



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PHILIPPINE NATIONAL BANK,
Petitioner,

G.R. No. 207377

Present:

GESMUNDO, C.J.,
Chairperson,
 HERNANDO,
 ZALAMEDA,
 ROSARIO, and
 MARQUEZ, JJ.

- versus -

**SPOUSES NESTOR AND
 FELICIDAD VICTOR and
 SPOUSES REYNALDO and
 GAVINA VICTOR.**

Respondents.

Promulgated:

JUL 27 2022

X-----X

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ assails the December 21, 2012 Decision² and the April 29, 2013 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 121847, which dismissed petitioner Philippine National Bank's (PNB) Petition for *Certiorari*⁴ and denied PNB's Motion for Reconsideration,⁵ respectively.

¹ *Rollo*, pp. 10-A-25.

² Id. at 31-42. Penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Normandie B. Pizarro and Ramon A. Cruz.

³ Id. at 28-29. Penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Normandie B. Pizarro and Ramon A. Cruz.

⁴ Id. 83-105.

⁵ Id. at 43-52.

In this Petition, We are tasked to resolve whether PNB's Petition for Relief⁶ was filed within the reglementary period, and whether the alleged acts of its counsel deprived it of due process to merit relaxation of technical rules.

The Antecedents

In 2009, Spouses Nestor and Felicidad Victor and Spouses Reynaldo and Gavina Victor (collectively, respondents spouses) filed a Complaint⁷ for declaration of nullity of real estate mortgage, extra-judicial foreclosure, and cancellation of title of a parcel of land against PNB before the Regional Trial Court (RTC) of Malolos City, Branch 9. Said complaint questioned the mortgage and transfer of title in favor of PNB.⁸

PNB filed its Answer with Compulsory Counterclaim,⁹ in turn respondents spouses filed a Motion for Judgment on the Pleadings,¹⁰ to which PNB failed to file any comment or opposition.¹¹ The complaint was deemed submitted for decision.¹² In April 2011, the RTC of Malolos City, Branch 9 adjudged that PNB's extra-judicial foreclosure proceedings as null and void, hence, it cancelled PNB's title on the subject properties.¹³ It likewise denied PNB's Motion for Extension of Time to File a Motion for Reconsideration¹⁴ because of failure to strictly adhere to the 15-day period provided under the rules.¹⁵

In June 2011, the RTC of Malolos City, Branch 9 denied PNB's Motion to Nullify Proceedings with Opposition to Motion for Issuance of Writ of Execution,¹⁶ because PNB's counsel failed to appear during the hearing for said motion.¹⁷ In July 2011, the RTC of Malolos City, Branch 9 granted the Motion for Issuance of Writ of Execution.¹⁸

On July 15, 2011, PNB filed a Petition for Relief¹⁹ asseverating that it was deprived of due process because it failed to present its defenses due to the gross negligence of its previous counsel.²⁰

⁶ Id. at 59-73.

⁷ CA rollo, pp. 30-38.

⁸ Rollo, p. 32.

⁹ CA rollo, pp. 70-75.

¹⁰ Id. at 80-91.

¹¹ Rollo, p. 32.

¹² Id. at 32-33.

¹³ Id. at 33.

¹⁴ Id.

¹⁵ Id.

¹⁶ CA rollo, pp. 93-96.

¹⁷ Rollo, p. 33.

¹⁸ Id. at 34.

¹⁹ CA rollo, pp. 99-115.

²⁰ Rollo, p. 34.

Ruling of the Regional Trial Court

On August 12, 2011 Order,²¹ the RTC of Malolos City, Branch 9 resolved to deny said petition as it was filed out of time.²² The trial court anchored its denial on Section 3, Rule 38²³ of the Rules of Court. It reads:

It has been held that sixty days begin to run from the date the petitioner's lawyer is notified of the decision, x x x, and that the filing of a Motion for Reconsideration did not suspend the period provided for in Rule 38. x x x.

