

**LINO ALABANZAS AND NELLY ALABANZAS, PETITIONERS, VS.
INTERMEDIATE APPELLATE COURT, REGIONAL TRIAL COURT OF
NEGROS OCCIDENTAL BRANCH XLII, PROV-INCIAL SHERIFF OF
NEGROS OCCIDENTAL...**

G.R. No. 74697. November 29, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari to annul the judgment of respondent Intermediate Appellate Court (now Court of Appeals)* dated July 29, 1983, in CA-G.R. CV No. 49537, with a prayer for a restraining order.

The records of the case reveal that Alicia Palma (now private respondent), filed a complaint for recovery of possession with damages against Lino Alabanzas and Nelly Alabanzas before the Court of First Instance (now Regional Trial Court) of Negros Occidental, Branch XLII, presided over by then Judge Nestor Alampay, docketed as Civil Case No. 8612. The trial court, after hearing, rendered judgment on June 18, 1971 in favor of defendants Alabanzas, the dispositive portion of which reads as follows:

"IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered dismissing plaintiff's complaint as well as the counter-claim of the third-party defendant, Adoracion Palma, with respect to the defendants' counter-claim, plaintiff Alicia Palma herein is hereby ordered to pay the defendants Lino Alabanzas and Nelly Alabanzas the sum of P4,000, as moral and exemplary damages; and likewise the sum of P2,000, for defendant's attorney's fees and their expenses of litigation and this award shall be increased to P3,000 in case of appeal and to pay the costs.

"Upon payment to the plaintiff herein by the defendants of the sum of P8,323.40 representing the remaining balance still unpaid for the stated purchase of the portion of Lot 37-A occupied by them or the deposit of this sum with the clerk of court for delivery to the plaintiff, said plaintiff is hereby directed to execute the corresponding deed of transfer of all her rights and interests covering said portion of Lot 37-A to the defendants spouses herein and/or upon her failure to do so, the clerk of court is hereby authorized to execute such deed of transfer pursuant to Rule 39, section 10 of the Rules of Court.

"From the aforesaid amount of P8,323.40 may be subtracted or set off whatever sum of money may be due the defendants herein under this judgment.

"SO ORDERED."

Alicia Palma appealed the trial court's decision to the respondent Intermediate Appellate Court (now Court of Appeals). Private respondent having failed to file her brief within the reglementary period, and after an extension of ninety (90) days, the Court of Appeals, in a resolution** dated June 14, 1977, dismissed her appeal.

The dismissal became final on July 25, 1973. (See entry of judgment, Annex "C", Petition; p. 18, Rollo).

On October 4, 1973, the case was remanded to the trial court for execution (Letter transmittal, Annex "D" to

Petition, p. 20, Rollo). The trial court ordered the execution of its judgment on October 27, 1973 but said order was not fully complied with until August 20, 1975 when the corresponding deed of sale was executed by the Clerk of Court and duly annotated at the back of the title (Last part of par. 2, Petition, p. 2, Rollo)

More than three (3) years after the dismissal of the appeal, upon motion of herein respondents' counsel, the respondent Court of Appeals resolved to recall the records, reinstate the appeal and grant appellant another extension of thirty (30) days within which to file her brief, on the basis of the following grounds:

"1. The appellant herein did not know about the dismissal of this appeal by the Court of Appeals until recently when she was informed that the defendants-appellees in this case held a victory party to celebrate their "winning of the case";

'2. That failure to file brief was due to the gross misconduct of appellant's counsel to whom appellant had paid P300.00 for printing expenses of brief, and such negligence is not attributable to appellant;

'3. That the Decision appealed from the lower court is patently unjust, irregular and a travesty of justice in the new society." (p. 21, Rollo)

[(CA resolution dated September 23, 1976, Annex "E", Petition, Rollo, pp. 21-22)]. Thereafter, on July 29, 1983, respondent Appellate Court rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, the judgment appealed from is hereby set aside and reversed and another one is entered ordering the defendants-appellees to vacate the property in question, to demolish their house standing thereon and to pay the sum of P100.00 a month from July 10, 1966, all to be complied with within ten (10) days from the issuance of the order of execution by the court of origin. Defendants-appellees are also ordered to pay plaintiff-appellant the sum of P2,500.00 as counsel fees. In turn, party defendant Adoracion Palma is hereby ordered to reimburse the sum of P3,756.60 to the third-party plaintiffs representing the installment payments she had received from the latter. No costs."

