

JOSE SY BANG (DECEASED), ILUMINADA TAN, ZENAIDA SY, REYNALDO SY BANG, JOSE SY BANG, JR., WILSON SY BANG, ROBERT SY BANG, ESTELITA SY, MA. THERESA SY, MARY JANE SY, CARMELO SY BA...

G.R. No. 179955. April 24, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Assailed in this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court are the Decision[2] dated 29 May 2007 and the Resolution[3] dated 19 September 2007 of the Court of Appeals in CA-G.R. CV No. 82746. In its assailed Decision, the appellate court reversed and set aside the Order[4] dated 22 March 2004 of the Regional Trial Court (RTC) of Lucena City, Branch 57, in Civil Case No. 96-81, which granted the Petition for Relief of herein petitioners and ordered the reinstatement of the previously dismissed Petition for Quieting of Title. The assailed Resolution of the Court of Appeals denied the Motion for Reconsideration of its earlier Decision.

The instant case arose from a controversy over the estate of the deceased Sy Bang. Petitioner Jose Sy Bang is one of the five children of the late Sy Bang with his first wife, Ba Nga. Petitioner Iluminada Tan is the wife of Jose Sy Bang, while the rest of the petitioners are their children, except for Anthony Sy Bang who is their nephew. Respondents Rosaura Sy, Enrique Sy and Juliet Sy,[5] on the other hand, are three of the eight children of the late Sy Bang with his second wife, Rosita Ferrera Sy.

Complaint for Partition of Estate

In 1971, Sy Bang died intestate, leaving numerous properties and businesses. In 1980, the heirs of Sy Bang from his second marriage filed a Complaint for Partition before the RTC against the petitioner spouses Jose Sy Bang and Iluminada Tan, as well as the other heirs of Sy Bang. Said case was docketed as Civil Case No. 8578. A notice of lis pendens was then annotated on several certificates of title covering properties involved in the case. In the course of the partition proceedings, the RTC rendered on 8 June 1982 a Third Partial Decision. The pertinent portion of its fallo provided:

WHEREFORE, the Court hereby renders this Third Partial Decision:

(a) Declaring that all the properties, businesses, or assets, their income, produce, & improvements, as well as all the rights, interests, or participations in the names of defendants Jose Sy Bang & his wife Iluminada Tan and their children, defendants Zenaida & Ma. Emma, both surnamed Sy, and defendants Julian Sy and his wife Rosa Tan, as belonging to the estate of Sy Bang, including the properties in the names of said defendants which are enumerated in the complaints in this case and all those properties, rights and interests which said defendants may have concealed or fraudulently transferred in the names of other persons, their agents or representatives; (Emphasis ours.)

The aforementioned Third Partial Decision of the RTC was appealed to the Court of Appeals, docketed as CA-G.R. No. 17686. In a Resolution dated 6 May 1993, the appellate court affirmed the said Third Partial Decision of the RTC. Petitioners' appeal of the adverse Resolution of the appellate court in CA-G.R. No. 17686 is docketed as G.R. No. 114217, still pending before this Court.

In the meantime, it appears that the annotations of the notice of lis pendens on the certificates of title covering the disputed properties in Civil Case No. 8578 were eventually cancelled by the Register of Deeds of Lucena City.[6] On the belief that petitioner Jose Sy Bang had been transferring some of the properties subject of the partition proceedings, as well as purchasing properties from the funds of Sy Bang's estate, and had said properties registered in his own and his children's names, respondents wrote a letter to the Register of Deeds of Lucena City, asking for the re-annotation of the notice of lis pendens on Transfer Certificates of Title (TCTs) No. T-61067, No. T-61068, No. T-61069, No. T-66130, No. T-54805, No. T-60721, No. T-57809 and No. T-47765. These TCTs were all in the names of the petitioner spouses Jose Sy Bang and Iluminada Tan and their children. The Register of Deeds of Lucena City, however, denied[7] respondents' request for re-annotation, ruling that the notice of lis pendens can only be re-annotated on the titles upon order of the court on a petition filed for this purpose. This prompted respondents to file an appeal before the Land Registration Authority (LRA) of the unfavorable ruling of the Register of Deeds of Lucena City, docketed as Consulta No. 2471. In a Resolution[8] dated 3 February 1999, the LRA upheld the denial of respondent's request for re-annotation, considering that Section 108 of the Property Registration Decree[9] provides that any error, mistake or omission committed in entering a certificate of title or of any memorandum thereon may be corrected only upon order of the court.[10]

Petition for Quieting of Titles

To forestall respondents' attempts to interfere with their property rights, petitioners filed on 17 June 1996, a Petition for Quieting of Titles with Prayer for the Issuance of Writ of Prohibition,[11] docketed as Civil Case No. 96-81. Petitioners claimed therein that they were the absolute owners of the parcels of land (subject lots) covered by TCTs No. T-61067, No. T-61068, No. T-61069, No. T-66130, No. T-54805, No. T-60721, No. T-57809 and No. T-47765, which were all acquired through their individual efforts and with the use of their personal resources.

