



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 November 2020** which reads as follows:*

**“G.R. No. 202540 (Joselito P. Isla, Quiterio V. Acosta, Marieta N. Ignacio, and Mary Jean Penilla v. Reliance Resources Corporation and Ma. Paz Buenaventura-Cua).**

The general rule is that the negligence of counsel binds the client, even mistakes in the application of procedural rules. The exception is when the negligence of counsel is so gross, almost bordering on recklessness and utter incompetence, that we can safely conclude that the due process rights of the client were violated. Even so, there 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.<sup>1</sup>

Negligence, to be “excusable,” must be one which ordinary diligence and prudence could not have guarded against.<sup>2</sup> The omission of petitioners’ former counsel, Atty. Eduardo J. F. Abella (Atty. Abella), to file an answer cannot be characterized as excusable or unavoidable, because it could have been prevented by exercising ordinary prudence and diligence. Atty. Abella had due notice of the Order dated March 11, 2009, giving petitioners a non-extendible period of 15 days to file an answer. Instead of filing an answer, he filed a motion for reconsideration of the Order that denied his motion for production of documents. When the default order was issued against the petitioners, Atty. Abella filed another motion for reconsideration that merely reiterated his arguments in the first motion. Thus, while Atty. Abella’s omission to file an answer may have prejudiced petitioners, it is not one which is gross, palpable, pervasive and reckless that deprives them of their day in court.

<sup>1</sup> *Ong Lay Hin v. CA*, 752 Phil. 15, 25 (2015).

<sup>2</sup> *The Province of Davao Del Norte v. Buenaventura-Navarro*, G.R. No. 208771, February 27, 2019.

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Consequently, there is no violation of petitioners' right to due process. The essence of due process is to be found in the reasonable opportunity to be heard and to submit any evidence one may have in support of one's defense. Where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and the party can "present its side" or defend its "interest in due course," there is no denial of procedural due process.<sup>3</sup> Here, Atty. Abella was able to appeal the trial court's Order of default and the adverse judgment to the Court of Appeals (CA). Under Rule 41 of the Rules of Court, which refers to ordinary appealed cases, the appellant may include in his assignment of errors any question of law and fact that has been raised in the court below, and which is within the issues framed by the parties. Thus, contrary to petitioners' claim, by being able to file an appeal, and have the case reviewed by the appellate court, petitioners were afforded the opportunity to raise their defenses and present their side.

We also note that petitioners did not complain against how Atty. Abella handled the case at the trial court. They even retained his services for their appeal to the CA. To be sure, one is bound by the decisions of one's counsel regarding the conduct of the case. The clients should suffer the consequences of the negligence, mistake or lack of competence of the counsel, whom they themselves hired, and whom they had full authority to fire at any time and replace with another.<sup>4</sup> By sticking to their counsel, despite his supposed negligence, petitioners are estopped from claiming that they were deprived of due process.

Considering that petitioners failed to avail themselves of the remedy<sup>5</sup> from the trial court's declaration of default, they lost their standing in court, and they may only appeal based on limited grounds.<sup>6</sup> The appellate tribunal should only consider the pieces of evidence that were presented by the plaintiff during the *ex parte* presentation of his evidence.<sup>7</sup> Here, petitioners assail the merit of the Decision<sup>8</sup> dated September 18, 2009, in favor of Ma. Paz Buenaventura-Cua (Ma. Paz) by presenting evidence that bolsters their defense. We cannot, however,

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<sup>3</sup> *Spouses Friend v. Union Bank of the Phils.*, 512 Phil. 810, 815 (2005).

<sup>4</sup> *Del Mar v. CA*, 429 Phil. 19, 29 (2002).

<sup>5</sup> The remedies are: (a) The defendant in default may, at any time after discovery thereof and before judgment, file a motion under oath to set aside the order of default on the ground that his failure to answer was due to fraud, accident, mistake or excusable negligence, and that he has a meritorious defense (Sec. 3, Rule 18 [now Sec. 3(b), Rule 9]); (b) If the judgment has already been rendered when the defendant discovered the default, but before the same has become final and executory, he may file a motion for new trial under Section 1(a) of Rule 37; (c) If the defendant discovered the default after the judgment has become final and executory, he may file a petition for relief under Section 2 [now Section 1] of Rule 38; and, (d) He may also appeal from the judgment rendered against him as contrary to the evidence or to the law, even if no petition to set aside the order of default has been presented by him (Sec. 2, Rule 41).

<sup>6</sup> The grounds are: (1) the plaintiff failed to prove the material allegations of the complaint; (2) that the decision is contrary to law; and, (3) the amount of judgment is excessive or different in kind from that prayed for.

<sup>7</sup> *Otero v. Tan*, 692 Phil. 714, 725 (2012).

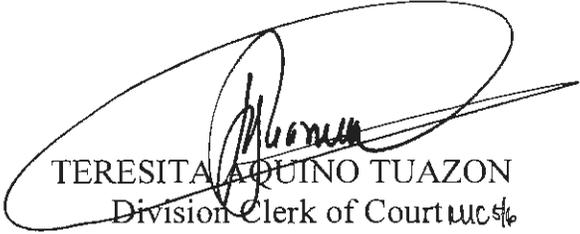
<sup>8</sup> *Rollo*, pp. 571-575.

consider the same because it would amount to allowing petitioners to adduce evidence, which right they had lost when they were declared in default. In any case, the issues raised by petitioners, *i.e.* Joselito Isla's authority to sell the property covered by TCT No. (T-727585) 16441-T-70251, the propriety of the trial court's award of moral and exemplary damages in favor of Ma. Paz, and its order to return the unauthorized salary deductions from the Company's employees, and the cash advances that petitioners made, are questions of fact which are beyond the ambit of this Court's jurisdiction in a petition for review on *certiorari*. It is not this Court's task to go over the proofs presented below to ascertain if they were appreciated and weighed correctly, most especially when the CA and the RTC speak as one in their findings and conclusions. While it is widely held that this rule of limited jurisdiction admits of exceptions, none exists in the instant case.<sup>9</sup>

**FOR THESE REASONS**, the Petition for Review on *Certiorari* is **DENIED**. The Court of Appeals' Decision<sup>10</sup> dated February 3, 2012 and Resolution<sup>11</sup> dated June 29, 2012 in CA-G.R. CV No. 94886 is **AFFIRMED**.

**SO ORDERED.** (Rosario, J., designated additional Member per Special Order No. 2797 dated November 5, 2020.)"

By authority of the Court:



TERESITA AQUINO TUAZON  
Division Clerk of Court *ucst*  
06 MAY 2021

<sup>9</sup> *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225 (1990).

<sup>10</sup> *Rollo*, pp. 11-33; penned by Associate Justice Jane Aurora C. Lantion, with the concurrence of Associate Justices Rodil V. Zalameda (now a Member of this Court) and Isaias P. Dicedican.

<sup>11</sup> *Id.* at 30-33; penned by Associate Justice Jane Aurora C. Lantion, with the concurrence of Associate Justices Rodil V. Zalameda (now a Member of this Court) and Ramon A. Cruz.

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(Civil Case No. 08-192)

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