



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **September 7, 2022**, which reads as follows:*

G.R. No. 237910 — BENJAMIN A. EUGENIO, petitioner, versus REGISTER OF DEEDS OF QUEZON CITY, respondent. The Court resolves to **NOTE**:

- (1) petitioner's Manifestation and Motion dated September 10, 2021, stating that a considerable time had already lapsed since the issuance of the Show Cause Resolution dated December 9, 2020 requiring respondent to file its comment on the petition for *certiorari*, hence, he is requesting that he be notified if the respondent had already complied with the Resolutions dated June 6, 2018 and December 9, 2020, respectively, and **GRANT** his prayer that he be furnished with a proper notice or proof of such compliance, otherwise, respondent should be held in contempt of court and that a proper penalty be meted against it;
- (2) the Office of the Solicitor General's (OSG) Manifestation and Motion dated September 22, 2021, stating that it has neither received the petition filed by petitioner nor the Court's Resolutions dated June 6, 2018 and December 9, 2020, hence, praying that petitioner be ordered to furnish the OSG a copy of the same and **GRANT** its prayer of a fresh period of thirty (30) days from receipt thereof within which to file the required comment;
- (3) petitioner's Manifestation dated March 2, 2022, stating that his former counsel failed to furnish the OSG a copy of the petition and its annexes, hence, to enable the OSG to evaluate the petition and determine appropriate action, the OSG has been furnished with copies of the instant petition as well as subsequent pleadings filed by him; and
- (4) said Comment dated March 22, 2022 of the OSG.

RESOLUTION

The sole issue before the Court in the instant case is whether *mandamus* may issue to compel the Register of Deeds to reinstate the Transfer Certificate of Title (TCT) No. (12662) T-106531 in the name of Elias Eugenio (Elias). On this threshold question, the Court finds that in the event that a duty to reinstate becomes non-ministerial in nature by virtue of a supervening issue after the final and executory judgment, *mandamus* may not lie.

This petition for *mandamus*¹ stems from an action for declaration of nullity of contracts, reconveyance of real property, cancellation of title to real property and damages filed before Branch 104, Regional Trial Court of Quezon City (RTC) by petitioner Benjamin A. Eugenio (petitioner), in his behalf and in behalf of his mother Melitona *vda.* De Eugenio, and sisters Trinidad Eugenio Nugoy, Pacita Eugenio Simbulan and Zenaida Eugenio Pascual, against Roberto C. Nolasco (Nolasco), Julian F. Salcedo (Salcedo), Bing Chua, Jr. (Chua), Michael O. Tanchanco, Salud Tanchanco, Aurora Flores (Flores), Juanita F. Anagaran (Anagaran), Margarita E. Pobre (Pobre), Melinda A. Bugayong (Bugayong) (collectively, Nolasco, *et al.*) and the Register of Deeds of Quezon City (respondent).²

Facts

The facts that led to the instant petition are undisputed.

Petitioner, his mother and his sisters are the only legal heirs and successors of Aguedo Eugenio (Aguedo), and Aguedo, in turn, is the son of Elias Eugenio (Elias). Petitioner averred that upon the death of Elias on November 30, 1950, he left Aguedo, by way of inheritance, a parcel of land known as Lot 827 of the Piedad Estate, located in Barrio Culiati in Quezon City and covered by TCT No. 12662 (subject property). It is further alleged that the original copy of TCT No. 12662 kept with respondent, as well as the owner's duplicate copy, were lost; and that sometime in 1984, Aguedo sought the assistance of Nolasco and Salcedo, both lawyers, for the reconstitution of TCT No. 12662, and the same was successfully reconstituted as TCT No. T-106531, as shown in the following entry by respondent:

Entry No. 633/T-12662. RECONSTITUTION – By virtue of a Court Order dated November 20, 1984 under LRC Case No. 061-M, RTC Branch LXXIV, Morong, Rizal which Order was affirmed by the Court of Appeals in CA G.R. SP No. 23773 and finally affirmed by the Supreme Court, First Division sitting En Banc under G.R. No. 100643 and by virtue of an Order dated January 19, 1993 of RTC Branch 79, Morong, Rizal, the Register of Deeds for

¹ *Rollo*, pp. 3-5.

² *Id.* at 6.

the Province of Rizal was ordered by the said Court to proceed with the reconstitution of this certificate of title in lieu of the Registry of Deeds and the Owner's Duplicate Certificate copy. Date of instrument: Nov. 20, 1984. Date of Inscription: Jan. 15, 1993 at 11:12 a.m.

