P10

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ALBERTO T. LASALA, previously doing business under the style PSF SECURITY AGENCY,
Petitioner,

-versus-

THE NATIONAL FOOD AUTHORITY,
Respondent.

G.R. No. 171582

Present:

CARPIO, *J., Chairperson,*
VELASCO, JR.*
BRION,
DEL CASTILLO, and
LEONEN, *JJ.*

Promulgated:

19 AUG 2015

x----------x

DECISION

BRION, *J.*:

We resolve in this petition for review on *certiorari*[1] the challenge to the June 14, 2005 Decision[2] and the February 15, 2006 Resolution[3] (*CA rulings*) of the Court of Appeals (*CA*) in CA-G.R. SP No. 73235. These assailed CA rulings annulled the September 2, 2002 decision[4] of the Regional Trial Court of Quezon City (*RTC QC*), Branch 220, which granted petitioner Alberto T. Lasala's (*Lasala*) counterclaim against respondent National Food Authority (*NFA*).

---

* Designated as Additional Member in lieu of Associate Justice Jose C. Mendoza per raffle dated May 11, 2015.

1 *Rollo,* pp. 16-112.

2 Penned by Associate Justice Monina Arevalo-Zenarosa, and concurred in by Associate Justices Remedios A. Salazar-Fernando and Rosmari D. Carandang; id. at 127-139.

3 Id. at 11-13.

4 Decision penned by Hon. Jose G. Paneda, Presiding Judge, RTC, Branch 220, Quezon City, id. at 113-125.

Factual Antecedents

Lasala, through his company PSF Security Agency, used to provide security guard services to the NFA. Sometime in 1994, Lasala's employees who were deployed to the NFA filed with the National Labor Relations Commission *(NLRC*) a complaint for underpayment of wages and nonpayment of other monetary benefits. The NLRC ruled for the employees and held Lasala and the NFA solidarily liable for the employees' adjudged monetary award.[5] Consequently, the sheriff garnished the NFA's ₱383,572.90 worth of bank deposits with the Development Bank of the Philippines.

Believing that it had no liability to Lasala's employees, the NFA filed with the RTC, Branch 220, Quezon City, a complaint for sum of money with damages and an application for the issuance of a writ of preliminary attachment against Lasala.[6]

In response, Lasala filed an answer with counterclaim[7] and opposition to the prayer for preliminary attachment. In his counterclaim, Lasala prayed for the payment of **moral damages of ₱1,000,000.00; exemplary damages of ₱500,000.00; attorney's fees of ₱300,000.00, compensatory damages of ₱250,000.00; and unpaid wage differential of ₱1,500,000.00, for a total amount of ₱3,550,000.00.**[8]

Initially, the trial court granted the NFA's prayer for the issuance of a writ of preliminary attachment. However, this writ was eventually nullified when Lasala questioned it with the CA in CA-G.R. SP No. 41124.

Meanwhile, on May 2, 1997, the trial court **dismissed the NFA's complaint** for **failure of the lawyer** deputized by the Office of the Government Corporate Counsel (*OGCC*), Atty. Rogelio B. Mendoza (*Atty. Mendoza*), **to present the NFA's evidence-in-chief**, due to his repeated hearing absences.

The NFA replaced Atty. Mendoza and administratively charged him with dishonesty, grave misconduct, conduct grossly prejudicial to the best interests of the service, and gross neglect of duty.[9] It subsequently employed Atty. Ernesto D. Cahucom (*Atty. Cahucom*) as its new counsel.

Although the NFA's complaint was dismissed, Lasala's counterclaim remained, and he presented evidence to support it. Interestingly, **Atty. Cahucom, the NFA's new counsel, did not submit**

---

5 Id. at 128.
6 Id. at 212-218.
7 Id. at 219-225.
8 Id. at 223.
9 Id. at 1064.

any evidence to controvert Lasala's counterclaim evidence. When asked during trial, Atty. Cahucom **simply waived his right to cross-examine Lasala and did not exert any effort to counter his testimony**.

