Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MERCEDES S. GATMAYTAN, Petitioner, -versus- **FRANCISCO DOLOR (SUBSTITUTED BY HIS HEIRS) AND HERMOGENA DOLOR,** Respondents.	**G.R. No. 198120** Present: CARPIO, *Chairperson,* PERALTA, MENDOZA, LEONEN, and JARDELEZA, *JJ.* **Promulgated:** 20 FEB 2017

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DECISION

LEONEN, *J.*:

When a party's counsel serves a notice of change in address upon a court, and the court acknowledges this change, service of papers, processes, and pleadings upon the counsel's former address is ineffectual. Service is deemed completed only when made at the updated address. Proof, however, of ineffectual service at a counsel's former address is not necessarily proof of a party's claim of when service was made at the updated address. The burden of proving the affirmative allegation of when service was made is distinct from the burden of proving the allegation of where service was or was not made. A party who fails to discharge his or her burden of proof is not entitled to the relief prayed for.

This resolves a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, praying that the assailed March 24, 2011

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[1] *Rollo*, pp. 3–37.

Decision[2] and August 9, 2011 Resolution[3] of the Court of Appeals, Sixth Division, in CA-G.R. CV No. 88709 be reversed and set aside and that the Court of Appeals be directed to resolve petitioner Mercedes S. Gatmaytan's (Gatmaytan) appeal on the merits.

In its assailed March 24, 2011 Decision, the Court of Appeals dismissed Gatmaytan's appeal, noting that the assailed March 27, 2006 Decision[4] of the Quezon City Regional Trial Court, Branch 223, had already attained finality. In its assailed August 9, 2011 Resolution, the Court of Appeals denied Gatmaytan's Motion for Reconsideration.

The Regional Trial Court's March 27, 2006 Decision resolved an action for reconveyance against Gatmaytan and in favor of the plaintiff spouses, now respondents Francisco and Hermogena Dolor (Dolor Spouses).

In a Complaint for Reconveyance of Property and Damages filed with the Quezon City Regional Trial Court, the Dolor Spouses alleged that on February 17, 1984, they, as buyers, and Manuel Cammayo (Cammayo), as seller, executed a Deed of Sale over a 300 square meter parcel of land located in Novaliches, Quezon City.[5] This 300 square meter parcel was to be segregated from a larger landholding.[6]

The Deed of Sale stated that, of the total consideration of ₱30,000.00, half (i.e., ₱15,000.00) would be paid upon the execution of the Deed.[7] The balance of ₱15,000.00 would be paid upon the release and delivery of the registrable Deed of Sale and of the Transfer Certificate of Title (TCT) covering the segregated portion.[8]

Per a "Kasunduan"[9] and based on a receipt dated May 18, 1984,[10] the Dolor Spouses were able to pay the entire consideration of ₱30,000.00 even before the TCT was delivered to them.[11] As such, on May 16, 1986, a second Deed of Sale, in lieu of the first, was executed by Cammayo in favor of Francisco Dolor.[12] This Deed no longer referenced the condition for

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2 Id. at 38–47. The Decision was promulgated on March 24, 2011, and was penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Juan Q. Enriquez, Jr., and Ramon M. Bato, Jr. of the Sixth Division, Court of Appeals, Manila.

3 Id. at 49–50. The Resolution was penned by Associate Justice Florito S. Macalino, and concurred in by Associate Justices Juan Q. Enriquez, Jr., and Ramon M. Bato, Jr. of the Sixth Division, Court of Appeals, Manila.

