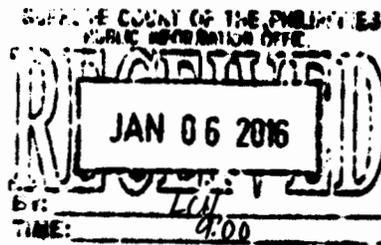




Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION



SPOUSES AMADOR C.  
 CAYAGO, JR. and  
 ERMALINDA B. CAYAGO,  
 Petitioners,

G.R. No. 203918

Present:

- versus -

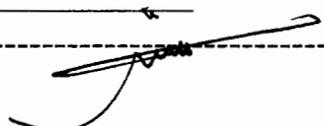
SERENO, C.J., Chairperson,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

SPOUSES EVELITO  
 CANTARA and SOLEDAD  
 CANTARA,  
 Respondents.

Promulgated:

**DEC 02 2015**

X-----X



**RESOLUTION**

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated April 14, 2011 and the Resolution<sup>3</sup> dated September 17, 2012 of the Court of Appeals (CA) in CA-G.R. S.P. No. 05273, which dismissed the petition for review filed by herein petitioners-spouses Amador C. Cayago, Jr. and Ermalinda B. Cayago (Sps. Cayago) for having been belatedly filed.

**The Facts**

The instant case stemmed from a complaint<sup>4</sup> for forcible entry with preliminary mandatory injunction and damages filed by herein respondents-spouses Evelito and Soledad Cantara (Sps. Cantara) against Sps. Cayago on January 17, 2008.

<sup>1</sup> *Rollo*, pp. 8-17.

<sup>2</sup> *Id.* at 19-22. Penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Pampio A. Abarintos and Gabriel T. Ingles concurring.

<sup>3</sup> *Id.* at 24-25. Penned by Associate Justice Pampio A. Abarintos with Associate Justices Gabriel T. Ingles and Zenaida T. Galapate-Laguilles concurring.

<sup>4</sup> *CA rollo*, pp. 42-46.

In their complaint, Sps. Cantara alleged that they are the rightful and legitimate owners and actual possessors of a 1,722-square meter parcel of agricultural land (riceland) located at So. Can-awak, Brgy. Surok, Borongan, Eastern Samar (subject land) covered by Tax Declaration (TD) No. 10520<sup>5</sup> in the name of one Asteria Rubico (Asteria).<sup>6</sup> Sometime in 1993, they purchased the subject land from Asteria as evidenced by a Deed of Absolute Sale<sup>7</sup> dated November 1993. Asteria, in turn, acquired it in 1979 from Justina Alegre, daughter of the original owner Simona Capito, as evidenced by a Sale of Riceland<sup>8</sup> dated June 11, 1979. Since then, Sps. Cantara have been in actual possession thereof through their tenants, spouses Pedro Amoyo Segovia (Pedro) and Leonila Segovia, who have been religiously cultivating the land, planting *palay*, and delivering the produce to them.<sup>9</sup>

However, sometime during the second week of December 2007, Sps. Cayago, using hired hands and without the knowledge of Sps. Cantara or their tenants, by means of force, intimidation, strategy, threats, or stealth, entered the subject land, cleared it up, and planted *palay*, effectively depriving the latter and their tenants of access thereto.<sup>10</sup> Hence, Sps. Cantara demanded that Sps. Cayago vacate and surrender possession of the subject land, but to no avail, thus, prompting the filing of the present complaint before the Municipal Trial Court of Borongan, Eastern Samar (MTC), docketed as Civil Case No. (2008-02)764.<sup>11</sup>

In their defense,<sup>12</sup> Sps. Cayago claimed to be the real owners of the subject land and possessors thereof since 1948, as evidenced by TD No. 68161<sup>13</sup> in the name of one Sabina Cayago (Sabina), as well as *Katibayan ng Orihinal naTitulo Blg.* (OCT No.) P-7694<sup>14</sup> issued on December 28, 2006 in the name of the Heirs of Amador P. Cayago, Sr., represented by Sabina. Furthermore, they averred that the deed of sale presented by Sps. Cantara to prove their ownership over the subject land was not registered, hence, not binding or valid against them.<sup>15</sup>

During the preliminary conference on March 31, 2008, the parties agreed to conduct a relocation survey with Engineer Roel M. Suyot (Engr. Suyot) as the appointed commissioner.<sup>16</sup> The Commissioner's Report dated May 27, 2008 stated, among others:

Lot 12224, Cad 434-D, a riceland, with OCT No. P-7694 in the name of Heirs of Amador Cayago represented by Sabina Cayago with an area of 2,9333 (sic)

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<sup>5</sup> Id. at 47; including dorsal portion.

