

LUZ ANATOLIA E. CRISPINO, CARIDAD O. ECHAVES REESE AND ZENAIDA ECHAVES REPRESENTED BY THEIR ATTORNEY-IN- FACT, REUBEN CAPILI ECHAVES, PETITIONERS, VS. ANATOLIA TANSAY AS SUBSTIT...*G.R. No. 184466. December 05, 2016*

Ponente: LEONEN, J.

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The Court of Appeals' power to receive evidence to resolve factual issues in cases falling within its original and appellate jurisdiction is qualified by its internal rules. In an ordinary appeal, the Court of Appeals may receive evidence when a motion for new trial is granted based on newly discovered evidence.

This resolves the Petition for Review on Certiorari[1] assailing the Court of Appeals' Decision[2] dated January 24, 2007 and Resolution[3] dated August 28, 2008 in CA-G.R. CV No. 54832.

This case originated from Civil Case No. CEB-14547 filed by respondent Anatolia Tansay against petitioners Luz Anatolia E. Crispino, Caridad O. Echaves, and Zenaida Echaves before the Regional Trial Court of Cebu City, for Revocation of Trust, Declaration of Nullity of Transfer and Cancellation of Titles.[4]

Respondent Anatolia Tansay, now deceased, was twice widowed.[5] In 1947, Anatolia established her residence in Oroquieta, Misamis Occidental.[6] There, she met 20-year old Zenaida Capili who was then single.[7] Anatolia took in Zenaida and treated her as her own child.[8]

Subsequently, Anatolia and Zenaida moved to Cebu City,[9] where Anatolia acquired a 3,107 sq. m. parcel of land (Lot No. 1048)[10] known as the Tansay Compound.[11] Anatolia subdivided the compound into three lots: (1) Lot No. 1048-A-1 with an area of 617 sq. m., (2) Lot No. 1048-A-2 with an area of 555 sq. m., and (3) Lot No. 1048-A-3 with an area of 1,845 sq. m.[12] In 1957, Anatolia constructed her abode over a portion of Lot No. 1048-A-3.[13]

Zenaida eventually got married to Ben Ricaredo Echaves and had several children, among whom are petitioners Luz Anatolia E. Crispino and Caridad C. Echaves.[14] Zenaida and her family lived in Anatolia's house.[15] Anatolia had a close relationship with the Echaves family.[16] She was affectionately called "honey" by Zenaida and "nanay" by Zenaida's children.[17] Through Anatolia's efforts and connections, Zenaida's husband was able to find employment.[18] She also paid for the education of Zenaida's children.[19]

By virtue of two deeds of sale, Anatolia allegedly sold Lot No. 1048- A-1 in favor of Zenaida on July 6, 1981 and tot No. 1048-A-3 in favor of Luz Anatolia and Caridad on July 11, 1989.[20]

In 1991, Zenaida returned from abroad and discovered that the titles of the lots were missing from her room where she had left them.[21] Hence, she filed a petition before the Regional Trial Court of Cebu City for reconstitution of the certificates of title, which was granted.[22]

Meanwhile, Anatolia filed Civil Case No. CEB-14547 entitled Revocation of Trust, Declaration of Nullity of Transfer, and Cancellation of Title before the Regional Trial Court of Cebu City.[23]

Zenaida alleged that Anatolia sold Lot No. 1048-A-1 in her favor for P6,170.00.[24] One of Zenaida's daughters, Lourdes Behaves de Leon, testified that since 1975, her sisters, Luz Anatolia and Caridad, deposited sums of money in Anatolia's bank account for the purchase of Lot No. 1048- A-3.[25] However, Anatolia merely turned over the sums she received to Zenaida since she was not in need of money.[26]

