

**BETHEL REALTY AND DEVELOPMENT CORPORATION, PETITIONER,  
VS. HOUSING AND LAND USE REGULATORY BOARD, AND SPOUSES  
MARJORIE AND NEMESIO VISAYA, RESPONDENTS.**

*G.R. No. 184482. July 04, 2012*

Ponente: PEREZ, J.

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**PEREZ, J.:**

Before this Court is a Petition for Review on Certiorari assailing the issuances of the Court of Appeals, to wit: (a) the Amended Decision[1] dated 26 May 2008 denying the Petition for Certiorari, Annulment, Injunction with prayer for TRO and/or Preliminary Injunction for failure to indicate in the petition the material date when the petitioner received the notice of the assailed decision of the Housing and Land Use Regulatory Board (HLURB); and (b) the Resolution[2] dated 16 September 2008 denying petitioner's Motion for Reconsideration of the Amended Decision.

In denying the petition, the Amended Decision of the Court of Appeals effectively reinstated the Decision[3] dated 8 September 2000 of the HLURB, which ordered the petitioner, among others, to immediately deliver the Transfer Certificate of Title of the subdivision lot it sold to private respondents.

**The Factual Antecedents**

On 3 March 1994, petitioner Bethel Realty and Development Corporation sold to private respondents spouses Nemesio and Marjorie Visaya a parcel of lot located in the Municipality of Taytay, Province of Rizal. Upon respondents' full payment of the purchase price on 24 March 1997, the contracting parties executed a Deed of Absolute Sale. However, despite several demands, petitioner failed to deliver the Transfer Certificate of Title covering the subject lot. Marjorie sought the help of the HLURB.

**Proceedings with the HLURB**

The HLURB Legal Services Group indorsed Marjorie's letter dated 16 September 1999 to the appropriate field office after the same was verified and acknowledged before a Notary Public.[4] The field office, in turn, treated the same as a verified complaint[5] and correspondingly issued a summons dated 16 November 1999 to the president/general manager of the petitioner.[6] On 23 December 1999, petitioner was declared in default for failure to file an answer to the complaint.[7] Thereafter, on 8 September 2000, the HLURB rendered its decision[8] in HLURB Case No. REM-102599-10727 in favor of the respondents, pertinent portions of which read:

Complainants religiously paid their due installments or zealously complied with their obligations xxx, they further paid the sum of x x x representing their full payment of the purchase price xxx.

x x x

x x x [C]omplainants demanded from respondent immediate delivery of the Transfer Certificate of Title of the

subject lot but the latter promised to deliver the same later on. Complainants made several demands for the delivery of the title of the lot but respondent failed and continuous to fail to deliver the same (sic).

To apparently reassure complainants, the respondent issued to them its tax declaration. But no Transfer Certificate of Title was later issued to them.

Compound[ing] their woes and dismay, complainants found out that the project named Leviticus V had no license to sell. Neither is it registered as such with this Board. Complainants likewise found out that the subdivision was not developed contrary to the provisions of law and implementing rules and regulations of P.D. No. 957.

Furthermore, entrance to the project was denied to the complainants by inhabitants of the adjoining subdivision project for failure of respondent to pay the necessary compensation for the easement of the road right of way.

x x x

WHEREFORE, this Office hereby renders judgment against the respondent and orders it to immediately deliver to the complainants the Transfer Certificate of Title of the subdivision lot in question. In the event that it fails to do so, or on account of some legal or physical impossibility to deliver, the respondent is thus ordered to refund to complainants the total amount paid to it plus interest and damages reckoned from the date of filing this complaint until fully paid.

Respondent is hereby ordered to pay damages to herein complainant in the sum of P20,000.00, and furthermore, to pay this Board administrative fine of Ten Thousand Pesos (P10,000.00) for violation of Sections 4, 5 and 25 of Presidential Decree No. 957.[9]

The sheriff of the Regional Trial Court, Antipolo City, attempted to implement the decision by virtue of the Writ of Execution and Alias Writ of Execution issued by the HLURB.[10] In the last Sheriff's Report dated 1 July 2002, it was stated that he could not locate the exact address of the petitioner.[11]

#### Proceedings with the Court of Appeals

In a Petition for Certiorari with Injunction[12] filed on 29 October 2003 and docketed as CA G.R. SP No. 80225, petitioner sought to nullify the decision and the entire proceedings in the HLURB. On 7 November 2003, the Court of Appeals dismissed the petition in the following manner:

x x x [A]side from the assailed Decision and Writs of Execution, petitioner failed to attach to the petition copies of all pleadings and documents and other material portions of the record relevant and pertinent thereto, a non compliance with Section 1, Rule 65 and Section 3, Rule 46 of the revised Rules on Civil Procedure, hence, the petition is dismissible under the last paragraph of said Section 3. (Emphasis supplied.)