Thus, in its September 2, 2002 decision, the trial court granted Lasala's counterclaim in the **total amount of ₱52,788,970.50**[10] broken down as follows:

Nature of Award	Amount
Actual and compensatory damages	₱35,165,370.50
Loss of business credit	₱10,000,000.00
Moral damages	₱5,000,000.00
Exemplary damages	₱500,000.00
Litigation expenses	₱500,000.00
Lasala's claim for wage adjustment	₱1,623,600.00 plus 12% interest per annum from the year 2000 until full payment of this amount
Total	**₱52,788,970.50**

Notably, this amount is substantially higher than the amount of ₱3,550,000.00 Lasala originally prayed for.

Despite the huge award to Lasala, **the NFA failed to appeal its case to the CA. Atty. Cahucom did not inform the NFA's management about the trial court's adverse ruling**. When asked to explain, he reasoned out that he only discovered the decision after the lapse of the period for appeal.[11]

Having lost its chance to appeal, the NFA filed with the trial court a petition for relief from judgment (*petition for relief*) grounded on excusable negligence.[12] In its petition, the NFA through Atty. Cahucom, attributed its failure to appeal to one of the NFA's employees. Allegedly, this employee received the copy of the trial court's September 2, 2002 decision but did not inform Atty. Cahucom about it. It was only after the lapse of the period for the filing of a motion for reconsideration and an appeal that the NFA learned about the adverse ruling.

The trial court did not accept the NFA's reasoning; thus, it denied the petition for relief for insufficiency in substance.[13]

In the meantime, then NFA Administrator Arthur C. Yap had assumed his position. One of his first instructions was the legal audit of all NFA cases. In doing this, the NFA management found out that the two lawyers (Attys. Mendoza and Cahucom) assigned to the case against

---

10 Id. at 124-125.
11 Id. at 1070.
12 Id. at 667-682.
13 Id. at 787 to 789.

Lasala, grossly mishandled it; hence, causing a huge and unjust liability to the NFA in the amount of ₱52,788,970.50.

Thus, on the grounds of lack of jurisdiction and extrinsic fraud, the NFA, now through the OGCC, filed with the CA a petition and an amended petition[14] for annulment of judgment (*petition for annulment*) of the trial court's September 2, 2002 decision which had granted a substantially higher award than what Lasala originally prayed for in his counterclaim.

The CA's Ruling

The CA granted the petition and annulled the trial court's September 2, 2002 decision.

It ruled that though Lasala's counterclaim is compulsory in nature (thus, it did not require the payment of docket fees), the trial court's decision must still be annulled for having been rendered without any jurisdiction.

The trial court lacked jurisdiction because no concrete and convincing evidence supported its decision to grant Lasala's counterclaim. The CA noted that the trial court awarded Lasala an exorbitant amount of ₱52,788,970.50, despite the absence of any supporting evidence other than his self-serving testimony. Notably, Lasala did not present any corroborating documentary evidence to support his counterclaim.

The Petition

Lasala submits that the NFA's use of a petition for relief at the trial court level should have barred the NFA from filing a subsequent petition for annulment with the CA. At this point, *res judicata* had already set in, thus prohibiting the CA from recognizing the NFA's petition for annulment and its subsequent amended petition.[15]

Lasala also asserts that the NFA could no longer invoke extrinsic fraud as its basis for annulment, since the NFA failed to raise this ground in its petition for relief. The NFA's omission amounted to a waiver of the NFA's right to subsequently raise this ground in its petition for annulment.[16] And even if extrinsic fraud had been properly cognizable as a ground, the NFA still failed to prove it.[17]

---

14 Id. at 283-318.

15 Id. at 995-996.

16 Under Section 2, Rule 47 of the Rules of Civil Procedure:

Section 2. Grounds for annulment. — The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief. (emphasis supplied)

17 *Rollo*, p. 1005.

Lasala further argues that the NFA may not invoke the trial court's lack of jurisdiction over his counterclaim for nonpayment of docket fees. His counterclaim is compulsory and is not permissive; no docket fee is required to be paid.[18]

Lastly, Lasala posits that grave abuse of discretion is not a proper basis for granting a petition for annulment of judgment. The only grounds allowed in the Rules of Court are extrinsic fraud and lack of jurisdiction. Since these two grounds were not available to the NFA, then the CA's annulment of the trial court's September 2, 2002 decision had no basis.