Based on the evidence on record, the trial court found that Zenaida, Luz Anatolia, and Caridad did not pay any monetary or other valuable consideration for the transfer of the properties in their names.[27] Hence, the deeds of sale could not have been valid. In addition, the trial court found that Anatolia never intended to sell the lots despite executing the deeds of sale. Rather, she merely constituted Zenaida, Luz Anatolia, and Caridad as trustees of the properties.[28] The trial court also questioned the validity of Zenaida's Petition for Reconstitution of Titles considering that Anatolia presented the Original Certificates of Title of the properties in court.[29]

On February 16, 1996, the Regional Trial Court rendered its Decision. The dispositive portion reads:

WHEREFORE, in light of the foregoing, judgment is hereby rendered:

(1)

Declaring plaintiff Anatolia Tansay as the lawful and rightful owner of Lot No. 1048-A-1 covered by TCT No. 81406, and Lot No. 1048-A-3 covered by TCT No. 101693; and,

(2)

Ordering the Register of Deeds of Ceb[u] City to cancel said TCT No. 1048-A-1 issued to defendant Zenaida Echave[s], and TCT No. 10963, issued to the defendants Luz Anatolia Crispino and Caridad Echave[s], and to reinstate plaintiff Anatolia Tansay's title to said lots.

Cost against the defendants.[30]

Zenaida, Luz Anatolia, and Caridad appealed the Decision before the Court of Appeals.[31]

During the pendency of the appeal, Anatolia died on August 11, 2001 and was substituted by her only known legal heir, Lilian Tan Yap.[32]

On August 16, 2001, Zenaida, Luz Anatolia, and Caridad filed an Urgent Motion to Remand Records of the Case for the Re-Opening of Trial.[33] They anchored their motion on an Affidavit allegedly executed by Anatolia after the Regional Trial Court had rendered its Decision,[34] which reads:

CONFIRMATION OF PREVIOUS SALES

That I, ANATOLIA TANSAY, Filipino, of legal age, widow and a resident of Cebu City, hereby declare and manifest, as follows:

- That on July 6, 1981, I executed a deed of sale over Lot No. 1048-A-1 covered by TCT No. 17556 of the Register of Deeds of Cebu City in favor of Zenaida Echave[s];

- That on July 11, 1989, I executed a deed of sale over Lot No. 1048-A-3 covered by TCT No. 81605 of [the] Register of Deeds of Cebu City in favor of Luz Anatolia E. Crispino and Caridad C. Echave[s];

- That by virtue of said sales, I paid the capital gains tax and other taxes due on the said sales so that the titles could be transferred to the vendees in said sales;

- That later on I filed in the Regional Trial Court of Cebu an action for revocation of trust, declaration of

nullity of transfer and for cancellation of titles against Zenaida Echave[s], Luz Anatolia Crispino: and Caridad C. Echave[s];

- That after proper reflection, I now realize that the filing of said case was a mistake and that I hereby confirm and affirm the validity of said sales.

IN WITNESS WHEREOF, I have hereunto set my signature this 15[th] day of January, 1998 in Cebu City, Philippines.

ANATOLIA TANSAY[35]

In their Urgent Motion to Remand Records of the Case for the Re- Opening of Trial, Zenaida, Luz Anatolia, and Caridad alleged:

- That during the pendency of the appeal, the plaintiff-appellee, Anatolia Tansay died on August 11, 2001;

- That it was discovered that on January 15, 1998, she executed a document denominated as confirmation of previous sales...

- That in view of the discovery of this document confirming the previous sales of Lot Nos. 1048-A-1 and 1048-A-3 to defendants-appellants Zenaida C. Echave[s], Luz Anatolia E. Crispino and Caridad C. Echave[s], it is necessary in the interest of substantial justice to remand the records of the case to the trial court and re-open the trial of this case in order to enable the herein defendants to present said document in evidence in order to avoid a grave miscarriage of justice.

