



SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE  
**RECEIVED**  
JUL 09 2021  
BY: HEJTS  
TIME: 3:00 PM

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

LILIA M. TANINGCO, DENNIS M.  
TANINGCO and ANDREW M.  
TANINGCO,

*Petitioners,*

- versus -

REYNALDO FERNANDEZ,  
LOURDES P. SALA, EMMA P.  
PEREZ, AUGUSTO F. PEREZ,  
DOMINADOR PEREZ, JOSE F.  
PEREZ, MILAGROS F. PEREZ,  
TEODORO F. PEREZ, ADORACION  
S. PEREZ, JOSEPHINE P. SAN  
AGUSTIN, ALEX S. PEREZ,  
ELENIDA I. PEREZ, MICHAEL S.  
PEREZ, MANUEL L. PEREZ,  
ALBERTO L. PEREZ,

*Respondents.* \*\*

G.R. No. 215615

Present:

LEONEN, J.,  
*Chairperson,*  
HERNANDO,  
INTING, and  
LOPEZ,\*  
ROSARIO, JJ.

Promulgated:

December 9, 2020

*Mis-DCBatt*

X- -----X

DECISION

**HERNANDO, J.:**

In this Petition for Review on *Certiorari* and Prohibition,<sup>1</sup> petitioners Lilia M. Taningco, Dennis M. Taningco, and Andrew M. Taningco (petitioners)

\* Designated as additional member per raffle dated November 23, 2020 vice J. Delos Santos who recused for having penned the assailed CA Decision.

\*\* Judge Virgilio Luna Paman and Judge Alicia Cruz-Barríos are deleted as party-respondents pursuant to Section 4, Rule 45 of the Rules of Court.

<sup>1</sup> *Rollo*, pp. 7-27.

assail the May 13, 2014<sup>2</sup> and October 27, 2014<sup>3</sup> Resolutions of the Court of Appeals (CA) in CA-G.R. CEB SP No. 105017 which denied their Motion to Set Aside Resolution [Dated November 25, 2013] and Entry of Judgment,<sup>4</sup> and their Motion for Reconsideration,<sup>5</sup> respectively.

### **The Factual Antecedents:**

Civil Case No. 1674, a Complaint for Quieting of Title and/or Recovery of Possession and Ownership, was resolved by the Municipal Trial Court (MTC) of Kalibo, Aklan in favor of the respondents and against petitioners. The *fallo* of the Decision<sup>6</sup> reads:

WHEREFORE, premises considered, defendants Jose Taningco, Harry Taningco and Jose Taningco, Jr. and their privies and successors-in-interest are hereby ordered to vacate the two hundred sixty three (263) square meters of Lot 191-A at G. Ramos St., Poblacion, Kalibo, Aklan and to turn it over to the plaintiffs Reynaldo Fernandez, Lourdes P. Sala, Emma F. Perez, Augusto F. Perez, Dominador F. Perez, Milagros F. Perez, Josephine P. San Agustin, Teodoro F. Perez, Jose F. Perez, Adoracion F. Perez, Elenita L. Perez, Alex S. Perez, Michael S. Perez, Alberto L. Perez and Manuel L. Perez or their successors-in-interest.

SO ORDERED.<sup>7</sup>

Petitioners' appeal was denied by the Regional Trial Court (RTC) and subsequently by the appellate court whose Decision dated March 29, 2006<sup>8</sup> became final and executory per the October 8, 2006 Entry of Judgment.<sup>9</sup> Thus, respondents moved for issuance of a writ of execution<sup>10</sup> which the MTC granted.

In a bid to stop the implementation of the writ, Jose P. Taningco, Jr. (Jose Jr.) filed a Petition for Annulment of Judgment<sup>11</sup> which was, however, dismissed by the RTC. His appeal before the CA, docketed as CEB-CV No. 02128, was likewise denied in the January 23, 2009 Decision;<sup>12</sup> the appellate court affirmed the RTC's dismissal of the Petition for Annulment of Judgment. Jose Jr.'s Petition for Review on *Certiorari* before this Court was dismissed in Our March 8, 2010 Resolution.<sup>13</sup>

<sup>2</sup> Id. at 34-36; penned by Associate Justice Edgardo L. Delos Santos (now a Member of this Court), and concurred in by Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap.

<sup>3</sup> Id. at 42-44.

