L.J. Hodges Estate:

- 1) To assist both offeror-claimants in effecting a Relocation Survey Plan and cause the equal partition of the subject lot herein between the said offeror-claimant;
- 2) To execute the corresponding deed of sale over the aforecited subject lot in favor of the herein offeror-claimants --- Erlinda Lebin and Vilma S. Mirasol purposely to expedite the issuance of respective title; and ---
- 3) To exact payment from either or both offeror-claimants should there be any deficiency, and/or to refund payment should there be any excess payment from either or both offeror-claimants.

SO ORDERED.[13]

On May 23, 1995, the petitioners moved for reconsideration and/or new trial.[14] On March 2, 1998, the RTC denied the motion for reconsideration and/or new trial of the petitioners.[15] Thus, on March 27, 1998, the petitioners filed a notice of appeal in the RTC.[16] Allegedly, on May 5, 1998, they also filed a record on appeal.[17] On January 25, 1999, they presented an ex parte motion to approve the record on appeal.[18] On June 15, 2000, Mirasol filed a motion to dismiss the appeal, insisting that the record on appeal had been filed late.[19] The RTC granted the motion to dismiss the appeal on February 1, 2002.[20] The petitioners moved for reconsideration on March 13, 2002,[21] but the RTC denied their motion for reconsideration on May 21, 2004.[22]

Hence, the petitioners appealed via petition for review on certiorari filed on June 23, 2004, to seek the review and reversal of the orders of the RTC dated February 1, 2002 and May 21, 2004.

Issues

- Whether or not the RTC erred in dismissing the petitioners' appeal for their failure to timely file a record on appeal; and
- Whether or not the RTC committed reversible error in adjudging that Lot 18 be sold to both the petitioners and Mirasol in equal portions.

Ruling

The petition for review lacks merit.

I

RTC did not err in dismissing the petitioners' appeal for their failure to timely file a record on appeal

Among the innovations introduced by Batas Pambansa Blg. 129[23] is the elimination of the record on appeal in most cases, retaining the record on appeal only for appeals in special proceedings and in other cases in which the Rules of Court allows multiple appeals. Section 39 of Batas Pambansa Blg. 129 has incorporated this innovation, to wit:

Section 39. Appeals. - The period for appeal from final orders, resolutions, awards, judgments, or decisions of

any court in all cases shall be fifteen (15) days counted from the notice of the final order, resolution, award, judgment, or decision appealed from: Provided however, That in habeas corpus cases, the period for appeal shall be forty-eight (48) hours from the notice of the judgment appealed from.

No record on appeal shall be required to take an appeal. In lieu thereof, the entire record shall be transmitted with all the pages prominently numbered consecutively, together with an index of the contents thereof.

This section shall not apply in appeals in special proceedings and in other cases wherein multiple appeals are allowed under applicable provisions of the Rules of Court. (emphasis supplied)

In early 1990, the Supreme Court issued its resolution in *Murillo v. Consul*[24] to clarify and fortify a judicial policy against misdirected or erroneous appeals, stating:

At present then, except in criminal cases where the penalty imposed is life imprisonment or reclusion perpetua, there is no way by which judgments of regional trial courts may be appealed to the Supreme Court except by petition for review on certiorari in accordance with Rule 45 of the Rules of Court, in relation to Section 17 of the Judiciary Act of 1948 as amended. The proposition is clearly stated in the Interim Rules: "Appeals to the Supreme Court shall be taken by petition for certiorari which shall be governed by Rule 45 of the Rules of Court.

On the other hand, it is not possible to take an appeal by certiorari to the Court of Appeals. Appeals to that Court from the Regional Trial Courts are perfected in two (2) ways, both of which are entirely distinct from an appeal by certiorari to the Supreme Court. They are:

a) by ordinary appeal, or appeal by writ of error - where judgment was rendered in a civil or criminal action by the RTC in the exercise of original jurisdiction; and

b) by petition for review - where judgment was rendered by the RTC in the exercise of appellate jurisdiction.

The petition for review must be filed with the Court of Appeals within 15 days from notice of the judgment, and as already stated, shall point out the error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed. An ordinary appeal is taken by merely filing a notice of appeal within 15 days from notice of the judgment, except in special proceedings or cases where multiple appeals are allowed in which event the period of appeal is 30 days and a record on appeal is necessary.

