

PABLO D. ACAYLAR, JR., PETITIONER, VS. DANILO G. HARAYO, RESPONDENT.*G.R. No. 176995. July 30, 2008*

Ponente: CHICO-NAZARIO, J.

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Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Revised Rules of Court filed by petitioner Pablo D. Acaylar, Jr., seeking the reversal and the setting aside of the Resolutions[2] dated 28 July 2006 and 30 January 2007 of the Court of Appeals in CA-G.R. SP No. 01077-MIN. The appellate court, in its assailed Resolution dated 28 July 2006, dismissed petitioner's Petition for Review on Certiorari therein on technical grounds; thus, it affirmed the Decision dated 20 January 2006 of the Regional Trial Court (RTC) of Dipolog City, Branch 9, in Civil Case No. 6087, which, in turn, affirmed the Decision[3] dated 28 March 2005 of the Municipal Trial Court in Cities (MTCC) of Dapitan City, in Civil Case No. 622, awarding possession of the subject property to respondent Danilo G. Harayo on the ground that he is the lawful possessor thereof. In its assailed Resolution dated 30 January 2007, the Court of Appeals refused to reconsider its earlier Resolution of 28 July 2006.

The subject property is a parcel of land designated as Lot 741-B-1 situated in Tolon, Potungan, Dapitan City, with an area of 30,000 square meters, described and bounded as follows:

Lot 741-B-1 of the Sketch Plan, situated at Tolon, Potungan, Dapitan City, containing an area of 30,000 square meters, bounded on the N., by Tolon River; on the South by Lot 741-A; on the E by Lot 741-B-2; and on the West by the Municipal Road, and embraced in OCT No. - (P-14969)-1119.[4]

In his Complaint filed with the MTCC, and docketed as Civil Case No. 622, respondent alleged that he acquired the subject property from the spouses Pablo Acaylar, Sr., and Zoila Dangcalan Acaylar (the spouses Acaylar) by virtue of a Deed of Sale executed on 14 September 2004. On the same day, respondent took possession of the subject property. On 19 September 2004, one of the spouses Acaylar's sons, the petitioner, using strategy, intimidation, threats and stealth, entered the subject property, cut the tall grasses in the coconut plantation therein, gathered the fallen coconuts and other fruits, and pastured his cows and other animals thereon.[5]

In his Answer, petitioner countered that the subject property claimed by respondent is a portion of the entire property owned by petitioner's parents, the spouses Acaylar, with a total area of 59,775 square meters. Petitioner is in possession of his parents' entire property since 1979 as administrator thereof. He built his house on the property and farmed the land. Respondent cannot definitively claim which portion of the entire property he was able to buy from the spouses Acaylar since the same was not clearly delineated.[6] In addition, petitioner, together with his sisters, Rosario Acaylar Herrera and Asteria Acaylar, already filed against respondent and his spouse Beatriz Harayo a case for annulment of the Deed of Sale dated 14 September 2004, with prayer for preliminary injunction and damages, presently pending before the RTC, Branch 6.

During the Pre-Trial Conference held before the MTCC on 17 February 2005, the parties stipulated that the spouses Acaylar sold to respondent only a 30,000-square-meter portion of their entire property; and that there is a

pending civil case before the RTC on the validity of the sale of the subject property.

Among the pieces of evidence presented by respondent before the MTCC was an Affidavit of Zoila Acaylar (First Affidavit) attesting that she sold the subject property to respondent for consideration and she did not give petitioner authority to either administer or remain on her and her husband's property.

After trial, the MTCC rendered a Decision[7] on 28 March 2005, awarding to respondent the possession of the subject property. The MTCC gave credence to respondent's claim that he took immediate possession of the subject property after the execution of the Deed of Sale but was ousted therefrom by petitioner who invoked the alleged authority granted to him by Zoila Acaylar as the administrator of the unsold portion of her and her husband's property. The MTCC referred to the First Affidavit executed by Zoila Acaylar wherein she refuted that she gave petitioner authority or designated him as the administrator of her and her husband's property. Zoila Acaylar further admitted therein that the subject property was already sold to respondent. For lack of any legal right to remain on the subject property, the MTCC adjudged that petitioner's possession of the same was illegal. The dispositive portion of the MTCC Decision reads:

WHEREFORE, judgment is hereby rendered, by preponderance of evidence in favor of the [herein respondent] as against the [herein petitioner], and hereby orders:

(1) For [petitioner] and all other persons who may have derived rights from him to vacate lot 741-B-1 containing an area of 30,000 square meters as shown in the sketch plan prepared by Christopher Palpagan and turn over peaceful possession thereof to [herein respondent];

(2) For [petitioner] to pay [respondent] the amount of P5,000.00 as attorney's fees and P 1,591.25 as costs of the suit.

All other claims and counterclaims are hereby dismissed for lack of merit.[8]

On appeal, docketed as Civil Case No. 6087, the RTC promulgated its Decision[9] dated 20 January 2006 affirming the award of possession in favor of respondent after finding that the appealed MTCC Decision was based on facts and law on the matter. The RTC declared that the sale of the subject property by the spouses Acaylar to respondent vested ownership and possession of said property in the latter. Thus, petitioner's acts of entering the subject property, cutting the tall grasses and gathering the agricultural products therein, constitute forcible entry, which gave rise to an action for ejectment. The RTC decreed:

WHEREFORE, premises considered, [the RTC] finds by preponderance of evidence that [herein respondent] is in physical possession of the [subject property] that is on September 14, 2004 prior to the [herein petitioner] on September 19, 2004 and therefore affirms the decision of the Municipal Trial Court in the City of Dapitan without modification.[10]

Banking on another Affidavit (Second Affidavit) executed by Zoila Acaylar, in which she recanted the statements she made in her First Affidavit denying that she designated petitioner as the administrator of her and her husband's property, petitioner moved for the reconsideration of the 20 January 2006 Decision of the RTC. The RTC, however, issued a Resolution[11] dated 18 April 2006 denying petitioner's Motion for Reconsideration.

Consequently, petitioner filed a Petition for Review on Certiorari[12] with the Court of Appeals where it was docketed as CA-G.R. SP No. 01077-MIN. Petitioner argued in his Petition that the RTC gravely erred in ruling that respondent was in prior possession of the subject property based solely on the Deed of Sale executed by the spouses Acaylar in respondent's favor. Petitioner also asserted therein that the RTC gravely abused its discretion when it did not give credence to the Second Affidavit executed by Zoila Acaylar.[13]

On 28 July 2006, the Court of Appeals issued a Resolution[14] dismissing outright CA-G.R. SP No. 01077-MIN

for failure of petitioner to avail himself of the correct remedy under the law. Petitioner should have filed a Petition for Review under Rule 42 of the Revised Rules of Court, the proper remedy to appeal the adverse decisions rendered by the RTC in its appellate capacity. Instead, petitioner erroneously filed a Petition for Review on Certiorari[15] to assail the 20 January 2006 Decision and 8 April 2006 Resolution of the RTC in Civil Case No. 6087. The Court of Appeals also noted non-compliance by petitioner and his counsel with several more requirements for filing a petition with the Court of Appeals, namely: (a) shortage in the payment of the docket fees; (b) failure of petitioner's counsel to indicate the place of issue of his Integrated Bar of the Philippines (IBP) number and his complete address; (3) failure of petitioner to furnish the appellate court which rendered the assailed decision, in this case the RTC, a copy of the Petition; and (4) failure of the Petition to state the material dates.

The Court of Appeals, in a Resolution[16] dated 30 January 2007, denied for lack of merit the Motion for Reconsideration interposed by petitioner. The appellate court, however, excused the mistake of petitioner in the designation of the pleading as a Petition for Review on Certiorari, since it was clear from petitioner's Motion for Extension to file Petition for Review that he wished to avail himself of the remedy provided under Rule 42 of the Revised Rules of Court.