4 Id. at 52–67. The Decision was penned by Judge Ramon A. Cruz of Branch 223, Regional Trial Court, Quezon City.

5 Id. at 39.

6 Id. at 39.

7 Id.

8 Id.

9 Id.

10 Id. at 53.

11 Id.

12 Id. at 39.

payment of the ₱15,000.00 balance but merely stated that the lot was being sold "for and in consideration of the sum of THIRTY THOUSAND PESOS[.]"[13]

The Dolor Spouses claimed that, on March 27, 1989, they authorized Cecilio T. Manzanilla and his family to occupy the lot and to construct a house on it.[14]

To the Dolor Spouses' surprise, in October 1999, petitioner Gatmaytan filed an ejectment suit against Encarnacion Vda. De Manzanilla and her family.[15] Gatmaytan anchored her ejectment suit on her claim that she was the registered owner of the lot.[16]

In response, the Dolor Spouses filed against Gatmaytan and Cammayo the Complaint for Reconveyance of Property and Damages, which gave rise to the present Petition.[17]

In her Answer, Gatmaytan claimed that the Deed of Sale between the Dolor Spouses and Cammayo was never registered.[18] She explained that the lot was a portion of a larger 5,001 square meter parcel, which Cammayo had earlier conveyed to her.[19] She further averred that the Dolor Spouses' action was barred by prescription as they failed to enforce their rights for 11 years.[20]

In his Answer, Cammayo acknowledged executing a Deed of Sale in favor of the Dolor Spouses.[21] He added that he entered into an agreement with Gatmaytan for the latter to defray the expenses for the payment of real estate taxes, and the segregation of the title covering the portion sold to the Dolor Spouses from the larger, 5,001 square meter, parcel.[22] Per this agreement, Gatmaytan was to have the larger parcel titled in her name with the condition that Gatmaytan would deliver to the Dolor Spouses the segregated portion and TCT covering it.[23]

On March 27, 2006, the Quezon City Regional Trial Court, Branch 223 rendered a Decision ordering Gatmaytan to convey the lot to the Dolor

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13 Id. at 53.
14 Id. at 40.
15 Id.
16 Id.
17 Id.
18 Id.
19 Id.
20 Id.
21 Id.
22 Id. at 41.
23 Id.

Spouses.[24]

On June 16, 2006, Gatmaytan filed her Motion for Reconsideration,[25] which was denied by the trial court on August 28, 2006.[26]

Gatmaytan then filed an Appeal with the Court of Appeals.

In its assailed March 24, 2011 Decision,[27] the Court of Appeals, Sixth Division, dismissed Gatmaytan's Appeal. It ruled that the Regional Trial Court's March 27, 2006 Decision had already attained finality as Gatmaytan filed her Motion for Reconsideration beyond the requisite 15-day period. This ruling was anchored on the following factual observations:

First, the Regional Trial Court's Decision was rendered on March 27, 2006;[28]

Second, per the registry return receipt attached to the back portion of the last page of the Regional Trial Court's Decision, Gatmaytan's counsel, Atty. Raymond Palad (Atty. Palad), received a copy of the same Decision on April 14, 2006;[29] and

Finally, Gatmaytan filed her Motion for Reconsideration only on June 16, 2006.[30]

Gatmaytan then filed a Motion for Reconsideration.[31]

In its assailed August 9, 2011 Resolution,[32] the Court of Appeals denied Gatmaytan's Motion for Reconsideration. It emphasized that the Receipt at the back of the last page of the Regional Trial Court's Decision indicated that a copy of the same Decision was received by a certain Maricel Luis (Luis), for and on behalf of Atty. Palad, on April 14, 2006.[33] The Court of Appeals added that previous orders of the Regional Trial Court were likewise received by Luis, and that Luis' authority to receive for Atty. Palad had never been questioned.[34]

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24 Id. at 52–67.
25 Id. at 42.
26 Id. at 42–43.
27 Id. at 38–47.
28 Id. at 45.
29 Id. at 45–46.
30 Id. at 45.
31 Id. at 131–138.
32 Id. at 49–50.
33 Id.
34 Id. at 50.