WHEREFORE, in view of all the foregoing, it is most respectfully prayed that the records of this case be remanded to the lower court and that the trial of this case be ordered re-opened.[36]

The Court of Appeals, in a Resolution[37] dated July 25, 2006 denied the Urgent Motion to Remand Records of the Case for the Re-Opening of Trial. The appellate court considered the same as a motion for new trial based on newly discovered evidence under Rule 53 of the Rules of Court[38] and ruled that the Confirmation of Previous Sales was "not the kind of newly discovered evidence contemplated by the Rules that would warrant a [n]ew [t]rial." [39] The appellate court also noted that the petitioners-appellants failed to attach an affidavit of merit as required by the rules and that the Confirmation of Previous Sales attached to the motion was merely a photocopy.[40]

On January 24, 2007, the Court of Appeals rendered a Decision, which affirmed the Regional Trial Court's Decision in toto.[41] Zenaida, Luz Anatolia, and Caridad moved for reconsideration.[42] They assailed, among others, the propriety of the Court of Appeals' Resolution in treating their motion to remand as a motion for new trial. Their Motion for Reconsideration was denied in a Resolution[43] dated August 28, 2008.

Petitioners Zenaida, Luz Anatolia, and Caridad come to this Court through a Petition for Review on Certiorari seeking a ruling on the power of the Court of Appeals to receive evidence under Section 9 of Batas Pambansa Blg. 129, as amended by Republic Act No. 7902.[44]

Respondent Anatolia, as substituted by Lilian Yap, filed her Comment[45] on December 2, 2008. Petitioners filed their Reply[46] on March 19, 2009. On June 3, 2009, this Court gave due course to the Petition and required the parties to submit their Memoranda.[47]

Petitioners argue that the Court of Appeals should have considered their Urgent Motion to Remand Records of the Case for Re-Opening of Trial as a motion to receive further evidence under Section 9 of Batas Pambansa Blg. 129, as amended by Republic Act No. 7902.[48] According to the petitioners, the Court of Appeals has the authority and power to "receive all kinds of evidence to resolve factual issues within its original and appellate

jurisdiction." [49] However, the appellate court inadvertently treated their motion to remand as a motion for new trial under Rule 53 of the Rules of Court. [50] Assuming that the Court of Appeals was correct, petitioners contend that the Court of Appeals' power to conduct new trials is not limited to new trials based on newly discovered evidence. [51]

Petitioners pray that the Court of Appeals' Decision dated January 24, 2007 be vacated and that the Court of Appeals be ordered to receive in evidence the affidavit denominated as Confirmation of Previous Sales and render a new decision. [52]

Respondent alleges that it was unlikely for Anatolia to execute the affidavit because she requested the early resolution of the appeal through two letters addressed to the appellate court. [53] The first letter was dated March 27, 2001, while the second letter was dated July 20, 2001, a month before Anatolia died. [54] Respondent suspects the timing of petitioner's motion to remand since it was filed just a few days after Anatolia's death. [55]

Respondent argues that the Petition for Review is not the proper remedy considering that petitioners are not disputing the factual findings or the ratio decidendi of the Court of Appeals' Decision dated January 24, 2007. [56] According to respondent, petitioners' arguments are directed against the Court of Appeals' Resolution dated July 25, 2006, which denied the motion to remand, which was an interlocutory order. [57] Respondent adds that since the Resolution was not challenged through an appeal or a motion for reconsideration, the same had already become final and could no longer be assailed on appeal. [58]

This case presents the following substantive issues: (1) whether the Court of Appeals erred in treating petitioners' motion to remand as a motion for new trial under Rule 53 of the Rules of Court; and (2) whether the Court of Appeals' power to grant new trials is limited to motions based on newly discovered evidence. [59]

On the other hand, respondent raises the procedural issue of whether an interlocutory order may be assailed in an appeal of the appellate court's Decision. [60]

I

In determining the correct procedural remedy, aggrieved parties must first ascertain the nature of the decision, order, or resolution they intend to challenge. [61]

A final judgment or order, from which an appeal may be taken, is one that finally disposes of the case and leaves nothing more to be done by the court (e.g. an adjudication on the merits of the case on the basis of the evidence). [62] In contrast, an interlocutory order is one that merely resolves incidental matters [63] and does not finally dispose of the case. [64] When an interlocutory order is issued, the court is still tasked with adjudicating on the merits of the case. [65]