The Case for the NFA

The NFA argues that there was no *res judicata* between its petition for relief and petition for annulment of judgment as these two reliefs were based on two different grounds. The petition for relief was grounded on excusable negligence while the petition for annulment was based on extrinsic fraud and lack of jurisdiction.[19]

Extrinsic fraud was employed against the NFA when its handling lawyers allowed its complaint against Lasala to be dismissed, and when they failed to question the trial court's adverse ruling through a motion for reconsideration or an appeal without any valid justification.[20]

The trial court also lacked jurisdiction over Lasala's counterclaim because he failed to file the required docket fees.[21]

Lastly, the NFA asserts that the CA did not err in annulling the trial court's September 2, 2002 decision, which granted Lasala's counterclaim, since the trial court ruling had no basis except Lasala's self-serving testimony.[22]

The Court's Ruling

We resolve to **DENY** the petition.

The nature of a petition for annulment of judgment

As a general rule, final judgments may no longer be modified as, after finality, all the issues between the parties are deemed resolved and laid to rest. This rule embodies the principle that at some point, litigation must end for an effective and efficient administration of justice. Hence,

---

18 Id. at 1011.
19 Id. at 1087.
20 Id. at 1081-1083.
21 Id. at 1093-1095.
22 Id. at 1073-1080.

once a judgment becomes final, the winning party should not, through subterfuge, be deprived of the fruits of the verdict.[23]

In *Antonino v. Register of Deeds of Makati,*[24] the Court explained the nature of a petition for annulment of judgment and reiterated that **it is only available under certain exceptional circumstances**, since it runs counter to the general rule of immutability of final judgments, *viz*:

> Annulment of judgment is a recourse equitable in character, allowed **only in exceptional cases** as where there is no available or other adequate remedy. Rule 47 of the 1997 Rules of Civil Procedure, as amended, governs actions for annulment of judgments or final orders and resolutions, and Section 2 thereof explicitly provides **only two grounds for annulment of judgment, i.e., extrinsic fraud and lack of jurisdiction.** The underlying reason is traceable to the notion that annulling final judgments goes against the grain of finality of judgment. Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the issue or cause involved therein should be laid to rest. **The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law**.[25] (emphasis supplied)

Since a petition for annulment of judgment is an equitable and exceptional relief, the Rules of Court under Rule 47 put in place stringent requirements that must be complied with before this remedy may prosper.

First, it is only available when the ordinary remedies of new trial, appeal, petition for relief, or other appropriate remedies are no longer available **through no fault of the petitioner**.[26]

Second, an annulment may only be based on the grounds of **extrinsic fraud** and **lack of jurisdiction**. Moreover, extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.[27]

Lastly, if grounded on **extrinsic fraud**, the petition must be filed **within four years from its discovery**; and if based on **lack of jurisdiction**, **before it is barred by laches or estoppel**.[28]

Guided by these requisites, we now discuss each related issue that the parties raised.

---

23 *Selga v. Brar,* G.R. No. 175151, September 21, 2011, 658 SCRA 108.
24 G.R. No. 185663, June 20, 2012, 674 SCRA 227.
25 Id., citing *Ramos v. Judge Combong, Jr.,* 510 Phil. 277 (2005).
26 Section 1, Rule 47, Rules of Court.
27 Id., Section 2.
28 Id., Section 3.

The prior filing of a petition for relief does not per se bar the filing of a petition for annulment of judgment.

Annulment of judgment may only be resorted to if the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies, are no longer available **without the petitioner's fault**.

Thus, the petitioner must be able to provide a plausible explanation for not resorting first to the more common remedies enumerated under the Rules. As annulment is an equitable remedy, it cannot be used to compensate litigants who lost their case because of their negligence or because they slept on their rights. This safeguard has been put in place to address the concern that defeated litigants would use and abuse Rule 47 to avoid or delay an already final and executory judgment.[29]

In the present case, the NFA actually availed of the remedy of petition for relief at the trial court level. Through Atty. Cahucom, the NFA, invoking the ground of excusable negligence, prayed that the execution of the trial court's September 2, 2002 decision be restrained, and that its right to appeal be recognized.[30] However, the trial court also dismissed this petition for being insufficient in substance.