On 19 July 1996, respondents filed a Motion to Dismiss[12] the Petition in Civil Case No. 96-81. In an Order[13] dated 4 March 1997, the RTC denied said Motion to Dismiss after finding that the grounds cited therein were not indubitable. Respondents' Motion for Reconsideration of the 4 March 1997 Order was likewise denied by the RTC in another Order[14] dated 14 April 1997. Respondents, thus, filed a Petition for Certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 44043. In a Decision[15] dated 28 August 1997, the Court of Appeals dismissed respondents' Petition in CA-G.R. SP No. 44043 for lack of merit. Similarly ill-fated was respondents' Motion for Reconsideration which was denied by the appellate court in a Resolution dated 5 May 1998. Respondents no longer appealed to this Court the dismissal of its Petition in CA-G.R. SP No. 44043 by the Court of Appeals.

Thereafter, complying with the order of the RTC, respondents filed their Answer to the Petition in Civil Case No. 96-81.[16] The parties then submitted their respective pre-trial briefs, and the case was set for trial. However, before the case was heard, petitioner Jose Sy Bang died on 11 September 2001.[17] On 9 October 2001, the RTC ordered[18] Atty. Eduardo Santos, counsel for petitioners, to submit within ten days an authority from the heirs of Jose Sy Bang for them to be substituted, as well as to secure the conformity of the other heirs who were yet to be impleaded or substituted to be continuously represented by Atty. Eduardo Santos. This directive was then reiterated in an Order[19] dated 4 December 2001.

Without complying with the above orders, Atty. Eduardo Santos manifested[20] in open court, on 18 April 2002,

that he intended to file a Motion to Withdraw the Petition for Quieting of Titles. The next day, on 19 April 2002, Atty. Eduardo Santos filed a Manifestation,[21] signed only by himself, which recited:

MANIFESTATION

COMES NOW [the] undersigned counsel for and in (sic) behalf of the [herein petitioners] and before this Hon. Court most respectfully manifests, (sic) that:

1. Due to the death of his client Jose Sy Bang, his wife, [petitioner] Iluminada Tan and children have decided to move for the dismissal of the above case, considering that the Resolution of the Land Registration Authority as well as the judgment of the Court of Appeals in CA-G.R. No. (sic) SP No. 44043 are enough legal protection of their rights and ownership over the realties in litis.

Wherefore, premises considered, he moves that the above case be dismissed pursuant (sic) to the desire of the litigant (sic) Iluminada Tan and the heirs of the late Jose Sy Bang.

Lucena City
April 19, 2002

Respectfully submitted:

(SGD)Eduardo R. Santos
Counsel for the [petitioners]
(Emphasis ours.)

Atty. Eduardo Santos filed a second Manifestation[22] on 6 May 2002, which stated:

MANIFESTATION

COMES NOW [the] undersigned counsel for and [on] behalf of the [herein petitioners] and before this Hon. Court most respectfully manifests, (sic) that:

1. Pursuant (sic) to his previous statement in open court that the [petitioners] have already evinced no desire to prove damages they suffered due to the attempt of [herein respondents] to cast shadow of doubts (sic) on their eight (8) certificates of titles (sic) through a wrongful annotations (sic), he reiterates the same thru (sic) this manifestation.

2. After the ruling of the Land Registration Authority and supported by the final decision of the Court of Appeals in CA-G.R. Sp. No. 44043, entitled Juliet Sy, et. (sic) al. vs. Judge Federico Tanada, et. (sic) al., his clients find no more necessity to continue the hearing of the above case.

WHEREFORE, premises considered, it is prayed that this manifestation be noted.

Lucena City, May 6, 2002

Respectfully submitted:

(signed)
(SGD)EDUARDO R. SANTOS
Counsel for the [petitioners]

x x x x

Conforme:

(signed)
ROBERT SY BANG

On even date, the RTC issued an Order,[23] treating the first Manifestation filed by Atty. Eduardo Santos on 19 April 2002 as a motion to dismiss Civil Case No. 96-81 and granted the same. Subsequently, in an Order[24] dated 18 June 2002, the RTC dismissed Civil Case No. 96-81 entirely, together with respondents' counterclaims.

Petition for Relief

On 23 September 2002, petitioners, now represented by a new counsel, Atty. Vicente M. Joyas, filed a Petition for Relief[25] from the Order dated 6 May 2002 of the RTC in Civil Case No. 96-81. Petitioners averred that contrary to the claim of Atty. Eduardo Santos, petitioners Iluminada Tan and the other heirs of Jose Sy Bang were never consulted or informed of the manifestation that sought the dismissal of their Petition for Quieting of Titles. Atty. Eduardo Santos was allegedly able to secure the signature of petitioner Robert Sy Bang in the Manifestation dated 6 May 2002 by misrepresenting to the latter that the relief being sought in Civil Case No. 96-81 had been satisfactorily granted by the Court of Appeals and the LRA, and that the only thing left to be litigated was the amount of damages, which might as well be waived by signing the said Manifestation. Atty. Eduardo Santos was also said to have collected full payment of his fees by misrepresenting to petitioner Carmelo Sy Bang that petitioners had already won Civil Case No. 96-81, and that there was no more need to litigate the same on the merits.

Petitioners further claimed that Atty. Eduardo Santos continued misinforming them about their case. On 21 June 2002, Atty. Eduardo Santos wrote petitioner Iluminada Tan a letter assuring her that the 28 August 1997 Decision of the Court of Appeals in CA-G.R. SP No. 44043, which recognized that the lots in question were the fruits of her family's labor, could not be legally questioned anymore as entry of judgment was already made in said case. Atty. Eduardo Santos further stated in his letter to petitioner Iluminada Tan that he had also served petitioners' interests well in Civil Case No. 96-81, the Petition for Quieting of Titles, given the declaration by the appellate court in CA-G.R. SP No. 44043 that the subject lots were the gains from petitioners' labor, which foreclosed any future claim of a third party.