The remedy against an interlocutory order is not appeal but a special civil action for certiorari under Rule 65 of the Rules of Court. [66] The reason for the prohibition is to prevent multiple appeals in a single action that would unnecessarily cause delay during trial. [67] In *Rudecon v. Singson*: [68]

The rule is founded on considerations of orderly procedure, to forestall useless appeals and avoid undue inconvenience to the appealing party by having to assail orders as they are promulgated by the court, when all such orders may be contested in a single appeal. [69]

Faced with an interlocutory order, parties may instantly avail of the special civil action of certiorari. This would entail compliance with the strict requirements under Rule 65 of the Rules of Court. Aggrieved parties would have to prove that the order was issued without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction and that there is neither appeal nor any plain, speedy, and adequate remedy in the

ordinary course of law.[70]

This notwithstanding, a special civil action for certiorari is not the only remedy that aggrieved parties may take against an interlocutory order, since an interlocutory order may be appealed in an appeal of the judgment itself.[71] In *Investments, Inc. v. Court of Appeals*[72] it was held:

Unlike a "final" judgment or order, which is appealable, as above pointed out, an "interlocutory" order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.[73] (Emphasis supplied)

The Court of Appeals' Resolution dated July 25, 2006, which denied petitioners' motion to remand, was an interlocutory order. It did not finally dispose of the case because the appellate court still had to determine whether the deeds of sale executed by Anatolia were valid. Rather than availing of the extraordinary remedy of certiorari under Rule 65, petitioners opted to wait for the Court of Appeals to render its decision before challenging the July 25, 2006 Resolution.

Petitioners did not commit any procedural infirmity in assailing the interlocutory order in an appeal of the Court of Appeals' decision. Though petitioners could have filed a petition for certiorari, they would have been burdened to prove that the Court of Appeals committed grave abuse of discretion in denying their motion to remand. Moreover, petitioners still had the option to assail the July 25, 2006 Resolution in an appeal of the Court of Appeals' final decision.

II

As regards the first substantive issue raised, this Court finds that the Court of Appeals correctly treated petitioners' motion to remand as a motion for new trial under Rule 53 of the Rules of Court.

Essentially, petitioners sought the introduction of evidence pursuant to the Court of Appeals' expanded power under Section 9 of Batas Pambansa Blg. 129, as amended.

Originally, Section 9, of Batas Pambansa Blg. 129, otherwise known as Judiciary Reorganization Act, provides:

SECTION 9. Jurisdiction. — The Intermediate Appellate Court shall exercise:

(1)

Original jurisdiction to issue writs of mandamus, prohibition, certiorari, habeas corpus, and quo warranto, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;

(2)

Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and

(3)

Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards, or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The Intermediate Appellate Court shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including 'the power to grant and conduct new trials or further proceedings.

These provisions shall not apply to decisions and interlocutory orders issued under the Labor Code of the Philippines and by the Central Board of Assessment Appeals. (Emphasis supplied)

Subsequently, Republic Act No. 7902[74] amended Section 9 of Batas Pambansa Blg. 129:

Sec. 9. Jurisdiction. — The Court of Appeals shall exercise:

(1)

Original jurisdiction to issue writs of mandamus, prohibition, certiorari, habeas corpus, and quo warranto, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;

(2)

Exclusive original jurisdiction over actions for annulment of judgment of Regional Trial Courts; and

(3)

Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. Trials or hearings in the Court of Appeals must be continuous and must be completed within three (3) months, unless extended by the Chief Justice. (Emphasis supplied)

Clearly, the Court of Appeals, pursuant to its expanded jurisdiction under Section 9 or Batas Pambansa Blg. 129, as amended, is empowered to receive evidence to resolve factual issues raised in cases falling within its original and appellate jurisdiction. However, Section 9 of Batas Pambansa Blg. 129, as amended, should be read and construed together with the Court of Appeals' internal rules.[75]