Lasala now argues that *res judicata* should have prevented the CA from recognizing the NFA's petition for annulment, as the dismissal of the NFA's petition for relief serves as a prior judgment that bars the filing of a subsequent petition for annulment of judgment.

Res judicata refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.

Its elements are the following: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and the second action, **identity of parties, of subject matter, and cause of action**.[31] There is *res judicata* when all these requisites concur.

Clearly, **the fourth requisite is absent and cannot apply to the present case**. There is identity of parties in the petitions for relief and annulment of judgment, but no identity of subject matter and cause of action.

---

29 *Fraginal v. Heirs of Toribia Belmonte Parañal,* G.R. No. 150207, February 23, 2007, 516 SCRA 530-531.

30 *Rollo,* pp. 667-686.

31 *Taganas v. Emuslan,* G.R. No. 146980, September 2, 2003, 410 SCRA 237.

To determine the existence of identity of cause of action between the two cases, the Court has often applied the identity of evidence test – i.e., whether the evidence to support and establish the present and former causes of action are the same.

The petition for relief prayed that the execution of the trial court's adverse ruling be restrained, and for the recognition of the NFA's right to appeal on the ground of excusable negligence.[32] On the other hand, the petition for annulment and its amendment sought the setting aside of the trial court's decision because of extrinsic fraud and lack of jurisdiction.[33]

Clearly, the pieces of evidence that NFA presented in its petition for relief are different from the evidence it presented in the current case – the former, grounded on excusable negligence, sought relief from judgment because one of its employees failed to give a copy of the trial court decision to Atty. Cahucom on time to file an appeal.

The present case, on the other hand, seeks to annul the trial court's judgment based on the fraudulent acts of its former counsels (including Atty. Cahucom's), and because the lower court lacked jurisdiction over Lasala's counterclaim.

The distinctions between the grounds invoked and reliefs prayed for between the two petitions highlight the need for different pieces of evidence to prove them. Thus, their causes of action are not identical, and *res judicata* does not bar the filing of the present petition for annulment.

Only two grounds may be recognized in a petition for annulment: extrinsic fraud and lack of jurisdiction.

Because it is an exceptional relief, the Rules provide that only two grounds may be availed of in a petition for annulment. These are extrinsic fraud and lack of jurisdiction.

In the present case, the CA annulled the trial court's decision granting Lasala's counterclaim as the RTC ruling was not supported by any concrete and convincing evidence. According to the CA, the RTC effectively acted without jurisdiction. CA Associate Justice Rosmari Carandang fully communicated the sense of the majority's ruling in her concurring opinion,[34] when she held that the trial court committed an error of judgment and acted beyond its lawful jurisdiction when it relied solely on Lasala's self-serving testimony. Otherwise stated, the trial

---

32 *Rollo*, pp. 667-686.
33 Id. at 156-171.
34 Id. at 140-143.

court committed grave abuse of discretion amounting to lack of jurisdiction when it rendered a decision that was not supported by factual and evidentiary basis.[35]

We rule that the CA committed an error; it violated the restrictive application of a petition for annulment; only extrinsic fraud and/or lack of jurisdiction may annul a final judgment.

By seeking to include acts committed with grave abuse of discretion, the CA's ruling enlarged the concept of lack of jurisdiction as a ground for annulment.[36] Moreover, **grave abuse of discretion is properly addressed not through a Rule 47 relief but through a Rule 65 petition for *certiorari*.** Since the NFA availed of a petition for annulment of judgment, then the CA's disposition must also be confined to findings on the existence of either extrinsic fraud or the trial court's lack of jurisdiction over the parties or the subject matter as explained below.