There is therefore no longer any common method of appeal in civil cases to the Supreme Court and the Court of Appeals. The present procedures for appealing to either court - and, it may be added, the process of ventilation of the appeal - are distinct from each other. To repeat, appeals to this court cannot now be made by petition for review or by notice of appeals (and, in certain instances, by record on appeal), but only by petition for review on certiorari under Rule 45. As was stressed by this Court as early as 1980, in *Buenbrazo v. Marave*, 101 SCRA 848, all "the members of the bench and bar" are charged with knowledge, not only that "since the enactment of Republic Act No. 8031 in 1969," the review of the decision of the Court of First Instance in a case exclusively cognizable by the inferior court xxx cannot be made in an ordinary appeal or by record on appeal," but also that appeal by record on appeal to the Supreme Court under Rule 42 of the Rules of Court was abolished by Republic Act No. 5440 which, as already stated, took effect on September 9, 1968. Similarly, in *Santos, Jr., v. C.A.*, 152 SCRA 378, this Court declared that "Republic Act No. 5440 had long superseded Rule 41 and Section 1, Rule 122 of the Rules of Court on direct appeals from the court of first instance to the Supreme Court in civil and criminal cases, x x and that "direct appeals to this Court from the trial court on questions of law had to be through the filing of a petition for review on certiorari, wherein this Court could either give due course to the proposed appeal or deny it outright to prevent the clogging of its docket with unmeritorious and dilatory appeals."

In fine, if an appeal is essayed to either court by the wrong procedure, the only course of action open is to dismiss

the appeal. In other words, if an appeal is attempted from a judgment of a Regional Trial Court by notice of appeal, that appeal can and should never go to this Court, regardless of any statement in the notice that the court of choice is the Supreme Court; and more than once has this Court admonished a Trial Judge and/or his Clerk of Court, as well as the attorney taking the appeal, for causing the records to be sent up to this Court in such a case. Again, if an appeal by notice of appeal is taken from the Regional Trial Court to the Court of Appeals and in the latter Court, the appellant raises naught but issues of law, the appeal should be dismissed for lack of jurisdiction. And finally, it may be stressed once more, it is only through petitions for review on certiorari that the appellate jurisdiction of the Supreme Court may properly be invoked.

There is no longer any justification for allowing transfers of erroneous appeals from one court to the other, much less for tolerating continued ignorance of the law on appeals. It thus behooves every attorney seeking review and reversal of a judgment or order promulgated against his client, to determine clearly the errors he believes may be ascribed to the judgment or order, whether of fact or of law; then to ascertain which court properly has appellate jurisdiction; and finally, to observe scrupulously the requisites for appeal prescribed by law, with keen awareness that any error or imprecision in compliance therewith may well be fatal to his client's cause.[25] (emphasis supplied)

An offshoot of *Murillo v. Consul* is the inclusion in the 1997 revision of the rules of civil procedure, effective July 1, 1997, of a provision that forthrightly delineated the modes of appealing an adverse judgment or final order. The provision is Section 2 of Rule 41, viz:

Section 2. Modes of appeal.--

(a) Ordinary appeal.-- The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

(b) Petition for review.-- The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

(c) Appeal by certiorari.-- In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45. (n) (emphasis supplied)

The changes and clarifications recognize that appeal is neither a natural nor a constitutional right, but merely statutory, and the implication of its statutory character is that the party who intends to appeal must always comply with the procedures and rules governing appeals, or else the right of appeal may be lost or squandered.

As the foregoing rules further indicate, a judgment or final order in special proceedings is appealed by record on appeal. A judgment or final order determining and terminating a particular part is usually appealable, because it completely disposes of a particular matter in the proceeding, unless otherwise declared by the Rules of Court.[26] The ostensible reason for requiring a record on appeal instead of only a notice of appeal is the multi-part nature of nearly all special proceedings, with each part susceptible of being finally determined and terminated independently of the other parts. An appeal by notice of appeal is a mode that envisions the elevation of the original records to the appellate court as to thereby obstruct the trial court in its further proceedings regarding the other parts of the case. In contrast, the record on appeal enables the trial court to continue with the rest of the case because the original records remain with the trial court even as it affords to the appellate court the full opportunity to review and decide the appealed matter.

Section 1, Rule 109 of the Rules of Court underscores the multi-part nature of special proceedings by enumerating

the particular judgments and final orders already subject of appeal by any interested party despite other parts of the proceedings being still untried or unresolved, to wit:

Section 1. Orders or judgments from which appeals may be taken. - An interested person may appeal in special proceedings from an order or judgment rendered by a Court of First Instance or a Juvenile and Domestic Relations Court, where such order or judgment:

- (a) Allows or disallows a will;
- (b) Determines who are the lawful heirs of a deceased person, or the distributive share of the estate to which such person is entitled;
- (c) Allows or disallows, in whole or in part, any claim against the estate of a deceased person, or any claim presented on behalf of the estate in offset to a claim against it;
- (d) Settles the account of an executor, administrator, trustee or guardian;
- (e) Constitutes, in proceedings relating to the settlement of the estate of a deceased person, or the administration of a trustee or guardian, a final determination in the lower court of the rights of the party appealing, except that no appeal shall be allowed from the appointment of a special administrator; and
- (f) Is the final order or judgment rendered in the case, and affects the substantial rights of the person appealing, unless it be an order granting or denying a motion for a new trial or for reconsideration.