ACCORDINGLY, the petition is hereby DISMISSED OUTRIGHT.[13]

Petitioner re-filed the petition on 5 March 2004, now docketed as CA-G.R. SP No. 82579.[14] This time, while copies of the required documents were attached, the same were neither duplicate originals nor certified true copies. This necessitated the issuance of a Resolution[15] dated 11 March 2004, to wit:

x x x [T]he documents attached to the Petition, specifically Annexes "A to F," are neither duplicate originals nor certified true copies.

WHEREFORE, petitioners are hereby ordered to submit, within five (5) days from notice hereof, clear and legible duplicate originals or certified true copies of the aforesaid documents. (Emphasis in the original.) Failure to do so shall merit the dismissal of the instant Petition.[16] (Emphasis supplied.)

Petitioner partially complied with the Resolution of 11 March 2004 prompting the Court of Appeals to order anew

the submission of certified true copies of four (4) of the annexes earlier mentioned, with a warning that its failure to do so will warrant the dismissal of the petition. Its Resolution[17] of 1 June 2004 reads in part:

In Compliance with Our Resolution dated March 11, 2004, petitioner submitted certified true copies of the documents specifically Annexes B, B-1, C and D and mere photocopies of Annexes A, E, F and F-1. Accordingly, petitioner is hereby ordered anew to submit within five (5) days from notice certified true copies of Annexes “A, E, F and F-1.” Failure to do so shall merit the dismissal of the instant Petition.[18] (Emphasis supplied.)

On 22 June 2004, petitioner filed its Compliance with Urgent Motion for Issuance of TRO.[19] Thereafter, on 17 November 2004, the Court of Appeals resolved to issue a temporary restraining order against the enforcement of the assailed HLURB Decision upon payment of an injunctive bond of P346,800.00.[20]

On 21 December 2007, the Court of Appeals granted the petition. The dispositive portion of the Decision reads:

WHEREFORE, the instant Petition is GRANTED. The assailed Decision, dated September 8, 2000, of the Public Respondent Housing and Land Use Regulatory Board is hereby ANNULED and SET ASIDE. The Public Respondent Housing and Land Use Regulatory Board is declared without jurisdiction to take cognizance of HLURB Case No. REM-102599-10727, and all its orders and issuances in connection therewith are hereby ANNULED and SET ASIDE.[21]

However, acting on the respondents’ Motion for Reconsideration of the Decision dated 21 December 2007, the Court of Appeals promulgated an Amended Decision[22] on 26 May 2008 denying the petition and reinstating the HLURB Decision. We quote, in part:

It is settled that the function of a motion for reconsideration is to point out to the court the error that it may have committed and to give it a chance to correct itself. xxx We took a second hard look at the records and the facts of this case and, in result discovered that Petitioner committed a fatal error in failing to indicate when it received or was informed of the decision of the HLURB for purposes of reckoning whether the Petition was filed on time or not. Consequently, We partially grant the Motion for Reconsideration by denying the Petition for Certiorari. (Emphasis supplied.)

WHEREFORE, Private Respondent’s Motion for Reconsideration, dated January 16, 2008, is GRANTED IN PART only insofar as the dismissal of the Petition for Certiorari.

Accordingly, Our Decision, dated December 21, 2007, is hereby REVERSED and SET ASIDE and a new one issued denying the Petition xxx dated February 24, 2004. The Decision, dated September 8, 2000, of the Public Respondent Housing and Land Use Regulatory Board is reinstated.[23]

Aggrieved, petitioner moved for the reconsideration of the Amended Decision denying its petition. Finding no compelling reason to modify the same, the Court of Appeals denied the motion.[24]

#### Issue

In this instant petition, we are not called upon to rule on the merits of the Decision of the HLURB. The sole issue raised by the petitioner is “whether or not the Court of Appeals correctly applied and interpreted the provisions on the material data rule under Section 4, Rule 65 and Sec. 3[,] Rule 46 of the 1997 Rules of Civil Procedure”[25] warranting the denial of its petition before the Court of Appeals.