Gatmaytan filed the Present Petition.[35]

Gatmaytan insists that the Regional Trial Court's March 27, 2006 Decision has not attained finality as the April 14, 2006 service was made to her counsel's former address (at No. 117 West Avenue, Quezon City) as opposed to the address (at Unit 602, No. 42 Prince Jun Condominium, Timog Avenue, Quezon City) that her counsel indicated in a June 8, 2004 Notice of Change of Address[36] filed with the Regional Trial Court. Gatmaytan adds that the Regional Trial Court noted the change of address in an Order[37] of the same date, and directed that, from then on, service of papers, pleadings, and processes was to be made at her counsel's updated address at Unit 602, No. 42 Prince Jun Condominium, Timog Avenue, Quezon City.[38]

In support of the present Petition, Gatmaytan attached a copy of the Regional Trial Court's March 27, 2006 Decision.[39] On its last page is a typewritten text, which indicates that a copy of the same Decision was furnished to:

> Atty. Raymond Palad
> Counsel for Gatmaytan
> No. 117 West Ave., Quezon City[40]

The same last page of the copy of the Regional Trial Court's Decision indicates, in handwritten text:

> Mailed also to
> Atty. Raymond Palad at:
> Unit 602, No. 42 Prince Jun Condominium
> Timog Ave., Quezon City[41]

For resolution is the sole issue of whether the Regional Trial Court's March 27, 2006 Decision has already attained finality thus, precluding the filing of petitioner Mercedes S. Gatmaytan's appeal with the Court of Appeals.

I

It is elementary that "[a]ppeal is not a matter of right but a mere

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35 Id. at 3–37.
36 Id. at 141–142.
37 Id. at 143.
38 Id. at 25.
39 Id. at 52–67.
40 Id. at 67.
41 Id.

statutory privilege."[42] As such, one who wishes to file an appeal "must comply with the requirements of the rules, failing in which the right to appeal is lost."[43]

It is just as basic that a judgment can no longer be disturbed, altered, or modified as soon as it becomes final and executory;[44] "nothing is more settled in law."[45] Once a case is decided with finality, the controversy is settled and the matter is laid to rest.[46] Accordingly,

> [a final judgment] may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.[47]

Once a judgment becomes final, the court or tribunal loses jurisdiction, and any modified judgment that it issues, as well as all proceedings taken for this purpose are null and void.[48]

This elementary rule finds basis in "public policy and sound practice that at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law."[49] Basic rationality dictates that there must be an end to litigation. Any contrary posturing renders justice inutile, reducing to futility the winning party's capacity to benefit from the resolution of a case.[50]

In accordance with Rule 36, Section 2 of the 1997 Rules of Civil Procedure, unless a Motion for Reconsideration is timely filed, the judgment or final order from which it arose shall become final:

> Section 2. Entry of Judgments and Final Orders. — *If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry.* The record shall

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42 *BPI Family Savings Bank v. Pryce Gases,* 668 Phil. 206, 215 (2011) [Per J. Carpio, Second Division].
43 Id. citing *Stolt-Nielsen Services, Inc. v. NLRC*, 513 Phil. 642, 653 (2005) [Per J. Garcia, Third Division].
44 *Industrial Timber Corp. v. Ababon*, 515 Phil. 805, 816 (2006) [Per J. Ynares-Santiago, First Division].
45 *Filipro, Inc. v. Permanent Savings & Loan Bank*, 534 Phil. 551, 560 (2006) [Per J. Ynares-Santiago, First Division].
46 *Siy v. National Labor Relations Commission,* 505 Phil. 265, 273 (2005) [Per J. Corona, Third Division].
47 *Filipro, Inc. v. Permanent Savings & Loan Bank*, 534 Phil. 551, 560 (2006) [Per J. Ynares-Santiago, First Division].
48 *Equatorial Realty Development v. Mayfair Theater, Inc.*, 387 Phil. 885, 895 (2000) [Per J. Pardo, First Division].
49 *Filipro, Inc. v. Permanent Savings & Loan Bank,* 534 Phil. 551, 560 (2006) [Per J. Ynares-Santiago, First Division].
50 Id.