Petitioner is now before this Court via the Petition at bar, making the following assignment of errors:

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DENYING THE PETITION DESPITE ADEQUATE EXPLANATION SUBMITTED BY THE PETITIONER ON THE TECHNICALITIES ASSIGNED TO THE PETITIONER;

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN READING SHORT THE GIST OF THE PETITION WHEN IT RULED THAT SPECIFIC MATTERS INVOLVED IN THE CASE WERE INDICATED IN THE PETITION;

III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT ANNEXES WERE NOT ATTACHED WHEN THEY ARE DULY ATTACHED;

IV.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FAILING TO EVALUATE THE PROPRIETY (SIC) FORCIBLE ENTRY CASE WHICH IS THE ORIGINAL ACTION INVOLVED IN THIS CASE VIS-À-VIS UNLAWFUL DETAINER.[17]

The Court first addresses the procedural issues involved in the present case.

The Court of Appeals pointed several procedural defects of petitioner's Petition for Review therein. Petitioner's payment of docket fees was short of P500.00. It is also evident after a perusal of the records that petitioner failed to indicate in his Petition with the Court of Appeals the material dates to establish when he received notice of the assailed RTC Decision and when he filed his motion for reconsideration thereof with the RTC, as required by Section 2, Rule 42[18] of the Revised Rules of Court. Petitioner further failed to set forth concisely a statement of the matters involved in the case in accordance with the same provision. Finally, petitioner did not furnish the RTC, the court which rendered the assailed decision, a copy of the Petition he filed with the Court of Appeals.[19]

Petitioner, however, submits that he raised meritorious arguments in his Petition with the Court of Appeals and, thus, the dismissal thereof on a mere technicality would cause a miscarriage of justice. The petitioner invokes considerations of substantial justice and prays that this Court give his Petition due course and set aside the Court

of Appeals Resolutions dated 28 July 2006 and 30 January 2007 in CA-G.R. SP No. 01077-MIN.

Respondent counters that the Court of Appeals did not commit any reversible error in dismissing the Petition in CA-G.R. SP No. 01077-MIN and adopted the discussion of the appellate court in his Memorandum.

In appealed cases, failure to pay the docketing fees does not automatically result in the dismissal of the appeal; the dismissal is discretionary on the part of the appellate court.[20] Section 5, Rule 141 of the Revised Rules of Court provides that "If the fees are not paid, the court may refuse to proceed with the action until they are paid and may dismiss the appeal or the action or proceedings." Petitioner explained in his Motion for Reconsideration before the Court of Appeals that he relied in good faith on the computation provided by the Clerk of Court of Zamboanga with whom he inquired as regards the amount of docket fees due. He had previously paid P4,030.00 and was short of only P500.00, which he also immediately paid upon being informed of the deficiency. Given the circumstances, petitioner should have been granted leniency by the Court of Appeals on this matter.

We also agree with the petitioner that failure to state the material dates is not fatal to his cause of action, provided the date of his receipt, i.e., 9 May 2006, of the RTC Resolution dated 18 April 2006 denying his Motion for Reconsideration is duly alleged in his Petition.[21] In the recent case of *Great Southern Maritime Services Corporation v. Acuña*,[22] we held that "the failure to comply with the rule on a statement of material dates in the petition may be excused since the dates are evident from the records." The more material date for purposes of appeal to the Court of Appeals is the date of receipt of the trial court's order denying the motion for reconsideration.[23] The other material dates may be gleaned from the records of the case if reasonably evident.[24]

Likewise excusable is petitioner's failure to strictly follow the required form for presenting the facts and law of his case before the Court of Appeals. His Petition before the appellate court consists of only five pages, presenting concisely enough the facts and law supporting his case.

With respect to petitioner's failure to furnish the RTC a copy of his Petition with the Court of Appeals, this Court found upon examination of the records that petitioner had already complied with such requirement.[25]

Accordingly, the parties are now given the amplest opportunity to fully ventilate their claims and defenses brushing aside technicalities in order to truly ascertain the merits of this case. Indeed, judicial cases do not come and go through the portals of a court of law by the mere mandate of technicalities.[26] Where a rigid application of the rules will result in a manifest failure or miscarriage of justice, technicalities should be disregarded in order to resolve the case. In *Aguam v. Court of Appeals*,[27] we ruled that:

The court has [the] discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Law suits, unlike duels, are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the

parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.