Thus, in *Republic v. Mupas*,[76] the Court held that the power of the Court of Appeals to receive evidence is qualified by its internal rules:

Under Section 3, Rule 6 of the Internal Rules of the CA, the CA may receive evidence in the following cases:

(a)

In actions falling within its original jurisdiction, such as (1) certiorari, prohibition and mandamus, (2) annulment of judgment or final order, (3) quo warranto, (4) habeas corpus, (5) amparo, (6) habeas data, (7) anti money laundering, and (8) application for judicial authorization under the Human Security Act of 2007;

(b)

In appeals in civil cases where the Court grants a new trial on the ground of newly discovered evidence,

pursuant to Sec. 12, Rule 53 of the Rules of Court;

(c)

In appeals in criminal cases where the Court grants a new trial on the ground of newly discovered evidence, pursuant to Sec. 12, Rule 124 of the rules of Court; and

(d)

In appeals involving claims for damages arising from provisional remedies. (Emphasis supplied)

This provision qualifies the CA's power to receive evidence in the exercise of its original and appellate jurisdiction under Section 9 of BP 129, as amended:

Sec. 9. Jurisdiction. — The Court of Appeals shall exercise:

....

The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence, and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. Trials or hearings in the Court of Appeals must be continuous and must be completed within three (3) months, unless extended by the Chief Justice.

Since Takenaka and Asahikosan filed an ordinary appeal pursuant to Rule 41 in relation to Rule 44 of the Rules of Court, the CA could only have admitted newly discovered evidence. Contrary to Takenaka and Asahikosan's claim, the attachments to the motions are not newly discovered evidence. Newly discovered evidence is evidence that could not, with reasonable diligence, have been discovered and produced at the trial, and which, if presented, would probably alter the result.[77] (Emphasis in the original, citations omitted).

The Internal Rules of the Court of Appeals enumerates instances when the Court of Appeals may receive evidence depending on the nature of the case filed.

In a special civil action for certiorari, which is an action falling within the Court of Appeals' original jurisdiction, the Court of Appeals has "ample authority to make its own factual determination"[78] and may receive evidence for this purpose. In *Maralit v. Philippine National Bank*: [79]

In a special civil action for certiorari, the Court of Appeals has ample authority to receive new evidence and perform any act necessary to resolve factual issues. Section 9 of Batas Pambansa Blg. 129, as amended, states that, "The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings." [80] (Emphasis omitted)

Thus, the 2009 Internal Rules of the Court of Appeals[81] provide:

SECTION 3. Power of the Court to Receive Evidence. – The Court may receive evidence in the following cases:

(a)

In actions falling within its original jurisdiction, such as: (1) certiorari, prohibition and mandamus under Rules 46 and 65 of the Rules of Court; (2) annulment of judgment or final order; (3) quo warrant; (4) habeas corpus; (5) amparo; (6) habeas data; (7) anti-money laundering and (8) application for judicial authorization under the Human Security Act of 2007. (Emphasis supplied)

As may be gleaned from above, in actions falling within the original jurisdiction of the Court of Appeals, such as a special civil action for certiorari, the Court of Appeals' power to receive evidence is unqualified. This does not hold true with respect to appeals in civil cases, criminal cases, as well as appeals involving claims for damages.

In this case, petitioners filed an ordinary appeal from the Regional Trial Court's Decision dated February 16, 1996. At the time the Court of Appeals ruled on petitioners' motion to remand,[82] the 2002 Internal Rules of the Court of Appeals[83] was in effect:

SECTION 3. Power of the Court to Receive Evidence. - The Court may receive evidence in the following cases:

(a)

In actions falling within its original jurisdiction, such as: (1) certiorari, prohibition and mandamus under Rules 46 and 65 of the Rules of Court; (2) action for annulment of judgment or final order under Rule 46 of the Rules of Court; (3) quo warranto under Rule 66 of the Rules of Court; (4) habeas corpus under Sections 2 and 12, Rule 102 of the Rules of Court;

