Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REMEDIOS M. MASCARIÑAS,
Petitioner,

-versus-

BPI FAMILY SAVINGS BANK, INC.,
Respondent.

G.R. No. 228138

Present:

PERALTA, *CJ.*, *Chairperson*,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER,
LOPEZ, *JJ.*

Promulgated:
AUG 27 2020

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DECISION

LAZARO-JAVIER, *J.*:

ANTECEDENTS

In LRC Case No. Q-19021 (04) entitled *Application for Issuance of a Writ of Possession (By virtue of Extra-Judicial Foreclosure of Real Estate Mortgage) – BPI Family Savings Bank, Inc.*, the Regional Trial Court-Quezon City, Branch 215 issued in favor of respondent BPI Family Savings Bank, Inc. a writ of possession over Lot 3-30-C-2 covered by TCT No. N-266377 with an area of 206 square meters.[1] The lot was previously covered by TCT No. N-221465 (RT-122312/255084) in the name of mortgagor Josephine Abila.

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[1] Docketed as LRC No. Q-19021 (04).

When the sheriff went to the supposed lot to serve the notice to vacate, the occupant, herein petitioner Remedios Mascariñas, claimed that the lot on which the writ of possession was being erroneously implemented actually belongs to her, that is, Lot 3-30-C-1, measuring 1,552 square meters, situated in Caloocan City, and covered by TCT No. T-142901. She allegedly purchased it sometime in 2007 at an auction sale, for which, a writ of possession[2] was issued in her name by the Regional Trial Court-Branch 129, Caloocan City in Civil Case No. C-21521 entitled *Remedios Mascariñas v. Josephine Abila*. The confusion may have arisen from the fact that the lot subject of the writ and her lot were both previously owned by one Josephine Abila and both lots are situated along the boundaries of Quezon City and Caloocan City.

She also moved to quash the writ of possession and submitted the sketch plan issued by the Land Registration Authority (LRA) and pictures to prove that the bank's property is now part of Galino Street, Quezon City.

For its part, the bank reiterated that in 2012, it had already submitted to the court a relocation survey prepared by RC Tollo Surveying Services.[3] The relocation survey properly identified the metes and bounds of Lot 3-30-C-2 and its actual location, as opposed to petitioner's sketch plan which allegedly failed to identify the exact location of her property.

Petitioner replied that the bank's unsigned survey plan cannot prevail over her sketch plan which bears the approval of the LRA.[4]

Under Order dated June 24, 2014, the trial court denied the motion to quash. It held that the writ of possession specifically covered the bank's TCT No. N-266377 and not TCT No. T-142901 which petitioner claimed to have been issued in her name. The trial court noted that the two (2) titles bear different technical descriptions.

Petitioner moved to clarify the aforesaid order and for the same to specifically state that the writ of possession cannot be enforced on her property. The motion was denied under Order dated October 20, 2014.

Petitioner moved for reconsideration. At the same time, she prayed for a survey of both lots so the real subject of the writ of possession may be determined with certainty.

Under Order dated April 25, 2016, the trial court denied the motion. On May 5, 2016, petitioner received notice of the order.

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2 Rollo, p. 26.
3 *Id.* at 64.
4 *Id.* at 71-72.

On July 4, 2016 (the sixtieth day counted from May 5, 2016), petitioner filed with the Court of Appeals a motion for an extension of fifteen (15) days or until July 19, 2016 to file her intended petition for *certiorari*. Her counsel cited pressure of work as ground therefor.[5]

The Court of Appeals' Ruling

By Resolution[6] dated July 13, 2016, the Court of Appeals denied petitioner's motion for extension following Sec. 4, Rule 65 of the Rules of Court and citing ***Mid-Islands Power Generation Corporation v. Court of Appeals, et al.***.

Petitioner then filed a motion to admit the petition[7] alleging that even before she received the denial of her motion for extension, she had already filed said petition as of July 19, 2016.[8] She averred that not only was her counsel saddled with heavy workload, he, too, was suffering from failing health, old age, and his frequent long trips from San Pedro, Laguna to his office in Quezon City, all of which compelled said counsel to seek the one-time fifteen (15) day extension from the Court of Appeals. She invoked Section 4 of Rule 65 of the Rules of Court, as amended by SC Administrative Memo No. 00-2-03 where an extension was allowed, provided it did not exceed fifteen (15) days.

Under Resolution dated August 16, 2016, the Court of Appeals noted without action the motion to admit.[9]

Petitioner's subsequent motion for reconsideration was also denied per Resolution dated November 4, 2016.