In a petition for annulment based on lack of jurisdiction, the petitioner cannot rely on jurisdictional defect due to grave abuse of discretion, but on **absolute lack of jurisdiction**. As we have already held, **the concept of lack of jurisdiction as a ground to annul a judgment does not embrace grave abuse of discretion amounting to lack or excess of jurisdiction**.[37] In *Republic v. G Holdings,*[38] we explained:

> Jurisdiction is not the same as the exercise of jurisdiction. As distinguished from the exercise of jurisdiction, jurisdiction is the authority to decide a cause, and not the decision rendered therein. **Where there is jurisdiction over the person and the subject matter, the decision on all other questions arising in the case is but an exercise of the jurisdiction. And the errors which the court may commit in the exercise of jurisdiction are merely errors of judgment which are the proper subject of an appeal**.[39] (emphasis supplied)

In other words, the lack of jurisdiction envisioned under Rule 47 is the **total absence of jurisdiction** over the **person of a party** or over the **subject matter**. *When the court has validly acquired its jurisdiction, annulment through lack of jurisdiction is not available when the court's subsequent grave abuse of discretion operated to oust it of its jurisdiction.*

Despite this erroneous ruling of the CA, we hold that annulment of the trial court's September 2, 2002 decision is still proper as the NFA

---

35 Id. at 142.
36 *Republic v. "G" Holdings, Inc.,* G.R. No. 141241, November 22, 2005, 475 SCRA 608-609.
37 Id.
38 Id.
39 Id.

validly raised and substantiated the allowed grounds of extrinsic fraud and lack of jurisdiction.

a. Extrinsic fraud

Extrinsic fraud in a petition for annulment refers to "*any fraudulent act of the prevailing party in litigation committed outside of the trial of the case, where the defeated party is prevented from fully exhibiting his side by fraud or deception practiced on him by his opponent, such as by keeping him away from court, by giving him a false promise of a compromise,* ***or where an attorney fraudulently or without authority connives at his defeat***."[40]

Because extrinsic fraud must emanate from the opposing party, extrinsic fraud concerning a party's lawyer often involves the latter's collusion with the prevailing party, such that **his lawyer connives at his defeat or corruptly sells out his client's interest**.[41]

In this light, we have ruled in several cases[42] that a lawyer's mistake or gross negligence does not amount to the extrinsic fraud that would grant a petition for annulment of judgment.

We so ruled not only because extrinsic fraud has to involve the opposing party, but also because the negligence of counsel, as a rule, binds his client.[43]

We have recognized, however, that there had been instances where the lawyer's negligence had been so gross that it amounted to a collusion with the other party, and thus, qualified as extrinsic fraud.

In *Bayog v. Natino*,[44] for instance, we held that *the* ***unconscionable failure*** *of a lawyer to inform his client of his receipt of the trial court's order and the motion for execution, and to take the appropriate action against either or both to protect his client's rights* ***amounted to connivance with the prevailing party, which constituted extrinsic fraud***.[45]

Two considerations differentiate the lawyer's negligence in *Bayog* from the general rule enunciated in *Tan*. While both cases involved the lawyer's negligence to inform the client of a court order, the negligence in Bayog was unconscionable because the (1) the client's pauper litigant status indicated that he relied solely on his counsel for the protection and defense

---

40 *People v. Court of Appeals,* G.R. No. 187409, November 16, 2011, 660 SCRA 323.

41 Herrera, Remedial Law II, p. 807; citing 46 Am. Journal, 2nd Ed., p. 983; 49 C.J.S. 860-861.

42 *Tolentino and Tempus Realty Corporation v. Leviste,* 485 Phil. 661 (2004), *Tan v. Court of Appeals,* 524 Phil. 752 (2006), *Pinausukan Seafood House, Roxas Boulevard, Inc. v. Far East Bank & Trust Company, now Bank of the Philippine Islands,* G.R. No. 159926, January 20, 2014, 714 SCRA 226.

43 524 Phil. 752, 760 (2006).

44 327 Phil. 1019 (1996).

45 Id.

of his rights; and (2) the lawyer's repeated acts of negligence in handling the case showed that his inaction was deliberate.

In contrast, the Court ruled in *Tan* that the petitioner's failure to file a notice of appeal was partly his fault and not just his lawyer's. Too, the failure to file the notice of appeal was the only act of negligence presented as extrinsic fraud.

We find the exceptional circumstances in *Bayog* to be present in the case now before us.

The party in the present case, the NFA, is a government agency that could rightly rely solely on its legal officers to vigilantly protect its interests. The NFA's lawyers were not only its counsel, they were its employees tasked to advance the agency's legal interests.