(b)

In appeals in civil cases where the court grants a new trial on the ground of newly discovered evidence pursuant to Sec. 3, Rule 53 of the Rules of Court;

(c)

In appeals in criminal cases where the court grants a new trial on the ground of newly discovered evidence pursuant to Section 12, Rule 124 of the Rules of Court; and

(d)

In appeals involving claims for: damages arising from provisional remedies. (Emphasis supplied)

Although the Court of Appeals has the power to receive evidence pursuant to its expanded powers under Section 9 of Batas Pambansa Blg. 129, this power is not without limit. The Court of Appeals cannot simply accept additional evidence from the parties. If the interpretation were otherwise, then there would be no end to litigation.

Hence, in appeals in civil cases, the Court of Appeals may only receive evidence when it grants a new trial based on newly discovered evidence.

This notwithstanding, the Court of Appeals cannot accept any kind of evidence in a motion for new trial. A motion for new trial under Rule 53 is limited to newly discovered evidence:

SECTION 1. Period for filing; ground. – At any time after the appeal from the lower court has been perfected and before the Court of Appeals loses jurisdiction over the case, a party may file a motion for new trial on the ground of newly discovered evidence which could not have been discovered prior to the trial in the court below by the exercise of due diligence and which is of such character as would probably change the result. The motion shall be accompanied by affidavits showing the facts constituting the grounds therefor and the newly discovered evidence. (Emphasis supplied)

The document petitioners seek to present before the appellate court does not fall under the concept of newly

discovered evidence.

Newly discovered evidence has a specific meaning under the law. Under Rule 53 of the Rules of Court, the following criteria must be satisfied for evidence to be considered newly discovered: (a) the evidence could not have been discovered prior to the trial in the court below by exercise of due diligence; and (2) it is of such character as would probably change the result.

The document denominated as Confirmation of Previous Sales was allegedly executed on January 15, 1998, three years after the Regional Trial Court rendered its decision.^[84] Hence, it could not have been discovered by petitioners prior to trial by the exercise of due diligence.

However, the document is not of such character that would probably change the lower court's judgment. The nature of the deeds of sale executed would not have been affected even if the Confirmation of Previous Sales was admitted in evidence since the validity of a contract is determined by law and not by the stipulation of the parties. Furthermore, the Court of Appeals can determine whether the deeds of sale were valid independent of said document. Thus, the Court of Appeals correctly denied petitioners' motion to have the Confirmation of Previous Sales admitted in evidence.

WHEREFORE, the petition is DENIED. This Court hereby AFFIRMS the January 24, 2007 Decision and August 28, 2008 Resolution of the Court of Appeals in CA-G.R. CV No. 54832.

Carpio, (Chairperson), Brion, Del Castillo, and Mendoza, JJ., concur.

[1] Rollo, pp. 3-19.

[2] Id. at 27-36. The Decision was penned by Associate Justice Agustin S. Dizon and concurred in by Associate Justices Isaias P. Dicedican and Francisco P. Acosta of the Nineteenth Division, Court of Appeals Cebu.

[3] Id. at 42-43. The Resolution was penned by Associate Justice Franciso P. Acosta and concurred in by Associate Justices Amy C. Lazaro-Javier and Edgardo L. Delos Santos of the Twentieth Division, Court of Appeals Cebu.

[4] Id. at 113.

[5] Id. at 27.

[6] Id.

[7] Id.

[8] Id.

[9] Id. at 27-28.

[10] Id. at 9.

[11] Id. at 29.

[12] Id. at 9.

[13] Id. at 28.

[14] Id. at 27-28.

[15] Id. at 28.

[16] Id.

[17] Id.

[18] Id.

[19] Id.

[20] Id. at 99-100, Petitioner's Memorandum.

[21] Id. at 31.

[22] Id.

[23] Id. at 27.

[24] Id. at 29.

[25] Id. at 31.

[26] Id. at 28.