<sup>6</sup> Id. at 42.

<sup>7</sup> Id. at 50.

<sup>8</sup> Id. at 51.

<sup>9</sup> See id. at 42-43.

<sup>10</sup> Id. at 43.

<sup>11</sup> See id. at 44.

<sup>12</sup> See Answer dated February 9, 2008; id. at 54-56.

<sup>13</sup> Id. at 57; including dorsal portion.

<sup>14</sup> Id. at 58; including dorsal portion.

<sup>15</sup> See id. at 55.

<sup>16</sup> Id. at 23.

sq. m. is the lot being claimed by the defendant Mr. Jun Cayago. The southern portion of lot 12224, Cad 434-D is the portion being claimed by the plaintiff Soledad C. Cantara with an area of **1,809 sq. m.** (on site area) with a boundary line in green color dividing lot 12224, Cad 434-D into two x x x the boundary owners appearing in the tax declaration of appellees Jun Cayago are consistent with DENR records contrary to the tax declaration of appellants. On the other hand, the names of adjoining owners appearing in the deed of sale between Asteria A. Rubico (vendedor) and Soledad C. Cantara (vendee) is consistent on many parts of the southern portion of lot 12224, Cad 434-D x x x, that a portion of this Lot 12224, Cad 434-D southern portion is also being claimed by the plaintiff Soledad C. Cantara.<sup>17</sup>

### **The MTC Ruling**

In a Decision<sup>18</sup> dated February 27, 2009, the MTC dismissed the complaint for lack of merit, finding Sps. Cayago to have sufficiently proven, by a preponderance of evidence, their ownership and prior physical possession of the subject land. It gave credence to OCT No. P-7694, the Tax Declarations, and the Commissioner's Report which supported Sps. Cayago's claim of ownership over the subject land. It likewise recognized that Sps. Cayago underwent the tedious government process to be able to secure OCT No. P-7694 under their name, which required actual and continuous possession of the subject land.<sup>19</sup>

Dissatisfied, Sps. Cantara appealed the matter before the Regional Trial Court of Borongan, Eastern Samar, Branch 1 (RTC), docketed as Civil Case No. 4134.

### **The RTC Ruling**

In a Decision<sup>20</sup> dated August 14, 2009, the RTC reversed the MTC's Decision declaring Sps. Cantara to have the better right to possess the subject land over Sps. Cayago and, accordingly, ordered the latter, their agents, and persons acting in their behalf to surrender its possession and pay the amount of ₱500.00 per month as reasonable rent for its use from December 2007 until its actual surrender.<sup>21</sup>

The RTC found that Sps. Cantara were able to discharge the burden of proving prior physical possession of the subject land of which they were illegally deprived. It gave probative weight to the notarized Deed of Sale between Sps. Cantara and Asteria which proves that the former have been occupying the subject land since 1993, as corroborated by the sworn statements of the present tenants thereof. On this score, the RTC noted that Sps. Cayago failed to adduce evidence to discredit the validity of the said

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<sup>17</sup> Id. at 23-24.

<sup>18</sup> Id. at 59-65. Penned by Presiding Judge Nathaniel E. Baldono.

<sup>19</sup> See id. at 62-65.

<sup>20</sup> Id. at 22-34. Penned by Presiding Judge Elvie P. Lim.

<sup>21</sup> Id. at 34.

Deed of Sale. Further, it observed that the MTC overlooked the finding of Engr. Suyot in the Commissioner's Report that Sps. Cantara possess the southern portion of Lot 12224 acquired by purchase since 1993.<sup>22</sup>

Finally, the RTC pointed out that the MTC erred in giving consideration and weight to the documentary evidence submitted by Sps. Cayago, which included OCT No. P-7694 and the Tax Declarations in support of their claim, the same not having been formally offered in the proceedings before it.<sup>23</sup>

Aggrieved, Sps. Cayago filed a motion for reconsideration<sup>24</sup> on September 14, 2009,<sup>25</sup> which was denied by the RTC in an Order<sup>26</sup> dated July 6, 2010. Sps. Cayago, through counsel, received such order of denial on July 15, 2010.<sup>27</sup> Pursuant to Section 1,<sup>28</sup> Rule 42 of the Rules of Court, Sps. Cayago had fifteen (15) days, or until July 30, 2010 within which to file a petition for review before the CA. On July 29, 2010,<sup>29</sup> or a day before the expiration of the period within which to file said petition, Sps. Cayago filed a motion for extension of time<sup>30</sup> praying for an additional period of fifteen (15) days, or until August 14, 2010, within which to file their petition for review.

