Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CAGAYAN ECONOMIC ZONE AUTHORITY, Petitioner,	**G.R. No. 194962** Present:
- versus -	CARPIO, *J.*, *Chairperson*, BRION, DEL CASTILLO, MENDOZA, and LEONEN, *JJ.*
MERIDIEN VISTA GAMING CORPORATION, Respondent.	Promulgated: 27 JAN 2016

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DECISION

MENDOZA, *J.*:

Before the Court is a petition for review under Rule 45 of the Rules of Court assailing the August 13, 2010[1] and December 9, 2010[2] Resolutions of the Court of Appeals *(CA)*, in CA-G.R. SP No. 115034, which denied the petition for *certiorari* and prohibition[3] filed by petitioner Cagayan Economic Zone Authority *(CEZA),* after its Petition For Relief[4] (from judgment) was denied by the Regional Trial Court, Branch 7, Aparri City *(RTC)* in its Resolution,[5] dated March 4, 2010.

The Antecedents

Petitioner CEZA is a government-owned and controlled corporation, created by virtue of Republic Act *(R.A.)* No. 7922, otherwise known as the

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[1] *Rollo,* pp. 81-88.
[2] Id. at 90-93.
[3] Id. at 433-479.
[4] Id. at 305-340.
[5] Id. at 391-392.

"Cagayan Special Economic Zone Act of 1995." Its primary purpose is to manage and supervise the development of the Cagayan Special Economic Zone and Freeport *(Freeport Zone).*

Due to several inquiries from a group of Spanish nationals on the possibility of operating a jai alai fronton, CEZA sought the opinion of the Office of the Government Corporate Counsel *(OGCC)* on whether it could operate/license jai alai inside the Freeport Zone.

The OGCC, in its Opinion No. 251, s. 2007,[6] was of the view that the CEZA could operate and/or license jai alai under its legislative franchise including the authority to manage, establish and operate jai alai betting stations inside and outside the Freeport Zone.

Accordingly, respondent Meridien Vista Gaming Corporation *(MVGC)* applied with CEZA for registration as licensed/authorized operator of gaming, sports betting and tourism-related activities such as jai alai, cock fighting, virtual gaming, bingo, horse racing, dog racing, sports betting, internet gaming, and land based casinos.[7]

CEZA granted the application of MVGC to engage in gaming operations within the Freeport Zone and subsequently issued several certifications attesting that MVGC was licensed to conduct gaming operations within the zone and to set up betting stations in any place as may be allowed by law.[8]

On January 5, 2009, MVGC informed CEZA that its virtual games software had been *alpha* tested and was ready for actual field testing as of December 29, 2008. MVGC also proposed to conduct a real market environment testing starting on January 15, 2009 and to utilize an offsite gaming station in the provinces of Isabela, Camarines Sur and Nueva Viscaya subject to the requisite local government permits.[9]

On March 31, 2009, the OGCC issued Opinion No. 67, series of 2009,[10] *clarifying* its earlier opinion regarding the authority of CEZA to grant a franchise to operate jai alai. In effect, the said opinion stated that CEZA could not grant a franchise to operate jai alai in the absence of an express legislative franchise.

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[6] Annex "C" of the Petition, id. at 94-100.
[7] Annex "D" of the Petition, id. at 102-103.
[8] Annexes "E-I" of the Petition, id. at 104-114.
[9] Annex "F" of the Petition, id. at 112.
[10] Annex "I" of the Petition, id. at 115-119.

Consequently, CEZA issued a letter,[11] dated April 1, 2009, directing MVGC to stop all its gaming operations including the testing of softwares and telecommunication infrastructure relative thereto.

Its interest being affected, MVGC filed a petition[12] for mandamus and damages with application for the issuance of a temporary restraining order and/or writ of preliminary mandatory injunction before the RTC. In its petition, MVGC prayed that it be allowed to continue with its gaming operations including the testing of softwares and relative telecommunication infrastructures.

The case was referred by CEZA to the OGCC, which assigned Atty. Edgardo Baniaga *(Atty. Baniaga)* to handle the case. Thus, all notices, orders and legal processes in connection with the case were forwarded to him for appropriate action.