Perusal of the record shows that a copy of the Decision dated April 19, 2011 was received by its then counsel Atty. Nye Orquillas on April 27, 2011. Hence, defendant bank has sixty (60) days therefrom or until June 27, 2011 within which to file the instant petition.

However, as borne out by the records, the instant Petition for Relief was filed by registered mail only on July 15, 2011. Furthermore, if the filing and pendency of a motion for reconsideration cannot toll the period for filing the instant petition, more so that a mere motion for extension of time to file a motion for reconsideration or the denial thereof will not affect the period for filing a petition for relief.

IN VIEW OF THE FOREGOING, the Petition for Relief is hereby DENIED for having been filed out of time.

SO ORDERED.²⁴

Aggrieved, PNB filed a Petition for *Certiorari*²⁵ under Rule 65 of the Rules of Court before the CA raising the following grounds for the allowance of the petition, to wit:

I. PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN RULING THAT NOTICE TO PETITIONER'S COUNSEL IS NOTICE TO PETITIONER.

²¹ CA rollo, pp. 28-29.

²² Id. at 34-35.

²³ *Time for Filing Petition; Contents and Verification.* — A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

²⁴ CA rollo, p. 29.

²⁵ Rollo, pp. 83-105.

II. PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DENIED THE PETITION FOR RELIEF FOR HAVING BEEN FILED OUT OF TIME.²⁶

Ruling of the Court of Appeals

In its December 21, 2012 Decision,²⁷ the appellate court dismissed the petition.²⁸ It initially observed that PNB failed to attach the required pleadings for a petition for *certiorari*. This failure alone would be sufficient to warrant dismissal of the petition.²⁹ However, even based on the substance of the petition, the appellate court found no merit in the averment of PNB. It resolved that strict compliance with the periods set forth in Rule 38 is required because a petition for relief from judgment is a final act of liberality. Following the period, the last day to file such petition would have been June 27, 2011, yet PNB filed the same only on July 15, 2011.³⁰ Furthermore, despite the alleged gross negligence of PNB's counsel, the appellate court held that PNB was not deprived of due process as it was given the opportunity to be heard such that notices were sent to its counsel and an answer was filed in response to the complaint. PNB had the chance to present its side of the issue. The appellate court concluded that PNB was bound by any action of its counsel in the conduct of the case, otherwise, there would be no end to litigation.³¹

The decretal portion of the appellate court's Decision reads:

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.³²

The appellate court likewise denied PNB's Motion for Reconsideration³³ in a Resolution³⁴ dated April 29, 2013.

Thus, PNB elevated the case before this Court *via* the present Petition for Review on *Certiorari*³⁵ on the following grounds:

²⁶ Id. at 90.

²⁷ Id. at 31-42.

²⁸ Id. at 41.

²⁹ Id. at 36-37.

³⁰ Id. at 38-39.

³¹ Id. at 40-41.

³² Id. at 41.

³³ Id. at 28.

³⁴ Id. at 28-29.

³⁵ Id. at 10-A-25.

I. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT DISMISSED THE BANK'S PETITION FOR *CERTIORARI* UNDER RULE 65 OF THE RULES OF COURT.

II. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT DENIED THE BANK'S MOTION FOR RECONSIDERATION.³⁶

PNB essentially contends that the appellate court disregarded the fact that it only knew of its counsel's negligent filing of the Motion for Extension to File Motion for Reconsideration on May 18, 2011, when it already lost the period to file an appeal or any remedy other than a petition for relief from judgment. Consequently, it never had the opportunity to present and prove its case.³⁷ Furthermore, it avers that the omissions and negligence of its counsel resulted to the abandonment and total disregard of its case, and that the application of technical rules should be relaxed when it would result to the deprivation of the client's liberty or property.³⁸ Also, PNB expounds on instances when adherence to the technical rules may be excused.³⁹ In drawing its last straw, PNB likewise asseverates that it was never remiss of its duties as client for it instructed its counsel to move for the proper remedy, hence, it had no participatory negligence.⁴⁰

Our Ruling

The Petition lacks merit.