The sole issue in this petition is whether the Court of Appeals has jurisdiction to reconsider its own resolution dismissing an appeal long after said resolution had become final and executory and render another decision on the merits.

The petition is impressed with merit.

It is well-settled that once a decision becomes final and executory, it is removed from the power or jurisdiction of the Court which rendered it to further amend, much less revoke it (*Turquieza v. Hernando*, 97 SCRA 483 [1980]; *Heirs of Patriaca v. CA*, 124 SCRA 410 [1983]; *Javier v. Madamba, Jr.*, 174 SCRA 495 [1989]; *Galindez v. Rural Bank Llanera, Inc.*, 175 SCRA 132 [1989]; *Olympia International, Inc. v. CA*, 180 SCRA 353 [1989]). Decisions which have long become final and executory cannot be annulled by courts (*United CMC Textile Workers Union v. Labor Arbiter*, 149 SCRA 424 [1987] and the appellate court is deprived of jurisdiction to alter the trial court's final judgment (*Carbonel v. CA*, 147 SCRA 656 [1987]; *Republic v. Reyes*, 155 SCRA 313 [1987]).

The doctrine of finality of judgment is grounded on fundamental considerations of public and sound practice that at the risk of occasional error, the judgments of the courts must become final at some definite date set by law (*Turquieza v. Hernando*, *supra*; *Heirs of Patriaca v. CA*, *supra*; *Edra v. Intermediate Appellate Court*, 179 SCRA 344 [1989]). Reopening of a case which has become final and executory is disallowed (*Philippine Rabbit Bus Lines, Inc. v. Arciaga*, 148 SCRA, 433 [1987]; *Edra v. Intermediate Appellate Court*, *supra*). The subsequent filing of a motion for reconsideration cannot disturb the finality of a judgment and restore jurisdiction which had already been lost (*Pfleider v. Victorino*, 98 SCRA 491 [1980]; *Heirs of Patriaca v. CA*, *supra*).

After the judgment has become final, no addition can be made thereto and nothing can be done therewith except

its execution; otherwise, there can be no end to litigation, thus setting at naught the main role of Courts of Justice, which is to assist in the enforcement of the rule of law and the maintainance of peace and order, by settling justiceable controversies with finality (*Farescal Vda. de Emnas v. Emnas*, 95 SCRA 470 [1980]; *Heirs of Patriaca v. CA*, *supra*).

Moreover, it is an equally well-settled rule that the client is bound by his counsel's conduct, negligence and mistake in handling the case, and the client cannot be heard to complain that the result might have been different had his lawyer proceeded differently. (*Vivero vs. Santos*, 52 O.G. 1424; *Tupas vs. CA*, 193 SCRA 597).

It is only in case of gross or palpable negligence of counsel when the courts must step in and accord relief to a client who suffered thereby. (*Legarda vs. CA*, 195 SCRA 418). In the present case, the private respondents have not shown such carelessness or negligence in their lawyer's discharge of his duties to them as to justify a deviation from the rule that "clients should be bound by the acts of their counsel, including his mistakes."

PREMISES CONSIDERED, the respondent Court of Appeals' resolution dated September 3, 1976 and decision dated July 29, 1983 in AC-G.R. CV No. 49537 are SET ASIDE as null and void and the decision of the Court of First Instance (now Regional Trial Court) of Negros Occidental, Branch XLII dated June 18, 1971 in Civil Case No. 8612, is REINSTATED and AFFIRMED, and the restraining order earlier issued is MADE permanent.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Regalado, JJ., concur.

* Penned by Associate Justice Porfirio V. Sison, and concurred in by Associate Justices Abdulwahid A. Bidin, Marcelino R. Veloso and Desiderio P. Jurado.

** Fourth Division, composed of Associate Justices Edilberto Soriano, Manuel R. Barcelona, and Ramon G. Gaviola, Jr.

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