In this case, the Court finds that petitioner's procedural lapses are forgivable and opts to dispose the instant Petition on its merits rather than remand the case to the appellate court, a remand not being necessary where, as in the instant case, the ends of justice would not be served thereby and we are already in a position to resolve the dispute based on the records before us.

We now proceed to discuss the merits of the case.

Relevant in the case at bar is Section 1, Rule 70 of the Revised Rules of Court which provides:

SECTION 1. Who may institute proceedings, and when. - Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

Under the above provision, there are two entirely distinct and different causes of action, to wit: (1) a case for forcible entry, which is an action to recover possession of a property from the defendant whose occupation thereof is illegal from the beginning as he acquired possession by force, intimidation, threat, strategy or stealth; and (2) a case for unlawful detainer, which is an action for recovery of possession from defendant whose possession of the property was inceptively lawful by virtue of a contract (express or implied) with the plaintiff, but became illegal when he continued his possession despite the termination of his right thereunder.[28]

The distinctions between the two forms of ejectment suits, are: first, in forcible entry, the plaintiff must prove that he was in prior physical possession of the premises until he was deprived thereof by the defendant, whereas, in unlawful detainer, the plaintiff need not have been in prior physical possession; second, in forcible entry, the possession of the land by the defendant is unlawful from the beginning as he acquires possession thereof by force, intimidation, threat, strategy or stealth, while in unlawful detainer, the possession of the defendant is inceptively lawful but it becomes illegal by reason of the termination of his right to the possession of the property under his contract with the plaintiff; third, in forcible entry, the law does not require a previous demand for the defendant to vacate the premises, but in unlawful detainer, the plaintiff must first make such demand, which is jurisdictional in nature.[29]

The above distinctions, more importantly the nature of defendant's entry into the property, are material to the present case in order to ascertain the propriety of respondent's action for forcible entry filed before the MTCC. It bears to stress that it is the nature of defendant's entry into the land which determines the cause of action, whether it is forcible entry or unlawful detainer. If the entry is illegal, then the action which may be filed against the intruder is forcible entry. If, however, the entry is legal but the possession thereafter becomes illegal, the case is unlawful detainer.[30]

In the case at bar, respondent filed an action for forcible entry before the MTCC. Respondent alleged that he took possession of the subject property immediately after the spouses Acaylar executed a Deed of Sale thereof in his favor on 14 September 2004, but was forcibly deprived thereof by petitioner. A case for forcible entry, therefore, is proper since petitioner's entry into the subject property is already illegal at its incipience.

Petitioner, on the other hand, harps on the fact that he was in possession of the subject property since 1979, having built his house thereon and farmed the land, and it was impossible for him to wrest possession of the subject property from respondent, for he was already occupying the same way before its alleged sale to respondent. Petitioner, thus, maintains that his possession over the subject property is lawful from the start, as he was authorized by Zoila Acaylar to administer the same, making respondent's suit for forcible entry before the MTCC the wrong remedy.

In a long line of cases,[31] this Court reiterated that the fact of prior physical possession is an indispensable element in forcible entry cases. The plaintiff must prove that he was in prior physical possession of the premises long before he was deprived thereof by the defendant.[32] It must be stressed that plaintiff cannot succeed where it appears that, as between himself and the defendant, the latter had possession antedating his own. To ascertain this, it is proper to look at the situation as it existed long before the first act of spoliation occurred in order to intelligibly determine whose position is more in accord with the surrounding circumstances of the case and the applicable legal principles. Such determination in this case requires a review of factual evidence, generally proscribed in a petition like this. However, where the factual findings of the courts a quo are contrary to each other, this Court may intervene to resolve the conflict and settle the factual issues raised by the parties.[33]

In the instant Petition, the MTCC cited Zoila Acaylar's First Affidavit in which she attested that she did not appoint or designate petitioner as administrator of her and her husband's property, and that she gathered the coconuts and harvested other crops from the property by employing farm workers. Since petitioner was never in possession of the subject property, then the MTCC concluded that respondent had taken possession of the same from the spouses Acaylar right after its purchase. The RTC, on the other hand, expressly recognized that petitioner possessed the subject property, but his possession was merely tolerated by his parents, and that respondent, as purchaser of the subject property from the parents, the spouses Acaylar, had better right to the possession of the same. Thus, as to whether petitioner had actual or physical possession of the subject property prior to respondent is a factual issue which we are called upon to resolve, considering that the courts below had contradicting findings.