[27] Id. at 114.

[28] Id. at 114-116, Respondent's Memorandum.

[29] Id. at 116.

[30] Id. at 118.

[31] Id.

[32] Id. at 25, Court of Appeals Resolution dated October 18, 2001.

[33] Id. at 47, Court of Appeals Resolution dated July 25, 2006.

[34] Id. at 4.

[35] Id. at 4-5.

[36] Id. at 44, Urgent Motion to Remand Records of the Case for Re-Opening of Trial.

[37] Id. at 47-49. The Resolution was penned by Associate Justice, Agustin S. Dizon and concurred in by Associate Justices Isaias P. Dicdican and Apolinario D. Bruselas, Jr., of the Nineteenth Division of the Court of Appeals of Cebu City.

[38] Id. at 48.

[39] Id.

[40] Id. at 49.

[41] Id. at 27-36.

[42] Id. at 37-40.

[43] Id. at 42-43.

[44] Id. at 5.

- [45] Id. at 52-62.
- [46] Id. at 93.
- [47] Id. at 93-94.
- [48] Id. at 13.
- [49] Id. at 14.
- [50] Id. at 13.
- [51] Id.
- [52] Id. at 16.
- [53] Id. at 53, Comment.
- [54] Id.
- [55] Id.
- [56] Id. at 129-130, Respondent's Memorandum.
- [57] Id. at 59-60.
- [58] Id.
- [59] Id. at 60.
- [60] Id. at 130.
- [61] Republic of the Philippines v. Sandiganbayan, 678 Phil. 358, 387 (2011) [Per J. Brion, En Banc].
- [62] Investments, Inc. v. Court of Appeals, 231 Phil. 302, 306-309 (1987) [Per J. Narvasa, First Division].
- [63] Calderon v. Roxas, 701 Phil. 301, 310 (2013) [Per J. Villarama, Jr., First Division].
- [64] Investments, Inc. v. Court of Appeals, 231 Phil. 302, 306-309 (1987) [Per J. Narvasa, First Division].
- [65] Id.
- [66] RULES OF COURT, Rule 41, sec. 1 (c).
- [67] Pahila-Garrido v. Tortogo, 671 Phil. 320, 334-335 (2011) [Per J. Bersamin, First Division].
- [68] 494 Phil. 581 (2005) [Per J. Callejo, Second Division].
- [69] Id. at 596.
- [70] RULES OF COURT, Rule 65, sec. 1.
- [71] Pahila-Garrido v. Tortogo, 671 Phil. 320, 334-335 (2011) [Per J. Bersamin, First Division].
- [72] Investments, Inc. v. Court of Appeals, 231 Phil. 302 (1987) [Per J. Narvasa, First Division].
- [73] Id. at 308.
- [74] An Act Expanding the Jurisdiction of the Court of Appeals, Amending for the Purpose Section Nine of Batas Pambansa Blg. 129, As Amended, Known as the Judiciary Reorganization Act of 1980 (1995).

[75] Republic v. Mupas, G.R. No. 181892, September 8, 2015 < <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/181892.pdf> > 93 [Per J. Brion, En Banc].

[76] G.R. No. 181892, September 8, 2015 < <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/181892.pdf> > [Per J. Brion, En Banc].

[77] Id. at 93.

[78] Plastimer Industrial Corp. v. Gopo, 658 Phil. 627, 632-633 (2011) [Per J. Carpio, Second Division].

[79] Maralit v. Philippine National Bank, 613 Phil. 270 (2009) [Per J. Carpio, First Division].

[80] Id. at 287-289. Also cited in Sps. Marcelo v. LBC Bank, 633 Phil. 67, 71-72 (2011) [Per J. Carpio, Second Division].

[81] Adm. Matter No. 09-11-11-CA (2009).

[82] Rollo, pp. 47-49, Court of Appeals' Resolution dated July 25, 2006.

[83] Adm. Matter No. 02-6-13-CA (2002).

[84] Rollo, pp. 4-5.

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