The crux of the controversy revolves around Sections 1 and 3 of Rule 38 of the Rules of Court. Said provisions read in this wise:

SECTION 1. *Petition for relief from judgment, order, or other proceedings.* — When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court **through fraud, accident, mistake, or excusable negligence**, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

x x x x

SECTION 3. *Time for filing petition; contents and verification.* — A petition provided for in either of the preceding sections of this Rule **must be verified, filed within sixty (60) days after the petitioner learns of the**

³⁶ Id. at 14.

³⁷ Id. at 15-16.

³⁸ Id. at 16-17.

³⁹ Id. at 18-21.

⁴⁰ Id. at 22.

judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be. (Emphases supplied)

The appellate court committed no reversible error in dismissing PNB's Petition for *Certiorari* and in denying the latter's Motion for Reconsideration. The RTC of Malolos City, Branch 9 acted within the bounds of the law in issuing the August 12, 2011 Order⁴¹ which denied PNB's petition for relief from judgment.⁴²

The following requirements must be shown in order for a petition for relief from judgment to prosper. *First*, no adequate remedy such as a motion for new trial or an appeal is available to the petitioner. *Second*, the petitioner was prevented through fraud, accident, mistake, or excusable negligence from availing said remedies. *Third*, the petitioner should comply with the twin-period of within 60 days from the time the petitioner learned of the judgment or final order, and not more than six months after the judgment or final order was entered, in filing the petition for relief from judgment.⁴³

The twin-period is mandatory, jurisdictional, and must be strictly complied with, otherwise, the petition may be dismissed outright.⁴⁴ Evidently, PNB failed to file its petition for relief from judgment within the twin-period.

As correctly observed by the appellate court, PNB's counsel was notified of the decision on April 27, 2011; however, the Petition for Relief from judgment was filed only on July 15, 2011, or beyond the 60th day which fell on June 27, 2011 (June 26, 2011 being a Sunday).⁴⁵ PNB's averment, that the reckoning period should have been counted from May 18, 2011, the time it had knowledge of its counsel's gross negligence when it received the trial court's denial of the Motion for Extension of Time to File Motion for Reconsideration, is misplaced. It has been a long-standing principle that notice sent to a counsel of record is equivalent to notice to the client-litigant. Hence, the correct reckoning point of the twin-period was when PNB's counsel received the

⁴¹ CA rollo, pp. 28-29.

⁴² Rollo, pp. 59-72.

⁴³ *Duremdes v. Jorilla*, G.R. No. 234491, February 26, 2020, citing *City of Dagupan v. Maramba*, 738 Phil. 71, 95 (2014).

⁴⁴ *Id.*

⁴⁵ Rollo, p. 39.

decision on April 27, 2011. *Taningco v. Fernandez*⁴⁶ is reflective to such effect:

When a party is represented by counsel of record, service of orders and notices must be made upon said attorney. 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.⁴⁷ (Citations Omitted)

PNB's failure to observe the twin-period alone merits the outright dismissal of its Petition for Relief. However, PNB is steadfast in its claim that it was deprived of its day in court because its counsel: (1) failed to file a comment or opposition to a motion for judgment on the pleadings; (2) filed a motion for extension of time to file a motion for reconsideration; (3) did not notify it of the trial court's Decision dated April 27, 2011; and (4) did not appear at the hearing in order to oppose the motion for execution of judgment.⁴⁸ For PNB, these negligent acts resulted in a total disregard of its case, hence, it was deprived of its property without having the opportunity to present its defenses and side of the controversy. Consequently, PNB asserts that the strict application of the technical rules must be relaxed.⁴⁹

This Court is not convinced. In *Duremdes v. Jorilla*,⁵⁰ excusable negligence was characterized as "so gross 'that ordinary diligence and prudence could not have guarded against it.' This excusable negligence must also be imputable to the party-litigant and not to his or her counsel whose negligence binds his or her client."⁵¹ However, this admits of exceptions:

Nevertheless, this court has relaxed this rule on several occasions such as: "(1) where [the] reckless or gross negligence of counsel deprives the client of due process of law; (2) when [the rule's] application will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so require." Certainly, excusable negligence must be proven.⁵²

In *Spouses Que v. Court of Appeals*,⁵³ this Court adjudged that clear abandonment of the client's cause must be established in order that the exception would apply, viz.:

⁴⁶ G.R. No. 215615, December 9, 2020.