After careful and thorough recalibration and re-examination of the evidence available on record, we find that petitioner had physical possession of the subject property prior to and at the time of its sale by the spouses Acaylar to respondent. It is actually irrelevant whether petitioner possessed the subject property as the administrator thereof. As the son of the spouses Acaylar, he could very well enter into possession of the subject property either with the express permission or at the tolerance of his parents who owned the property. Petitioner alleged, and respondent did not dispute, that petitioner had entered into possession of his parents' property as early as 1979, and he even built his house thereon. Although Zoila Acaylar may have attested in her First Affidavit that she did not appoint or designate petitioner as the administrator of her and her husband's property, she never claimed that petitioner unlawfully or illegally entered her property when he built his house thereon.

We are not persuaded by respondent's assertion that after he took possession of the subject property from the Zoila spouses, petitioner entered the subject property on a whim, for not only does such postulation lack clear, positive, and convincing evidentiary support, but also because it is illogical and contrary to common human experience. A person would not, for a reason so shallow as a whim, encroach upon another's property and gather fruits and other agricultural products therefrom, thereby risking criminal prosecution and civil liabilities. The more plausible and logical scenario would be that petitioner was already occupying the subject property prior to the sale. Petitioner, in gathering the coconut fruits and other crops, cutting grasses, and domesticating animals on the subject property, even after its sale to respondent on 14 September 2004, was only continuing to exercise acts of possession over the subject property as he had done in years before.

Moreover, we note that the subject property was sold to respondent and he supposedly took possession thereof on 14 September 2004; and that petitioner allegedly forced his way into the property on 19 September 2004. This would mean that respondent, after taking over possession of the subject property from petitioner's parents, possessed the subject property for only five days before being deprived thereof by the petitioner. The very short period when respondent purportedly possessed the subject property renders said possession suspect. It is not clear to us how petitioner took actual possession of the subject property on 14 September 2004. Neither are we enlightened on the manner in which respondent exercised or demonstrated his physical or material possession over the subject property for the five days before he was reputedly ousted therefrom by petitioner.

Both the MTCC and the RTC decided in favor of petitioner since they considered him to have been vested with possession of the subject property by virtue of the execution of the Deed of Sale on 14 September 2004. However, such a ruling violates one of the most basic doctrines in resolving ejectment cases. We had long settled that the only question that the courts must resolve in ejectment proceedings is - who is entitled to the physical or material possession of the property, that is, possession *de facto*; and they should not involve the question of ownership or of possession *de jure*, which is to be settled in the proper court and in a proper action.[34] As we elucidated in the recent case of *Sudaria v. Quiambao*[35]:

Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession.

Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to settle in an ejectment suit is the right to physical possession.

Hence, the Deed of Sale conferring ownership of the subject property upon respondent is clearly irrelevant in the case presently before us. The Deed of Sale did not automatically place respondent in physical possession of the subject property. It is thus incumbent upon respondent to establish by evidence that he took physical possession of the subject property from the spouses Acaylar on 14 September 2004 and he was in actual possession of the said property when petitioner forcibly entered the same five days later.

The conflicting Affidavits of Zoila Acaylar, notwithstanding, we find that petitioner was in peaceful possession of the subject property prior to its sale to respondent. Even if petitioner was not authorized by Zoila Acaylar to possess the subject property as administrator, his possession was not opposed and was, thus, tolerated by his parents. As we ruled in *Arcal v. Court of Appeals*[36]:

The rule is that possession by tolerance is lawful, but such possession becomes unlawful upon demand to vacate made by the owner and the possessor by tolerance refuses to comply with such demand. A person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which, a summary action for ejectment is the proper remedy against him. The status of the possessor is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. In such case, the unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate.

