



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated June 26, 2023 which reads as follows:

“G.R. No. 248379 (Dr. Joel C. Mendez v. Honorable Justices Edwin D. Sorongon, Sesinando E. Villon and Marie Christine Azcarraga-Jacob, in their capacity as the Justices of the Special Eighth [8th] Division of the Court of Appeals, Honorable Rossana Fe Romero-Maglaya, in her capacity as the Judge of the Regional Trial Court, Br. 88, Quezon City, People of the Philippines and Social Security System [SSS]). — The Court resolves the Petition for *Certiorari* (with Application for the Issuance of Temporary Restraining Order [TRO] and/or Preliminary Injunction [PI])¹ filed by Dr. Joel C. Mendez (Mendez), assailing: 1) the Court of Appeals (CA) Resolution² dated August 28, 2018, which dismissed outright Mendez’s Petition for Annulment of Judgment³ and affirmed Mendez’s conviction pursuant to the Decision⁴ dated July 18, 2016 of Branch 88, Regional Trial Court (RTC) of Quezon City; and 2) the CA Resolution⁵ dated April 16, 2019, which denied Mendez’s Omnibus Motion⁶ challenging the CA Resolution dated August 28, 2018 in CA-G.R. SP No. 156994.

Mendez essentially imputes grave abuse of discretion amounting to a lack or excess of jurisdiction upon respondent CA Justices Edwin D. Sorongon, Sesinando E. Villon, and Marie Christine Azcarraga-Jacob (respondent CA Justices) in their supposed: 1) application of jurisprudential doctrines in civil cases, where neither life nor liberty is at a stake, to the criminal case of Mendez; 2) failure to recognize that Mendez was absolutely deprived of his day in court due to the abandonment of his counsel; and 3) sanctioning the conviction of Mendez notwithstanding his innocence and the

¹ *Rollo*, pp. 3-25.

² *Id.* at 34-39. Penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Sesinando E. Villon and Marie Christine Azcarraga-Jacob.

³ *Id.* at 90-108.

⁴ *Id.* at 40-46. Penned by Presiding Judge Rossana Fe Romero-Maglaya.

⁵ *Id.* at 26-33. Penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Sesinando E. Villon and Marie Christine Azcarraga-Jacob.

⁶ *Id.* at 147-167.

violation of his constitutional rights resulting from the abandonment of his counsel. Essentially, Mendez ascribes grave abuse of discretion on the part of respondent Justices by reason of their outright dismissal of his Petition for Annulment of Judgment and the affirmation of his conviction before the RTC.⁷

In a Comment⁸ dated November 28, 2019, the Office of the Solicitor General (OSG), as statutory counsel for the People of the Philippines, counters that: 1) the Petition for *Certiorari* was not filed within the 60-day period provided under Rule 65 of the Rules of Court (Rule 65); 2) respondent CA Justices did not commit grave abuse of discretion when they denied the Petition for Annulment of Judgment filed by Mendez under Rule 47 of the Rules of Court (Rule 47); and 3) the application for TRO and/or PI is unwarranted.⁹

The Court finds no merit in the petition.¹⁰

Under Section 4 of Rule 65, a petition for *certiorari* shall be filed not later than 60 days counted from the notice of the denial of the motion for reconsideration. *Manila Electric Company v. N.E. Magno Construction, Inc.*,¹¹ expounds thus:

It is explicitly stated in the above rules that *certiorari* should be instituted within a period of 60 days from notice of the judgment, order or resolution sought to be assailed. The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case. While there are recognized exceptions to such strict observance, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.¹²

Atty. Marc Anthony B. Antonio (Atty. Antonio), one of Mendez's former counsels, received a copy of the CA Resolution dated April 16, 2019 on May 2, 2019. Mendez alleged that Atty. Antonio informed him thereof only on June 19, 2019.¹³ Instead of filing the instant petition for *certiorari* within 60 days from May 2, 2019, Mendez secured the services of a new lawyer and filed the petition only on August 8, 2019,¹⁴ or 98 days after Atty. Antonio, Mendez's counsel of record, received the CA Resolution dated April 16, 2019.¹⁵

⁷ Id. at 10.

⁸ Id. at 175-200.