The petitioners' appeal comes under item (e) of Section 1, supra, due to the final order of May 3, 1995 issued in the settlement of the estate of L.J. Hodges being " a final determination in the lower court of the rights of the party appealing." In order to elevate a part of the records sufficient for appellate review without the RTC being deprived of the original records, the remedy was to file a record on appeal to be approved by the RTC.

The elimination of the record on appeal under Batas Pambansa Blg. 129 made feasible the shortening of the period of appeal from the original 30 days to only 15 days from notice of the judgment or final order. Section 3,[27] Rule 41 of the Rules of Court, retains the original 30 days as the period for perfecting the appeal by record on appeal to take into consideration the need for the trial court to approve the record on appeal. Within that 30-day period a party aggrieved by a judgment or final order issued in special proceedings should perfect an appeal by filing both a notice of appeal and a record on appeal in the trial court, serving a copy of the notice of appeal and a record on appeal upon the adverse party within the period;[28] in addition, the appealing party shall pay within the period for taking an appeal to the clerk of the court that rendered the appealed judgment or final order the full amount of the appellate court docket and other lawful fees.[29] A violation of these requirements for the timely perfection of an appeal by record on appeal,[30] or the non-payment of the full amount of the appellate court docket and other lawful fees to the clerk of the trial court[31] may be a ground for the dismissal of the appeal.

Did the petitioners comply with the requirements for perfecting their appeal?

The petitioners received the assailed May 3, 1995 order of the RTC on May 15, 1995. They filed a motion for reconsideration and/or new trial on May 24, 1995. On March 23, 1998, they were served with the order dated March 2, 1998 (denying their motion for reconsideration and/or new trial). Although they filed a notice of appeal on March 27, 1998, they submitted the record on appeal only on May 5, 1998. Undoubtedly, they filed the record on appeal 43 days from March 23, 1998, the date they received the denial of their motion for reconsideration and/or new trial. They should have filed the record on appeal within 30 days from their notice of the judgment. Their appeal was not perfected, therefore, because their filing of the record on appeal happened beyond the end of their period for the perfection of their appeal.

The petitioners' filing of the motion for reconsideration vis-à-vis the order of May 3, 1995 interrupted the running of the period of 30 days; hence, their period to appeal started to run from May 15, 1995, the date they received the order of May 3, 1995. They filed their motion for reconsideration on May 24, 1995. By then, nine days out of their 30-day period to appeal already elapsed. They received a copy of the order dated March 2, 1998 on March 23, 1998. Thus, the period to appeal resumed from March 23, 1998 and ended 21 days later, or on April 13, 1998. Yet, they filed their record on appeal only on May 5, 1998, or 22 days beyond the end of their reglementary period. Although, by that time, the 1997 Rules on Civil Procedure had meanwhile taken effect (July 1, 1997), their period of appeal remained 30 days. It is stressed that under the 1997 revisions, the timely filing of the motion for reconsideration interrupted the running of the period of appeal, pursuant to Section 3, Rule 41 of the 1997 Rules on Civil Procedure, viz:

Section 3. Period of ordinary appeal. -- The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed. (n) (emphasis supplied)

Section 13, Rule 41 of the Rules of Court empowers the RTC as the trial court, *motu proprio* or on motion, to dismiss the appeal for having been taken out of time or for non-payment of the docket and other lawful fees within the reglementary period.[32] For that reason, the RTC rightly granted Mirasol's motion to dismiss the record on appeal.

Nonetheless, the petitioners propose to be excused from the requirement of filing a record on appeal, arguing that "(t)o require a (r)ecord on (a)ppeal here is to reproduce the more than eighteen (18) volumes of records here which is quite impossible to do" and that "most of these records, (sic) have nothing to do with the present controversy." [33] Also, they state that their counsel was "of the honest belief and impression" that "the same was not really necessary because the nature of the controversy xxx is civil and not an intestate one." [34]

The petitioners' submissions are frail and facetious.