> contain the dispositive part of the judgment or final order and shall be signed by the clerk, with a certificate that such judgment or final order has become final and executory. (Emphasis supplied)

In turn, Rule 37, Section 1, in relation to Rule 41, Section 3 of the 1997 Rules of Civil Procedure, allows for 15 days from notice of a judgment or final order within which a Motion for Reconsideration may be filed.

Rule 37, Section 1 reads:

> Section 1. Grounds of and Period for Filing Motion for New Trial or Reconsideration. — *Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial* for one or more of the following causes materially affecting the substantial rights of said party:
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> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered, and produced at the trial, and which if presented would probably alter the result.
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> *Within the same period, the aggrieved party may also move for reconsideration* upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law. (Emphasis supplied)

For its part, Rule 41, Section 3 reads:

> Section 3. Period of Ordinary Appeal. — *The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from.* Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.
>
> The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed. (Emphasis supplied)

II

Reckoning the date when a party is deemed to have been given notice of the judgment or final order subject of his or her Motion for Reconsideration depends on the manner by which the judgment of final order was served upon the party himself or herself.

When, however, a party is represented and has appeared by counsel, service shall, as a rule, be made upon his or her counsel. As Rule 13, Section 2 of the 1997 Rules of Civil Procedure provides:

> Section 2. Filing and Service, Defined. —
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> ....
>
> Service is the act of providing a party with a copy of the pleading or paper concerned. *If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court.* Where one counsel appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side. (Emphasis supplied)

In *Delos Santos v. Elizalde*,[51] this Court explained the reason for equating service upon counsels with service upon the parties themselves:

> To reiterate, service upon the parties' counsels of record is tantamount to service upon the parties themselves, but service upon the parties themselves is not considered service upon their lawyers. The reason is simple—the parties, generally, have no formal education or knowledge of the rules of procedure, specifically, the mechanics of an appeal or availment of legal remedies; thus, they may also be unaware of the rights and duties of a litigant relative to the receipt of a decision. More importantly, it is best for the courts to deal only with one person in the interest of orderly procedure—either the lawyer retained by the party or the party him/herself if s/he does not intend to hire a lawyer.[52]

Rule 13, Section 9 of the 1997 Rules of Civil Procedure provides for three (3) modes of service of judgments or final orders: first, personal service; second, service by registered mail; and third, service by publication. It reads:

> Section 9. Service of Judgments, Final Orders or Resolutions. — Judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party.

Rule 13, Section 10 specifies when the first two (2) modes – personal service and service by registered mail – are deemed completed, and notice upon a party is deemed consummated:

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51 543 Phil. 12 (2007) [Per J. Velasco, Second Division].

52 Id. at 26.

> Section 10. Completeness of Service. — Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing, unless the court otherwise provides. *Service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever date is earlier.* (Emphasis supplied)

III

While petitioner filed a Motion for Reconsideration of the Regional Trial Court's March 27, 2006 Decision,[53] there is a dispute as to the date from which the 15-day period for filing a Motion for Reconsideration must be reckoned. That is, there is a dispute as to when petitioner was given notice of the Decision. The Court of Appeals refused to entertain petitioner's appeal reasoning that the judgment appealed from has attained finality.[54] This, according to it, is because petitioner belatedly filed her Motion for Reconsideration on June 16, 2006 considering that her counsel supposedly received notice of it on April 14, 2006.[55] Petitioner insists that the Motion was timely filed, her counsel having received notice of it only on June 1, 2006.[56]

Petitioner claims that the Court of Appeals wrongly reckoned service on April 14, 2006 as the service made on this date was upon her counsel's former address.[57] She adds that service upon her counsel's updated and correct address was made only on June 1, 2006.[58] Petitioner points out that her counsel filed with the Regional Trial Court a Notice of Change of Address. She further emphasizes that the Regional Trial Court acknowledged this change of address and issued an Order stating that, from then on, service shall be made upon the updated address. [59]