⁹ Id. at 185.

¹⁰ Mendez's prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction was denied in the Court's Resolution dated August 19, 2019. See *rollo*, p. 168.

¹¹ 794 Phil. 228 (2016).

¹² Id. at 236-237.

¹³ *Rollo*, p. 4.

¹⁴ Id. at 1.

¹⁵ Id. at 4.

As keenly observed by the OSG, Mendez blames yet again one of his former lawyers who allegedly belatedly informed him of the receipt of the CA Resolution dated April 16, 2019.¹⁶ This is a self-serving allegation not supported by any evidence and, thus, deserves scant consideration. A party alleging a critical fact must support their allegation with substantial evidence, for any decision based on unsubstantiated allegation cannot stand without offending due process.¹⁷

In any event, Mendez was bound by Atty. Antonio's receipt of the CA Resolution dated April 16, 2019. At that time, Atty. Antonio was still Mendez's counsel of record. Case law instructs that when a client is represented by counsel, notice to counsel is notice to client. In the absence of a notice of withdrawal or substitution of counsel, the court will rightly assume that the counsel of record continues to represent their client.¹⁸ This is so because notice to counsel is an effective notice to the client, while notice to the client and not their counsel is not notice in law. **Receipt of notice by the counsel of record is the reckoning point of the reglementary period.**¹⁹

From the preceding discussion, it is clear that the period to file the petition for *certiorari* commenced to run upon receipt by Atty. Antonio on May 2, 2019 of the assailed CA Resolution dated April 16, 2019. Mendez had 60 days from May 2, 2019, or until July 1, 2019, to file the intended petition for *certiorari*. Clearly, therefore, the Petition for *Certiorari* filed by Mendez on August 8, 2019 should be denied for having been filed beyond the 60-day reglementary period.

Mendez further challenges the respondent CA Justices' application of jurisprudential doctrines in civil cases to his criminal case, entreating liberality in the application of the cited jurisprudence, as his personal liberty is at stake.²⁰

He failed to appreciate that a petition for annulment of judgment under Rule 47 of the Rules of Court is foremost a remedy available only in civil actions. In fact, Sec. 1 of Rule 47 expressly provides that it "shall govern the annulment by the [CA] of judgments or final orders and resolutions in **civil actions** of [RTCs] for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner."²¹ Apparently, Mendez himself invoked a rule of procedure which is applicable only to civil cases. This explains why

¹⁶ Id. at 187.

¹⁷ *Macasero v. Southern Industrial Gases Philippines*, 597 Phil. 494, 499 (2009).

¹⁸ *Francisco v. Loyola Plans Consolidated, Inc.*, 780 Phil. 55, 67 (2016).

¹⁹ *Waterfront Cebu City Casino Hotel, Inc. v. Ledesma*, 757 Phil. 163, 174 (2015). Emphasis supplied.

²⁰ *Rollo*, pp. 10-12.

²¹ RULES OF COURT, Rule 47, Sec. 1. Emphasis supplied.

the jurisprudence cited by the CA in support of the assailed Resolutions dealt mostly with civil cases.²²

To emphasize, Mendez himself admitted that the case is criminal in nature²³ as he was charged with violation of Republic Act No. 1161,²⁴ as amended.²⁵ It cannot therefore be denied that Mendez availed of the wrong remedy when he invoked the provisions of Rule 47 to question his conviction. Accordingly, no grave abuse of discretion amounting to lack or excess of jurisdiction may be attributed to the respondent CA Justices when they denied Mendez's Petition for Annulment of Judgment as the same was devoid of any legal basis from the very beginning.

Even assuming, for the sake of argument, that a petition for annulment of judgment under Rule 47 may be filed with respect to criminal cases, Mendez nonetheless failed to show his entitlement to such relief. In disputing the CA's Resolutions, Mendez harped on the negligence and abandonment of his counsel which supposedly deprived him of his day in court and convicted him, in violation of his constitutional rights.²⁶

In *Alaban v. Court of Appeals*,²⁷ We explained:

An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered. The purpose of such action is to have the final and executory judgment set aside so that there will be a renewal of litigation. It is resorted to in cases where the ordinary remedies of new trial, appeal, petition for relief from judgment, or other appropriate remedies are no longer available through no fault of the petitioner, and is based on only two grounds: extrinsic fraud, and lack of jurisdiction or denial of due process.²⁸

Mendez's contention that the failure to present his side on account of his former counsel's gross negligence constitutes extrinsic fraud, is untenable.²⁹ Extrinsic fraud refers to any fraudulent act of the prevailing party in litigation committed outside of the trial of the case,³⁰ or a fraud committed to the unsuccessful party by their opponent preventing them from fully exhibiting their case by keeping them away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being

²² See *rollo*, pp. 29, 36.