In order to come up with the record on appeal, the petitioners were not expected to reproduce over 18 volumes of the records, for their record on appeal would have included only the records of the trial court which the appellate court would be asked to pass upon.[35] Section 6, Rule 41 of the 1997 Rules of Civil Procedure, which meanwhile became applicable to them, specified what the record on appeal should contain, thusly:

Section 6. Record on appeal; form and contents thereof. - The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the judgment or final order from which the appeal is taken and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed judgment or final order for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time. If an issue of fact is to be raised on appeal, the record on appeal shall include by reference all the evidence, testimonial and documentary, taken upon the issue involved. The reference shall specify the documentary evidence by the exhibit numbers or letters by which it was identified when admitted or offered at the hearing, and the testimonial evidence by the names of the corresponding witnesses. If the whole testimonial and documentary evidence in the case is to be included, a statement to that effect will be sufficient without mentioning the names of the witnesses or the numbers or letters of exhibits. Every record on appeal exceeding twenty (20) pages must contain a subject index. (6a)

The right to appeal is a mere statutory privilege, and should be exercised only in the manner prescribed by law.[36] The statutory nature of the right to appeal requires the one who avails himself of it to strictly comply

with the statutes or rules that are considered indispensable interdictions against needless delays and for an orderly discharge of judicial business. In the absence of highly exceptional circumstances warranting their relaxation, like when the loftier demands of substantial justice and equity require the relaxation,[37] or when there are other special and meritorious circumstances and issues,[38] such statutes or rules should remain inviolable.[39]

In like manner, the perfection of an appeal within the period laid down by law is mandatory and jurisdictional, because the failure to perfect the appeal within the time prescribed by the Rules of Court causes the judgment or final order to become final as to preclude the appellate court from acquiring the jurisdiction to review the judgment or final order.[40] The failure of the petitioners and their counsel to file their record on appeal on time rendered the orders of the RTC final and unappealable. Thereby, the appellate court lost the jurisdiction to review the challenged orders, and the petitioners were precluded from assailing the orders.

II

RTC committed no reversible error in allocating

Lot 18 in equal portions to both petitioners and respondent

The non-perfection of the appeal by the petitioners notwithstanding, the Court declares that the RTC did not err in allocating the parcel of land equally to the parties if only to serve and enforce a standing policy in the settlement of the large estate of the late L.J. Hodges to prefer actual occupants in the disposition of estate assets. The policy was entirely within the power of the RTC to adopt and enforce as the probate court.

As stated in the administrator's motion for approval of the offer, the approval of the offer to purchase would be conditioned upon whether the petitioners were the only actual occupants. The condition was designed to avoid the dislocation of actual occupants, and was the reason why the RTC dispatched Atty. Tabares to determine who actually occupied the property before approving the motion. It turned out that the report of Atty. Tabares about the petitioners being the only occupants was mistaken, because the house of Mirasol, who had meanwhile also offered to purchase the portion where her house stood, happened to be within the same lot subject of the petitioners' offer to purchase. The confusion arose from the misdescription of Mirasol's portion as Lot 4, instead of Lot 18.[41]

Under Rule 89 of the Rules of Court, the RTC may authorize the sale, mortgage, or encumbrance of assets of the estate. The approval of the sale in question, and the modification of the disposition of property of the Estate of L.J. Hodges were made pursuant to Section 4 of Rule 89, to wit:

Section 4. When court may authorize sale of estate as beneficial to interested persons; Disposal of proceeds. - When it appears that the sale of the whole or a part of the real or personal estate will be beneficial to the heirs, devisees, legatees, and other interested persons, the court may, upon application of the executor or administrator and on written notice to the heirs, devisees and legatees who are interested in the estate to be sold, authorize the executor or administrator to sell the whole or a part of said estate, although not necessary to pay debts, legacies, or expenses of administration; but such authority shall not be granted if inconsistent with the provisions of a will. In case of such sale, the proceeds shall be assigned to the persons entitled to the estate in the proper proportions. [emphasis supplied]

Without doubt, the disposal of estate property required judicial approval before it could be executed.[42] Implicit in the requirement for judicial approval was that the probate court could rescind or nullify the disposition of a property under administration that was effected without its authority.[43] This power included the authority to nullify or modify its approval of the sale of the property of the estate to conform to the law or to the standing policies set and fixed for the purpose, where the invalidation or modification derived from the falsity of the factual basis of the disposition, or from any other factual mistake, or from the concealment of a material fact by a party. Consequently, the probate court's modification of its approval of the petitioners' offer to purchase was well within the power of the RTC to nullify or modify after it was found to be contrary to the condition for the

approval. Thereby, the RTC's ruling, being sound and judicious, constituted neither abuse of discretion nor excess of jurisdiction.

