



Republic of the Philippines
 Supreme Court
 Baguio City

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

MAY 17 2019

THIRD DIVISION

LEONORA RIVERA-AVANTE,
 Petitioner,

G.R. No. 224137

- versus -

Present:

**MILAGROS RIVERA AND THEIR
 HEIRS WITH THE LATE
 ALEJANDRO RIVERA, and ALL
 OTHER PERSONS WHO ARE
 DERIVING CLAIM OR RIGHTS
 FROM THEM,**

PERALTA, J., Chairperson,
 LEONEN,
 REYES, A., JR.,
 HERNANDO, and
 CARANDANG,* JJ.

Respondents.

Promulgated:

April 3, 2019

X----------X

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision¹ and Resolution² of the Court of Appeals (CA), promulgated on March 5, 2015 and April 12, 2016, respectively, in CA-G.R. SP No. 120047. The assailed CA Decision affirmed the March 24, 2011 Decision³ of the Regional Trial Court (RTC) of Manila, Branch 14, in Civil Case No. 10-124382, which set aside the August 20, 2010 Decision⁴ of the Metropolitan Trial Court (MeTC) of Manila, Branch 19, in an unlawful detainer case filed by herein petitioner against respondents docketed as Civil Case No. 184832-CV.

* Designated Additional Member per Special Order No. 2624 dated November 28, 2018.
¹ Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Jose C. Reyes, Jr. (now a member of this Court) and Francisco P. Acosta, concurring; *rollo*, pp. 19-28.
² *Rollo*, pp. 30-31.
³ Penned by Judge B. Albert J. Tenorio, Jr., *CA rollo*, pp. 42-46.
⁴ Penned by Judge Felicitas O. Laron-Cacanindin, *id.* at 33-41.

The factual and procedural antecedents are as follows:

Herein petitioner is the registered owner of a house and lot located at 1404 Leroy St., Paco, Manila. Respondent Milagros Rivera (*Milagros*) is her sister-in-law, being the wife of her deceased brother, Alejandro. Petitioner claims that she and her husband allowed respondents to stay in the disputed premises out of compassion for respondent and in consideration of her deceased brother Alejandro. However, in 2005, petitioner and her husband, finding the need to utilize the subject property and in view of their plan to distribute the same to their children, demanded that respondents vacate the premises in question. Petitioner and her husband have, likewise, obtained information that respondents are financially able to rent their own place and, in fact, have acquired several residential properties and vehicles. However, respondents refused the demand of petitioner and her husband, and even filed a case questioning petitioner's ownership of the said property contending that they are, in fact, co-owners of the subject property and that petitioner obtained title over the disputed lot through fraud, deceit and falsification.⁵ On May 22, 2006, petitioner sent a formal demand letter to respondents asking them to vacate the disputed premises, but this remained unheeded. On September 3, 2007, petitioner sent respondents another letter asking them to leave the subject property and to pay reasonable rent from the date of receipt of the said letter until they have fully vacated the questioned premises, but to no avail. Hence, petitioner filed an unlawful detainer case with the MeTC of Manila on March 12, 2008.

On August 20, 2010, the MeTC rendered its Decision in favor of petitioner and disposed as follows:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Ordering defendant Milagros Rivera and their heirs with the late Alejandro Rivera and all persons claiming rights under her to immediately vacate the premises located at No. 1404 Leroy Street, Paco, Manila covered by Transfer Certificate of Title No. 214352 issued by the City of Manila and to peacefully surrender to the plaintiffs the physical possession of the said premises;
2. Ordering defendant Milagros Rivera and their heirs with the late Alejandro Rivera and all persons claiming rights under her to pay plaintiff the amount of TEN THOUSAND PESOS per month for the use and occupancy of the subject premises from September 2007 until the defendants fully vacated the plaintiff's property;

⁵ Pending resolution of the unlawful detainer case by the MeTC, respondents filed with the RTC of Manila a case for cancellation of petitioner's title and partition with damages, docketed as Civil Case No. 06-115716.



3. Ordering the defendants to pay the plaintiff Attorney's Fees in the amount of TWENTY THOUSAND PESOS (P20,000.00);
4. Ordering the defendants to pay the costs of suit.

SO ORDERED.⁶

The MeTC made a provisional determination of ownership of the subject property and found that, unlike respondents, the pieces of evidence presented by petitioner proved that she owns the subject lot and is, thus, entitled to the possession thereof.

Herein respondents then filed an appeal with the RTC.

On March 24, 2011, the RTC rendered judgment granting respondents' appeal. The RTC Decision set aside the judgment of the MeTC and dismissed the unlawful detainer case filed by petitioner on the ground that the complaint for unlawful detainer was filed beyond the one-year reglementary period required by the Rules of Court, thus, his remedy should have been an *accion publiciana* which should be filed with the RTC. The RTC, nonetheless, held that the MeTC correctly held that petitioner has the right to possess the disputed lot on the basis of the MeTC's provisional finding of ownership in her favor.