VICENTE A. GARCIA
Register of Deeds³

Petitioner averred that after Aguedo's death on October 10, 1992, petitioner inquired with Nolasco, his godfather, regarding the status of the subject property, and he was told that the same was no longer owned by Aguedo, and that it had been long sold to Nolasco and Salcedo. Petitioner maintained the contrary, that Aguedo had never sold the subject property to Nolasco or Salcedo.⁴

On March 7, 1995, Nolasco and Salcedo executed a Deed of Assignment (DoA) of rights over the undivided portions of the subject property in favor of Chua, Michael O. Tanchanco, Salud Tanchanco, Flores, Anagaran, Pobre, and Bugayong.⁵

On April 6, 1995, TCT No. 12662 was cancelled, and a new title, TCT No. 128947, was registered by respondent in the names of Nolasco and Salcedo, on the basis of an extrajudicial settlement of estate of Elias with sale executed on February 4, 1984 in their favor.⁶ On file with the Archives Division, Records Management and Archives Office is an almost identical extrajudicial settlement of the estate of Elias with sale, with the only difference pertaining to the document number indicated upon notarization.⁷

A few days later, or on April 19, 1995, the DoA was annotated on TCT No. 128947 in the name of Nolasco and Salcedo.⁸

During the trial, the RTC focused on whether the extrajudicial settlement was authentic or falsified. It was later persuaded that Aguedo's apparent signature in the extrajudicial settlement document was suspect. Particularly, the court gave credence to the Questioned Documents Report of Mr. Eliodoro Constantino, a handwriting expert of the National Bureau of Investigation, who assessed that the questioned signatures of Aguedo in the two separate sets of extrajudicial settlements with sales were not written by one and the same person, thus:

PURPOSE OF EXAMINATION:

³ Id. at 20.

⁴ Id. at 8

⁵ Id. at 20.

⁶ Id. at 20-21.

⁷ Id.

⁸ Id.

To determine the following:

x x x x

2. Whether or not the questioned signatures 'AGUEDO EUGENIO' marked as 'Q-1', 'Q-2', 'Q-3' and 'Q-4' were written by one and the same person.

FINDINGS:

Scientific comparative examination and analysis of the specimens submitted under stereoscopic microscope and magnifying lenses, with the aid of photographic enlargements (Comparison Charts), reveal the following:

x x x x

2. There exist fundamental, significant differences in writing characteristics between the questioned signatures 'AGUEDO EUGENIO' marked 'Q-1' and 'Q-2' on one hand, and the questioned signatures 'AGUEDO EUGENIO' marked 'Q-3' and 'Q-4' on the other hand, such as in:

- Structural patten[n] of letters/elements
- Manner of execution of strokes
- Size and proportion characteristics
- Other minute identifying details

CONCLUSION:

x x x x

2. Per foregoing FINDINGS (2) above, the questioned signatures 'AGUEDO EUGENIO' (marked Q-1 and Q-2), on one hand, and the questioned signatures 'AGUEDO EUGENIO' (marked 'Q-3' and 'Q-4') on the other hand, WERE NOT WRITTEN by one and the same person.⁹

In its Decision¹⁰ dated January 14, 2008, the RTC nullified the extrajudicial settlement of the estate of Elias with sale and TCT No. 128947, thus:

With such flaw in the notarization of the two documents, coupled with the finding that the signatures in the two documents

⁹ Id. at 24.

¹⁰ Id. at 6-26. Penned by Judge Thelma A. Ponferrada.

were not written by one and the same person, the Court believes and so finds that the sale was fictitious and accordingly inexistent and void from the beginning (Article 1409 of the Civil Code). The action for declaration of the non-existence of a contract does not prescribe (Article 1410 of the Civil Code).

WHEREFORE, judgment is hereby rendered declaring the nullity of the extrajudicial settlement of the estate of deceased Elias Eugenio with sale and the issuance of Transfer Certificate of Title No. 128947 of the Register of Deeds of Quezon City in the name of Roberto C. Nolasco and Julian F. Salcedo on the basis thereof, and ordering the reinstatement of Transfer Certificate of Title No. (12662) T-106531 in the name of the deceased Elias Eugenio.

SO ORDERED.¹¹

Upon the failure of Nolasco, *et al.* to file the required Brief within the reglementary period, their appeal was considered abandoned and dismissed by the Court of Appeals (CA), in the Entry of Judgment¹² it issued on September 18, 2010, *viz.*:

Thus, for failure of defendants-appellants to file the required Brief within the reglementary period, the instant appeal is considered **ABANDONED** and **DISMISSED** pursuant to Section 1(e) Rule 50 of the 1997 Rules of Civil Procedure.