However, upon petitioners' perusal of the Court of Appeals Decision dated 28 August 1997 in CA-G.R. SP No. 44043, it was disclosed to them that none of Atty. Eduardo Santos' representations concerning the same was actually contained therein. Petitioners lamented the fact that the Order dated 6 May 2002 of the RTC, dismissing Civil Case No. 96-81 upon the manifestation and motion of Atty. Eduardo Santos, had already become final and executory when they first came to know of said Order on 29 July 2002.

In an Order[26] dated 23 September 2002, the RTC found petitioners' Petition for Relief to be sufficient in form and substance and, thus, directed respondents to file their answer thereto.

Atty. Eduardo Santos filed on 7 October 2002 a Manifestation[27] before the RTC, wherein he refuted petitioners' allegation that he did not consult petitioners before he moved for the dismissal of Civil Case No. 96-81. Atty. Eduardo Santos asserted that after the death of petitioner Jose Sy Bang, he met with several of the remaining petitioners, particularly, brothers Jose Sy Bang, Jr., Robert Sy Bang, and Carmelo Sy Bang (Sy Bang brothers), who were supposed to testify on their family's acquisition of the subject lots. Since the subject lots were purchased with money loaned from various banks in Lucena City, petitioners Sy Bang brothers decided to consult first with the managers of the creditor banks. Petitioners Sy Bang brothers then learned that the banks had no more records of the loans extended to their father, the late petitioner Jose Sy Bang. This prompted Atty. Eduardo Santos to advise them that their only alternative was to move for the withdrawal of the Petition for Quieting of Titles, considering that the ruling of the LRA in Consulta No. 2471 and the judgment of the Court of Appeals in CA-G.R. SP No. 44043 were adequate protection from any challenge to the titles to the subject lots in petitioners' names. Given the foregoing, petitioners could not claim that Atty. Eduardo Santos did not previously advise them

of his move to withdraw the Petition for Quieting of Titles in Civil Case No. 96-81.

On 17 October 2002, respondents filed a Motion to Dismiss[28] petitioners' Petition for Relief on the ground that it was not accompanied by an affidavit of merit stating the alleged fraud committed by Atty. Eduardo Santos, as well as the facts constituting petitioners' good and substantial causes of action. Respondents likewise objected to the fact that the Verification attached to the Petition was signed by only one of the petitioners, Benedict Sy Bang. The Petition for Relief was filed on behalf of several petitioners and the ground relied upon was fraud, which could have been true for only one of the petitioners; so respondents insisted that the Verification of the Petition should have been personally signed by all of the petitioners.

In an Order[29] dated 11 November 2002, the RTC denied respondents' Motion to Dismiss, reasoning that the recitals in the Petition for Relief on how Atty. Eduardo Santos allegedly committed fraud by having the Petition for Quieting of Titles dismissed without authorization from petitioners, constituted the merits of the Petition for Relief. Given that the said recitals were verified and under oath, they were equivalent to the required affidavit of merit. Lastly, applying a liberal construction of the Rules of Court, the signing by only one of the petitioners of the Verification attached to the Petition for Relief should already be considered substantial compliance with said rules.

Thereafter, the Petition for Relief was set for hearing and trial thereon ensued.

Petitioner Benedict Sy Bang took the witness stand for the petitioners. According to petitioner Benedict Sy Bang's testimony, he and the other petitioners were not informed by Atty. Eduardo Santos that he was going to seek the dismissal of petitioners' Petition for Quieting of Titles in Civil Case No. 96-81. Petitioners were also not given a copy of the first Manifestation prepared by Atty. Eduardo Santos, asking for the dismissal of the Petition for Quieting of Titles, before it was filed with the RTC on 19 April 2002.[30] Although petitioners knew that an order was already issued by the RTC in Civil Case No. 96-81, they thought that it was favorable to them, as Atty. Eduardo Santos was demanding that he be paid his attorney's fees after claiming that petitioners already won the case. Upon verification, petitioners were surprised and dismayed to learn, only around 29 July 2002, that their Petition for Quieting of Titles in Civil Case No. 96-81 was actually dismissed by the RTC.[31]

Petitioners also intended to present petitioner Robert Sy Bang as a witness before the RTC to testify on the following matters: that it was Atty. Eduardo Santos who caused him to sign the second Manifestation that was filed with the RTC on 6 May 2002; that when the second Manifestation was filed, the RTC had already issued an Order of Dismissal; and that the other petitioners had no knowledge of the Manifestations made by Atty. Eduardo Santos, which resulted in the dismissal of their Petition for Quieting of Titles. However, counsel for the respondents declared that his clients were willing to admit petitioner Robert Sy Bang's testimony without need for him to actually testify.[32] Petitioners then proceeded to mark, as documentary evidence, the Manifestations filed by Atty. Eduardo Santos on 19 April 2002 and 6 May 2002, respectively; as well as the Order of the RTC dated 6 May 2002, which dismissed the Petition for Quieting of Titles in Civil Case No. 96-81. Thereafter, petitioners rested their case.

On 10 June 2003, respondents filed a Demurrer to Evidence.[33] Respondents maintained that, in addition to the absence of an affidavit of merit and the improper verification of the Petition for Relief, petitioners' evidence failed to prove any mistake, fraud, accident, or excusable negligence that would justify their Petition.