THE PRESENT PETITION

Petitioner now seeks affirmative relief from the Court, specifically praying that her petition for *certiorari* in CA-G.R. SP No. 146409 which she had already filed on July 19, 2016 be admitted. She reiterates that her counsel's heavy workload, failing health, old age, and frequent long trips from San Pedro, Laguna to his office in Quezon City caused her counsel to seek the one-time fifteen (15) day extension to file the petition. On this score, she asks the Court to look into the merits of her petition over the strict application of the sixty-day reglementary period. She claims that the trial court's peremptory denial of her plea for a survey of both lots has posed an irreparable grave damage to her right to property.

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5 *Id.* at 87-88.
6 CA-G.R. SP. No. 146409, *id.* at 96.
7 *Id.* at 97-100.
8 Petition for *Certiorari* was filed on July 19, 2016 while the CA Resolution was received on July 21, 2016, *id.* at 98.
9 *Id.* at 102.

The bank opposes the petition, harping on petitioner's failure to adduce sufficient cause to relax the strict application of the sixty-day reglementary period. It stresses that the rationale of the amendment introduced by A.M. No. 07-7-12-SC is to prevent abuse of Rule 65 to delay a case or defeat the ends of justice, citing ***Laguna Metts Corp. v. CA***.[10]

ISSUES

I

Will the grant of petitioner's motion for a one-time extension of fifteen (15) days to file her intended petition for *certiorari* in CA-G.R. SP No. 146409 and her subsequent motion to admit the petition serve the higher interest of substantial justice?

II

Is petitioner's plea for a survey of the lot subject of the writ of possession and her own lot a necessary and indispensable measure to ascertain their exact locations once and for all so as to avoid the reckless implementation of the writ on the wrong property?

RULING

The grant of petitioner's motion for extension and subsequent motion to admit will serve the higher interest of substantial justice.

In its assailed resolutions, the Court of Appeals stressed that the filing of a motion for extension to file a petition for *certiorari* was already deleted when A.M. No. 07-7-12-SC further amended Section 4 of Rule 65.[11] While recognizing the exceptions laid down in ***Domdom v. Sandiganbayan***,[12] the Court of Appeals did not find "pressure of work" as sufficient justification to apply ***Domdom*** here. Nor did it consider counsel's "failing health" as a justification considering that this reason was belatedly cited only after the petition had already been denied.

In ***Thenamaris Philippines, Inc. v. Court of Appeals***,[13] the Court clarified that while a petition for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for

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10 611 Phil. 530, 537 (2009).
11 Took effect on December 27, 2007.
12 627 Phil. 341 (2010).
13 725 Phil. 590, 600 (2014).

reconsideration, the period may be extended subject to the court's sound discretion. For this purpose, one should be able to provide a reasonable or meritorious explanation for his or her failure to comply with the sixty-day period.

Here, petitioner stated that her counsel needed additional time to file the petition as he was also burdened with other equally important cases. Petitioner also mentioned, albeit belatedly, her counsel's failing health, old age, and frequent long trips from San Pedro, Laguna to Quezon City which had taken a toll on his health.

On several occasions, the Court had ruled that heavy workload is relative and often self-serving, and that standing alone, it is not a sufficient reason to deviate from the sixty-day rule.[14] We have oft reminded lawyers to handle only as many cases as they can efficiently handle because it is not enough that they are qualified to handle legal matters, for they are also required to prepare adequately and give the appropriate attention to their legal works.[15] As for the alleged failing health and old age of petitioner's counsel, the Court of Appeals correctly opined that the invocation of these grounds in support of the motion for extension appears to be a mere afterthought.

This notwithstanding, however, when strict application of the rules would result in irreparable damage, if not grave injustice to a litigant, as in this case, the Court is compelled to relax the rules in the higher interest of substantial justice. In ***De Guzman v. Sandiganbayan***,[16] we decreed:

> The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. **That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around.** Truly then, technicalities, in the appropriate language of Justice Makalintal, "should give way to the realities of the situation." x x x (Emphasis supplied)

We, thus, relaxed the technical rules in ***Tanenglian v. Lorenzo***[17] when, in the broader interest of justice, we gave due course to the appeal, albeit, it was a wrong remedy and filed beyond the reglementary period, *viz.*:

> We have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules, allowing us, depending

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14 *Piotrowski v. Court of Appeals*, 776 Phil. 389, 398 (2016); *Heirs of Ramon B. Gayares v. Pacific Asia Overseas Shipping Corporation*, 691 Phil. 46, 54 (2012); *J. Tiosejo Investment Corp. v. Spouses Ang*, 644 Phil. 601, 612 (2010).