Since August 14, 2010 fell on a Saturday, Sps. Cayago filed their petition for review<sup>31</sup> with the CA on August 16, 2010.<sup>32</sup>

### The CA Ruling

In a Decision<sup>33</sup> dated April 14, 2011, the CA dismissed the petition outright for having been filed out of time, ruling that motions for extension to file pleadings are not granted as a matter of right but in the sound discretion of the court. In this regard, it pronounced that lawyers should never presume that their motions for extension or postponement will be granted.<sup>34</sup>

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<sup>22</sup> See id. at 30-32.

<sup>23</sup> See id. at 33.

<sup>24</sup> Dated September 12, 2009. Id. at 37-40.

<sup>25</sup> See id. at 12. Date indicated in the Motion for Reconsideration is September 12, 2009, but being a Saturday, the said Motion was filed on September 14, 2009.

<sup>26</sup> Id. at 36.

<sup>27</sup> Id. at 12.

<sup>28</sup> Section 1. *How appeal taken; time for filing.* – x x x The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extensions shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

<sup>29</sup> CA *rollo*, p. 4. July 29, 2010 is the date indicated in the Registry Receipt of the Motion for Extension of Time to File Petition dated July 27, 2010.

<sup>30</sup> Id. at 3-5.

<sup>31</sup> Dated August 14, 2010. Id. at 10-20.

<sup>32</sup> Registry Receipt indicates date of receipt as August 16, 2010; see id. at 20. See also *rollo*, p. 12.

<sup>33</sup> *Rollo*, pp. 19-22.

<sup>34</sup> See id. at 20-21.

Moreover, it found that the petition suffered from the following infirmities: (1) the notarial certificate on the Verification did not indicate the province or city where the notary public was commissioned, the serial number of the commission and its office address were likewise not indicated, in violation of Section 2 (b) and (c), Rule VIII of the 2004 Rules on Notarial Practice; and (2) there was no explanation as to why personal filing was not done.<sup>35</sup>

Dissatisfied, Sps. Cayago filed a motion for reconsideration,<sup>36</sup> which was denied in a Resolution<sup>37</sup> dated September 27, 2012; hence, the instant petition.

### The Issue Before the Court

The sole issue advanced for the Court's resolution is whether or not the CA erred in dismissing the petition for review for failure of Sps. Cayago to file the same within the reglementary period.

### The Court's Ruling

The petition is meritorious.

As a general rule, appeals are perfected when it is filed within the period prescribed under the Rules of Court. Specifically, Section 1,<sup>38</sup> Rule 42 of the Rules of Court provides that appeals to the CA taken from a decision of the RTC rendered in the exercise of its appellate jurisdiction should be filed and served within fifteen (15) days, counted from notice of the judgment appealed from or from the denial of petitioner's motion for reconsideration. The original 15-day period to appeal is *extendible for an additional 15 days* upon the filing of a proper motion and the payment of docket fees within the reglementary period of appeal.<sup>39</sup> Failure to successfully comply with the aforementioned procedure, especially in filing the appeal within the prescribed period, renders the petition for review dismissible.<sup>40</sup>

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<sup>35</sup> See *id.* at 21.

<sup>36</sup> Dated May 15, 2011. *CA rollo*, pp. 71-75.

<sup>37</sup> *Rollo*, pp. 24-25.

<sup>38</sup> Section 1. *How appeal taken; time for filing.*- A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ₱500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

<sup>39</sup> See Section 1, Rule 42 of the Rules of Court. See also *Go v. BPI Finance Corporation*, G.R. No. 199354, June 26, 2013, 700 SCRA 125, 130-133.

<sup>40</sup> See *Republic v. CA*, 379 Phil. 92, 97-101 (2000).