The RTC denied the Demurrer to Evidence in an Order[34] dated 11 August 2003, holding that there was sufficient evidence based on the records - which included the testimonies of petitioners Benedict Sy Bang and Robert Sy Bang - to establish the alleged fraud committed upon the petitioners by Atty. Eduardo Santos. Thus, it directed respondents to present their evidence to refute the same.

Respondents did not present any witnesses and, instead, filed their Formal Offer of Documentary Evidence,[35] which the RTC admitted in an Order[36] dated 9 January 2003. Among the documentary evidence respondents offered was the Manifestation filed by Atty. Eduardo Santos on 7 October 2002 (marked as Exhibit 4) and paragraph 6[37] thereof (marked as Exhibit 4-A), which stated that it was inaccurate for petitioners to assert that they were not informed of the impending move for the dismissal of their Petition for Quieting of Titles.

On 22 March 2004, the RTC issued an Order finding that Atty. Eduardo Santos indeed committed fraud against the petitioners. Relevant portions of said Order read:

In this case, the fraud refers to the unauthorized manifestation of Atty. Eduardo Santos dated April 19, 2002. The fraud is highlighted by the fact that there was really no basis for Atty. Eduardo Santos to represent that [herein petitioner] Iluminada Tan and her children had decided to move for the dismissal of the quieting of title case due to the resolution of the Land Registration Authority in the abovementioned Consulta and the cited judgment of the Court of Appeals, CA-G.R. No. SP-44043. That Court of Appeals judgment did not touch on the merits of the quieting of title case and the Land Registration Authority resolution of the Consulta was dated way back February 3, 1999. If indeed these were valid reasons to move for the dismissal of the case, Atty. Eduardo Santos could have easily suggested to his clients that the case be dismissed upon their own motion as early as 1998 or 1999 when the said Court of Appeals decision and Land Registration Authority Consulta were issued. But surprisingly, it was only when Atty. Eduardo Santos brought up the issue of his attorney's fees in 2002 when he decided to file the unauthorized manifestation dated April 19, 2002. This lack of authority is supported by the fact that after filing that April 19, 2002 manifestation, and after this Court had in fact dismissed the quieting of title case on May 6, 2002, Atty. Eduardo Santos still filed another manifestation dated May 6, 2002 stating that his clients find (sic) no more necessity to continue the hearings in this case. On this manifestation, however, he decided to secure the conformity of one of the [petitioners] namely (sic) Robert Sy Bang. In doing so, he prevented the [petitioners] from presenting all of their case with the Court and thus, preventing a fair submission of the quieting of title controversy.

While the court notes that Atty. Eduardo Santos also filed a manifestation with the court with respect to the petition for relief which was marked as Exhibits-"4" and "4-A", (sic) the statements therein with respect to Atty. Eduardo Santos (sic) allegations that he did in fact inform some of the co-petitioners in this case of his intention to file a dismissal motion on the case, cannot be given any credibility or weight by the Court. First of all, the Court believes that those matters are privileged arising from an attorney-client relationship. Secondly, Atty. Eduardo Santos was never put to the stand wherein he could have been cross-examined by petitioners' counsel. Lastly, the court (sic) believes that those allegations in Exhibits-"4" and "4-A" were made only by Atty. Eduardo Santos after sensing that his twin manifestations of April 19, 2002 and May 6, 2002 were basically asking for the same result, that is, the dismissal of the case. The Court therefore is of the belief that the final order dated May 6, 2002 dismissing the case, must be set aside. It is true that clients are bound by the mistakes of the lawyers, but this was not just a simple mistake. If in fact it was negligence on the part of Atty. Eduardo Santos, this amounted to gross negligence bordering on fraud as petitioners herein were deprived of their opportunity to fully present their evidence in the quieting of title controversy. (Emphasis ours.)

In the end, the RTC decreed:

WHEREFORE, premises considered, the petition for relief is granted and the order dismissing the quieting of title case dated May 6, 2002 is set aside and cancelled. Therefore, the quieting of title case is hereby reinstated and hearing on the same is set on APRIL 23, 2004 at 8:30 o'clock in the morning.

Respondents filed an appeal of the afore-mentioned Order before the Court of Appeals, docketed as CA-G.R. CV No. 82746.

On 29 May 2007, the Court of Appeals promulgated its assailed Decision, ruling in respondents' favor based on the following ratiocination:

The sole issue to be resolved in this appeal is whether the trial court was correct in granting the petition for relief from judgment filed by [herein petitioners].

We rule to reverse the Order dated March 22, 2004 of the trial court.

x x x x

Under Section 1, Rule 38 of the Rules of Court, the court may grant relief from judgment only "[w]hen a judgment or final order is entered, or any other proceeding is taken against a party in any court through fraud, accident, mistake, or excusable negligence." In their petition for relief from judgment in the trial court, [petitioners] contended that judgment was entered against them through "fraud" because they were allegedly told by their counsel that their case was already a "won" case because of the decision of this Court in CA-G.R. SP No. 44043 and the LRA's Resolution in Consulta No. 2471 dated February 3, 1999. This is not the fraud contemplated under Section 1. "Fraud" must be extrinsic or collateral, that is, the kind which prevented the aggrieved party from having a trial or presenting his case to the court. x x x.