We sustain petitioner's position that the service made on her counsel's former address was ineffectual. We find however, that petitioner failed to discharge her burden of proving the specific date – allegedly June 1, 2006 – in which service upon her counsel's updated address was actually made. Having failed to establish the reckoning point of the period for filing her Motion for Reconsideration, we cannot sustain the conclusion that petitioner insists on, and which is merely contingent on this reckoning point: we cannot conclude that her Motion for Reconsideration was timely filed. Having failed to discharge her burden of proof, we are constrained to deny her Petition.

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53 *Rollo*, p. 42.
54 Id. at 45–46.
55 Id. at 26.
56 Id.
57 Id. at 27.
58 Id.
59 Id. at 25.

IV

Indeed, petitioner's counsel filed with the Regional Trial Court a Notice of Change of Address dated June 8, 2004. She attached this Notice to her Petition as its Annex "F." This Notice states:

NOTICE OF CHANGE OF ADDRESS

THE BRANCH CLERK OF COURT
Regional Trial Court, Branch 223, Quezon City

GREETINGS:

Undersigned counsel hereby manifest (sic) that ***effective June 8, 2004,*** their office address shall be at:

PALAD, LAURON & PALAD LAW FIRM
UNIT 602, NO. 42 PRINCE JUN
CONDOMINIUM, TIMOG AVENUE
QUEZON CITY

Quezon City for Manila, June 8, 2004

PALAD, LAURON &
PALAD LAW FIRM

By:

RAYMUND. P. PALAD (sgd)
Counsel for Defendant Gatmaytan
PTR No. 52151545 / 02-17-04 / QC
IBP No. 594509 / 01-10-04 / Kal. City
Roll of Attorneys No. 39140 / 3-15-94
Page No. 328, Book No. XVI[60]

Conformably, the Regional Trial Court issued an Order of the same date, noting the change of address and stating that service of paper, processes and pleadings shall, from then on, be made on petitioner's counsel's updated address:

ORDER

The Notice of Change Address (sic) dated June 8, 2004, filed by Atty. Raymund P. Palad, is **NOTED.** Let therefore said counsel be furnished with Orders and other papers coming from this court at his new address at Unit 602, No. 42 Prince Jun Condominium, Timog Avenue, Quezon City.

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[60] Id. at 141.

SO ORDERED.

Quezon City, Philippines, June 8, 2004.

RAMON A. CRUZ
Presiding Judge[61]

By its own Order, the Regional Trial Court bound itself to make service at petitioner's counsel's updated address at Unit 602, No. 42 Prince Jun Condominium, Timog Avenue, Quezon City. Thus, the service of its March 27, 2006 Decision at petitioner's counsel's former address at No. 117 West Avenue, Quezon City was ineffectual.

Service, however, was also made at petitioner's counsel's updated address. Petitioner herself acknowledges this. Precisely, it is her contention that the 15-day period in which she may file her Motion for Reconsideration must be reckoned from the date when service at this updated address was made. This date, she alleges, was June 1, 2006.

Petitioner is correct in saying that the 15-day period must be reckoned from the date when service was made at the updated address. To hold otherwise would be to condone a glaring violation of her right to due process. It is to say that she might as well not be given notice of the Decision rendered by the Regional Trial Court. In this respect, we sustain petitioner.

We, however, find ourselves unable to sustain her claim that the 15-day period must be reckoned from June 1, 2006.

V

As basic as the previously-discussed principles on appeal as a statutory privilege, finality of judgments, and service of papers, is the principle that "a party who alleges a fact has the burden of proving it."[62] A mere allegation will never suffice: "a mere allegation is not evidence, and he who alleges has the burden of proving the allegation with the requisite quantum of evidence."[63] Logically, a party who fails to discharge his or her burden of proof will not be entitled to the relief prayed for.

