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Wilfredo V. Lantian
 WILFREDO V. LANTIAN
 Division Clerk of Court
 Third Division
 JUL 15 2015

Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

THE ESTATE OF THE LATE
 JUAN B. GUTIERREZ, represented
 by ANTONIA S. GUTIERREZ, (for
 herself and in her capacity as duly-
 appointed Special Administratrix of
 the Estate of Juan B. Gutierrez),
 Petitioners,

G.R. No. 210055

Present:

VELASCO, J., Chairperson,
 PERALTA,
 VILLARAMA, JR.,
 REYES, and
 JARDELEZA, JJ.

- versus -

HEIRS OF SPOUSE JOSE and
 GRACITA CABANGON,
 represented by BLANCA
 CABANGON, JUDGE CADER P.
 INDAR, AL HAJ, Branch 14, 12th
 Judicial Region Cotabato City, and
 THE COURT OF APPEALS,
 Special Former 21st Division,
 Mindanao Station, Cagayan De Oro
 City,

Promulgated:

Respondents.

June 22, 2015

X-----*Wilfredo V. Lantian*-----X

DECISION

PERALTA, J.:

This pertains to a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court instituted by The Estate of Juan B. Gutierrez (*the Estate*), represented by Antonia S. Gutierrez (in her capacity as the duly-appointed Special Administrator of The Estate of Juan B. Gutierrez) to reverse and set

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aside the Court of Appeals (CA) Decision¹ dated January 21, 2013 and its Resolution² dated October 7, 2013 in CA-G.R. SP No. 00840.

The following are the facts of the case:

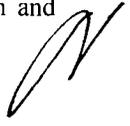
Respondents spouses Jose Cabangon and Gracita Cabangon (*the Spouses Cabangon*) bought three (3) lots at Gov. Gutierrez St., Cotabato City, with a total area of about 1,051.71 square meters, from Juan B. Gutierrez for a total of ₱45,223.53 to be paid in several installments. This is evidenced by a document executed on April 28, 1975, with Jose P. Cabangon as Vendee and Juan B. Gutierrez as Vendor. Since the lots were still under the name of one Fernanda Boron Gutierrez, Juan allegedly promised to cause the transfer of title in the name of the Spouses Cabangon upon full payment of the purchase price. The Spouses Cabangon claimed that they paid the installments until the remaining balance of the purchase price was only ₱3,723.53. Suddenly, however, Juan simply stopped collecting and told the Spouses Cabangon that he would no longer proceed with the sale, unless they would be willing to take only one (1) of the original three (3) lots. Because the Spouses Cabangon did not agree with the new condition, Juan refused to receive the payment of the remaining ₱3,723.53. Aside from failing to transfer the title in the name of the Spouses Cabangon, Juan likewise leased the lots to various occupants. Thus, on September 11, 1981, the Spouses Cabangon were compelled to consign the amount of ₱3,723.53 with the Clerk of Court of the City Court of Cotabato. On November 19, 1981, they filed a suit for Specific Performance and Damages before the Regional Trial Court (RTC) of Cotabato City, Branch 13, docketed as Civil Case No. 2618, praying that Juan be ordered to finally receive the balance of the purchase price and effectuate the transfer of ownership of the lots to them. Several years later or sometime in April 2001, Juan died.

On July 11, 2005, Judge Cader P. Indar was assigned to the Cotabato RTC, Branch 14, while Judge Bansawan Imbrahim was appointed as regular judge of RTC, Branch 13. On July 12, 2005, RTC, Branch 13, through Judge Indar, ordered the case submitted for resolution, and considered the Estate as to have waived its right to present further evidence and to have rested its case. On August 26, 2005, it rendered a Decision³ ordering the transfer of ownership, possession, and control of the subject lots to the Spouses Cabangon, the decretal portion of which reads:

¹ Penned by Associate Justice Romulo V. Borja, with Associate Justices Edgardo T. Lloren and Renato C. Francisco; concurring; *rollo*, pp. 67-82.

² *Id.* at 84-87.

³ Penned by Judge Cader P. Indar; *rollo*, pp. 88-100.



WHEREFORE, for and in consideration of the foregoing premises, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering defendant to:

1. Effect the transfer of ownership, possession and control of the three (3) lots subject of this deed of sale (Exhs. "A" and "A-1") to herein plaintiff after payment of the taxes required;
2. Accept and [receive] the amount of ₱3,723.53 consigned by plaintiff to the Clerk of Court, City Court, Cotabato City, as the last and complete [payment] of the purchase price of these three (3) lots subject of this case it appearing that the consignment made by the plaintiff is in order.
3. No award for exemplary and moral damages is pronounced it appearing that the original defendant in this case died on February 7, 1999 and was duly substituted by his surviving spouse Antonia Sañada Gutierrez, but acting on the motion of the plaintiff for the accounting of rentals of the occupants of the three lots subject of this case which defendant has been collecting since then, the same is hereby granted and defendant is ordered an accounting of all the rentals of these three (3) lots and to be turned over to the plaintiff-vendee. Likewise, the Clerk of Court where the deposits of the rentals are being deposited from April, 2005 to present is hereby ordered to be turned over whatever rentals deposited in his office since April, 2005 to present, and shall continue accepting deposits of the rentals of these lots in question until further order from this court.

SO ORDERED.⁴

On September 28, 2005, the Estate of Gutierrez filed a Motion for Reconsideration and/or New Trial, which was, however, denied. Hence, the Estate filed a Notice of Appeal. The RTC denied its appeal since its Motion for Reconsideration was merely *pro forma* and, as such, did not toll the reglementary period. On January 23, 2006, the RTC granted the Motion for Execution of Judgment of the Spouses Cabangon and directed the issuance of a Writ of Execution.

Undaunted, the Estate filed a Petition for *Certiorari*, Prohibition and Mandamus before the CA. On January 21, 2013, the appellate court denied said petition and sustained the ruling of the RTC. Thus:



⁴

Id. at 99-100.

ACCORDINGLY, the petition is DENIED. The Writ of Preliminary Injunction issued on September 5, 2011 is DISSOLVED.

SO ORDERED.⁵

The Estate then filed a Motion for Reconsideration, but the same was denied. Hence, the instant petition.

The Estate mainly reiterates its arguments before the CA. It contends that the assailed decision and subsequent orders are null and void for lack of jurisdiction, power, and authority. It argues that Judge Indar, who issued the assailed RTC decision, no longer had authority over the case because Judge Imbrahim was already the presiding judge of the court at the time of their issuances. Also, it maintains that its motion for reconsideration was not *pro forma* and that it did contain a notice of hearing, both addressed to the clerk of court and the Spouses Cabangon.

The petition lacks merit.

Jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, regardless of whether or not he is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted.⁶ Here, the action which the Spouses Cabangon filed was one for specific performance, well within the jurisdiction of the Cotabato RTC.

As for the authority of Judge Indar to issue the assailed decision, it is settled that cases that have been submitted for decision or those past the trial stage, such as when all the parties have finished presenting their evidence, prior to the transfer or promotion, shall be resolved or disposed by the judge to which these are raffled or assigned. Also, a judge transferred, detailed or assigned to another branch shall be considered as Assisting Judge of the branch to which he was previously assigned.⁷ Once trial judges act as presiding judges or otherwise designated as acting or assisting judges in

⁵ *Id.* at 81.

⁶ *Padlan v. Dinglasan*, G.R. No. 180321, March 20, 2013, 694 SCRA 91, 99.

⁷ Paragraphs 2 and 3, A.M. NO. 04-5-19-SC, *RESOLUTION PROVIDING GUIDELINES IN THE INVENTORY AND ADJUDICATION OF CASES ASSIGNED TO JUDGES WHO ARE PROMOTED OR TRANSFERRED TO OTHER BRANCHES IN THE SAME COURT LEVEL OF THE JUDICIAL HIERARCHY*.



branches other than their own, cases substantially heard by them and submitted to them for decision, unless they are promoted to higher positions, may be decided by them wherever they may be, if so requested by any of the parties and endorsed by the incumbent Presiding Judges through the Office of the Court Administrator. The following procedure may be followed: (1) The judge who takes over the branch must immediately make an inventory of the cases submitted for decision left by the previous judge, unless the latter has, in the meantime, been promoted to a higher court; (2) The succeeding judge must then inform the parties that the previous judge who heard the case and before whom it was submitted for decision, may be required to decide the case. In such an event and upon request of any of the parties, the succeeding judge may request the Court Administrator to formally endorse the case for decision to the judge before whom it was previously submitted for decision; and (3) After the judge who previously heard the case is finished with his decision, he should send back the records and his decision to the branch to which the case properly belongs, by registered mail or by personal delivery, for recording and promulgation, with notice of such fact to the Court Administrator.⁸ Also, it must be pointed out that the authority to resolve cases of the newly-appointed judge starts, not upon appointment, but upon assumption of duty.⁹ Likewise, assumption of duty does not automatically mean resolution of cases because the newly-assumed judge must first conduct the necessary inventory¹⁰ of all pending cases in the branch. Here, the Estate failed to prove that Judge Imbrahim assumed office at the RTC, Branch 13 on August 18, 2005. Even granting that Judge Ibrahim in fact assumed his duties on said date, the Estate still failed to present any evidence that would show that, prior to the release of the August 26, 2005 Decision, he conducted an inventory of cases where Civil Case No. 2618 was included, as required by the court guidelines.

The CA also correctly held that the Estate's appeal was filed out of time. Sections 4 and 5, Rule 15 of the Rules of Court provide:

Section 4. *Hearing of motion.* — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

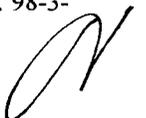
Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Section 5. *Notice of hearing.* — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of

⁸ Re: Cases left undecided by Judge Sergio D. Mabunay, RTC, Branch 24, Manila, A.M. No. 98-3-114-RTC July 22, 1998.

⁹ *Supra* note 7, pars. 4, 5, and 6.

¹⁰ *Id.*, par. 4.



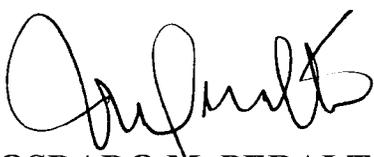
the hearing which must not be later than ten (10) days after the filing of the motion.

Since the Estate's Motion for Reconsideration and/or New Trial did not contain the mandated notice of hearing, it becomes *pro forma* or a mere scrap of paper. As such, said motion did not toll the reglementary period for the filing of an appeal. The Estate even admits this but simply pleads for the relaxation of the applicable procedural rules.¹¹ Time and again, the Court has held that a notice of time and place of hearing is mandatory for motions for new trial or motion for reconsideration, as in this case. The requirement of notice under Sections 4 and 5, Rule 15 is mandatory and the lack thereof is fatal to a motion for reconsideration.¹²

Litigants must bear in mind that procedural rules should always be treated with utmost respect and due regard since these are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. Though litigations should, as much as possible, be decided on their merits and not on technicalities, this does not mean, however, that procedural rules are to be belittled to suit the convenience of a party. Indeed, the primordial policy is a faithful observance of the Rules of Court, and their relaxation or suspension should only be for persuasive reasons and only in meritorious cases,¹³ which, unfortunately, are not attendant in the instant case.

WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals dated January 21, 2013 and its Resolution dated October 7, 2013 in CA-G.R. SP No. 00840 are hereby **AFFIRMED**.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

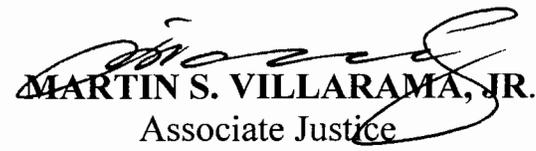
¹¹ Rollo, p. 80.

¹² *Spouses Rustia v. Rivera*, 537 Phil. 849, 853, (2006).

¹³ *Asia United Bank v. Goodland Company, Inc.*, 650 Phil. 174, 185 (2010).

WE CONCUR:


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson


MARTIN S. VILLARAMA, JR.
 Associate Justice


BIENVENIDO L. REYES
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

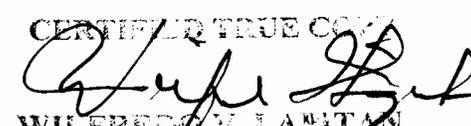
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that 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.

CERTIFIED TRUE COPY

WILFREDO V. LANTIAN
 Division Clerk of Court
 Third Division
 JUL 15 2015


MARIA LOURDES P. A. SERENO
 Chief Justice