<sup>4</sup> Id. at 32-33.

<sup>5</sup> Id. at 37-40.

<sup>6</sup> Id. at 121-139; penned by Judge Paz Esperanza M. Cortes.

<sup>7</sup> Id. at 139.

<sup>8</sup> Id. at 177-183.

<sup>9</sup> Id. at 185.

<sup>10</sup> CA *rollo*, p. 71; as noted in the Writ of Execution issued by the MTC on October 15, 2007; CA *Rollo*, p. 71.

<sup>11</sup> *Rollo*, p. 186; as noted by the Court of Appeals in its January 23, 2009 Decision in CA-GR CEB-CV No. 02128.

<sup>12</sup> Id. at 186-191.

<sup>13</sup> Id. at 193.

Meanwhile, the mother and brothers of Jose Jr., herein petitioners, filed a Motion to Quash the Writ of Execution claiming that it was invalidly issued since they were not furnished a copy of the order of substitution. They also argued that there was no valid substitution of the defendant Jose P. Tangingco, Sr. (Jose Sr.) who died during the pendency of Civil Case No. 1674.

The MTC, however, denied<sup>14</sup> petitioners' Motion to Quash for being a collateral attack against the already final and immutable March 29, 2006 Decision of the appellate court. Considering the finality of the said CA Decision, the MTC held that it was its ministerial duty to grant the writ in accordance with Section 1, Rule 39 of the Rules of Court.

The MTC also ruled that Jose Sr. was properly substituted. It ratiocinated that it directed the substitution of Jose Sr. by his wife and children, including petitioners in its February 6, 2002 Order, after it was informed by their counsel, Atty. Fidencio Raz, of Jose Sr.'s demise in a Notice of Death and Substitution dated November 21, 2001. Besides, the absence of a proper substitution will not nullify the trial court's jurisdiction unless there is a clear showing of violation of due process which is not availing in the instant case.

The MTC denied petitioners' motion for reconsideration hence, they filed a Petition for *Certiorari* with prayer for preliminary injunction and temporary restraining order (TRO) before the RTC, Branch 7 of Kalibo, Aklan.

#### **Ruling of the Regional Trial Court (RTC):**

The RTC dismissed petitioners' Petition for *Certiorari* and denied their prayer for preliminary injunction and TRO,<sup>15</sup> viz.:

WHEREFORE, premises considered, the prayer for writ of preliminary injunction is hereby DENIED for lack of merit. And unless parties still have other evidence to present in their main petition for *certiorari*, they are hereby directed to formally manifest the same within five (5) days from receipt of this order, otherwise the evidence and arguments presented in this incident preliminary injunction are deemed adopted for the main action which is also deemed dismissed.

SO ORDERED.<sup>16</sup>

Thereafter, petitioners' motion for the inhibition<sup>17</sup> of the RTC presiding judge was also denied.<sup>18</sup> Subsequently, in an Order<sup>19</sup> dated on January 5, 2010, the RTC denied petitioners' prayer for preliminary injunction and TRO and

---

<sup>14</sup> Id. at 65-69.

<sup>15</sup> Id. at 106-110.

<sup>16</sup> Id. at 110.

<sup>17</sup> CA *rollo*, pp. 200-205.

<sup>18</sup> Id. at 57-58.

<sup>19</sup> *Rollo*, p. 114.

dismissed the Petition for *Certiorari*.

Aggrieved, petitioners filed their respective Motions for Reconsideration which were both denied by the RTC in its Order<sup>20</sup> dated February 18, 2010.

Hence, petitioners filed a Petition for *Certiorari* before the appellate court. They argued that the RTC gravely abused its discretion when it denied their Motion for Inhibition and prayer for preliminary injunction and TRO, dismissed the Petition for *Certiorari*, and denied their Motions for Reconsideration. They also averred that the MTC did not acquire jurisdiction over them as its order of substitution was invalid.

### **Ruling of the Court of Appeals:**

In its February 28, 2013 Decision,<sup>21</sup> the CA dismissed the Petition for *Certiorari* for being a wrong remedy. In any case, it found that the RTC did not gravely abuse its discretion when it issued the assailed orders. The appellate court observed that the RTC's denial of petitioners' prayer for writ of preliminary injunction and TRO was grounded on insufficiency of evidence. Petitioners also did not attend the hearing for the reception of their additional evidence.