Further, the NFA's lawyers acted negligently several times in handling the case that it appears deliberate on their part.

First, Atty. Mendoza caused the dismissal of the NFA's complaint against Lasala by negligently and repeatedly failing to attend the hearing for the presentation of the NFA's evidence-in-chief. Consequently, the NFA lost its chance to recover from Lasala the employee benefits that it allegedly shouldered as indirect employer.

Atty. Mendoza never bothered to provide any valid excuse for this crucial omission on his part. Parenthetically, this was not the first time Atty. Mendoza prejudiced the NFA; he did the same when he failed to file a motion for reconsideration and an appeal in a prior 1993 case where Lasala secured a judgment of ₱34,500,229.67 against the NFA.[46]

For these failures, Atty. Mendoza merely explained that the NFA's copy of the adverse decision was lost and was only found after the lapse of the period for appeal.[47] Under these circumstances, the NFA was forced to file an administrative complaint against Atty. Mendoza for his string of negligent acts.

Atty. Cahucom, Atty. Mendoza's successor in handling the case, notably did not cross-examine Lasala's witnesses, and did not present controverting evidence to disprove and counter Lasala's counterclaim. Atty. Cahucom further prejudiced the NFA when he likewise failed to file a motion for reconsideration or an appeal from the trial court's September 2, 2002 decision, where Lasala was awarded the huge amount of ₱52,788,970.50, without any convincing evidence to support it.

---

46 *Rollo,* p. 1064.

47 Id.

When asked to justify his failure, Atty. Cahucom, like Atty. Mendoza, merely mentioned that the NFA's copy of the decision was lost and that he only discovered it when the period for appeal had already lapsed.[48]

The trial court's adverse decision, of course, could have been avoided or the award minimized, if Atty. Cahucom did not waive the NFA's right to present its controverting evidence against Lasala's counterclaim evidence. Strangely, when asked during hearing, Atty. Cahucom refused to refute Lasala's testimony and instead simply moved for the filing of a memorandum.[49]

The actions of these lawyers, that at the very least could be equated with unreasonable disregard for the case they were handling and with obvious indifference towards the NFA's plight, lead us to the conclusion that Attys. Mendoza's and Cahucom's actions amounted to a concerted action with Lasala when the latter secured the trial court's huge and baseless counterclaim award. By this fraudulent scheme, the NFA was prevented from making a fair submission in the controversy.

To further invalidate the NFA's petition for annulment, Lasala argues that extrinsic fraud as a ground is no longer available since the NFA failed to raise it in its petition for relief when it could have done so. Under Section 2, Rule 47 of the Rules of Court, extrinsic fraud as a ground will not be allowed **if it had already been availed of or could have been availed of in a motion for new trial or petition for relief**. Attys. Mendoza and Cahucom's actions which amounted to extrinsic fraud should have been earlier raised at the trial court's level since their actions had been consummated when the petition for relief was filed. The NFA's failure to do so amounted to a waiver of this ground in its petition for annulment.

We find Lasala's reasoning to be grossly erroneous.

The NFA did not waive its right to raise extrinsic fraud precisely because the circumstances prevented its inclusion in the petition for relief. **Notably, Atty. Cahucom was the one who drafted and filed the petition for relief, which he based not on his own negligence, but on that of another NFA employee.**

Since part of the extrinsic fraud against the NFA was attributable to Atty. Cahucom, it could not be expected that he would raise his own act as a ground and incriminate himself in the petition for relief. In our analysis, the NFA could not have availed of this ground because Atty. Cahucom himself prevented it.

---

48 Id. at 1070.

49 Id. at 1068.

Moreover, it was only in 2002, when then NFA Administrator Arthur Yap ordered a legal audit of all existing NFA cases, that the NFA's management discovered the mishandling of the case against Lasala.

In these lights, we rule that the prohibition under Section 2, Rule 47 should not apply to the NFA. Although available during the filing of the petition for relief, the NFA could not have raised this ground because it was fraudulently precluded from doing so.

Thus, the actions of Attys. Mendoza and Cahucom, **under the unique circumstances of this case**, amount to extrinsic fraud that warrants the grant of NFA's petition for relief from judgment.

b. Lack of jurisdiction over the subject matter

Moreover, the trial court's September 2, 2002 decision should also be annulled on the ground of lack of jurisdiction.