Furthermore, [petitioners] did not present evidence of fraud or deception employed on them by [respondents] to deprive them of [the] opportunity to present their case to the court. They, however, assert that the misrepresentation of their counsel that they had won the case amounts to extrinsic fraud which would serve as basis for their petition for relief from judgment.

We disagree.

We hold that when a party retains the services of a lawyer, he is bound by his counsel's actions and decisions regarding the conduct of the case. This is true especially where [petitioners] do not complain against the manner their counsel handles the suit. The Supreme Court stated in *PABLO T. TOLENTINO vs. HON. OSCAR LEVISTE*,

Litigants represented by counsel should not expect that all they need to do is to sit back, relax and await the outcome of their case. To agree with petitioner's stance would enable every party to render inutile any adverse order or decision through the simple expedient of alleging negligence on the part of his counsel. The Court will not countenance such ill-informed argument which contradicts long-settled doctrines of trial and procedure.

We reiterate the rule that a client is bound by the mistakes of his counsel except when the negligence of his counsel is so gross, reckless and inexcusable that the client is deprived of his day in court. Only when the application of the general rule would result in serious injustice should the exception apply. We find no reason to apply the exception in this case.

By no means were [petitioners] deprived by [respondents] of their day in court.

x x x x

Under Section 1, the "negligence" must be excusable and generally imputable to the party because if it is imputable to the counsel, it is binding on the client. To follow a contrary rule and allow a party to disown his counsel's conduct would render proceedings indefinite, tentative, and subject to reopening by the mere subterfuge of replacing counsel. What the aggrieved litigant should do is seek administrative sanctions against the erring counsel and not ask for the reversal of the court's ruling.

x x x x

Admittedly, this Court has relaxed the rule on the binding effect of counsel's negligence and allowed a litigant another chance to present his case "(1) where [the] reckless or gross negligence of counsel deprives the client of due process of law; (2) when [the rule's] application will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so require."

None of these exceptions obtain here.

For a claim of counsel's gross negligence to prosper, nothing short of clear abandonment of the client's cause must be shown.

Here the alleged fraud committed by [petitioners'] counsel was not duly proven. It was not proven that the lawyer connived with the other party for his client's defeat or corruptly sold out his clients' interest.

x x x x

Since we ruled that there was no extrinsic fraud to justify the petition for relief, we find it unnecessary to discuss the other issues. (Emphasis supplied.)

Hence, the dispositive portion of the Decision of the appellate court stated:

WHEREFORE, the appeal is hereby GRANTED. The Order dated March 22, 2004 of the Regional Trial Court of Lucena City, Branch 57, [is] REVERSED and SET ASIDE. ACCORDINGLY, the Civil Case No. 96-81 for Quieting of Title with Prayer for the Issuance of Writ of Prohibition, is hereby DISMISSED.

Petitioners filed a Motion for Reconsideration,[38] but it was denied by the Court of Appeals in its assailed Resolution[39] dated 19 September 2007.

Still undeterred, petitioners instituted before this Court the present Petition for Review, raising the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THERE WAS EXTRINSIC FRAUD COMMITTED BY PETITIONERS' FORMER COUNSEL WHICH PREVENTED THE PETITIONERS FROM THE OPPORTUNITY (sic) TO FULLY PRESENT THEIR EVIDENCE IN THE QUIETING OF TITLE CONTROVERSY.

II.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN FAILING TO DULY RECOGNIZE THAT ATTY. EDUARDO SANTOS, FORMER COUNSEL OF THE PETITIONERS, WAS GUILTY OF GROSS NEGLIGENCE WHICH PREVENTED THE HEREIN PETITIONERS FROM FULLY PRESENTING THEIR CASE. BY VIRTUE OF COUNSEL'S UNPROFESSIONAL CONDUCT, PETITIONERS MUST NOT BE BOUND, MUCH MORE DAMAGED, BY SAID GROSS NEGLIGENCE AND TECHNICAL FRAUD.

III.

WHETHER OR NOT THE COURT OF APPEALS OVERLOOKED TO CONSIDER CERTAIN SUBSTANTIAL AND RELEVANT FACTS, WHICH, HAD THEY BEEN PROPERLY CONSIDERED, WOULD HAVE JUSTIFIED A DIFFERENT CONCLUSION - ONE THAT CONCURS WITH THE FINDINGS AND CONCLUSION OF THE REGIONAL TRIAL COURT.

Essentially, the issue which this Court is tasked to resolve in the Petition at bar is whether petitioners' Petition for Relief should be granted on the ground of extrinsic fraud.

Undoubtedly, the resolution of this issue would necessarily involve a factual review of the respective evidence of the parties. Such a task is warranted under the circumstances given that the findings of fact of the Court of Appeals are contrary to those of the RTC.[40]

After a thorough examination of the evidence on record, the Court concludes that there is merit in the present Petition.

Section 1 of Rule 38 of the Rules of Court provides that when a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

Where fraud is the ground, the fraud must be extrinsic or collateral.[41] The extrinsic or collateral fraud that invalidates a final judgment must be such that it prevented the unsuccessful party from fully and fairly presenting his case or defense and the losing party from having an adversarial trial of the issue. There is extrinsic fraud when a party is prevented from fully presenting his case to the court as when the lawyer connives to defeat or corruptly sells out his client's interest.[42] Extrinsic fraud can be committed by a counsel against his client when the latter is prevented from presenting his case to the court.[43]

Petitioners base their Petition for Relief on the alleged extrinsic fraud committed by Atty. Eduardo Santos who, without petitioners' knowledge and consent, filed on 19 April 2002 the Manifestation that induced the RTC to dismiss, in an Order dated 6 May 2002, petitioners' Petition for Quieting of Titles, thus, outrightly depriving petitioners of their day in court.