CEZA, in its Answer,[13] admitted issuing a license agreement in favor of MVGC to operate jai alai. It, however, denied allowing the latter to manage virtual gaming operations. CEZA argued that MVGC had no legal right to compel it, by way of mandamus, to allow the operation of its virtual gaming. CEZA cited four (4) laws to bolster its argument that the granting of franchise to operate jai alai must be clearly prescribed by law; namely: (1) Executive Order *(E.O.)* No. 392, transferring the authority to regulate jai alai from the Local Government to the Games and Amusement Board; (2) Republic Act *(R.A.)* No. 954, or an act prohibiting certain activities in connection with horse races and *basque pelota* games (jai alai); (3) Presidential Decree *(P.D.)* No. 771 revoking all powers and authority of the Local Government to grant, franchise, license, permit, and regulate wages or betting by the public on horse and dog races, jai alai and other forms of gambling; and (4) P.D. No. 810, "An Act Granting the Philippine Jai-Alai and Amusement Corporation a Franchise to Operate, Construct and Maintain a Fronton for Basque Pelota and Similar Games of Skill in the Greater Manila Area."

On October 30, 2009, after the parties had filed their Joint Manifestation with Motion to Render Judgment based on the Pleadings,[14] the RTC rendered a decision[15] in favor of MVGC, the dispositive portion of which reads:

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[11] Annex "K" of the Petition, id. at 120.
[12] Annex "L" of the Petition, id. at 121-133.
[13] Annex "R" of the Petition, id. at 194-226.
[14] Annex "AA" of the Petition, id. at 272-276.
[15] Annex "BB" of the Petition, id. at 277-287.

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the petitioner and against the respondent. Accordingly, let a Writ of Mandamus issue directing respondent or any other person/s acting under its control and direction to allow the petitioner to continue with its gaming operations in accordance with the license already granted. The bond earlier posted by Petitioner is hereby released in its favor.
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> Let a copy of this Decision be furnished the Department of Justice, the Department of Interior and Local Government and the Philippine National Police and other law enforcement agencies of the government for their reference and guidance.
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> No Costs.
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> SO ORDERED.[16]

On the same date, a copy of the decision was obtained by Atty. Baniaga, who was coincidentally then in the premises of the court building.[17]

On November 26, 2009, the OGCC filed a Manifestation[18] informing the court that they received information that a decision had been rendered but they have not received a copy thereof. Thus, it requested from the RTC that an official copy of the decision be given to its representative, Monico Manuel *(Manuel).* The request was granted and a copy of the said decision was given to Manuel on December 3, 2009.

On December 9, 2009, CEZA filed its Notice of Appeal[19] stating that it officially received a copy of the decision only on December 3, 2009.

On the same date, December 9, 2009, the RTC issued an Order[20] *denying* the notice of appeal on the ground that the 15-day reglementary period within which to appeal had already lapsed. It stated that the 15-day reglementary period should have been counted from October 30, 2009, the date a copy of the decision was received by Atty. Baniaga.

On January 25, 2010, CEZA, with the assistance of a new government corporate counsel appointed by the OGCC, filed a Petition for Relief[21] *(Petition for Relief from Judgment under Rule 38)* before the RTC alleging honest mistake or excusable neglect on the part of Atty. Baniaga. CEZA reasoned out that Atty. Baniaga was under the impression that the notice he

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[16] Id. at 286-287.
[17] Id. at 41.
[18] Id. at 289-290.
[19] Id. at 302-303.
[20] Id. at 304.
[21] Id. at 305- 358.

received on October 30, 2009 was a resolution pertaining to the Joint Manifestation with Motion to Render a Judgment based on the pleadings; that the copy he received was his personal copy and that the official copy intended for CEZA would be sent to OGCC. CEZA also pointed out that the reckoning period for the filing of its appeal should be December 3, 2009, the day when it was furnished a copy of the decision, and not October 30, 2009, the date of receipt by Atty. Baniaga.

The RTC, in its Resolution,[22] dated March 4, 2010, denied the petition for relief from judgment for lack of merit. It stated that the negligence of CEZA's counsel, Atty. Baniaga,[23] was binding on his client and could not be used as an excuse to revive the right to appeal which had been lost.

On July 23, 2010, CEZA filed with the CA a petition for *certiorari* and prohibition.