The CA also noted that there was no ground for the mandatory disqualification of the RTC judge from the case. Besides, the allegations of pre-judgment, bias, prejudice and partiality against the RTC judge were without basis.

In addition, the appellate court held that Jose Sr. was formally substituted as shown in the February 6, 2002 Order of the MTC. In any event, the lack of a proper substitution will not invalidate the proceedings save when there is a violation of due process which is not availing in Civil Case No. 1674.

On January 2, 2014, petitioners received a copy of the November 25, 2013 CA Resolution declaring the February 28, 2013 Decision to have become final and executory on May 7, 2013, hence, to be recorded in the Book of Entries of Judgment.

Petitioners immediately filed before the CA a motion<sup>22</sup> to set aside its November 25, 2013 Resolution and Entry of Judgment on the ground that they did not receive a copy of the appellate court's February 28, 2013 Decision. Hence, their failure to file a motion for reconsideration on the same before the appellate court.

---

<sup>20</sup> Id. at 120.

<sup>21</sup> Id. at 196-209.

<sup>22</sup> Id. at 32-33.

*m*

However, the CA, in its May 13, 2014 Resolution,<sup>23</sup> denied petitioners' motion finding that petitioners, through their counsel, Atty. Dennis M. Taningco (Atty. Taningco), actually received a copy of the CA's February 28, 2013 Decision as evidenced by Registry Return Card No. 1873.

Petitioners sought for reconsideration<sup>24</sup> insisting that Atty. Taningco did not receive a copy of the said CA Decision. They averred that their counsel's home and office addresses are one and the same. In his household, Atty. Taningco lives with his wife and son, Dennis, Jr.. However, neither his wife nor his son received on his behalf the CA Decision. Petitioners further requested a certified copy of the registry return card as it was not attached to the May 13, 2014 CA Resolution.<sup>25</sup>

In its October 27, 2014 Resolution,<sup>26</sup> the CA denied petitioners' motion for reconsideration there being no new substantial arguments to warrant the grant of the same. Contrary to petitioners' contention, the registry return card clearly showed that a certain Mrs. Taningco received the appellate court's notice of decision. Hence, the CA reiterated its stance that notice to counsel is notice to client.<sup>27</sup>

The CA also noted that the said motion is a prohibited pleading as it is deemed to be a second motion for reconsideration.<sup>28</sup>

Lastly, the CA stressed that it was Atty. Taningco's duty to secure a certified true copy of the registry return card and not wait for the CA to provide him with a copy thereof. The appellate court thus reminded Atty. Taningco to exercise reasonable care, skill and diligence in handling the cases of his clients.<sup>29</sup>

Hence, petitioners filed the instant Petition for Review on *Certiorari*.

### Issues

Petitioners aver that:

I. Respondent Court of Appeals-Cebu gravely erred in not furnishing petitioners with a copy of the Decision dated February 28, 2013, and in not resolving judiciously the principal issues posed in the petition in CA-G.R. CEB SP No. 05017.

II. Respondent Court of Appeals-Cebu gravely erred in not declaring that the impugned orders of respondent Judge Paman are all invalid for having been

---

<sup>23</sup> Id. at 34-36.

<sup>24</sup> CA *rollo*, pp. 278-282.

<sup>25</sup> Id.

<sup>26</sup> *Rollo*, pp. 42-44.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id.

issued with grave abuse of discretion, without or in excess of jurisdiction, and in a manner contrary to and in gross violation of the laws.

III. Respondent Court of Appeals committed grave abuse of discretion in not ruling that there was no valid substitution of deceased defendant in MTC Civil Case 1674, that MTC Kalibo is bereft of jurisdiction on the subject matter of the case, and that the MTC Decision dated March 7, 2005 and its writ of execution and demolition are void *ab initio*.<sup>30</sup>

### **Our Ruling**

The Petition lacks merit.

### **Notice to counsel is notice to parties.**

When a party is represented by counsel of record, service of orders and notices must be made upon said attorney.<sup>31</sup> Notice sent to counsel of record binds the client and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment, valid and regular on its face.<sup>32</sup>

In the case at bench, Atty. Taningco, petitioners' counsel of record and also one of the petitioners in the case, was served with a copy of the CA Decision on April 8, 2013 as evidenced by Registry Return Card No. 1873, at his office address on record, which is also his home address. Said copy was duly received by Mrs. Taningco.