To recall, petitioners presented the testimonies of petitioners Benedict Sy Bang and Robert Sy Bang to prove their averment of fraud on the part of Atty. Eduardo Santos. Petitioner Benedict Sy Bang testified that petitioners had no knowledge of Atty. Eduardo Santos' intention to have their Petition for Quieting of Titles dismissed; and that Atty. Eduardo Santos misled petitioners into believing that the RTC resolved said Petition in petitioners' favor, so he could already collect his attorney's fees. It was only upon petitioners' verification on 29 July 2002 that they discovered that their Petition for Quieting of Titles was actually dismissed by the RTC. In petitioner Robert Sy Bang's testimony, he explained that Atty. Eduardo Santos caused him to sign the second Manifestation seeking the dismissal of the Petition for Quieting of Titles. However, when the second Manifestation, signed by petitioner Robert Sy Bang, was filed with the RTC on 6 May 2002, the same court had already issued on the same day an Order granting the dismissal of the Petition for Quieting of Titles, apparently acting on the first Manifestation signed by Atty. Eduardo Santos himself and submitted on 19 April 2002. Petitioner Robert Sy Bang further affirmed in his testimony that the other petitioners were ignorant of the Manifestations filed by Atty. Eduardo Santos with the RTC praying for the dismissal of their Petition for Quieting of Titles.

Respondents first filed a Demurrer to Evidence, but it was denied by the RTC, which ruled that there was sufficient evidence based on the records to prima facie establish the alleged fraud committed upon the petitioners by Atty. Eduardo Santos. The RTC, thus, ordered respondents to present their evidence.

Respondents no longer presented any witnesses and, instead, filed a Formal Offer of Documentary Evidence, which consisted of: (1) petitioners' Petition for Quieting of Titles with Prayer for the Issuance of Writ of Prohibition; (2) respondents' letter to the Register of Deeds of Lucena City, asking for the re-annotation of the notice of lis pendens on the TCTs covering the properties in dispute; (3) the second Manifestation, signed by petitioner Robert Sy Bang, filed before the RTC by Atty. Eduardo Santos on 6 May 2002, seeking the dismissal of the Petition for Quieting of Titles; (4) page 20 of the Transcript of Stenographic Notes taken on 3 February 2003, wherein petitioner Benedict Sy Bang stated that petitioners only came to know of the dismissal of their Petition for Quieting of Titles in the latter part of July 2002; (5) page 21 of the Transcript of Stenographic Notes taken on 3 February 2003, wherein petitioner Benedict Sy Bang narrated that when Atty. Eduardo Santos demanded more attorney's fees for having won Civil Case No. 96-81 for petitioners, petitioners verified and were able to secure a

copy of the 6 May 2002 Order of the RTC, which actually dismissed their Petition for Quieting of Titles; (6) petitioners' Petition for Relief from the RTC Order dated 6 May 2002 in Civil Case No. 96-81, which granted the dismissal of their Petition for Quieting of Titles; and (7) the Manifestation filed on 7 October 2002 by Atty. Eduardo Santos before the RTC in the Petition for Relief.

The Court readily observes that, save for one, the documentary evidence submitted by respondents does not exactly contradict, and is even consistent with, petitioners' version of the events. Only the Manifestation filed by Atty. Eduardo Santos before the RTC on 7 October 2002, in response to the Petition for Relief filed by petitioners, is actually contrary to petitioners' allegations and evidence in support of said Petition.

In his Manifestation of 7 October 2002, Atty. Eduardo Santos insisted that he consulted and discussed in detail his move, together with three of the petitioners -- the petitioners Sy Bang brothers, Jose Sy Bang, Jr., Robert Sy Bang, and Carmelo Sy Bang - to have the Petition for Quieting of Titles dismissed. Respondents point out that the said Manifestation was not opposed or rebutted by the petitioners; hence, it sufficiently negated petitioners' claim of fraud committed by their own counsel.

The Court is not convinced.

Atty. Eduardo Santos' Manifestation, filed on 7 October 2002, only stated that after petitioners Sy Bang brothers found out that the bank records, which could have proven that their father Jose Sy Bang borrowed money to buy the disputed properties, could no longer be found, Atty. Eduardo Santos advised the petitioners Sy Bang brothers that their only alternative was to have the Petition for Quieting of Titles dismissed. Atty. Eduardo Santos even explicitly admitted in said Manifestation his belief that the ruling of the LRA in Consulta No. 2471 and the judgment of the Court of Appeals in CA-G.R. SP No. 44043 were already adequate protection against any challenge to petitioners' titles to the properties in question. Nowhere, however, in the Manifestation could the Court find a clear and categorical statement that petitioners Sy Bang brothers, in fact, agreed to adopt the advice of Atty. Eduardo Santos to have the Petition for Quieting of Titles dismissed. Neither can it be gleaned from said Manifestation whether petitioners Sy Bang brothers were aware of and amenable to the filing of the first Manifestation, which Atty. Eduardo Santos signed by himself and filed with the RTC on 19 April 2002, seeking the dismissal of the Petition for Quieting of Titles.