This court's grant of relief to petitioner is contingent on her ability to prove two (2) points: first, that the Regional Trial Court was bound to make

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61 Id. at 143.

62 *Dela Llana v. Biong*, G.R. No. 182356, December 4, 2013, 711 SCRA 522, 534 [Per J. Brion, Second Division].

63 *Clado-Reyes v. Limpe*, 579 Phil. 669, 677 (2008) [Per J. Quisumbing, Second Division].

service at her counsel's updated address; and second, that service at this address was made on June 1, 2006, and not on an earlier date. While petitioner has successfully shown that service to her counsel's former address was ineffectual, she failed to prove that service on her counsel's updated address was made only on June 1, 2006.

Petitioner attached the following annexes in support of the Petition she filed with this court:

a. Annex "A" – a certified true copy of the Court of Appeals' assailed March 24, 2011 Decision[64]

b. Annex "B" – a certified true copy of the Court of Appeals' assailed August 9, 2011 Resolution[65]

c. Annex "C" – a photocopy of the Regional Trial Court's March 27, 2006 Decision[66]

d. Annex "D" – a copy of the Brief she filed before the Court of Appeals[67]

e. Annex "E" – a copy of the Motion for Reconsideration she filed before the Court of Appeals[68]

f. Annex "F" – a copy of the Notice of Change of Address filed with the Regional Trial Court by her counsel[69]

g. Annex "G" – a photocopy of the Regional Trial Court's June 8, 2004 Order[70]

h. Annex "H" – a copy of the respondents' Comment / Opposition to her Formal Offer of Evidence filed with the Regional Trial Court[71]

i. Annex "I" – a copy of respondents' Memorandum filed with the Regional Trial Court[72]

Annexes "C," "F," "G," "H," and "I" are crucial to petitioner's claim that service of the March 27, 2006 Decision to her counsel's former address was ineffectual. In addition to what we previously discussed was the

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64 *Rollo*, pp. 38–48.
65 Id. at 49–51.
66 Id. at 52–67.
67 Id. at 68–130.
68 Id. at 131–140.
69 Id. at 141–142.
70 Id. at 143.
71 Id. at144–146.
72 Id. at 147–158.

importance of the Notice of Change of Address and the ensuing Order of the Regional Trial Court. Annexes "H" and "I" indicate that the respondents themselves started serving copies of their submissions and pleadings with petitioner's counsel's updated address, in conformity with the Regional Trial Court's June 8, 2004 Order.

None, however, of the documents that petitioner adduced before this Court attests to the truth of her allegation that service to her counsel's new and correct address was made only on June 1, 2006.

In her Petition, petitioner alluded to a "'[r]eceipt' attached at the back of the [Regional Trial Court's March 27, 2006] decision."[73] No copy of this receipt, however, was produced by petitioner. In all of the 16 pages of the Regional Trial Court's Decision that petitioner submitted as Annex "C" of her Petition, the only references made to the mailing of the Decision to her counsel are: first, the previously mentioned typewritten and handwritten texts indicating mailing to both her counsel's former address and updated address; and second, a stamped notation that stated:

> RELEASED BY REGISTERED MAIL
> DATE 3/31/06 By: [signature appears][74]

Neither of these attests to June 1, 2006 as the date of delivery to her counsel.

In *Cortes v. Valdellon*,[75] this Court noted the following as acceptable proofs of mailing and service by a court to a party: (1) certifications from the official Post Office record book and/or delivery book; (2) the actual page of the postal delivery book showing the acknowledgment of receipt; (3) registry receipt; and (4) return card.[76]

Petitioner could have produced any of these documents or other similar proof to establish her claim. She did not. All she has relied on is her bare allegation that delivery was made on June 1, 2006. It is as though belief in this allegation necessarily follows from believing her initial claim

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[73] Id. at 23.

[74] Id. at 67.

[75] 162 Phil. 745 (1976) [Per J. Teehankee, First Division].