Notably, Lasala's counterclaim was not only based on the damages that he incurred because of the trial court's invalid issuance of a writ of preliminary attachment against his properties. A big chunk of the award which amounted to ₱1,623,600.00 pertained to Lasala's other claims against the NFA, specifically the wage adjustment against the NFA for the security guard services his agency rendered from April 16, 1988 to April 15, 1989.

This amount further ballooned **when the trial court granted Lasala's prayer for interest at 3% per month or 36% per year**. Compounded until the year 1999, the interest due on such wage adjustment amounted to ₱35,165,370.50, which is almost 67% of the trial court's total counterclaim award. Lasala paid no docket fees on this counterclaim, reasoning that it is in the nature of a compulsory counterclaim.

We do not agree with Lasala's position.

A compulsory counterclaim is any claim for money or other relief that a defending party may have against an opposing party, which at the time of suit **arises out of, or is necessarily connected with, the same transaction or occurrence that is the subject matter of the plaintiff's complaint**. It is compulsory in the sense that it is within the jurisdiction of the court, does not require for its adjudication the presence of third parties over whom the court cannot acquire jurisdiction, and will be barred if not set up in the answer to the complaint in the same case.[50]

---

[50] *Calibre Traders, Inc. v. Bayer Philippines, Inc.,* G.R. No. 161431, October 13, 2010, 633 SCRA 34-35.

To determine if a counterclaim is compulsory, the following tests apply: (a) Are the issues of fact and law raised by the claim and by the counterclaim largely the same?; (b) Would *res judicata* bar a subsequent suit on defendant's claims, absent the compulsory counterclaim rule?; (c) Will substantially the same evidence support or refute plaintiff's claim as well as the defendant's counterclaim?; and (d) Is there any logical relation between the claim and the counterclaim? A positive answer to all four questions would indicate that the counterclaim is compulsory.[51] Otherwise, it is permissive.

In these lights, we rule that Lasala's counterclaim for wage adjustment against the NFA is not a compulsory but a permissive counterclaim. **The cause of action for this counterclaim already existed even before the filing of the NFA's complaint against Lasala. Thus, it did not arise out of, nor is it necessarily connected with, the NFA's complaint for sum of money and prayer for preliminary attachment.** Because it is not an incident of the NFA's claim, it can be filed as a separate case against the NFA, unless already extinguished.

Under this situation, Lasala's nonpayment of docket fee for his permissive counterclaim prevented the trial court from acquiring jurisdiction over it. The court may allow payment of such fee but only within a reasonable time and in no case beyond the prescriptive period for the filing of the permissive counterclaim.[52]

As it was based on the parties' security service contract, the prescriptive period for Lasala's counterclaim is 10 years.[53] Lasala's cause of action accrued in 1989, when the contract with the NFA was executed. Since no docket fee was paid even after the lapse of 10 years, then the trial court never acquired jurisdiction over Lasala's wage adjustment counterclaim. Thus, with regard to this counterclaim, annulment of the trial court's judgment is proper.

Lasala's permissive counterclaim has already prescribed and may no longer be refiled.

While Section 7, Rule 47[54] of the Rules of Court provides that an annulment of judgment renders the assailed judgment, resolution, or final

---

51 *Government Service Insurance System (GSIS) v. Heirs of Fernando F. Caballero,* G.R. No. 158090, October 4, 2010, 632 SCRA 5.

52 *Sun Insurance v. Asuncion,* G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274.

53 Under Article 1144 of the Civil Code, an action based on a written contract must be brought within 10 years from the time the right of action accrues.

54 Section 7. *Effect of judgment*. — A judgment of annulment shall **set aside the questioned judgment, final order or resolution and render the same null and void, without prejudice to the original action being refiled in the proper court.** However, where the judgment or final order or resolution is set aside on the ground of extrinsic fraud, the court may on motion order the trial court to try the case as if a timely motion for new trial had been granted therein. (emphasis supplied)

order null and void, the original action may still be refiled in the proper court. This rule applies in instances where the judgment is annulled because of lack of jurisdiction. In such cases, the defeated party may still refile the original action in the court that has jurisdiction, provided it has not yet prescribed.