Even if, for the sake of argument, the Court concedes that the petitioners Sy Bang brothers indeed gave their consent to Atty. Eduardo Santos to move for the dismissal of the Petition for Quieting of Titles, there was utter lack of evidence to prove that said three petitioners were authorized by the other 12 petitioners to act on their behalf, so that the consent of the petitioners Sy Bang brothers would have bound the other petitioners. The other 12 petitioners stand to lose substantial interest in the disputed properties by the dismissal of the Petition for Quieting of Titles, and their conformity to such a move could not be merely assumed, but should be established by competent evidence.

Likewise, although petitioner Robert Sy Bang may have come to know of the move to have the Petition for Quieting of Titles dismissed when he signed the second Manifestation filed with the RTC by Atty. Eduardo Santos on 6 May 2002, such knowledge by petitioner Robert Sy Bang cannot be imputed to the rest of the petitioners. To reiterate, petitioner Robert Sy Bang was only one of the 15 petitioners who filed the Petition for Quieting of Titles. It may also do well for respondents to remember that part of petitioner Robert Sy Bang's testimony, which respondents readily admitted without subjecting to cross-examination, was that the other petitioners had no knowledge of the two Manifestations submitted by Atty. Eduardo Santos to the RTC, both praying for the dismissal of petitioners' Petition for Quieting of Titles. More importantly, petitioner Robert Sy Bang only signed the second Manifestation. On the same date that the second Manifestation was filed with the

RTC, i.e., 6 May 2002, the same court already issued an Order granting the first Manifestation, which sought the dismissal of the Petition for Quieting of Titles. Again, there is no showing that petitioner Robert Sy Bang was aware of the filing of the first Manifestation.

Furthermore, Atty. Eduardo Santos' Manifestation, filed on 7 October 2002, in response to petitioners' Petition for Relief, is inconsistent with his Manifestation, which was earlier filed on 19 April 2002, praying for the dismissal of the Petition for Quieting of Titles. In his earlier Manifestation, Atty. Eduardo Santos expressly claimed that it was the decision and the desire of petitioner Iluminada Tan, spouse of the late petitioner Jose Sy Bang, and their children, to move for the dismissal of the Petition for Quieting of Titles. Such statement was unqualified. In the later Manifestation, however, Atty. Eduardo Santos averred that he consulted with and obtained the consent of only three of the petitioners before he moved for the dismissal of the Petition for Quieting of Titles. Evidently, Atty. Eduardo Santos made misleading statements and was less than candid in his Manifestation, filed on 19 April 2002, about the purported consent of petitioners to his move to have the Petition for Quieting of Titles dismissed.

To make matters worse, Atty. Eduardo Santos did not bother to inform petitioners of the 6 May 2002 Order of the RTC dismissing the Petition for Quieting of Titles. The testimony of petitioner Benedict Sy Bang, that petitioners were led to believe they had already won the case and that they only found out about the RTC Order dated 6 May 2002 on 29 July 2002, was unrefuted by any of respondents' evidence. If indeed the move for the dismissal of the Petition for Quieting of Titles was with petitioners' consent, there was no reason for Atty. Eduardo Santos to conceal from petitioners the issuance of the 6 May 2002 Order of the RTC granting such dismissal.

In petitioners' favor is the fact that, within two months from finding out on 29 July 2002 about the RTC Order dated 6 May 2002, dismissing their Petition for Quieting of Titles, petitioners secured the services of another counsel and filed a Petition for Relief on 23 September 2002 to seek remedy for the unfortunate situation they found themselves in. Said circumstances show that petitioners were not at all neglectful in the pursuit of their case as respondents would have this Court believe.

Preponderant evidence means that, as a whole, the evidence adduced by one side outweighs that of the adverse party. In determining where the preponderance of evidence lies, a trial court may consider all the facts and circumstances of the case, including the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts, the probability or improbability of their testimonies, their interest or want thereof, and their personal credibility. Applying this rule, the RTC significantly and convincingly held that the weight of evidence was in petitioners' favor; and the Court affirms this ruling.^[44]

Petitioners were able to establish, by a preponderance of evidence, that Atty. Eduardo Santos committed extrinsic fraud against them. By virtue of his Manifestation filed on 19 April 2002, without petitioners' knowledge and consent, thus inducing the RTC to dismiss the Petition for Quieting of Titles, Atty. Eduardo Santos deprived petitioners of the opportunity to fully and fairly present their case in court. Such is the very definition of extrinsic fraud, which entitles the petitioners to the grant of their Petition for Relief from the Order dated 6 May 2002 of the RTC in Civil Case No. 96-81.

WHEREFORE, premises considered, the Petition for Review under Rule 45 of the Rules of Court is hereby GRANTED. The assailed Decision dated 29 May 2007 and the Resolution dated 19 September 2007 of the Court of Appeals in CA-G.R. CV No. 82746 are hereby REVERSED AND SET ASIDE. The RTC of Lucena City, Branch 57, is hereby directed to proceed with reasonable dispatch in setting the Civil Case No. 96-81 for Quieting of Title with Prayer for the Issuance of Writ of Prohibition for further hearing. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 12-51.

[2] Penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Portia Aliño-Hormachuelos and Edgardo F. Sundiam (now deceased), concurring; rollo, pp. 54-69.

[3] Rollo, pp. 71-72.

[4] Penned by Judge Rafael R. Lagos; rollo, pp. 92-95.