On August 13, 2010, the CA denied the petition, sustaining the ruling that CEZA was bound by the mistakes and negligence of its counsel. [24]

A motion for reconsideration was filed by CEZA but it was likewise denied in the CA Resolution, dated December 9, 2010.[25]

Hence, this petition praying for the reversal and setting aside of the August 13, 2010 and December 9, 2010 Resolutions of the CA in CA-G.R. SP No. 115034 anchored on the ground that the CA **gravely erred**[26]

(A) WHEN IT RULED THAT PETITIONER CEZA FAILED TO SHOW THE SPECIFIC ACTS COMMITTED BY HON. JUDGE ZALDIVAR THAT CONSTITUTE GRAVE ABUSE OF DISCRETION.

(B) WHEN IT RULED THAT PETITIONER CEZA IS BOUND BY THE MISTAKES AND NEGLIGENCE OF ATTY. BANIAGA.

(C) WHEN IT RULED THAT PETITIONER CEZA's 15-DAY PERIOD TO APPEAL IS COUNTED FROM ATTY. BANIAGA'S RECEIPT OF THE 30 OCTOBER 2009 DECISION.

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[22] Annex "NN" of the Petition, id. at 391-392.

[23] **On January 27, 2011, the GOCC <u>DISMISSED</u> Atty. Edgardo G. Baniaga for "Serious Dishonesty, Grave Misconduct, Gross Neglect of Duty, Conduct prejudicial to the Best Interest of the Service, and Violation of Reasonable Office Rules and Regulations, id. at 47; and Annex UU, id. at 431-432.**

[24] Id. at 81-88.

[25] Id. at 90-93.

[26] Id. at 52-53.

(D) **WHEN IT RULED THAT UNDER REPUBLIC ACT (R.A.) NO. 7922, PETITIONER CEZA HAS THE POWER TO OPERATE ON ITS OWN OR LICENSE TO OTHERS, JAI-ALAI.**

Petitioner CEZA ascribes grave error on the part of the CA in dismissing its petition on a mere technicality. The petitioner avers that its case is an exception to the general rule that the negligence of counsel binds the client because the negligence of Atty. Baniaga was so gross, reckless and inexcusable as it systematically deprived CEZA of its right to appeal and fully ventilate its cause.

Traversing such assertion, MVGC insists that CEZA should be bound by the mistakes of its counsel and suffer the consequences. It asserts that relief from judgment should not be granted on the excuse that the failure to appeal was due to the negligence of its counsel. MVGC also argues that the petition for relief cannot be used to revive the right to appeal which had been lost through the counsel's inexcusable negligence

The Court finds the petition meritorious.

Relief from judgment is a remedy provided by law to any person against whom a decision or order is entered through fraud, accident, mistake, or excusable negligence.[27] This remedy is equitable in character, allowed only in exceptional cases where there is no other available or adequate remedy provided by law or the rules.[28] Generally, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to the negligence of his counsel[29] because of the time-honored principle that clients are bound by the mistakes and negligence of their counsel.[30]

The notices sent to the counsel of record is binding upon the client, and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment that is valid and regular on its face.[31] This is based on the rule that any act performed by a counsel within the scope of his general or implied authority is regarded as an act of the client.[32]

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[27] *Guevarra v. Spouses Bautista*, 593 Phil. 20, 27 (2008).
[28] *Azucena v. Foreign Manpower Services*, 484 Phil. 316, 329 (2004).
[29] *Tuason v. Court of Appeals*, 256 SCRA 158 (1996).
[30] *LTS Philippines Corporation v. Maliwat*, 489 Phil. 230, 235 (2005).
[31] *Rivera v. Court of Appeals,* 568 Phil. 401, 418 (2008).
[32] *APEX Mining, Inc. v. Court of Appeals,* 377 Phil. 482, 493 (1999).

In highly meritorious cases, however, the Court may depart from the application of this rule such as when the negligence of the counsel is so gross, reckless, and inexcusable that the client is deprived of due process of law;[33] when adherence to the general rule would result in the outright deprivation of the clients' property;[34] or when the interests of justice so require.[35] In the case of *People's Homesite and Housing Corporation v. Tiongco*,[36] the Court stated the reason therefor. Thus:

> There should be no dispute regarding the doctrine that normally notice to counsel is notice to parties, and that such doctrine has beneficient effects upon the prompt dispensation of justice. **Its application to a given case, however, should be looked into and adopted, according to the surrounding circumstances; otherwise, in the court's desire to make a short cut of the proceedings, it might foster, wittingly or unwittingly, dangerous collusions to the detriment of justice**. It would then be easy for one lawyer to sell one's right down the river, by just alleging that he just forgot every process of the court affecting his clients, because he was so busy. Under this circumstance, one should not insist that a notice to such irresponsible lawyer is also a notice to his clients.[37]
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> [Emphases Supplied]

Thus, though the Court is cognizant of the general rule, in cases of **gross and palpable negligence of counsel** and of **extrinsic fraud**, the Court must step in and accord relief to a client who suffered thereby.[38] For negligence to be excusable, it must be one which ordinary diligence and prudence could not have guarded against,[39] and for the extrinsic fraud to justify a petition for relief from judgment, it must be that fraud which the prevailing party caused to prevent the losing party from being heard on his action or defense. Such fraud concerns not the judgment itself but the manner in which it was obtained.[40] Guided by these pronouncements, the Court in the case of *Apex Mining, Inc. vs. Court of Appeals*[41] wrote:

> If the incompetence, ignorance or inexperience of counsel is so **great** and the error committed as a result thereof is so **serious** that the client, who otherwise has a good cause, is prejudiced and denied his day in court, the **litigation may be reopened** to give the client another chance to present his case. Similarly, when an unsuccessful party has been prevented from fully and fairly presenting his case as a result of his lawyer's professional

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[33] Id. at at 495; *Labao v. Flores*, 649 Phil. 213, 223 (2010).
[34] *Escudero v. Dulay*, 241 Phil. 877, 886 (1988).
[35] *Villanueva v. People of the Philippines,* 659 Phil. 418, 429 (2011).
[36] 120 Phil. 1264, 1270 (1964).
[37] Id.
[38] *Kalubiran v. Court of Appeals,* 360 Phil. 510, 526 (1998).
[39] *Gold Line Transit, Inc. v. Ramos*, 415 Phil. 492, 503 (2001).
[40] *AFP Mutual Benefit Association, Inc. v. RTC, Marikina City, Branch 193,* 658 Phil. 69, 77(2011).
[41] *Apex Mining, Inc. v. Court of Appeals*, supra note 32, at 495-496.

> delinquency or infidelity the litigation may be reopened to allow the party to present his side. Where counsel is guilty of **gross ignorance**, **negligence** and **dereliction of duty**, which resulted in the clients being held liable for damages in a damage suit, the client is deprived of his day in court and the **judgment may be set aside on such ground.**
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> [Emphases Supplied]

The situation in this case is almost similar to that in the recent case of *Lasala v. National Food Authority.*[42] In said case, the Court allowed the petition for relief from judgment filed by the National Food Authority due to its counsels' repeated acts of negligence and employment of extrinsic fraud to its detriment. The Court wrote:

> 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**."
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> 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.
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> In this light, we have ruled in several cases that a lawyer's mistake or gross negligence does not amount to the extrinsic fraud that would grant a petition for annulment of judgment.
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> 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.
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> 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.
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> In *Bayog v. Natino*, 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.
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> 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

[42] G.R. No. 171582, August 19, 2015.

order, the negligence in Bayog was unconscionable because (1) the client's pauper litigant status indicated that he relied solely on his counsel for the protection and defense 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.

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. 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.

> **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.**
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> 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.
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> **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.
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> [Emphases in the original; Underscoring Supplied]

Similarly, the negligence of the petitioner's counsel was **evidently so gross** as to call for the exercise of this Court's equity jurisdiction. Clearly, the negligence of Atty. Baniaga was **unconscionable** and **inexcusable**. It was highly suspicious, if not outright deliberate. Obviously, he fell short of the high standard of assiduousness that a counsel must perform to safeguard the rights of his clients.[43] At the inception, CEZA was already deprived of its right to present evidence during the trial of the case when Atty. Baniaga filed a joint manifestation submitting the case for decision based on the pleadings without informing CEZA. In violation of his sworn duty to protect his client's interest, Atty. Baniaga agreed to submit the case for decision without fully substantiating their defense. Worse, after he received a copy of the decision, he did not even bother to inform his client and the OGCC of the adverse judgment. He did not even take steps to protect the interests of his client by filing an appeal. Instead, he allowed the judgment to lapse into finality. Such reckless and gross negligence deprived CEZA not only of the chance to seek reconsideration thereof but also the opportunity to elevate its case to the CA.