In the instant case, there is no showing that either Zoila Acaylar or respondent made an express demand upon petitioner to vacate the subject property. In the absence of an oral or written demand, petitioner's possession of the subject property has yet to become unlawful. The absence of demand to vacate precludes us from treating this case, originally instituted as one for forcible entry, as one of unlawful detainer, since demand to vacate is

jurisdictional in an action for unlawful detainer.[37]

In conclusion, since petitioner was in prior physical possession of the subject property, respondent has no cause of action against petitioner for forcible entry. Neither can we treat respondent's case against petitioner as one for unlawful detainer absent the jurisdictional requirement of demand to vacate made upon petitioner. However, our dismissal of respondent's Complaint herein against petitioner is without prejudice to respondent's filing of the appropriate remedy under the law to acquire possession of the subject property, as well as to the resolution of the civil case pending with the RTC, Branch 6, for the annulment of the Deed of Sale dated 14 September 2004.

WHEREFORE, premises considered, the instant Petition is GRANTED. The Decision dated 28 July 2006 of the Court of Appeals and its Resolution dated 30 January 2007 in CA-G.R. SP No. 01077-MIN are REVERSED and SET ASIDE, and the Complaint of respondent Danilo G. Harayo against petitioner Pablo D. Acaylar before the Municipal Trial Court in Cities of Dapitan City, in Civil Case No. 622, is DISMISSED, without prejudice. No costs.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 1-25.

[2] Penned by Associate Justice Rodrigo F. Lim, Jr. with Associate Justices Teresita Dy-Liacco-Flores and Sixto Marella, Jr., concurring. Rollo, pp. 24-26 and 38-42.

[3] Rollo, pp. 44-49.

[4] Id. at 44.

[5] Id. at 44-46.

[6] Id.

[7] Id. at 44-49.

[8] Id. at 49.

[9] Id. at 50-54.

[10] Id. at 53.

[11] Id. at 54-57.

[12] CA rollo, pp. 7-13.

[13] Id.

[14] Rollo, pp. 24-26.

[15] A Petition for Review on Certiorari is a mode of appeal in which only questions of law are raised before the Supreme Court.

[16] Rollo, pp. 38-43.

[17] Id. at 6-7.

[18] SEC. 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

[19] Rollo, pp. 24-26.

[20] *NAWASA v. Sec. of Pub. Works and Communications*, 123 Phil. 346, 349 (1966).

[21] Rollo, p. 8.

[22] G.R. No. 140189, 28 February 2005, 452 SCRA 422, 433.

[23] *Security Bank Corporation v. Aerospace University*, G.R. No. 146197, 27 June 2005, 461 SCRA 260, 270.

[24] *Id.*

[25] Rollo, pp. 44-53.

[26] *Fulgencio v. National Labor Relations Commission*, 457 Phil. 868, 880-881 (2003).

[27] 388 Phil. 587, 593-594 (2000).

[28] *Santos v. Ayon*, G.R. No. 137013, 6 May 2006, 458 SCRA 83, 90.

[29] *Cajayon v. Batuyong*, G.R. No. 149118, 16 February 2006, 482 SCRA 461, 470-471.

[30] *Spouses Valdez, Jr. v. Court of Appeals*, G.R. No. 132424, 4 May 2006, 489 SCRA 369, 378.

[31] *Habagat Grill v. DMC-Urban Property Developer, Inc.*, G.R. No. 155110, 31 March 2005, 454 SCRA 653; *Sps. Gaza v. Lim*, 443 Phil. 337 (2003).

[32] *Sps. Gaza v. Lim*, *id.* at 348-349.

[33] *Jimenez v. Commission on Ecumenical Mission, United Presbyterian Church, USA*, 432 Phil. 895, 906 (2002).

[34] *Manuel v. Court of Appeals*, G.R. No. 95469, 25 July 1991, 199 SCRA 603, 608.

[35] G.R. No. 164305, 20 November 2002, 537 SCRA 689, 697-698.

[36] G.R. No. 127850, 26 January 1998, 285 SCRA 34, 43.

[37] *Sumulong v. Court of Appeals*, G.R. No. 108817, 10 May 1994, 232 SCRA 372, 386-387, citing *Hautea v. Magallon*, 120 Phil. 1307, 1309 (1964).

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