[5] In other parts of the records, Juliet Sy is sometimes referred to as Juliet Sy-Maunahan or as Julieta Sy. Also, in the Memorandum for the Petitioners (rollo, p. 180) and the Memorandum for the Respondents (rollo, p. 157), only Rosauro Sy and Juliet Sy were named as respondents without an explanation as to why Enrique Sy was omitted.

[6] The records of the instant case do not include the complete records of the proceedings before the Registry of Deeds of Lucena City.

[7] Records, Vol. I, p. 6.

[8] Rollo, pp. 73-75.

[9] Presidential Decree No. 1529.

[10] The pertinent portion of Section 108 provides:

SEC. 108. Amendment and alteration of certificates. - No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the Register of Deeds, except by order of the proper Court of First Instance (now Regional Trial Court).
xxx

[11] Records, Vol. I, pp. 1-5.

[12] The grounds invoked in the Motion to Dismiss are: (1) the suit filed by petitioners was between family members and no efforts towards a compromise was alleged to have been made; (2) petitioners' cause of action was barred by a prior judgment, i.e., by Civil Case No. 8578; (3) or at least, there was another action pending, which involved the same parties, the same issue and the same subject matter; (4) the petition violated the rule against forum shopping; and (5) there was non-joinder of indispensable parties. (Records, Vol. I, pp. 30-53.)

[13] Records, Vol. I, p. 115.

[14] *Id.* at 133.

[15] The Court of Appeals held that most of the petitioners were nephews and nieces of petitioners; thus the former were not included in the term "family members." More importantly, the grounds of *res judicata* or *litis pendentia* cannot be invoked to bar the action for quieting of titles, since the ruling of the RTC in Civil Case No. 8578 regarding the ownership of the disputed properties was at most provisional, said court being a probate court with limited jurisdiction. The subsequent case for quieting of title was, in fact, necessary for a final determination of the question of ownership over the subject properties. (Records, Vol. I, pp. 149-162.)

[16] Records, Vol. I, pp. 202-207.

[17] Certificate of Death of Jose Sy Bang, Records, Vol. I, p. 308.

[18] Records, Vol. I., p. 318.

[19] Id. at 327.

[20] Id. at 331.

[21] Rollo, p.170.

[22] Id. at 171.

[23] The Order dated 6 May 2002 provides:

At the hearing on April 18, 2002, Atty. Eduardo R. Santos, [herein petitioners'] counsel, manifested that his clients are no longer interested in pursuing this case and he moved that he be given a period of ten (10) days to file the necessary motion to withdraw or dismiss the case. On April 19, 2002, Atty. Eduardo Santos filed a Manifestation stating that due to the death of his client, Jose Sy Bang, the latter's heirs decided to move for the dismissal of this case considering that the LRA Resolution as well as the judgment of the Court of Appeals in C.A.G.R. SP No. 44043 are enough legal protection of their rights over the subject properties. This Court, therefore, treats said manifestation as [petitioners'] motion to dismiss this case. Finding merit in said motion, this Court grants the same. The [herein respondents] are directed to inform this Court whether they shall pursue their counter-claims against the [petitioners] in this case.

WHEREFORE, in view of the foregoing, [petitioners'] complaint is ordered DISMISSED and the [respondents] are given ten (10) days to comply with the above directive of this Court. (Records, Vol. I, p. 334.)

[24] Records, Vol. I, p. 335.

[25] Named as respondents were Rosauro Sy, Enrique Sy, Juliet Sy and LRA Administrator Reynaldo Maulit; records, Vol. II, pp. 336-342.

[26] Records, Vol. II, p. 423.

[27] Id. at 425-429.

[28] Id. at 430-434.

[29] Id. at 444-445.

[30] TSN, 3 February 2003, Records, Vol. 2, pp. 519-520.

[31] Id. at 548-549.

[32] TSN, 19 May 2003, Records, Vol. 2, p. 555.

[33] Records, Vol. II, pp. 459-465.

[34] Id. at 470-472.

[35] Id. at 482-497.

[36] Id. at 503.

[37] Paragraph 6 reads:

It was simply inaccurate for the heirs of the late Jose Sy Bang to assert that they were not informed of/consulted

on his impending move to withdraw/dismiss Civil Case No. 96-81, for it was lengthily discussed with the three Sy Bang siblings, Dr. Carmelo Sy, Mr. Robert Sy and Mr. Jose Sy Bang.

[38] CA rollo, pp. 115-147.

[39] Rollo, pp. 71-72.

[40] In a petition for review under Rule 45 of the Rules of Court, only errors of law may be reviewed. By way of exceptions, questions of fact may be determined by the Court when: (1) the conclusion of the Court of Appeals is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the Court of Appeals are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record. [See *Rosario v. PCI Leasing and Finance, Inc.*, G.R. No. 139233, 11 November 2005, 474 SCRA 500, 506, citing *Sarmiento v. Court of Appeals*, 353 Phil. 834, 846 (1998)].

[41] *Garcia v. Court of Appeals*, G.R. No. 96141, 2 October 1991, 202 SCRA 228, 233.

[42] *Laxamana v. Court of Appeals*, 176 Phil. 397, 406 (1978).

[43] *Mercado v. Security Bank Corporation*, G.R. No. 160445, 16 February 2006, 482 SCRA 501, 514.

[44] *Trinidad v. Court of Appeals*, 352 Phil. 12, 35-36 (1998).

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