In dismissing Sps. Cayago's petition for review for being belatedly filed, the CA held that the mere filing of a motion for extension to file a petition for review is not enough as Sps. Cayago are obligated to exercise due diligence to verify from the Division Clerks of Court of the appellate court the action on their motion for extension, considering that time may run out on them, as it did in this case.<sup>41</sup> It explained that the case was raffled to the *ponente* on August 10, 2010 and the *rollo* or case record was forwarded to his office only on January 5, 2011. As such, he could not have acted on the motion on or before July 30, 2010, the last day for filing the petition for review.<sup>42</sup>

In the case of *Heirs of Amado A. Zaulda v. Zaulda*,<sup>43</sup> the petitioners therein filed a motion for extension of time to file their petition for review on August 24, 2010, a day before the last day to appeal the decision of the RTC. However, the CA dismissed their appeal, ratiocinating that the *ponente*'s office received the motion for extension of time only on January 5, 2011, at which time the period to appeal had long expired. In giving due course to the petition for review and considering it to have been timely filed, the Court ruled that it was the height of injustice for the CA to dismiss a petition just because the motion for extension reached the *ponente*'s office beyond the last date prayed for. It found that the delay cannot be attributed to petitioners, who were unreasonably deprived of their right to be heard on the merits and were fatally prejudiced by the delay in the transmittal of records attributable to the court's inept or irresponsible personnel.<sup>44</sup>

In light of the foregoing, the Court therefore finds that the CA committed reversible error when it dismissed Sps. Cayago's petition on the ground that it was belatedly filed.

It bears stressing that Sps. Cayago's motion for extension of time, as well as their petition for review, was physically in the CA's possession long before the issuance of its Decision on April 14, 2011, but for reasons completely beyond their control, the motion for extension of time to file their petition belatedly reached the *ponente*'s office and was therefore not timely acted upon. As a result, the same was unceremoniously dismissed on procedural grounds. As in the *Zaulda* case, it is a travesty of justice to dismiss outright a petition for review which complied with the rules only because of reasons not attributable to the petitioners – Sps. Cayago in this case – such as delay on the part of the personnel of the CA in transmitting case records to their respective *ponentes*.

Procedural rules were established primarily to provide order and prevent needless delays for the orderly and speedy discharge of judicial business.<sup>45</sup> The Court has long declared that the right to appeal is merely a

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<sup>41</sup> *Rollo*, p. 20.

<sup>42</sup> See *id.*

<sup>43</sup> G.R. No. 201234, March 17, 2014, 719 SCRA 308.

<sup>44</sup> See *id.* at 318-319.

<sup>45</sup> See *Mejillano v. Lucillo*, 607 Phil. 660, 668-669 (2009).

statutory privilege, subject to the court's discretion by virtue of which no party can assume that its motion for extension would be granted. Being discretionary in nature, it behooves upon the appellants to follow up on their motions and ascertain its status,<sup>46</sup> as the failure to strictly comply with the provisions on reglementary periods renders the remedy of appeal unavailable. Further, as a purely statutory right, the appellant must strictly comply with the requisites laid down by the Rules of Court.<sup>47</sup> However, where strong considerations of substantial justice are present, the stringent application of technical rules could be relaxed in the exercise of equity jurisdiction as in cases where petitioners showed no intent to delay the final disposition of the case.<sup>48</sup>

Accordingly, in the interest of substantial justice, the Court holds that Sps. Cayago's petition for review should be resolved on the merits, taking into consideration that the findings of fact and conclusions of law by the RTC were in complete contrast to those of the MTC.

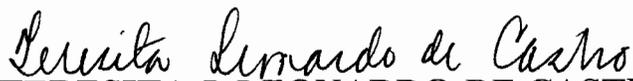
**WHEREFORE**, the petition is **GRANTED**. The Decision dated April 14, 2011 and the Resolution dated September 17, 2012 of the Court of Appeals (CA) in CA-G.R. S.P. No. 05273 dismissing petitioners-spouses Amador C. Cayago, Jr. and Ermalinda Cayago's petition for review before the CA are hereby **SET ASIDE**. Accordingly, the case is **REMANDED** to the CA for further proceedings.

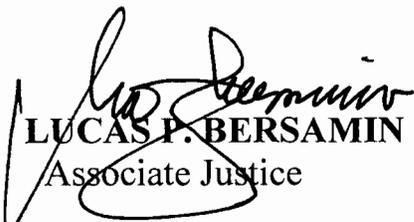
**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice  
 Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
 Associate Justice

  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

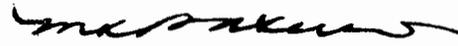
<sup>46</sup> See *Videogram Regulatory Board v. CA*, 332 Phil. 820, 831 (1996).

<sup>47</sup> *Mejillano v. Lucillo*, supra note 45, at 669.

<sup>48</sup> See *Heirs of Amada A. Zaulda v. Zaulda*, supra note 43, at 320-321; citation omitted.

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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