So ORDERED.¹³

The RTC Decision thereafter became final, as evidenced by the Certificate of Finality¹⁴ issued therefor dated May 20, 2011. Consequently, the RTC issued a Writ of Execution¹⁵ on September 15, 2011, and a Notice to Comply on September 16, 2011.¹⁶

However, according to the Sheriff's Partial Report¹⁷ filed on October 12, 2011, despite due notice and the payment of necessary fees, respondent failed to comply with the Writ of Execution, to wit:

That on September 30, 2011, the undersigned thru the representative of the Intervenors in the above-entitled case, presented and entered the Writ of Execution together with the supporting Court documents attached thereto before the office of the Registry of Deeds of Quezon City and paid all the required

¹¹ Id. at 25.

¹² Id. at 34-35.

¹³ Id.

¹⁴ Id. at 26.

¹⁵ Id. at 29-30.

¹⁶ Id. at 31.

¹⁷ Id. at 32-33.

necessary fees (photocopy of the Official Receipt is hereto attached and marked as Annex “C”);

That up to present, despite the lapse of reasonable time, the Registry of Deeds of Quezon City FAILED to comply with the Writ of Execution.¹⁸

Hence, this Petition.

In its Resolution¹⁹ dated June 6, 2018, the Court required respondent to file its Comment on the petition, as well as instructed the elevation of the case’s records. In the Court’s April 23, 2018 Resolution,²⁰ it further resolved to defer action on the instant petition for the issuance of a writ of *mandamus*, and instead required petitioner to comply with procedural requirements, thus:

x x x **REQUIRE** petitioner to **FULLY COMPLY** with the 1997 Rules of Civil Procedure, as amended, by submitting: (1) a certificate of non-forum shopping pursuant to Section 1, Rule 65, Sec. 3, Rule 46 in relation to Sec. 2, Rule 56 and Sec. 5, Rule 7 of the Rules; (2) a proper verification in accordance with Section 1, Rule 65 in relation to Section 4, Rule 7 of the Rules, there being no properly accomplished *jurat* showing that the affiant exhibited before the notary public at least one current identification document issued by an official agency **bearing the photograph and signature** of the affiant as required under Section 6 and 12, Rule II of the 2004 Rules on Notarial Practice, as amended by Court En Banc Resolution dated 19 February 2008 in A.M. No. 02-8-13-SC; and (3) a CD, or transmitting via e-mail a soft copy of the petition, with a verified declaration pursuant to A.M. No. 10-3-7-SC [Re: Proposed Rules on E-Filing], all within five (5) days from notice.²¹

Upon petitioner’s compliance with the above instructions of the Court,²² he later filed a Motion to Cite Respondent in Contempt of Court²³ for respondent’s unreasonable refusal to comply with the Court’s directive to file its Comment.

The Court thereafter, in its Resolution²⁴ dated December 9, 2020, required respondent to show cause as to why he should not be held in contempt for such failure to file the Comment. Similarly, the Court also required the presiding judge of the RTC to show cause as to why he should not be disciplinarily dealt with or held in contempt for the failure to have the records of the case elevated.

¹⁸ Id. at 32.

¹⁹ Id. at 38.

²⁰ Id. at 36.

²¹ Id.

²² Id. at 46-48.

²³ Id. at 52-53.

²⁴ Id. at 56.

In response, the RTC elevated the entire records of the case,²⁵ alongside a Certification that the records elevated are complete.²⁶

The Office of the Solicitor General (OSG), acting on behalf of respondent, filed its most belated Comment²⁷ on April 18, 2022, where it preliminarily submits that it did not receive a copy of the instant petition, nor did it receive this Court's Resolutions dated June 6, 2018 and December 9, 2020.²⁸ Respondent, through the OSG, reasons that his failure to comply with this Court's Resolution dated December 9, 2020 was caused by the misfiling of his documents, the lack of a receiving clerk and a records officer of his office, and the absence of a proper turnover of records by the previous receiving clerk to the temporary receiving clerk.²⁹

On the matter of the issuance of a writ of *mandamus*, respondent belatedly prays that the petition be denied due course and dismissed³⁰ on the following grounds: (i) the petition violates the hierarchy of courts;³¹ and (ii) respondent did not neglect the performance of his duties to warrant the issuance of a writ of *mandamus*.³² Respondent belatedly submits that petitioner unduly disregarded the hierarchy of courts by coming directly to this Court without alleging any special, important or compelling reason therefor.³³ It further avers that even if the petition were given due course, the prayer for the issuance of a writ of a *mandamus* should be denied since when the RTC ordered that respondent cancel TCT No. 128947 and reinstate TCT No. (12662) T-106531, respondent and the RDs before him repeatedly prayed that the RTC clarify what the RD should do with the 11 derivative titles which resulted from TCT No. 128947.³⁴ Respondent submits that a clarification was repeatedly sought from the RTC to avoid duplication of titles.³⁵ It adds that far from neglecting the duties of an RD, respondent remained faithful to it by informing the RTC of the consequences of the implementation of the RTC Decision dated January 14, 2008.³⁶

Given the elevation of the records of the case, the Court deems it proper to decide on the instant petition.