WHEREFORE, we DENY the petition for review, and AFFIRM the final orders dated May 3, 1995 and March 2, 1998.

The petitioners shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 12-13.

[2] Id., p. 17.

[3] Id., pp. 26-27.

[4] Id., pp. 28-29.

[5] Id., pp. 39.

[6] Id., pp. 30-31.

[7] Id., p. 31.

[8] Id., pp. 32-33

[9] Id., p. 32.

[10] Id., p. 36.

[11] Id., pp. 32-35.

[12] Id., pp. 37-38.

[13] Id., pp. 12-13.

[14] Id., pp. 14-16.

[15] Id., p. 17.

[16] Id., p. 18.

[17] Id., p. 20.

[18] Id., p. 19.

[19] Id., pp. 20-22.

[20] Id., pp. 24-25.

[21] Id., pp. 26-27.

[22] Id., pp. 28-29.

[23] Entitled An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for other Purposes.

[24] Undk. No. 9748, February 27, 1990; 183 SCRA xi, which became the basis for the guidelines set forth in Circular No. 2-90 issued by the Supreme Court on March 9, 1990.

[25] Id., pp. xv-xviii.

[26] According to Section 1, first paragraph, Rule 41, Rules of Court: "An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable."

[27] Section 3. Period of Ordinary Appeal. -- The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from the notice of the judgment or final order.

[28] Section 2(a) and Section 3, Rule 41, Rules of Court.

[29] Section 4, Rule 41, Rules of Court.

[30] Section 13, Rule 41, and Section 1(a), Rule 50, Rules of Court.

[31] Section 1(a) and (c), Rule 50, Rules of Court.

[32] Section 13. Dismissal of appeal. - Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may, motu proprio or on motion, dismiss the appeal for having been taken out of time or for non-payment of the docket and other lawful fees within the reglementary period.

[33] Id., p. 8.

[34] Id.

[35] Bersamin, Appeal and Review in the Philippines, Central Professional Books, Inc., 2[nd] Edition, p. 136; citing 3 Am Jur 215.

[36] Borlongan v. Buenaventura, G.R. No. 167234, September 27, 2006, 483 SCRA 405, 411-412; Philippine Commercial International Bank v. Court of Appeals, G.R. No. 106956, January 27, 1994, 229 SCRA 560.

[37] Remulla v. Manlongat, G.R. No. 148189, November 11, 2004, 442 SCRA 226, 233; Yutingco v. Court of Appeals, G.R. No. 137264, August 1, 2002, 386 SCRA 85, 91; Tan Tiac Chiong v. Cosico, A.M. No. CA-02-33, July 21, 2002, 385 SCRA 509, 515; Olacao v. NLRC, G.R. No. 81390, August 29, 1989, 177 SCRA 38, 49.

[38] Equitable PCI Bank v. Ku, G.R. No. 142950, March 26, 2001, 355 SCRA 309, 316; De Guzman v. Sandiganbayan, G.R. No. 103276, April 11, 1996, 256 SCRA 171, 177; Orata v. Intermediate Appellate Court, G.R. No. 73471, May 8, 1990, 185 SCRA 148, 152.

[39] Almeda v. Court of Appeals, G.R. No. 121013, July 16, 1998 292 SCRA 587, 593-595.

[40] Ko v. Philippine National Bank, G. R. Nos. 169131-132, January 20, 2006, 479 SCRA 298; Air France Philippines v. Leachon, G.R. No. 134113, October 12, 2005, 472 SCRA 439; Remulla v. Manlongat, G.R. No. 148189, November 11, 2004, 442 SCRA 226, 233; Philippine Commercial International Bank v. Court of Appeals, G.R. No. 127275, June 20, 2003, 404 SCRA 442, 448; Yao v. Court of Appeals, G.R. No. 132426, October 24, 2000, 344 SCRA 202; Dayrit v. Philippine Bank of Communications, G.R. No. 140316, August 1, 2002, 386 SCRA 117, 125; Bishop of Tuguegarao v. Director of Lands, 34 Phil 623 (1916); Estate of Cordoba and Zarate v. Alabado, 34 Phil. 920 (1916); Bermudez v. Director of Lands, 36 Phil. 774 (1917).

[41] Id., p. 36.

[42] Acebedo v Abesamis, G.R. No. 102380, January 18, 1993, 217 SCRA 186, 193.

[43] Dillena v. Court of Appeals, G.R. No. L-77660, July 28, 1988, 163 SCRA 630, 637.

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