15 *Miwa v. Medina*, 458 Phil. 920, 928 (2003); *Hernandez vs. Agoncillo*, 697 Phil. 459, 470 (2012).

16 326 Phil. 182, 191 (1996).

17 573 Phil. 472, 485 (2008).

> on the circumstances, to set aside technical infirmities and give due course to the appeal. In cases where we dispense with the technicalities, we do not mean to undermine the force and effectivity of the periods set by law. **In those rare cases where we did not stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice.** Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause. (Emphasis supplied)

Here, precluding petitioner from pursuing her appellate remedy based on a mere technicality will most probably cause her to perpetually and irreparably lose her 1,552 square meter property as a result of what she calls an erroneous, nay, unjust implementation of the writ of possession not on the property of the bank, but hers.

Verily, therefore, the Court resolves to grant petitioner's motion for a one-time extension of fifteen (15) days and admit the petition for *certiorari* she had already filed on July 19, 2016.

The survey of both Lot 3-30-C-1 and Lot 3-30-C-2 is a necessary and indispensable measure to prevent a miscarriage of justice.

The case has pended since 2014 or for six (6) years now, albeit, it involves a simple, nay, uncomplicated issue. For purposes of economy and expediency and to prevent further delay in the disposition of the case, the Court deems it proper as well to resolve the case on the merits here and now, instead of tossing it back to the Court of Appeals. ***Ching v. Court of Appeals***[18] is relevant:

> x x x[T]he Supreme Court may, on certain exceptional instances, resolve the merit of a case on the basis of the records and other evidence before it, most especially when the resolution of these issues would best serve the ends of justice and promote the speedy disposition of cases.
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> Thus, considering the peculiar circumstances attendant in the instant case, this Court sees the cogency to exercise its plenary power:
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> **"It is a rule of procedure for the Supreme Court to strive to scttle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation. No useful purpose will be served if a case or the determination of an issue in a case is remanded to the trial court only to have its decision raised again to the Court of Appeals and from there to the Supreme Court** (citing Board of

[18] 387 Phil. 28, 42 (2000).

Commissioners vs. Judge Joselito de la Rosa and Judge Capulong, G.R. Nos. 95122-23).

> "**We have laid down the rule that the remand of the case or of an issue to the lower court for further reception of evidence is not necessary where the Court is in position to resolve the dispute based on the records before it and particularly where the ends of justice would not be subserved by the remand thereof** (*Escudem vs. Dulay,* 158 SCRA 69). Moreover, the Supreme Court is clothed with ample authority to review matters, even those not raised on appeal if it finds that their consideration is necessary in arriving at a just disposition of the case."
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> On many occasions, the Court, in the public interest and for the expeditious administration of justice, has resolved actions on the merits instead of remanding them to the trial court for further proceedings, such as where the ends of justice would not be subserved by the remand of the case. (Emphasis supplied)

Records show that petitioner promptly filed a motion to quash the writ of possession on ground that it was being erroneously implemented on her property Lot 3-30-C-1 instead of the bank"s Lot 3-30-C-2. She also prayed that a survey be made on both lots to ascertain once and for all their exact locations and identities and consequently avoid a reckless enforcement of the writ of possession on the wrong property.

The trial court recognized that the two (2) lots were previously owned by mortgagor Josephine Abila. They are covered by two (2) different TCTs and bear different technical descriptions, *viz.*:

TCT T-142901 For the Registry of Deeds of Caloocan City (Remedios Mascariñas)	**TCT N-266377** For the Registry of Deeds of Quezon City (BPI Family Savings Bank, Inc.)
A parcel of land (**Lot 3-30-C-1** of the subdivision plan (LRC) Psd-180310, being a portion of Lot 3-30-C, Psd-7061, LRC Rec. No. 4429), situated in the **Dist. of Balintawak, Caloocan City**, Province of Rizal, Island of Luzon. Bounded on the NE., points 6 to 1 by 11th Ave. (Lot 30-A) 10 m. wide; **on the SS., points 1 to 2 by Lot 3-30-C-2 of the subdivision plan**; on the S., points 2 to 3 by Lot 23-C-26, Psd 976 (Julian de Guzman); and on the W., points 3 to 5 by property of Julian De Guzman, Lot 23-C-26, Psd-976) and property of Alejandro Sagana (Lot 1-23-C-24, Psd-976); and points 5 to 6 by Lot 31-C, Psd-7060 property of Bruno Sagana. Beginning at a point marked "1" on plan, being N. 88 deg, 01'E., 2841.02 m. from BLLM No. 1, Caloocan, Rizal; thence S. 22 deg. 37'W., 34.23 m. to point 2; thence S. 88 deg. 19'W., 29.07 m. to point 3; thence N. 3 deg. 24'W., 16.39 m. to point 4; thence N. 1 deg. 07'W.,	A parcel of land (**Lot 3-30-C-2** of the subdn. plan (LRC) Psd-180310, being a portion of Lot 3-30-C, Psd-7061, LRC Rec. No. 4429), situated in the **Dist. of Balintawak, Quezon City**, Is. of Luzon. Bounded on the NE., points 1-2 by 11th Ave. (Lot 30-A 10 m. wide; on the NE., and SE., points 2-4 by Lot 29-C; Psd-7089 (Victor Climaco) on the SE., points 4 to 5 by Lot 23-C-10, Psd-976 (Leoncio Samson) on the S., points 5 to 6 by Lot 23-C-26; Psd-976 (Juliana de Guzman) and **on the NW., points 6 to 1 by Lot 3-30-C-1 of the subdn. plan.** Beginning at a point marked "1" on plan, being N. 88 deg, 01'E., 2841.02 m. from BLLM No. 1, Caloocan, Rizal; thence S. 68 deg, 37'E., 3.55 m. to point 2; thence, S. 17 deg. 46'E., 1.16 m. to point 3; thence S. 14 deg. 49'E, 15.92 m. to point 4; thence S. 15 deg. 29'W., 14.05 m. to point 5; thence S. 80 deg. 19'W., 9.02 m. to point 6; thence N. 22 deg. 37'E., 34.23 m. to point of beginning;

14.89 m. to point 5; thence N. 5 deg. 52'W., 19.00 m. to point 6; thence S. 68 deg. 37'E., 48.40 m. to the point of beginning; containing an area of ONE THOUSAND FIVE HUNDRED FIFTY TWO (1,552) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: **points 1 by existing Cal. City-Quezon City Boundary pole marked**, point 3 to 6 by Old PLS and points 2 by P.S. cyl. conc. mons. 15 x 60 cm., bearings true; dec. 0 deg. 48'E., date of the original survey, Sept. 8-27, Oct. 4-21 and Nov. 17-18, 1911 and that the subdivision survey, executed by H.R. Santamaria, Geodetic Engineer on May 4, 1973.	containing an area of TWO HUNDRED SIX (206) SQ. METERS, more or less. All points referred to are indicated on the plan and are marked on the ground as the ff: **points 1 by existing Ca. City, Quezon City, boundary pole marked**; points 2 to 5 by Old PLS and points 6 by PS cyl. conc. mons. 15x60 cm.; bearings true; declaration 0 deg. 48'E, date of the original survey, Sept. 8-27, Oct. 4-21 and Nov. 17-18, 1911 and that the subd. survey, executed by H.R. Santamaria, Geod. Engr. on May 4, 1973.

Based on these technical descriptions, the two (2) lots are adjacent to each other and both lie along the boundaries of Caloocan City and Quezon City. Petitioner's lot lies on the Caloocan City side while the bank's, on the Quezon City side. The parties, nonetheless, have conflicting claims on the exact locations of their respective lots. The bank insists that its Lot 3-30-C-2 is being occupied by petitioner who, on the other hand, claims that the lot owned by the bank actually lies on the eastern side now forming part of Galino St., Quezon City. Clearly, therefore, the survey of both lots is a necessary, nay, indispensable measure to ensure the correct enforcement of the writ of possession on Lot 3-30-C-2 itself, and not on the wrong property.

ACCORDINGLY, the petition is **GRANTED**. The Court of Appeals Resolutions dated July 13, 2016, August 16, 2016 and November 4, 2016 in CA-G.R. SP No. 146409 are **REVERSED** and **SET ASIDE**. Petitioner's Motion for Extension of Time to File Petition for *Certiorari* dated July 4, 2016 is **GRANTED** and the Petition for *Certiorari* dated July 18, 2016, thereafter filed, **ADMITTED**.

The Regional Trial Court-Quezon City, Branch 215 is **ORDERED** to appoint a surveyor to immediately conduct a survey of Lot 3-30-C-1 covered by TCT No. T-142901 and Lot 3-30-C-2 covered by TCT No. N-266377 to ensure the correct enforcement of the writ of possession issued in favor of BPI Family Savings Bank. The parties shall bear the survey fees corresponding to their respective lots.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VII 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.

DIOSDADO M. PERALTA
Chief Justice