In cases of extrinsic fraud, the party who is defrauded and prevented from fully exhibiting his side may file a motion in court to present his evidence as if a timely motion for new trial had been granted.

In the present case, we annulled the trial court's decision granting Lasala's permissive counterclaim on both grounds of lack of jurisdiction and extrinsic fraud.

Although the prescriptive period for the refiling of the annulled action shall be deemed suspended from its original filing until the finality of the judgment of annulment, we rule that Lasala may no longer refile his permissive counterclaim as it has already prescribed.

Under Section 8, Rule 47, the prescriptive period to file the annulled original action shall not be suspended when the extrinsic fraud is attributable to the plaintiff in the action.[55] In the present case, the original action contemplated is Lasala's counterclaim against the NFA.

On this basis, we hold that the existence of extrinsic fraud in the present case did not toll the prescriptive period for the filing of Lasala's counterclaim.

To reiterate, the **unique facts** of this case show that Attys. Mendoza and Cahucom patently, blatantly, and unjustifiably mishandled the case to the utter prejudice of the NFA. **The degree to which they disregarded their duty to protect the NFA's interests amounted to actions in concert with Lasala which constituted the extrinsic fraud against the NFA.**[56]

In sum, not only do we set aside the trial court's judgment award of ₱52,788,970.50 to Lasala for being null and void; we also categorically hold that Lasala's cause of action has prescribed, and thus, may no longer be refiled.

---

[55] Section 8, Rule 47 of the Rules of Court provides:
Section 8. *Suspension of prescriptive period*. — The prescriptive period for the refiling of the aforesaid original action shall be deemed suspended from the filing of such original action until the finality of the judgment of annulment. **However, the prescriptive period shall not be suspended where the extrinsic fraud is attributable to the plaintiff in the original action**. (emphasis supplied)

[56] See, for comparison, the facts in *Bayog v. Natino, supra* note 44.

On a final note, we observe that the NFA's petition for annulment of judgment, whether grounded on extrinsic fraud or lack of jurisdiction, was filed within the allowed periods provided for in the Rules. As the NFA substantiated the required grounds for annulment, we affirm the CA's decision annulling the September 2, 2002 decision of the trial court.

Potential liabilities of Attys. Mendoza and Cahucom

The records of the case show that the NFA had conducted initial investigations against Attys. Mendoza and Cahucom for potential administrative and criminal liabilities.

We are forwarding a copy of the records of this case to the Ombudsman to assist it in determining the administrative and criminal liabilities of these public officers.

We likewise furnish the Board of Governors of the Integrated Bar of the Philippines a copy of this Decision and the records of this case so that they may conduct the appropriate investigation regarding Atty. Mendoza's and Atty. Cahucom's fitness to remain as members of the Bar.

Lest it be misunderstood, the Court's ruling in this case involves solely the finding of extrinsic fraud for purposes of granting the NFA relief from judgment; the Ombudsman and the Board of Governors are tasked to conduct their own investigations regarding the incidents surrounding this case, with this Decision and its records to be considered as part of evidence, to determine the potential liabilities of Attys. Mendoza and Cahucom.

WHEREFORE, premises considered, we hereby **DENY** the petition for lack of merit, and **AFFIRM** with modification the June 14, 2005 Decision and February 15, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 73235 (which annulled and set aside the September 2, 2002 decision of the Regional Trial Court of Quezon City, Branch 220).

Let a copy of this Decision and the records of this case be furnished the Office of the Ombudsman for whatever action it may deem appropriate against Attys. Rogelio B. Mendoza and Ernesto D. Cahucom under the circumstances defined in this Decision.

Let a copy of this Decision and the records of this case also be sent to the Board of Governors of the Integrated Bar of the Philippines for its administrative investigation of Attys. Rogelio B. Mendoza and Ernesto D. Cahucom, based on the given facts of this Decision, in the interest of determining whether these members of the Bar still have the

requisite competence and integrity to maintain their membership in the roll of lawyers of this country.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

PRESBITERO J. VELASCO, JR.
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARVIC M.V.F. LEONEN
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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