⁴⁷ Id.

⁴⁸ *Rollo*, p. 16.

⁴⁹ Id. at 17-21.

⁵⁰ G.R. No. 234491, February 26, 2020, citing *City of Dagupan v. Maramba*, 738 Phil. 71, 90 (2014).

⁵¹ Id.

⁵² Id.

⁵³ 504 Phil. 616 (2005).

Petitioners nevertheless seek exemption from the above rule because their counsels' negligence allegedly deprived them of their day in court and, if the ruling of the Court of Appeals stands, they will suffer deprivation of property without due process of law.

X X X X

For a claim of counsel's gross negligence to prosper, nothing short of clear abandonment of the client's cause must be shown. Here, what petitioners' first, second, and third counsels did was fail to file the Answer, file a belated and defective motion for reconsideration or new trial, and belatedly and erroneously file a petition for relief from judgment, respectively. While these acts and omissions can plausibly qualify as simple negligence, they do not amount to gross negligence to justify the annulment of the proceedings below.⁵⁴ (Citation omitted)

In this instant case, the alleged negligent acts of PNB's counsel did not deprive it of due process or the opportunity to be heard as it was in fact able to submit its answer with compulsory counterclaim⁵⁵ to the complaint, and subsequently the trial court resolved the case upon motion for judgment on the pleadings. The essence of due process is to afford parties a reasonable opportunity to be heard in order to defend and support their case, and the prohibition points to the total and absolute absence of such opportunity to be heard.⁵⁶ PNB, by filing its answer with compulsory counterclaim, had a chance to forward its case, hence, it was not deprived of due process, and resultantly there was no outright deprivation of its property.

All told, the appellate court committed no reversible error. As it aptly concluded:

To cater to petitioner's arguments and reinstate its petition for relief from judgment would put a premium on the negligence of its former counsel and encourage the non-termination of this case by reason thereof. After all, if the negligence of counsel be admitted as a reason for opening cases, there would never be an end to a suit so long as a new counsel could be hired every time it is shown that the prior counsel had not been sufficiently diligent, experienced or learned. X X X.⁵⁷

WHEREFORE, the Petition is **DENIED**. The assailed December 21, 2012 Decision and the April 29, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 121847 are **AFFIRMED**.

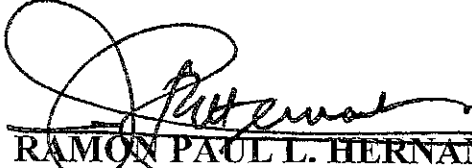
⁵⁴ Id. at 626-627.

⁵⁵ CA rollo, pp. 70-75.

⁵⁶ *In Re: Abellana v. Paredes*, G.R. No. 232006, July 10, 2019.


⁵⁷ Rollo, p. 41.

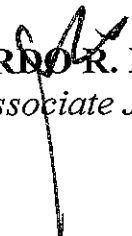
SO ORDERED.

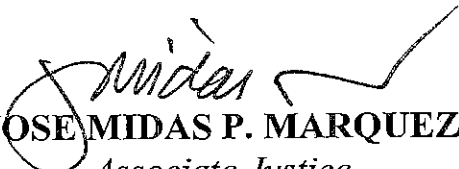

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

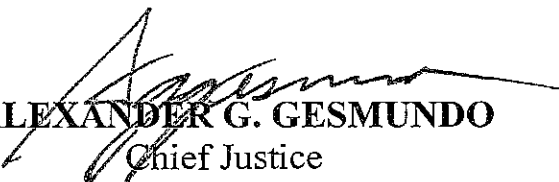

RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


ALEXANDER G. GESMUNDO
Chief Justice