#### Our Ruling

We deny the petition.

Administrative remedies were available to petitioner to question the decision of the HLURB

Settled is the rule that the special civil action of certiorari under Rule 65 of the Rules of Court is available to an aggrieved party only when “there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law.”[26] Otherwise, the petition will not prosper even if the alleged ground is grave abuse of discretion.[27]

In the instant case, it would appear that the petitioner failed to exhaust all other remedies available to it.

Rule V of the 1996 Rules of Procedure of the HLURB then in force provides:

Section 3. Review of Judgment of Default. – If the party declared in default who for good cause was unable to file a motion to lift the order of default, and a judgment by default was consequently rendered, he may still file a petition for review of the judgment by default with the Board in accordance with Rule XII of these Rules and whatever defenses he has against the complainant may still be raised in said petition.

Relative thereto, Rule XII of the same Rules read:

Section 1. Petition for Review. – The aggrieved party on any legal ground and upon payment of the review fee, may file with the Regional Office a verified petition for review of the arbiter’s decision within thirty (30) calendar days from receipt thereof.

After a review of the decision of the arbiter, the aggrieved party may also file a motion for reconsideration of the decision of the Board of Commissioners and eventually appeal the same to the Office of the President. Rule XVIII of the same Rules provides:

Section 1. Motion for Reconsideration. – Within the period for filing an appeal from a Board decision, order or ruling of the Board of Commissioners, any aggrieved party may file a motion for reconsideration with the board x x x.

x x x

Section 2. Appeal. – Any party may upon notice to the Board and the other party appeal a decision rendered by the Board of Commissioners en banc or by one of its divisions to the Office of the President xxx.

Accordingly, inasmuch as certiorari cannot be a substitute for lost appeal[28] or any plain, speedy, and adequate remedy[29] for that matter, “especially if one’s own negligence or error in one’s choice of remedy occasioned such loss or lapse,”[30] its petition before the Court of Appeals must fail.

In addition, even assuming that certiorari is the only remedy left to petitioner, we sustain the Court of Appeals’ denial of the petition for failure to comply with Section 3, Rule 46 of the Rules of Court.

Section 3, Rule 46 of the Rules of Court in relation to Section 4, Rule 65 of the same Rule must be strictly observed; the petitions were filed beyond the prescribed period

The special civil action for certiorari under Rule 65 of the Rules of Court may be instituted not later than sixty (60) days from notice of the judgment, order or resolution.[31]

To ensure compliance with the prescribed period, Section 3, Rule 46 of the Rules of Court provides that the petition shall indicate the date when “notice of the judgment or final order or resolution subject thereof was received” failure of which shall warrant the dismissal of the petition.[32]

Applying the aforesaid provision, the Court of Appeals, in its assailed Amended Decision, ruled:

In this Petition, Petitioner failed to indicate the first date, the date when the notice of the assailed decision was received. Instead, on page 4 of the petition, [Petitioner alleged that,] the assailed decision of the Public Respondent HLURB “was never served upon petitioner Bethel Realty & Development Corporation” but was only informed by one Atty. Carbon of the existence of the decision and the writs of execution. Still, Petitioner

failed to mention when was it informed of the decision. As explicitly stated in the aforementioned Rule, failure to indicate the material dates shall be sufficient ground for the dismissal of the petition.[33] (Emphasis supplied)

We are thus confronted with the issue of whether or not the allegation that petitioner was never served a copy of the judgment sought to be reviewed excuses compliance with the express requirement that the date of receipt of the notice of the judgment or final order should be indicated in the petition. We rule in the negative.

That petitioner was never served a copy of the assailed decision does not necessarily mean that he was unable to secure a copy thereof. If that were true, there would not have been any petition before the Court of Appeals. A certified true copy of the decision is a required attachment to the petition otherwise its petition may be dismissed in accordance with Section 1, paragraph 2, Rule 65 of the Rules of Court.[34]

Moreover, if we allow petitioner's excuse from the statement of material dates, we will disregard the constitutional right of parties to a speedy disposition of their case. This Court, in a number of cases, ratiocinated:

x x x The 60-day period is deemed reasonable and sufficient time for a party to mull over and to prepare a petition asserting grave abuse of discretion by a lower court. The period was specifically set to avoid any unreasonable delay that would violate the constitutional rights of the parties to a speedy disposition of their case.[35]

For these reasons, the 60-day period within which to file the petition must be strictly observed such that, in this case where there is an allegation that the petitioner did not receive a copy of the judgment, and for the purpose of determining the timeliness of the filing of the petition, that is, "sixty (60) days from notice of the judgment, order or resolution,"[36] the phrase "when notice of the judgment or final order or resolution subject thereof was received" under Sec. 3, Rule 46 of the same Rules should be taken to mean knowledge of the existence of the judgment.