It must be stressed that a lawyer-client relationship is highly fiduciary in nature.[44] The Code of Professional Responsibility mandates every lawyer to observe candor, fairness and loyalty in all his dealings and transactions with his client[45] and to serve them with competence and diligence.[46] It is the

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[43] *Francisco v. Portugal*, 519 Phil. 547, 555 (2006).
[44] *Macarilay v. Seriña*, 497 Phil. 348, 356 (2005).
[45] Canon 15 of the Code of Professional Responsibility.
[46] Canon 8 of the Code of Professional Responsibility.

duty of every lawyer to give adequate attention and time to every case entrusted to him[47] and to exert his best judgment in the prosecution or defense thereof and to exercise reasonable and ordinary care and diligence in the pursuit or defense of the case.[48]

Under the circumstances, CEZA should not be made to suffer the consequences of its counsel's gross negligence. A petition for relief from judgment is an equitable remedy that is allowed in exceptional cases where there is no other available or adequate remedy.[49] In the interest of justice and equity, the Court deems it just and equitable to grant the petition and enable CEZA to appeal its case.

Time and again, this Court has stressed that rules of procedure are not to be applied in a very strict and technical sense.[50] The rules are not inflexible tools designed to hinder or delay, but to facilitate and promote the administration of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate, rather than promote substantial justice, must always be eschewed.[51] As pronounced in the case of *Legarda vs. Court of Appeals*:[52]

> Procedural technicality should not be made a bar to the vindication of a legitimate grievance. When such technicality deserts from being an aid to justice, the courts are justified in excepting from its operation a particular case. Where there was something fishy and suspicious about the actuations of the former counsel of petitioner in the case at bar, in that he did not give any significance at all to the processes of the court, which has proven prejudicial to the rights of said clients, under a lame and flimsy explanation that the court's processes just escaped his attention, it is held that said lawyer deprived his clients of their day in court, thus entitling said clients to petition for relief from judgment despite the lapse of the reglementary period for filing said period for filing said petition.

Potential Liability of Atty. Baniaga

The records disclose that on January 27, 2011, the OGCC dismissed Atty. Baniaga for "Serious Dishonesty, Grave Misconduct, Gross Neglect of

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[47] *Pineda v. Macapagal,* 512 Phil. 668, 671 (2005).
[48] *Abiero v. Juanino,* 492 Phil. 149, 156 (2005).
[49] *Spouses Dela Cruz v. Andres*, 550 Phil. 679, 683 (2007).
[50] *Somoso v. Court of Appeals*, 258-A Phil. 435, 445 (1989).
[51] *Jaworski v. PAGCOR*, 464 Phil. 375, 385 (2004).
[52] G.R. No. 94457, March 18, 1991, 195 SCRA 418, 426, citing *People's Homesite and Housing Corporation v. Tiongco and Escasa* , supra note 36.

Duty, Conduct Prejudicial to the Best Interest of the Service, and Violation of Reasonable Office Rules and Regulations."[53]

The Court is forwarding a copy of the records of this case to the Board of Governors of the Integrated Bar of the Philippines so it may conduct the appropriate investigation regarding Atty. Baniaga's fitness to remain as a member of the Bar.

As in *Lasala,* the Court's ruling in this case involves solely the finding of extrinsic fraud for the purpose of granting CEZA a relief from judgment. The Board of Governors should conduct its own investigation 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 Atty. Baniaga.

WHEREFORE, the petition is **GRANTED.** The August 13, 2010 and December 9, 2010 Resolutions of the Court of Appeals, affirming the March 4, 2010 Resolution of the Regional Trial Court, Branch 7, Aparri, Cagayan , are **SET ASIDE**.

The Petition for Relief from Judgment filed by petitioner Cagayan Economic Zone Authority is **GRANTED**. Accordingly, the Court of Appeals is ordered to give due course to its Notice of Appeal.

Let copies of this decision and the relevant records of this case be sent to the Board of Governors of the Integrated Bar of the Philippines for its administrative investigation of Atty. Edgardo Baniaga, based on the given facts of this decision to determine whether he has the requisite competence and integrity to maintain his membership in the roll of lawyers of this country.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[53] *Rollo,* p. 47; and Annex "UU," *rollo,* pp. 431-432.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
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