Verily, Mrs. Taningco is presumed authorized to receive the CA Decision on behalf of Atty. Taningco that was sent to the office address on record. It necessarily follows that petitioners, through Atty. Taningco, duly received the said decision in the ordinary course of business. Hence, in the absence of competent evidence to prove otherwise, the legal presumption of regularity in the performance of official duty with respect to service of notice stands.<sup>33</sup>

Moreover, petitioners failed to present even a scintilla of evidence other than the bare assertion of non-receipt thereof and a mere photocopy of the identification cards with signatures therein of Mrs. Taningco and Dennis Jr.

Thus, the Court holds that the CA did not err in denying petitioners' motion to set aside its November 25, 2013 Resolution and entry of judgment declaring the CA Decision dated February 8, 2013 to be final and executory.

---

<sup>30</sup> Id. at 16-17.

<sup>31</sup> *Cervantes v. City Service Corporation*, 784 Phil. 694, 699 (2016).

<sup>32</sup> *GCP-Manny Transport Services, Inc. v. Hon. Principe*, 511 Phil. 176, 187-188 (2005).

<sup>33</sup> *Scenarios, Inc. v. Vinluan*, 587 Phil. 351, 359 (2008).

**A final and executory decision is immutable.**

A decision or order becomes final and executory if the aggrieved party fails to appeal or move for a reconsideration within 15 days from his or her receipt of the court's decision or order disposing of the action or proceeding.<sup>34</sup> Thus, under the doctrine of immutability of judgment, a decision or order that has attained finality can no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land.<sup>35</sup>

The doctrine is grounded on public policy and sound practice which must not simply be ignored.<sup>36</sup> It is adhered to by the courts to end litigations albeit the presence of errors.

In *Mocorro, Jr. v. Ramirez*,<sup>37</sup> the Court has exhaustively discussed the principle of the finality of judgment as follows:

A definitive final judgment, however erroneous, is no longer subject to change or revision.

A decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred.

The only exceptions to the rule on the immutability of final judgments are (1) the correction of clerical errors, (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party, and (3) void judgments.<sup>38</sup>

Petitioners received a copy of the February 28, 2013 Decision of the appellate court on April 8, 2013. Despite receipt thereof, they failed to file a motion for reconsideration within the 15-day reglementary period. Therefore,

---

<sup>34</sup> *Heirs of Bihag v. Heirs of Bathan*, 734 Phil. 191, 202 (2014).

<sup>35</sup> *National Housing Authority v. Court of Appeals*, 731 Phil. 400, 405 (2014).

<sup>36</sup> *Id.*

<sup>37</sup> 582 Phil. 357 (2008).

<sup>38</sup> *Id.* at 366-367.

the appellate court's Decision became final and can no longer be assailed by then for being immutable and unalterable.

**Disrespectful, inappropriate, and offensive language used by Atty. Taningco in the present Petition.**

The Court notes the following disrespectful, inappropriate, and offensive language used by Atty. Taningco in the present petition, to wit:

The MTC Decision dated March 7, 2005 in Civil Case 1674 is of patent nullity, for having been issued without jurisdiction over the subject matter, and for lack of due process of law. Jurisdiction is vested with RTC Kalibo as cadastral court. Due process of law is lacking as there was no order of substitution upon the demise of the principal defendant, Atty. Jose P. Taningco.

x x x x

Aforesaid Decision was rendered by then MTC Judge PAZ ESPERANZA M. CORTES (now RTC Judge of Taguig City who granted bail in the celebrated case of movie & TV personality Vhong Navarro). It was apparently railroaded to finality as the appeals by other defendant with RTC Kalibo and before Court of Appeals-Cebu were all dismissed. The former RTC Executive Judge of Kalibo, Sheila Martelino Cortes (now retired) is the mother of Judge Paz Esperanza Martelino Cortes, while CA Presiding Justice Andres C. Reyes is the latter's uncle. The Presiding Justice's mother is a Cortes from Balete, Aklan.<sup>39</sup> (Emphasis supplied)

Atty. Taningco is reminded of his duty as a lawyer to observe and maintain the respect due to the courts and judicial officers.<sup>40</sup> He should avoid using offensive or menacing language or behavior before the court and refrain from attributing to a judge motives that are not supported by the record or have no materiality to the case.<sup>41</sup> The utmost respect due to courts and their officers is enshrined not only in the Lawyer's Oath, but also under Canon 11 and Rule 11.04 of the Code of Professional Responsibility, to wit:

Canon 11 - A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.

x x x x

Rule 11.04 A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.