Preliminarily, with respect to respondent's failure to comply with the Court's Resolution dated December 9, 2020 which required him to file a Comment on the instant petition, the Court notes that, while the profuse apologies offered³⁷ by respondent are well-taken, the Court unfortunately deems

²⁵ Id. at 66.
²⁶ Id. at 93.
²⁷ Id. at 168-185.
²⁸ Id. at 175.
²⁹ Id. at 183.
³⁰ Id. at 184.
³¹ Id. at 176.
³² Id. at 178.
³³ Id. at 176.
³⁴ Id. at 180.
³⁵ Id. at 181.
³⁶ Id. at 182.
³⁷ Id. at 183-184.

said regrets as insufficient to excuse an overly belated compliance with the Court's order.

Plainly, poor records management has not been considered ample justification for lapses on the part of an officer.³⁸ Furthermore, the Court finds that poor record-keeping and document management should have no place in an office headed by respondent, which, as the name indicates and respondent's Comment itself professes, is the "repository of records of instruments affecting registered or unregistered lands."³⁹ Verily, an RD's admission of a lack of a filing system that ensures that all documents, court orders included, are tracked and noted is simply the poorest of excuses. As the instant case demonstrates, such inefficiency is most consequential in the matter of court cases involving titles that are in dispute, and offer no colorable justification.

In any case, a petition may be resolved notwithstanding the failure of the adverse party to file the required Comment despite notice, in accordance with Section 8, Rule 65 of the Rules of Court, *viz.*:

Section 8. *Proceedings after comment is filed.* — After the comment or other pleadings required by the court are filed, **or the time for the filing thereof has expired**, the court may hear the case or require the parties to submit memoranda. If after such hearing or submission of memoranda or the expiration of the period for the filing thereof the court finds that the allegations of the petition are true, it shall render judgment for the relief prayed for or to which the petitioner is entitled.

The court, however, may dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (Emphasis supplied)

As the Court reminded in the case of *DHL-URFA-FFW v. Buklod ng Manggagawa ng DHL Phil. Corp.*:⁴⁰

x x x Its failure to do so despite due notice is its own lookout. Indeed, when a respondent fails to file its comment within the given period, the court may decide the case on the basis of the records before it, specifically the petition and its attachments.⁴¹

It is fair, as well, to remind that the essence of due process is simply to afford one the opportunity to be heard or an opportunity to explain one's side. These requirements of due process are satisfied when the parties are afforded a

³⁸ See *Office of the Court Administrator v. Tandinco*, 773 Phil. 141 (2015).

³⁹ *Rollo*, p. 179.

⁴⁰ 478 Phil. 842 (2004).

⁴¹ *Id.* at 852.

fair and reasonable opportunity to explain and air their side,⁴² regardless of whether they meaningfully avail of the said opportunity.

Issue

Ripe, therefore, for the Court's resolution is the sole query of whether *mandamus* may issue to compel the Register of Deeds to reinstate the Transfer TCT No. (12662) T-106531 in the name of Elias.

The Court's Ruling

The petition is not impressed with merit, for while the Court deems the filing of the instant petition proper and akin to an action that shall effectively revive the judgment of the RTC for the sole purpose of its enforcement, it finds that ultimately, *mandamus* will not lie given the supervening pendency of the matter of derivative titles, which the RTC has yet to clarify.

Preliminarily, on the matter of the violation of hierarchy of courts as raised by respondent's Comment,⁴³ the procedural matter of the hierarchy of courts *vis-à-vis* a petition for *mandamus* warrants a discussion, as it lays the groundwork for whether this petition may be entertained by the Court.

Sections 3 and 4, Rule 65 of the Rules of Civil Procedure define a petition for *mandamus* and when and where it may be filed, thus:

Section 3. *Petition for mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

⁴² See *Dela Peña and Villareal v. CA*, 598 Phil. 862 (2009).

⁴³ *Rollo*, p. 176.