In the case at bar, records would show that in its first petition[37] filed on 29 October 2003 and docketed as CA-G.R. SP No. 80225, petitioner alleged that "(i)t was only (i)n the month of September, 2003"[38] that it learned about the decision and writs of execution issued against the corporation. However, in its second petition[39] filed on 5 March 2004 and docketed as CA-G.R. SP No. 82579, or more than five (5) months from September 2003 when it supposedly learned of the issuance of the adverse decision and writs of execution, it omitted such material information. In its stead, for appearances of validity and timeliness in the re-filing of its petition, which was obviously re-filed way beyond the 60-day prescribed period, it merely stated that it was informed of the adverse judgment only when the writ of execution was already being implemented.[40]

Interestingly, a closer examination of the documents would reveal that petitioner submitted machine copies of the HLURB's Notice of Decision and Decision dated 11 September 2000 and 8 September 2000, respectively, stamped "Certified True Copies" by the Acting Head, Expanded National Capital Region Field Office, Records and Information Unit, HLURB on 12 August 2003.[41] Certainly then, as early as 12 August 2003, petitioner had already secured a copy of the questioned decision.

All considered, we are left with one conclusion – both the first and second petitions were filed beyond the 60-day prescribed period counted from 12 August 2003.

Relaxation of procedural rules is allowed only when exceptional circumstances are obtaining in the case

We find in this case no justifiable reason to be liberal in the application of procedural rules.

On the contrary, there must be exactness rather than latitude in compliance with the rules considering the

circumstances that show petitioner's conscious disregard of procedure:

1. Petitioner did not attach to its petition filed on 29 October 2003 copies of all pleadings and documents, and other material portions of the record relevant and pertinent thereto in violation of Section 1, Rule 65 and Section 3, Rule 46;
2. When the petitioner re-filed the petition on 5 March 2004, it did attach copies of the required documents but the same were neither duplicate originals nor certified true copies still in violation of Section 1, paragraph 2, Rule 65;
3. When the Court of Appeals, in its Resolution dated 11 March 2004,[42] afforded it an opportunity to comply with the rules within five (5) days from notice under pain of dismissal of the petition, it stated in its Compliance and Motion for Issuance of TRO or Status Quo Order dated 29 April 2004:

In compliance with the Resolution of March 11, 2004, we are submitting CERTIFIED TRUE COPIES OF Annexes "A" to "F" of our petition, which are enclosed herewith.[43]

However, only Annexes "B" to "D" were certified true copies of the documents:[44]

4. When the Court of Appeals, instead of dismissing the case, again extended its leniency by giving petitioner another chance and ordered anew the submission of certified true copies of Annexes "A," "E," "F," and "F-1,"[45] petitioner once again impressed upon the court that it was submitting certified true copies of all the aforesaid annexes.[46] An examination of the submitted documents would show, however, that it merely re-submitted a machine copy of Annex "F-1." [47] This time, the Court of Appeals did not notice the said omission; and

5. Most of the annexes attached to the instant petition are again mere machine copies of the original.

For these reasons, we resolve to strictly observe the Rules of Court guided by the following pronouncements of this Court:

It is true that a litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, it does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.[48]

We see in petitioner's actions a deliberate intent to avoid a determination of whether or not the Court of Appeals may still take cognizance of its petition.

WHEREFORE, the petition is DENIED. The Amended Decision dated 26 May 2008 of the Court of Appeals in CA-G.R. SP No. 82579 reversing and setting aside its Decision dated 21 December 2007 and denying the petition dated 24 February 2004 is hereby AFFIRMED. The Decision dated 8 September 2000 of the Housing and Land Use Regulatory Board is REINSTATED.

### **SO ORDERED.**

Carpio, (Chairperson), Leonardo-De Castro,[\*] Brion, and Sereno, JJ., concur.