²³ *Id.* at 7.

²⁴ Entitled "AN ACT TO CREATE A SOCIAL SECURITY SYSTEM PROVIDING SICKNESS, UNEMPLOYMENT, RETIREMENT, DISABILITY AND DEATH BENEFITS FOR EMPLOYEES," also known as the "SOCIAL SECURITY LAW." Approved: June 18, 1954

²⁵ *Rollo*, p. 17.

²⁶ *Id.* at 13-14.

²⁷ 507 Phil. 682 (2005).

²⁸ *Id.* at 694. This was reiterated in the case of *City of Taguig v. City of Makati*, 787 Phil. 367, 389 (2016).

²⁹ *Amihan Bus Lines, Inc. v. Romars International Gases Corporation*, 637 Phil. 401, 407 (2010).

³⁰ *Heirs of Fermin Arania v. Intestate Estate of Magdalena Sangalang*, 822 Phil. 643, 658 (2017).

kept in ignorance by the acts of the plaintiff; or when an attorney fraudulently or without authority connives at their defeat.³¹

As a ground for the annulment of a judgment, extrinsic fraud must emanate from an act of the adverse party, and the fraud must be of such nature as to have deprived petitioner of their day in court. The fraud is not extrinsic if the act was committed by petitioner's own counsel.³² In this light, We have ruled in several cases that a lawyer's mistake or gross negligence does not amount to the extrinsic fraud that would grant a petition for annulment of judgment.³³

The general rule is that the negligence of counsel binds the client, even mistakes in the application of procedural rules. The exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law.³⁴ In *Ong Lay Hin v. Court of Appeals*,³⁵ We explained what this exception entails:

[T]here must be a clear and convincing showing that the client was so maliciously deprived of information that he or she could not have acted to protect his or her interests. The error of counsel must have been both palpable yet maliciously exercised that it should viably be the basis for disciplinary action.³⁶

Thus, not all negligence of counsel qualifies as extrinsic fraud, and each case must be considered under its own set of particular circumstances in ascertaining whether a counsel's negligence may provide sufficient basis to annul an otherwise final and executory judgment.³⁷ In this regard, *Bejarasco v. People*,³⁸ is enlightening:

For the exception to apply, however, the gross negligence should not be accompanied by the client's own negligence or malice, considering that the client has the duty to be vigilant in respect of [their] interests by keeping [themselves] up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against [them].

Truly, a litigant bears the responsibility to monitor the status of [their] case, for no prudent party leaves the fate of [their] case entirely in the hands of [their] lawyer. It is the client's duty to be in contact with [their] lawyer from time to time in order to be informed of the progress and developments of [their] case; hence, **to merely rely on the bare**

³¹ *Baclaran Marketing Corporation v. Nieva*, 809 Phil. 92, 103 (2017).

³² *Pinausukan Seafood House, Roxas Boulevard, Inc. v. Far East Bank & Trust Company*, 725 Phil. 19, 24 (2014).

³³ *Lasala v. National Food Authority*, 767 Phil. 285, 302 (2015).

³⁴ *Ong Lay Hin v. Court of Appeals*, 752 Phil. 15, 23-24 (2015).

³⁵ *Id.*

³⁶ *Id.* at 25.

³⁷ *Dela Cruz v. Sison*, 508 Phil. 36, 44 (2005).


³⁸ 656 Phil. 337 (2011).

reassurances of [their] lawyer that everything is being taken care of is not enough.³⁹ (Emphasis supplied)

WHEREFORE, the Petition for *Certiorari* is **DISMISSED**.

SO ORDERED.” *Gesmundo, C.J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *for 718*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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³⁹ Id. at 340.