Section 4. *When and where petition filed.* — 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 sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days. (Emphasis supplied)

As a general rule, if the petition relates to an act or omission of a board, officer, or person, the same must be filed with the Regional Trial Court exercising jurisdiction over the territorial area as may be defined by the Court. This is consistent with the settled rule that strict adherence to the judicial hierarchy of courts has been a long-standing policy of the courts in determining the appropriate forum for initiatory actions, as the Court reminded in *Ouano v. PGTT International Investment Corp.*,⁴⁴ viz.:

[I]t is necessary to stress that a direct recourse to this Court is highly improper, for it violates the established policy of strict observance of the judicial hierarchy of courts. We need to reiterate, for the guidance of petitioner, that this Court's original jurisdiction to issue a writ of *certiorari* (as well as prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction) is *concurrent* with the Court of Appeals (CA), as in the present case, and with the RTCs in proper cases within their respective regions. **However, this concurrence of jurisdiction does not grant a party seeking any of the extraordinary writs the absolute freedom to file his petition with the court of his choice. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition. The hierarchy of courts determines the appropriate forum for such petitions.** Thus, petitions for the issuance of such extraordinary writs against the first level ("inferior") courts should

⁴⁴ 434 Phil. 28 (2002).

be filed with the RTC, and those against the latter, with the CA.⁴⁵
(Emphasis supplied)

It is important to recall that while this Court has jurisdiction to issue corrective writs of *certiorari*, prohibition, and *mandamus*, a party's choice to bring the extraordinary petition to this Court is by no means absolute. The original jurisdiction of the Supreme Court to issue writs of *certiorari* (as well as prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction) is not exclusive, and is instead shared by this Court with Regional Trial Courts which may issue the writ, enforceable in any part of their respective regions. The Court elucidated on the rationale for this concurrency in *People v. Cuaresma*:⁴⁶

The concurrent jurisdiction of courts to issue extra-ordinary writs is not, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. **There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court and those against the latter, with the Court of Appeals.** A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor clearly and specifically set out in the petition. This is established policy. **It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction and to prevent further over-crowding of the Court's docket.** The Court feels the need to reaffirm that policy at this time, and to enjoin strict adherence thereto in the light of what it perceives to be a growing tendency on the part of litigants and lawyers to have their applications for the so-called extraordinary writs, and sometime even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land.⁴⁷ (Emphasis supplied)

However, while it is a settled policy that concurrence of jurisdictions does not give a party free rein to choose which court his or her cause may be brought before, a direct invocation of this Court's original jurisdiction to issue these writs may nevertheless be allowed, insofar as there are special and important reasons therefor that are clearly and specifically set out in the petition.

⁴⁵ Id. at 34.

⁴⁶ 254 Phil. 418 (1989).

⁴⁷ See Syllabus, id. at 419-420.

In the case of *Maza v. Turla*,⁴⁸ the Court made clear that a direct recourse to this Court may be allowed under any of the following exceptional circumstances: (i) if the petition presents genuine issues of constitutionality that are best decided by this Court; (ii) if it involves issues of transcendental importance; (iii) if it is a case of first impression; (iv) in case of exigency; (v) if it pertains to a review of a constitutional organ; (vi) if there are no other plain, speedy or adequate remedy in the ordinary course of law; or (vii) if it includes dictates of public welfare or public policy, to wit:

Thus, the doctrine of hierarchy of courts is not an iron-clad rule. This court has “full discretionary power to take cognizance and assume jurisdiction [over] special civil actions for *certiorari* x x x filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues clearly and specifically raised in the petition.” As correctly pointed out by petitioners, we have provided exceptions to this doctrine:

First, a direct resort to this court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. A direct resort to this court includes availing of the remedies of [*certiorari*] and prohibition to assail the constitutionality of actions of both legislative and executive branches of the government.

x x x x

A *second* exception is when the issues involved are of transcendental importance. In these cases, the imminence and clarity of the threat to fundamental constitutional rights outweigh the necessity for prudence.

x x x x

Third, cases of first impression warrant a direct resort to this court. In cases of first impression, no jurisprudence yet exists that will guide the lower courts on this matter. x x x

x x x x

Fourth, the constitutional issues raised are better decided by this court. x x x

x x x x

⁴⁸ 805 Phil. 736 (2017).

Fifth, x x x Exigency in certain situations would qualify as an exception for direct resort to this court.

Sixth, the filed petition reviews the act of a constitutional organ x x x

x x x x

Seventh, [there is] no other plain, speedy, and adequate remedy in the ordinary course of law[.]

x x x The lack of other sufficient remedies in the course of law alone is sufficient ground to allow direct resort to this court.

Eighth, the petition includes questions that are “dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the *orders complained of were found to be patent nullities*, or the appeal was considered as clearly an inappropriate remedy.”⁴⁹

Still more, as the Court reasoned in *First United Constructors Corp. v. Poro Point Management Corp.*,⁵⁰ the direct resort to this Court will only be allowed if, as Section 3, Rule 65 provides, a plain, speedy and adequate redress is unavailable elsewhere:

In the present case, FUCC adduced no special and important reason why direct recourse to this Court should be allowed. Thus, we reaffirm the judicial policy that this Court will not entertain a direct invocation of its jurisdiction unless the redress desired cannot be obtained in the appropriate lower courts, and exceptional and compelling circumstances justify the resort to the extraordinary remedy of a writ of *certiorari*.⁵¹

Given the foregoing, the Court discerns that the instant case falls squarely within the last exceptional circumstance, *i.e.*, when the broader interests of justice so require that the direct resort be conceded.

The instant petition mainly submits that respondent’s failure to act is obstinate against a final and executory RTC Decision. The Court finds that this, alone, and far from obtuse and unconvincing, musters the degree of exceptionality that is required for the Court to overlook the required resort to lower courts first where remedy therein may be had.

In giving the instant petition due course, the Court similarly turns to its judicial prerogative to put an end to undue and unjustified delays in the full

⁴⁹ Id. at 752-754.

⁵⁰ 596 Phil. 334 (2009).

⁵¹ Id. at 342.

disposition of the case at hand, for if the Court were to act otherwise, it would be remiss in its duty to arrest any unwarranted deferral of the full closure of a controversy. As it opted in the case of *Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue*:⁵²

From the foregoing jurisprudential pronouncements, it would appear that in questioning the validity of the subject revenue memorandum circular, petitioner should not have resorted directly before this Court considering that it appears to have failed to comply with the doctrine of exhaustion of administrative remedies and the rule on hierarchy of courts, a clear indication that the case was not yet ripe for judicial remedy. **Notably, however, in addition to the justifiable grounds relied upon by petitioner for its immediate recourse (i.e., pure question of law, patently illegal act by the BIR, national interest, and prevention of multiplicity of suits), we intend to avail of our jurisdictional prerogative in order not to further delay the disposition of the issues at hand, and also to promote the vital interest of substantial justice.** To add, in recent years, this Court has consistently acted on direct actions assailing the validity of various revenue regulations, revenue memorandum circulars, and the likes, issued by the CIR. The position we now take is more in accord with latest jurisprudence. Upon the exercise of this prerogative, we are ushered into the merits of the case.⁵³ (Emphasis supplied)

As well, the Court finds it fitting to observe that the instant petition for *mandamus* falls within the prescriptive period for enforcement of judgments by action. Particularly, Section 6, Rule 39 provides for the prescriptive period for enforcements of judgments either by motion or by action, to wit:

Section 6. *Execution by motion or by independent action.* — A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. **After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action.** The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations. (Emphasis supplied)

In determining the prescriptive period for enforcement of judgments, Article 1144 (3) of the Civil Code provides:

Article 1144. The following actions must be brought within ten years from the time the right of action accrues:

1. Upon a written contract;

⁵² 792 Phil. 751 (2016).

⁵³ Id. at 760-761.

2. Upon an obligation created by law;
3. Upon a judgment.

Given that the RTC Decision was certified as final on May 20, 2011, herein petitioner had until May 2021 to seek the enforcement of the same. Since the instant petition was filed on March 27, 2018, the action is well within the prescriptive period.

However, given the proscription in Section 6, Rule 39, petitioner should have filed an original action on a judgment to revive the judgment of the RTC. On this point, the early case of *Aldeguer v. Gemelo, et al.*⁵⁴ is instructive. Speaking for the Court, Justice Manuel V. Moran explains how the judgment is transformed as a “right of action in favor” of the prevailing party when the judgment lapses without enforcement for over five years, by virtue of Section 447 of the then Code of Civil Procedure which has been largely reproduced in the present Rules, *viz.* :

There is no question that judgment was rendered more than five (5) years ago. Consequently, section, 447 of the Code of Civil Procedure, which provides that said judgment may be enforced by an action instituted in regular form, that is, by complaint, is applicable. In the case of *Compañia General de Tabacos vs. Martinez and Nolan* (29 Phil., 515), this court said that after the lapse of five (5) years, the judgment “is reduced to a mere right of action in favor of the person whom it favors which must be enforced, as are all other ordinary actions, by the institution of a complaint in the regular form.” Although section 447 is silent as to the place where the complaint should be filed, there is, however, section 377 of the same Code, which fixes the venue of actions in general. The action for the execution of a judgment for damages is a personal one, and under section 377 above-mentioned, it should be brought in any province where the plaintiff or the defendant resides, at the election of the plaintiff. As the action in the present case was brought in Iloilo where the plaintiff resides, we hold that it was duly brought therein.⁵⁵

In any case, as applied to the case at bar, given the staggering length of time in which the RTC Decision has remained unenforced, and given that the execution of the said judgments remains unjustifiably stalled, the Court here treats the instant petition for *mandamus* as the action that shall effectively revive the judgment of the RTC for the sole purpose of its enforcement.

Substantively, therefore, the only question that remains is whether, given the facts of this case, *mandamus* may lie. More particularly, the query that shall

⁵⁴ 68 Phil. 421 (1939).

⁵⁵ *Id.* at 423.

settle this case is whether the final and executory judgment of the RTC here gave rise to a clear legal right on the part of petitioner to have TCT No. (12662) T-106531 reinstated in the name of Elias, and a ministerial duty on the part of respondent to undertake the same. Standing on the two-fold basis of the nature of the extraordinary *mandamus* writ, as well as the legal consequences of a final and executory judgment as will be discussed below, the Court rules in the negative.

In the early case of *Lamb v. Phipps*⁵⁶ (*Lamb*), the Court found *mandamus* availing in order to compel a purely ministerial action that was withheld with unjustifiable delay, to wit:

Whenever a duty is imposed upon a public official and any **unnecessary delay in the exercising of such duty occurs, the courts will interfere by the extraordinary legal remedy of [mandamus] to compel action.** If the duty is purely ministerial, the courts will require *specific action*. If the duty is purely discretionary, the court, by [mandamus], will require *action only*.⁵⁷ (Emphasis supplied)

In addition, in the case of *Sanson v. Barrios*,⁵⁸ echoing *Lamb*, the Court described the extraordinary writ of *mandamus* as a remedy for “official inaction,” thus:

1. [***Mandamus***] is the proper remedy only in cases where an inferior tribunal, corporation, board, or person unlawfully neglects the performance of an act which the law specially enjoins as a duty resulting from an office, trust or station; or unlawfully excludes a person from the use and enjoyment of a right or office to which said person is entitled and from which he [or she] is precluded by such inferior tribunal, corporation, board or person, and there is no other plain, speedy and adequate remedy in the ordinary course of law x x x. (Sec. 222, Act No. 190.) The writ will not issue to compel an officer to do anything which it is not his [or her] duty to do, or to give to the applicant anything to which he [or she] is not entitled by law. It neither confers powers nor imposes duties. It is simply a command to exercise a power already possessed and to perform a duty already imposed. (*Gonzalez vs. Board of Pharmacy*, 20 Phil., 367; *Montalbo vs. Santamaria*, 54 Phil., 955, 964.) It is an extraordinary remedy, to be resorted to for the purpose of securing judicial action, not for determining in advance what that action shall be. (*Ex parte Wagner*, 249 U. S., 465, 471.)

⁵⁶ 22 Phil. 456 (1912).

⁵⁷ Id. at 474.

⁵⁸ 63 Phil. 198 (1936).

It is well established that **only specific legal rights are enforceable by [mandamus], that the right sought to be enforced must be certain and clear, and that the writ will not issue in cases where the right is doubtful.** (Viuda e Hijos de Crispulo Zamora vs. Wright and Segado, 53 Phil., 613, 621; Gonzalez vs. Board of Pharmacy, 20 Phil., 367; Montalbo vs. Santamaria, 54 Phil., 955, 964.) **It is also a fundamental principle governing the issuance of [mandamus] that the duties to be performed must be such as are clearly and peremptorily enjoined by law or by reason of official station.** (Tabigue vs. Duvall, 16 Phil., 324; Gonzalez vs. Board of Pharmacy, *supra*; Montalbo vs. Santamaria, *supra*.) The record does not show that the right the petitioner seeks to enforce and the duty claimed to devolve upon the respondent judge are of such character.

x x x x

4. **[Mandamus] is ordinarily a remedy for official inaction,** and in a large number of decisions it is either held or said that *mandamus* is not the proper remedy to compel the undoing of acts already done or the correction of wrongs already perpetrated, and that this is so even though the action taken was clearly illegal.⁵⁹ (Emphasis supplied)

Then, in the 1949 case of *Palileo v. Castro*,⁶⁰ enlightening as well is the Court's reasoning which clarifies what a "clear legal right" *vis-a-vis* a petition for *mandamus* entails:

It is a well-settled rule that **the legal right of the petitioner to the performance of the particular act which is sought to be compelled by [mandamus] must be clear and complete. A clear legal right within the meaning of this rule means a right clearly founded in, or granted by law; a right which is inferable as a matter of law.** It is essential that the claim should have been allowed by the officer vested with power to allow or reject it. **[Mandamus] will not be awarded unless the right to relief is clear at the time of the award.** If there is any discretion as to the taking or not taking of the action sought to be forced, there is not a clear case of a legal right. Nor will **[mandamus] issue to enforce a right which is in substantial dispute or as to which a substantial doubt exists, although objection raising mere technical question will be disregarded if the right is clear and the case meritorious.**⁶¹ (Emphasis supplied)

⁵⁹ Id. at 201-203.