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[\*] Designated additional member per raffle dated 4 April 2012.

[1] CA rollo, pp. 235-243. Penned by Associate Justice Noel G. Tijam, with Associate Justices Martin S.

Villarama, Jr. (now a member of the Court) and Sesinando E. Villon, concurring.

[2] Id. at 263-265.

[3] Id. at 90-93. Penned by Atty. Dunstan T. San Vicente, Housing and Land Use Arbiter and approved by Jesse A. Obligacion, Regional Director.

[4] Id. at 60. Order dated 23 December 1999.

[5] Id.

[6] Id. at 56.

[7] Id. at 60. Order dated 23 December 1999.

[8] Id. at 90-93.

[9] Id. at 91-93.

[10] Id. at 94-99.

[11] HLURB Records, p. 139.

[12] Rollo, pp. 24-32.

[13] Id. at 49. Resolution dated 7 November 2003 penned by Associate Justice Edgardo F. Sundiam, with Associate Justices Eubulo G. Verzola and Bienvenido L. Reyes (now a member of the Court), concurring.

[14] Id. at 50-60.

[15] CA rollo, p. 41. Penned by Associate Justices Noel G. Tijam, with then Associate Justice Ruben T. Reyes and Associate Justice Edgardo P. Cruz, concurring.

[16] Id.

[17] Id. at 73.

[18] Id.

[19] Id. at 74-76.

[20] Id. at 121-124. Resolution dated 17 November 2004.

[21] Id. at 221. Decision dated 21 December 2007.

[22] Id. at 235-243.

[23] Id. at 242-243.

[24] Id. at 263-265. Resolution dated 16 September 2008.

[25] Rollo, p. 15. Petition for Review on Certiorari under Rule 45 of the Rules of Court.

[26] Section 1, Rule 65 of the Rules of Court.

[27] Philippine Amusement and Gaming Corporation v. CA, G.R. No. 185668, 13 December 2011.

[28] Id. citing Badillo v. Court of Appeals, G.R. No. 131903, 26 June 2008, 555 SCRA 435, 452.

[29] Section 1, Rule 65 of the Rules of Court.

[30] Philippine Amusement and Gaming Corporation v. CA, supra note 27 citing Badillo v. Court of Appeals, G.R. No. 131903, 26 June 2008, 555 SCRA 435, 452.

[31] SEC. 4. When and where to file the petition. – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from notice of denial of the motion.

x x x.

[32] SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. –

x x x

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

[33] Rollo, p. 112. Amended Decision dated 26 May 2008.

[34] Section 1, Rule 65 of the Rules of Court provides:

SECTION 1. Petition for certiorari. – xxx

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

De los Santos v. CA, G.R. No. 147912, 26 April 2006, 488 SCRA 351, 358 citing Sea Power Shipping Enterprises, Inc. v. Court of Appeals, 412 Phil. 603 (2001).

[35] Yutingco v. Court of Appeals, 435 Phil. 83, 91 (2002); Prudential Guarantee and Assurance Inc. v. CA, G.R. No. 146559, 13 August 2004, 436 SCRA 478, 482-483 citing Yutingco v. Court of Appeals, 386 SCRA 85, 92; De los Santos v. Court of Appeals, supra note 34, 357-358.

[36] Section 4, Rule 65 of the Rules of Court.

[37] Rollo, pp. 24-32. Petition for Certiorari with Injunction docketed as CA-G.R. No. SP No. 80225.

[38] Id. at 26.

[39] Id. at 50-60. Petition for Certiorari under Rule 65 of the Revised Rules of Court and Injunction docketed as CA-G.R. SP No. 82579.

[40] Id. at 54.

[41] Id. at 77-81.

[42] CA rollo, p. 41.

[43] Id. at 42.

[44] Id. at 56-60.

[45] Id. at 73. Resolution dated 1 June 2004.

[46] Id. at 74. Compliance with Urgent Motion for Issuance of TRO dated 21 June 2004.

[47] Id. at 97-99.

[48] De los Santos v. CA, supra note 34 at 358-359 citing Sea Power Shipping Enterprises, Inc. v. CA, 412 Phil. 603 (2001), further citing Teoville Homeowners Association Inc. v. Ferreira, G.R. No. 140086, 8 June 2005, 459 SCRA 459.

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