[76] Id. at 751–753.
Said the court:
The certifications from the official record book and delivery book of the Post Office together with the very page of the delivery book showing the acknowledgment of receipt on January 27, 1972 of the registered mail matter as per signature of respondents' counsel's authorized clerk are the direct and primary evidence of completion of service, even more so than the registry receipt and return card which the Rule accepts as such proof of service for practical purposes (since it would be too cumbersome to require similar detailed certifications and exhibits as those presented by petitioner as proof of service for each of the tens if not hundreds of thousands of registered mail matter involved in court proceedings).

that service to her counsel's former address was ineffectual.

Petitioner's own, voluntary reference to a "'[r]eceipt' attached at the back of the [Regional Trial Court's March 27, 2006] decision"[77] suggests that she herself had access to this receipt and could have presented a copy of it to this Court. The fact that she did not present it implies negligence, or worse, calls into operation the presumption "[t]hat evidence willfully suppressed would be adverse if produced."[78] Regardless, it remains that she failed to prove what she claimed.

Petitioner similarly alludes to the Regional Trial Court's supposed realization of its error and subsequent action to correct its mistake:

> On account of this mistake and realizing that Atty. Raymond Palad only received a copy of the decision on 01 June 2006 (*see Affidavit of Atty. Raymond Palad, attached to Motion for Reconsideration, Annex "E", hereof*), the court *a quo* resolved the motion for reconsideration on the merits and gave due course to Gatmaytan's Notice of Appeal. The Hon. Court of Appeals – Sixth Division should have done the same thing.[79] (Emphasis in the original)

As with the "receipt" she had earlier adverted to, petitioner could just as easily have presented to this Court a copy of the Regional Trial Court's Resolution, which supposedly resolved her Motion for Reconsideration on the merits as opposed, presumably, to denying it on the technical ground that it was filed beyond the 15-day period. This would supposedly reveal that the Regional Trial Court realized its mistake and corrected it. She did not present this.

Instead of producing the Regional Trial Court's Resolution, petitioner adduced a copy of a Motion for Reconsideration. Even then, what she annexed was a ***not a copy of the Motion for Reconsideration she filed with the Regional Trial Court*** *but a copy of the Motion for Reconsideration dated April 12, 2011, which she filed with the Court of Appeals*. This was a Motion for Reconsideration she filed in response to the presently assailed March 24, 2011 Court of Appeals Decision, not to the Regional Trial Court's March 27, 2006 Decision.

Again, petitioner's failure to attach the correct annexes to her Petition could be attributed to mere inadvertence or negligence. We shudder to think however, that this could just as possibly be an indication of how petitioner makes an allegation but wilfully refuses to produce proof – indeed, suppresses proof – of what she alleges. Worse, her explicit reference to a

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77 Id. at 23.
78 RULES OF COURT, Rule 131, sec 3 (e).
79 *Rollo*, p. 26.

Motion for Reconsideration filed with the Regional Trial Court, only to present something entirely different, could indicate an attempt to mislead this Court into blindly accepting her allegations.

As with the missing receipt however, regardless of whether petitioner failed to attach it deliberately or out of mere inadvertence, what remains is that petitioner failed to prove what she claimed.

Lacking evidentiary basis, petitioner's contention that service upon her counsel's updated and correct address was made only on June 1, 2006 cannot be sustained. As her plea for relief hinges on this singular detail, we are constrained to deny such. Bereft of any avenue for revisiting the Regional Trial Court's March 27, 2006 Decision, its findings and ruling must stand.

WHEREFORE, the Petition for Review on Certiorari is **DENIED**, the assailed March 24, 2011 Decision and August 9, 2011 Resolution of the Court of Appeals, Sixth Division, in CA-G.R. CV No. 88709 are **AFFIRMED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

FRANCIS H. JARDELEZA
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

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.

MARIA LOURDES P. A. SERENO
Chief Justice