⁶⁰ 85 Phil. 272 (1949).

⁶¹ Id. at 275.

As well, particularly instructive is the Court's ruling in *Spouses Laburada v. Land Registration Authority*,⁶² to wit:

The issuance of a decree of registration is part of the judicial function of courts and is not a mere ministerial act which may be compelled through [*mandamus*]. x x x

x x x x

Indeed, it is well-settled that the issuance of such decree is not compellable by [*mandamus*] because it is a judicial act involving the exercise of discretion. **Likewise, the writ of [*mandamus*] can be awarded only when the petitioners' legal right to the performance of the particular act which is sought to be compelled is clear and complete. Under Rule 65 of the Rules of Court, a clear legal right is a right which is indubitably granted by law or is inferable as a matter of law. If the right is clear and the case is meritorious, objections raising merely technical questions will be disregarded.** But where the right sought to be enforced is in substantial doubt or dispute, as in this case, [*mandamus*] cannot issue.

A court may be compelled by [*mandamus*] to pass and act upon a question submitted to it for decision, but it cannot be enjoined to decide for or against one of the parties. As stated earlier, a judicial act is not compellable by [*mandamus*]. The court has to decide a question according to its own judgment and understanding of the law.⁶³

As against the above operative definition of a *mandamus*, the availability of a *mandamus* in the case at bar is negated by the supervening clear pendency of the issue of treatment of the multiple derivative titles which resulted from the cancellation and subdivision of TCT No. 128947.⁶⁴ Particularly, respondent sent several letter-queries to the RTC to seek the latter's clarification on the treatment of the existing derivative titles which emanated from TCT No. 128947 since the RTC Decision was silent on the same, and in order to avoid duplication of titles. On this substantive point of query, the Court finds that respondent was justified in seeking and awaiting the RTC's clarification which, on record, remains to be received. Petitioner may, therefore, file the appropriate action as may be necessary given the declarations of respondent on the matter of the issuances of the derivative titles.

WHEREFORE, the petition for *mandamus* is **DENIED**. Nevertheless, in view of the pending substantive query of respondent Register of Deeds of Quezon City with respect to the derivative titles which originated from TCT No.

⁶² 350 Phil. 779 (1998).

⁶³ Id. at 792-794.

⁶⁴ *Rollo*, p. 180.

128947, Branch 104, Regional Trial Court of Quezon City is accordingly hereby **ORDERED** to address said query with dispatch.

As well, in view of its unjustified failure to timely file its Comment in the instant case, petitioner Benjamin A. Eugenio's Motion to Cite respondent in Contempt of Court⁶⁵ is **GRANTED**. Respondent is adjudged **GUILTY** of **INDIRECT CONTEMPT**, pursuant to Section 11, Rule 39 in relation to Sections 7, Rule 71⁶⁶ of the Revised Rules of Court, and **FINED** in the amount of ₱30,000.00. Respondent is **WARNED** that a repetition of a similar unjustified failure to timely comply with the Court's orders will be dealt with more severely.

Let a copy of this Resolution be entered in the personal record of respondent in the Office of the Bar Confidant.

SO ORDERED.

By authority of the Court:

MisDcBatt
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court
Mskibj

Atty. Desiderio A. Pagui
Counsel for Petitioner
283 Ermin Garcia St., Brgy. Silangan
1109 Cubao, Quezon City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 104, 1100 Quezon City
(Civ. Case No. 95-24591)

The Branch Clerk of Court/ OIC
REGIONAL TRIAL COURT
Branch 104, 1100 Quezon City
(Civil Case No. 95-24591)

⁶⁵ Supra note 23.

⁶⁶ Section 7. *Punishment for indirect contempt.* — If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. If he is adjudged guilty of contempt committed against a lower court, he may be punished by a fine not exceeding five thousand pesos or imprisonment not exceeding one (1) month, or both. If the contempt consists in the violation of a writ of injunction, temporary restraining order or *status quo* order, he may also be ordered to make complete restitution to the party injured by such violation of the property involved or such amount as may be alleged and proved.

The writ of execution, as in ordinary civil actions, shall issue for the enforcement of a judgment imposing a fine unless the court otherwise provides.

REGISTER OF DEEDS
LRA Compound, East Avenue
1100 Quezon City

Atty. Amor P. Entila
Officer-in-Charge
OFFICE OF THE BAR CONFIDANT
Supreme Court, Manila

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 237910

joy


**(106)
URES**