---

<sup>39</sup> Rollo, p. 8.

<sup>40</sup> *Alpajora v. Calayan*, 823 Phil. 93, 109 (2018).

<sup>41</sup> *Id.*



In *Aparicio v. Andal*,<sup>42</sup> We held:

[I]t behooves us to remind the petitioner of his basic duty “to observe and maintain the respect due to the courts of justice and judicial officers;” to conduct himself with “all good fidelity to the courts;” to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance; that his duty to render respectful civility, without fawning, to the courts is indeed essential to the orderly administration of justice. Thus, he should be courteous, fair, and circumspect, not petulant, combative, or bellicose in his dealings with the courts; and finally, that the use of disrespectful, intemperate, manifestly baseless, and malicious statements by an attorney in his pleading or motion is not only a violation of the lawyer’s oath and a transgression of the canons of professional ethics, but also constitutes direct contempt of court for which a lawyer may be disciplined.<sup>43</sup>

His innuendoes that the MTC Judge is the daughter of the retired RTC Executive Judge of Kalibo, Aklan, and the niece of the now retired Supreme Court Associate Justice Andres C. Reyes are unnecessary and irrelevant. Moreover, the language used by Atty. Taningco showed his lack of courtesy to the courts expected from every lawyer. Worse, his unfounded statement suggests that the MTC Decision was affirmed not on its merits but because of the MTC judge’s blood relationship with the magistrates from the RTC and CA.

Undoubtedly, Atty. Taningco failed to be circumspect in his language in the Petition filed before this Court. By insinuating that his clients failed to get a fair decision, which he has vested personal interest as well, because of a Judge’s connections with other members of the bench, tarnishes the reputation of the entire Judiciary. It is a direct attack to the very core of this institution which he should have protected and respected while advocating the interests of his clients. His malicious insinuation undermines the public’s confidence in the orderly administration of justice.

We therefore find it apt to refer the foregoing matter to the Office of the Bar Confidant for its appropriate action.

**WHEREFORE**, the Petition for Review on *Certiorari* and Prohibition is **DENIED**. The Resolutions dated May 13, 2014 and October 27, 2014 of the Court of Appeals in CA-G.R. CEB SP No. 105017 are **AFFIRMED**.

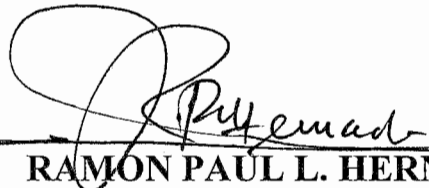
The matter regarding the use of inappropriate, offensive and disrespectful language by Atty. Atty. Dennis M. Taningco is hereby **REFERRED** to the **OFFICE OF THE BAR CONFIDANT** for its appropriate action.

---

<sup>42</sup> 256 Phil. 1005 (1989).


<sup>43</sup> *Id.* at 1014-1015.

**SO ORDERED.**



**RAMON PAUL L. HERNANDO**  
Associate Justice

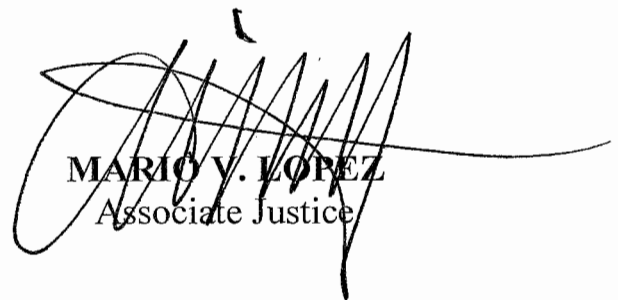
**WE CONCUR:**



**MARVIC M. V. F. LEONEN**  
Associate Justice  
Chairperson



**HENRI JEAN PAUL B. INTING**  
Associate Justice




**MARIO V. LOPEZ**  
Associate Justice



**RICARDO R. ROSARIO**  
Associate Justice

**ATTESTATION**


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M. V. F. LEONEN**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice