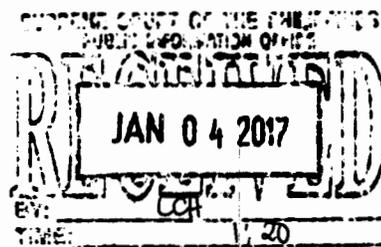




Republic of the Philippines  
**Supreme Court**  
Manila



**FIRST DIVISION**

**SAMSODEN PANGCATAN,**  
Petitioner,

**G.R. No. 194412**

- versus -

**ALEXANDRO "DODONG"  
MAGHUYOP and BELINDO  
BANKIAO,**

Respondents.

X-----X

**ALEXANDRO "DODONG"  
MAGHUYOP and BELINDO  
BANKIAO,**

Petitioners,

**G.R. No. 194566**

Present:

SERENO, C.J.,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PERLAS-BERNABE, and  
\*CAGUIOA, JJ.

- versus -

**SAMSODEN PANGCATAN,**  
Respondent.

Promulgated:

**NOV 16 2016**

x-----x

**DECISION**

**BERSAMIN, J.:**

The issue is whether or not the Court of Appeals (CA) justifiably annulled and set aside the judgment of the Regional Trial Court (RTC) in favor of the plaintiff on the ground that the RTC had not received evidence showing said party's being an indigent litigant exempt from the payment of filing fees.

\* On leave.

### The Cases

G.R. No. 194412<sup>1</sup> is the appeal brought by Samsoden Pangcatan, the plaintiff in Civil Case No. 1888-02 entitled *Samsoden Pangcatan v. Alexandro "Dodong" Maghuyop, Belindo Bankiao, Engr. Arnulfo Garcia and Eldefonso Densing*, to reverse and set aside the decision promulgated on December 18, 2009,<sup>2</sup> whereby the Court of Appeals (CA), in C.A.-G.R. CV No. 01251-MIN, annulled and set aside the decision<sup>3</sup> rendered on February 9, 2007 by the Regional Trial Court (RTC), Branch 8, in Marawi City on the ground that the RTC had improperly allowed the filing of the suit on the basis of his being an indigent litigant despite not having received evidence of his indigency pursuant to the guidelines and standards set and defined by Section 21, Rule 3 and Section 19, Rule 141 of the *Rules of Court*. The nullification of the decision of the RTC notwithstanding, the CA remanded the case, and required the RTC to hear and resolve the plaintiff's *Ex Parte Motion for Leave to File Case as Pauper Litigant* in accordance with said guidelines and standards.

G.R. No. 194566<sup>4</sup> is the appeal brought by the defendants in Civil Case No. 1888-02 to reverse the remand of the case to the RTC pursuant to the same decision of December 18, 2009 promulgated in CA-G.R. CV No. 01251-MIN on the ground of such remand being a deviation from the rulings of the Court to the effect that the courts would acquire jurisdiction over cases only upon the payment of the prescribed docket fees.

### Antecedents

Pangcatan commenced Civil Case No. 1888-02 in the RTC to recover various damages he had suffered in April 2002 from the vehicular accident caused by the negligence of the defendants. Defendants Alexandro "Dodong" Maghuyop and Belindo Bankiao, the petitioners in G.R. No. 194568, were respectively the owner and driver of the passenger van that Pangcatan had hired to transport himself and the goods he had purchased in Pagadian City to his store in Margosatubig, Zamboanga del Sur. Based on the police report on the vehicular accident,<sup>5</sup> Bankiao had stopped his vehicle in the middle of the right lane of the highway in order to call for more passengers when the dump truck of defendant Engr. Arnulfo Garcia then driven by defendant Eldefonso Densing suddenly bumped the rear of the

<sup>1</sup> *Rollo* (G.R. No. 194412), pp. 10-29.

<sup>2</sup> *Id.* at 68-76; and *rollo* (G.R. No. 194566), pp. 11-19; penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justice Edgardo T. Lloren and Associate Justice Leoncia R. Dimagiba.

<sup>3</sup> *Rollo* (G.R. No. 194412), pp. 41-47; penned by Judge Santos B. Adiong.

<sup>4</sup> *Rollo* (G.R. No. 194566), pp. 4-8.

<sup>5</sup> RTC *rollo*, pp. 41-42.

van, causing Pangcatan to lose consciousness. After Pangcatan regained consciousness in the hospital, he discovered that his right leg had been fractured, and that he had lost all the goods he had bought in Pagadian City.<sup>6</sup>

Pangcatan's complaint alleged that his estimated daily income before the accident was ₱400.00/day; that because of his injury, he could never sell again or engage in any other business; and that his medical bills and the costs of his surgical operation would easily run up to ₱500,000.00.<sup>7</sup> When he filed his complaint in September 2002, Pangcatan also filed his *Ex Parte Motion for Leave to File Case as Pauper Litigant*, which the RTC granted through its order of September 4, 2002 under the condition that the filing fees would constitute a first lien on any favorable monetary judgment that he would recover from the suit.

Instead of filing their answer, Maghuyop and Bankiao moved to dismiss the complaint based on several grounds, namely: (1) that the venue was improperly laid; (2) that the complaint stated no cause of action against them; (3) that the claim or demand had been paid or otherwise extinguished; (4) that the plaintiff was estopped from filing the case; (5) that the plaintiff did not comply with a condition precedent; and (6) that the plaintiff, a well known businessman and resident of Margosatubig, Zamboanga del Sur, was not an indigent litigant.<sup>8</sup>

On January 27, 2003, the RTC denied the motion to dismiss because the movants did not substantiate the grounds of the motion on the day of the hearing thereof.<sup>9</sup>

Maghuyop and Bakiao did not file their answer subsequently, and were declared in default as a consequence. Pangcatan then presented *ex parte* his evidence against them. Later on, they submitted their *Comment and Opposition to Plaintiff's Formal Offer of Evidence with Motion to Strike Out All Pleadings filed by the Plaintiff*,<sup>10</sup> whereby they maintained that Pangcatan was not an indigent litigant based on his offer of documentary evidence and his pleadings, and that, as such, he was not entitled to the services and representation of any lawyer from the Public Attorney's Office; that the RTC did not acquire jurisdiction over the case by virtue of the non-payment of the required docket fees; and that the complaint should be expunged from the records.

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<sup>6</sup> *Rollo* (G.R. No. 194412), p. 69.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 70.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 71.

The RTC denied the *Motion to Strike Out All Pleadings filed by the Plaintiff* through the order of August 22, 2006.<sup>11</sup>

It is noted that the RTC dismissed the complaint against Engr. Garcia and Densing because they had entered into a compromise with Pangcatan.<sup>12</sup>

### **Judgment of the RTC**

On February 9, 2007, the RTC rendered judgment in favor of Pangcatan and against Maghuyop and Bankiao,<sup>13</sup> disposing thusly:

Defendants Alexandro Maghuyop and Belindo Bankiao are ordered to pay the plaintiff (Pangcatan) jointly and severally the following amounts:

- 1) ₱50,000.00 as medical expenses incurred from April to August 2002;
- 2) ₱34,465.00 for the cost of the lost goods;
- 3) the unrealized profit of ₱400.00 a day counting from April 5, 2002 up to the present;
- 4) ₱10,000.00 as transportation expenses incurred;
- 5) ₱200,000.00 as moral damages;
- 6) ₱100,000.00 as exemplary damages; and
- 7) To pay the costs.

SO ORDERED.

### **Decision of the CA**

Maghuyop and Bankiao appealed, contending that the RTC erred in acquiring jurisdiction over the claim of Pangcatan; and that the RTC further erred in rendering judgment in favor of Pangcatan and against them.

As stated, on December 18, 2009, the CA promulgated the now assailed decision,<sup>14</sup> viz.:

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<sup>11</sup> Id. at 143.

<sup>12</sup> Id. at 70.

<sup>13</sup> Id. at 41-47

<sup>14</sup> Id. at 68-76; also, *rollo* (G.R. No. 194566), pp. 11-19.

ACCORDINGLY, the appealed decision in Civil Case No. 1888-02 before the Marawi City RTC, Branch 8, is ANNULLED and SET ASIDE. The case is REMANDED to the RTC *a quo* which is ordered to hear the plaintiff-appellee's Ex-Parte Motion for Leave to File Case as Pauper Litigant, applying Rule 3, Section 21 of the Rules of Court to determine whether plaintiff-appellee can qualify as an indigent litigant; and, after which to decide the case on the merits with dispatch.

SO ORDERED.

Hence, the appeals now under consideration.

### Issues

Pangcatan submits that the CA erred because he was exempt from the payment of docket fees by virtue of his being a client of the Public Attorney's Office (PAO), the exemption being pursuant to Republic Act No. 9406 and OCA Circular No. 121-2007,<sup>15</sup> under which the clients of the PAO were exempt from the payment of docket and other fees incidental to the filing of actions in court, whether as original or appellate proceedings. He argues that OCA Circular No. 121-2007 revoked OCA Circular No. 67-2007;<sup>16</sup> that his having passed the indigency test of the PAO entitled him to the exemption; that although Republic Act No. 9406 was not yet enacted at the time of the filing of his complaint in the RTC, the manner of a PAO client establishing his indigency was procedural in nature, and, therefore, Republic Act No. 9406 retroactively applied to him; and that the order of the CA remanding his case to the RTC for determination of his indigency was not only contrary to law but also impractical.

On their part, Maghuyop and Bankiao mainly contend that Pangcatan was not a indigent litigant because his estimated daily earnings had amounted to ₱400.00; that he had been considered as a pauper litigant by the PAO without complying with the requirements of Section 19, Rule 141 of the *Rules of Court*, like the submission of the affidavit stating: (1) that his gross income and that of his immediate family did not exceed an amount double the monthly minimum wage of an employee; and (2) that he did not own real property with a fair market value of more than ₱300,000.00, as stated in the appended current tax declaration; that such affidavit of the indigent client was required to be corroborated by the affidavit of a disinterested person attesting to the truth of the former, but such

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<sup>15</sup> *Exemption of the Indigent Clients of the Public Attorney's Office (PAO) from the Payment of Docket and Other Fees.*

<sup>16</sup> *Exemption of the Indigent Clients of the Public Attorney's Office (PAO) from the Payment of Docket and Other Fees.*

corroborating affidavit he also did not submit; and that the RTC did not acquire jurisdiction over the case because Pangkatan did not pay docket fees.

Did the CA err in setting aside the judgment of the RTC, and in remanding the case to the RTC for the determination of whether or not Pangkatan was exempt from the payment of filing and docket fees as an indigent litigant?

### **Ruling of the Court**

The petition for review in G.R. No. 194412 is granted, but the petition for review in G.R. No. 194566 is denied.

The rule in this jurisdiction is that when an action is filed in court, the complaint must be accompanied by the payment of the requisite docket and filing fees.<sup>17</sup> Section 1, Rule 141<sup>18</sup> of the *Rules of Court* expressly requires that upon the filing of the pleading or other application that initiates an action or proceeding, the prescribed fees for such action or proceeding shall be paid in full. If the complaint is filed but the prescribed fees are not paid at the time of filing, the courts acquire jurisdiction only upon the full payment of such fees within a reasonable time as the courts may grant, barring prescription.<sup>19</sup>

Nonetheless, Section 11, Article III of the Constitution has guaranteed free access to the courts, to wit:

Section 11. Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

This guarantee of free access to the courts is extended to litigants who may be indigent by exempting them from the obligation to pay docket and filing fees. But not everyone who claims to be indigent may demand free access to the courts. In *Re: Query of Mr. Roger C. Prioreschi Re Exemption from Legal and Filing Fees of the Good Shepherd Foundation, Inc.*,<sup>20</sup> the

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<sup>17</sup> *Ballatan v. Court of Appeals*, G.R. No. 125683, March 2, 1999, 304 SCRA 34, 42; *Tacay v. Regional Trial Court of Tagum, Davao del Norte*, G.R. Nos. 88075-77, December 20, 1989, 180 SCRA 433, 444; *Sun Insurance Office, Ltd. (SIOL) v. Asuncion*, G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274, 285; *Manchester Development Corporation v. Court of Appeals*, No. L-75919, May 7, 1987, 149 SCRA 562, 568-569.

<sup>18</sup> As revised by the Resolution dated February 17, 2000 issued in A.M. No. 00-2-01-SC amending Rule 141 of the *Rules of Court*, effective March 1, 2000.

<sup>19</sup> *Tacay v. RTC of Tagum, Davao del Norte*, supra note 17.

<sup>20</sup> A.M. No. 09-6-9-SC, August 19, 2009, 596 SCRA 401.

Court has declared that the exemption may be extended only to natural party litigants;<sup>21</sup> the exemption may not be extended to juridical persons even if they worked for indigent and underprivileged people because the Constitution has explicitly premised the free access clause on a person's poverty, a condition that only a natural person can suffer.<sup>22</sup> To prevent the abuse of the exemption, therefore, the Court has incorporated Section 21, Rule 3 and Section 19, Rule 141 in the *Rules of Court* in order to set the guidelines implementing as well as regulating the exercise of the right of free access to the courts. The procedure governing an application for authority to litigate as an indigent party as provided under Section 21, Rule 3 and Section 19, Rule 141 of the *Rules of Court* have been synthesized in *Algura v. The Local Government Unit of the City of Naga*.<sup>23</sup>

*Algura* stipulates that when the application to litigate as an indigent litigant is filed, the trial court shall scrutinize the affidavits and supporting documents submitted by the applicant to determine if he complies with the income and property standards prescribed in the present Section 19 of Rule 141—that his gross income and that of his immediate family do not exceed an amount double the monthly minimum wage of an employee; and that he does not own real property with a fair market value of more than ₱300,000.00; that if the trial court finds that he meets the income and property requirements, the authority to litigate as indigent litigant is automatically granted, and the grant is a matter of right; that, however, if the trial court finds that one or both requirements have not been met, it should then set a hearing to enable the applicant to prove that he has “no money or property sufficient and available for food, shelter and basic necessities for himself and his family;” that in that hearing, the adverse party may adduce countervailing evidence to disprove the evidence presented by the applicant; that, afterwards, the trial court will rule on the application depending on the evidence adduced; that, in addition, Section 21 of Rule 3 provides that the adverse party may later still contest the grant of such authority at any time before judgment is rendered by the trial court, possibly based on newly discovered evidence not obtained at the time the application was heard; that, if the trial court determines after hearing that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall be assessed and collected by the clerk of court; and that if payment is not made within the time fixed by the trial court, execution shall issue or the payment of the prescribed fees shall be made, without prejudice to other sanctions that the trial court may impose.

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<sup>21</sup> Id. at 405.

<sup>22</sup> Id. at 405-406.

<sup>23</sup> G.R. No. 150135, October 30, 2006, 506 SCRA 81.

The RTC allowed Pangcatan to litigate as an indigent party at the start of the case by approving his *Ex Parte Motion for Leave to File Case as Pauper Litigant*. The RTC dismissed the objections interposed by Maghuyop and Bankiao in their motion to dismiss, which included his not being an indigent litigant, because they did not substantiate the grounds of their motion on the day of the hearing of the motion.<sup>24</sup> On appeal to the CA, Maghuyop and Bankiao reiterated their objection based on Pangcatan's not being an indigent litigant, and submitted that the CA did not consequently acquire jurisdiction over his claim against them.

As earlier mentioned, the CA promulgated its now assailed decision annulling and setting aside the judgment of the RTC based on the non-payment of the filing fees although it remanded the case for the purpose of receiving evidence from Pangcatan upon which the RTC could determine if he was exempt therefrom as an indigent litigant, or not. It opined as follows:

In the instant case, defendants-appellants maintain that plaintiff-appellee's *ex parte* motion to litigate as an indigent is defective since it was not accompanied or supported by the required affidavits executed by the latter attesting that he and his immediate family do not earn the gross income of PhP3,000.00, and that they do not own any real property with an assessed value of more than PhP300,000.00, and by a disinterested person attesting to the truth of his affidavit.

The argument is well taken. Section 19 clearly states that the litigant shall execute the required affidavits in order to support by sufficient evidence his indigent status. It appears from the record that plaintiff-appellee was exempted from payment of legal fees on account of his alleged poverty. Yet there is scant evidence of that. Samsoden failed to meet the evidentiary requirements for prosecuting a motion to litigate as an indigent party. What he has presented before the court *a quo* was only a Certification from the Office of the Provincial Assessor's Office that he has no land holdings or real properties. Quite clearly, the court *a quo* has erroneously allowed the suit *in forma pauperis* without following the requirement of the Rules. But just because the court below has so erred does not mean We should at once castigate plaintiff-appellee by outrightly dismissing his complaint outright (sic) for non-payment of the docket fees.

Examining the pertinent rules, We note that while Rule 141, Section 19 lays down specific standards, Rule 3, Section 21 does not clearly draw the parameters for exemption from payment of fees in case of an indigent party. Knowing that litigants may abuse the grant of authority, the trial court must use sound discretion and scrutinize evidence strictly in granting exemptions in order to determine whether the applicant has hurdled the precise standards under Rule 141. The trial court must also

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<sup>24</sup> Records, p. 62.

guard against abuse and misuse of the privilege to litigate as an indigent litigant to prevent the filing of exorbitant claims which would otherwise be regulated by a legal fee requirement.

Thus, a remand of the case is warranted for the trial court to determine whether plaintiff-appellee can be considered as an indigent litigant using the standards set in Rule 3, Section 21. Plaintiff-appellee must produce affidavits and supporting documents showing that he satisfies the twin requirements on gross monthly income and ownership of real property under Rule 141. Otherwise, the trial court should call a hearing as required by Rule 3, Section 21 to enable plaintiff-appellee to adduce evidence to show that he does not have property and money sufficient and available for food, shelter, and basic necessities for him and his family. In that hearing, the defendants-appellants would have the right to also present evidence to refute the allegations and evidence in support of the application of plaintiff-appellee to litigate as an indigent litigant.

To recapitulate the rules on indigent litigants, if the applicant for exemption meets the salary and property requirements under Section 19 of Rule 141, then the grant of his application is mandatory. On the other hand, when the application does not satisfy one or both requirements, then the application should not be denied outright; instead, the court should apply the *indigency test* under Section 21 of Rule 3 and use its sound discretion in determining the merits of the prayer for exemption.

The Constitution holds sacrosanct the access to justice by the impoverished. Without doubt, the unhampered access to the justice system by the poor, the underprivileged, and the marginalized is one of the most precious rights which must be shielded and secured.

With the above discussion, the Court finds it unnecessary to delve on the second issue raised.

ACCORDINGLY, the appealed decision in Civil Case No. 1888-02 before the Marawi City RTC, Branch 8, is ANNULLED and SET ASIDE. The case is REMANDED to the RTC *a quo* which is ordered to hear the plaintiff-appellee's Ex-Parte Motion for Leave to File Case as Pauper Litigant, applying Rule 3, Section 21 of the Rules of Court to determine whether plaintiff-appellee can qualify as an indigent litigant; and, after which, to decide the case on the merits with dispatch.

SO ORDERED.<sup>25</sup>

Under the circumstances, the CA grossly erred in annulling and setting aside the judgment of the RTC based solely on the non-payment of the filing fees. If the RTC had incorrectly granted Pangcatan's *Ex Parte Motion for Leave to File Case as Pauper Litigant*, the grant was not jurisdictional but an error of judgment on its part as the trial court. It can hardly be disputed that the RTC apparently believed based on its erroneous application of the

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<sup>25</sup> *Rollo* (G.R. No. 194412), pp. 73-76.

aforementioned guidelines set by the *Rules of Court* that Pangcatan was entitled to be exempted from the payment of the filing fees because his daily income was ₱400.00.

It is true that the non-payment of the filing fees usually prevents the trial court from acquiring jurisdiction over the claim stated in the complaint. But for the CA to annul the judgment rendered after trial based solely on such non-payment was not right and just considering that the non-payment of the filing fees had not been entirely attributable to the plaintiff alone. The trial court was more, if not exclusively, to blame for the omission. For sure, all that Pangcatan had done was to apply for the exemption, leaving to the RTC the decision whether or not to grant his application. Moreover, the CA disregarded the fact that the RTC, through its order of September 4, 2002,<sup>26</sup> had granted his *Ex Parte Motion for Leave to File Case as Pauper Litigant* and had allowed him to litigate as an indigent party subject to the condition that the legal fees would constitute a first lien on the monetary judgment to be rendered after trial.

At any rate, Pangcatan was represented from the start by the Public Attorney's Office (PAO). The exemption of the clients of the PAO like him from the payment of the legal fees was expressly declared by law for the first time in Republic Act No. 9406,<sup>27</sup> particularly its amendment of Section 16-D of the *Administrative Code of 1987*, as follows:

Section 16-D. Exemption from Fees and Costs of the Suit. – **The clients of the PAO shall be exempt from payment of docket and other fees incidental to instituting an action in court and other quasi-judicial bodies, as an original proceeding or on appeal.** The costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation shall be deposited in the National Treasury as trust fund and shall be disbursed for special allowances of authorized officials and lawyers of the PAO.

Such exemption by virtue of Republic Act No. 9406 was recognized by the Court Administrator through OCA Circular No. 67-2007,<sup>28</sup> but the clients of the PAO remained required to submit relevant documentation to comply with the conditions prescribed by Section 19, Rule 141 of the *Rules of Court*. Later on, the Court Administrator removed the conditions prescribed under OCA Circular No. 67-2007 by issuing Circular No. 121-

<sup>26</sup> Records, p. 21.

<sup>27</sup> *An Act Reorganizing And Strengthening The Public Attorney's Office (PAO), Amending For The Purpose Pertinent Provisions Of Executive Order No.292, Otherwise Known As The "ADMINISTRATIVE Code Of 1987", As Amended, Granting Special Allowance To PAO Officials And Lawyers, And Providing Funds Therefor.* Approved on March 23, 2007.

<sup>28</sup> *Exemption of the Indigent Clients of the Public Attorney's Office (PAO) from the Payment of Docket and Other Fees*, issued by Court Administrator Christopher O. Lock, effective on July 12, 2007.

2007.<sup>29</sup> Since then until the present, all clients of the PAO have been exempt from the payment of docket and other fees incidental to instituting an action in court whether as an original proceeding or on appeal.

It is notable that the Court has pointed out in its ruling in *Re: Petition for Recognition of the Exemption of the Government Service Insurance System from Payment of Legal Fees*<sup>30</sup> that its acknowledgment of the exemption allowed to the clients of the PAO pursuant to Section 16D of the *Administrative Code of 1987*, as amended by Republic Act No. 9406, was not an abdication of its rule-making power but simply its recognition of the limits of that power; and that, in particular, such acknowledgment reflected a keen awareness that, in the exercise of its rule-making power, it may not dilute or defeat the right of access to justice of indigent litigants.

The exemption of clients of the PAO from the payment of the legal fees under Republic Act No. 9406 and OCA Circular No. 121-2007 was not yet a matter of law at the time Pangcatan initiated Civil Case No. 1888-02 on September 4, 2002. Yet, we cannot avoid applying the exemption in his favor for purposes of this case. The remand to the RTC for the purpose of determining the factual basis for the exemption would be superfluous. To start with, the exemption, being a matter of procedure, can be retrospectively applied to his case. It is fundamental wisdom, indeed, that procedural laws do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statutes, and, as such, they may be given retroactive effect on actions pending and undetermined at the time of their passage. Doing so will not violate any right of a person who may feel that he is adversely affected, inasmuch as there are no vested rights in rules of procedure.<sup>31</sup> And, secondly, if the ultimate objective to be served by all courts is the administration of justice, the remand of the case after the trial by the RTC would be unreasonable and burdensome on all the parties as well as on the trial court.

Instead, the judgment of the RTC in favor of Pangcatan and against Maghuyop and Bankiao should be allowed to stand. This appeal to the Court by the latter, which also delves into the merits of the judgment against them, should fail as to them for lack of any arguable error committed by the trial court. The records contain no evidence adduced by them considering that they had waived their evidence on any legitimate defenses they might have

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<sup>29</sup> *Exemption of the Indigent Clients of the Public Attorney's Office (PAO) from the Payment of Docket and Other Fees*, issued by Court Administrator Zenaida N. Elepaño, effective on December 11, 2007.

<sup>30</sup> A.M. No. 08-2-01-0, February 11, 2010; 612 SCRA 193, 210.

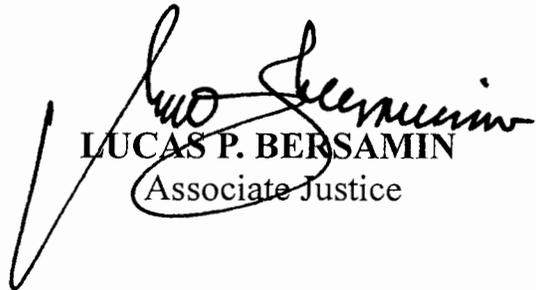
<sup>31</sup> See *De los Santos v. Vda. de Mangubat*, G.R. No. 149508, 10 October 2007, 535 SCRA 411, 423.

raised due to their being declared in default for non-filing of their answer.<sup>32</sup> It would be futile to still defer the judgment rendered upon Pangcatan's evidence in order to still hear them thereafter. A party in default – of which both of them were – could lift the default only by filing a motion to set aside the default before judgment is rendered.<sup>33</sup> Their right to appeal the judgment by default notwithstanding, their chances of reversing the adverse judgment are nil, for in the first place they had no answer whereby they would have controverted the allegations of fact against them, and, necessarily, they had no evidence with which to defeat the claim against them.

Accordingly, we affirm the judgment rendered in favor of Pangcatan.

**WHEREFORE**, the Court **GRANTS** the petition for review on *certiorari* in G.R. No. 194412, but **DENIES** the petition for review on *certiorari* in G.R. No. 194566; **REVERSES** and **SETS ASIDE** the decision of the Court of Appeals in CA-G.R. CV No. 01251-MIN, and, accordingly, **REINSTATES** the decision rendered on February 9, 2007 by the Regional Trial Court in Civil Case No. 1888-02, ordering the respondents in G.R. No. 194412, namely: Alexandro Maghuyop and Belindo Bakiao, liable jointly and severally to pay petitioner Samsoden Pangcatan as follows: (1) ₱50,000.00 as medical expenses; (2) ₱34,465.00 for the cost of the lost goods; (3) ₱10,000.00 as transportation expenses; (4) ₱60,000.00 as temperate damages; (5) ₱50,000.00 moral damages; (6) ₱20,000.00 as exemplary damages; (7) Interest at the legal rate of 6% *per annum* on each of the foregoing amounts stated in items (1) to (6), inclusive, from the finality of this decision until fully paid; and (8) Costs of suit.

**SO ORDERED.**

  
LUCAS P. BERSAMIN  
Associate Justice

<sup>32</sup> See Section 3, Rule 9 of the Rules of Court, which states:

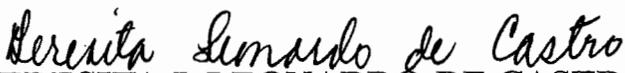
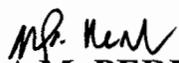
Sec. 3. *Default; declaration of.* — If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. **Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.** (1a, R18)

<sup>33</sup> Section 3(b), Rule 9 of the *Rules of Court*.

**WE CONCUR:**



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

   
**TERESITA J. LEONARDO-DE CASTRO ESTELA M. PERLAS-BERNABE**  
Associate Justice Associate Justice

(On Leave)  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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