After her motion for reconsideration was denied by the RTC, petitioner filed with the CA a petition for review under Rule 42 of the Rules of Court.

In its assailed Decision dated March 5, 2015, the CA affirmed the judgment of the RTC and dismissed petitioner's petition for review. The CA sustained the RTC in its ruling that petitioner's complaint for unlawful detainer was filed beyond the one-year reglementary period required under the Rules of Court. The CA ruled that this period is reckoned from petitioner's initial demand letter dated May 22, 2006 and not the latest demand letter dated September 3, 2007, because the latter was a mere reminder or reiteration of the original demand and, as such, does not operate to renew the one-year period within which to file the ejectment suit.

Petitioner filed a Motion for Reconsideration,⁷ but the CA denied it in its Resolution of April 12, 2016.

Hence, the instant petition for review on *certiorari* with the following assignment of errors:

⁶ CA rollo, pp. 40-41.

⁷ *Id.* at 307-313.



I.

THE COURT OF APPEALS ERRED IN AFFIRMING THE RTC DECISION FOR REVERSING THE LOWER COURT'S DECISION WHO (SIC) EARLIER RULED IN FAVOR OF THE PETITIONER (SIC)

II.

THE COURT OF APPEALS ERRED IN AFFIRMING THE RTC'S DECISION IN HOLDING THAT THE ONE-YEAR PERIOD WITHIN WHICH AN UNLAWFUL DETAINER CASE MUST BE FILED IS RECKONED FROM THE 22 MAY 2006 DEMAND LETTER AND NOT THE 7 September 2007 DEMAND LETTER AS THE FINAL ONE.⁸

The petition lacks merit.

At the outset, it bears to reiterate the settled principles governing a suit for unlawful detainer, to wit:

An action for unlawful detainer is an action to recover possession of real property from one who unlawfully withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied.⁹ The possession of the defendant in an unlawful detainer case is originally legal but becomes illegal due to the expiration or termination of the right to possess.¹⁰

A complaint for unlawful detainer is sufficient if the following allegations are present:

1. initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
2. eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
4. within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.¹¹

Moreover, the sole issue for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties.¹² When the defendant, however,

⁸ *Rollo*, pp. 10-11.

⁹ *Go v. Looyuko, et al.*, 713 Phil. 125, 131 (2013).

¹⁰ *Id.*

¹¹ *French v. Court of Appeals, et al.*, G.R. No. 220057, July 12, 2017, 831 SCRA 157, 164.

¹² *Go v. Looyuko, supra* note 9.

raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.¹³

In the present petition, the issue that needs to be resolved is whether or not petitioner's action for unlawful detainer was timely filed. More particularly, the sole issue to be determined is the date upon which the one-year prescriptive period for the filing of petitioner's unlawful detainer case should be reckoned. Is it May 22, 2006, which is the date of the initial demand letter or September 3, 2007, which was the latest demand letter prior to the filing of the unlawful detainer case against respondents?

Both the RTC and the CA held that the one-year prescriptive period should be counted from May 22, 2006 on the ground that the demand letter dated September 3, 2007 was merely in the nature of a reminder or reiteration of the original demand made on May 22, 2006.

The Court notes, that the issue of whether the September 3, 2007 demand letter of petitioner to respondents is a mere reminder of her original demand, made on May 22, 2006, is a question of fact. While the MeTC did not make any finding or conclusion regarding this issue, both the RTC and the CA ruled that the September 3, 2007 demand letter was a mere reiteration or reminder of petitioner's original demand made upon respondents through her letter dated May 22, 2006. It is a long-standing policy of this Court that the findings of facts of the RTC, which were adopted and affirmed by the CA, are generally deemed conclusive and binding.¹⁴ This Court is not a trier of facts and will not disturb the factual findings of the lower courts unless there are substantial reasons for doing so.¹⁵ In the instant case, the Court finds no exceptional reason to depart from this policy.

As correctly cited by both the RTC and the CA, the established rule as enunciated by this Court in *Racaza v. Gozum*¹⁶ is that subsequent demands that are merely in the nature of reminders of the original demand do not operate to renew the one-year period within which to commence an ejectment suit, considering that the period will still be reckoned from the date of the original demand. The Court is not unaware of the principle, as reiterated in the case of *Republic of the Philippines, et al. v. Sunvar Realty Development Corporation*,¹⁷ that where there were more than one demand to pay and vacate, the reckoning point of one year for filing the unlawful detainer case is from the last demand. *Sunvar*, nonetheless, acknowledged

¹³ *Id.*

¹⁴ *Spouses Padilla v. Velasco, et al.*, 596 Phil. 237, 245 (2009).

¹⁵ *Id.*

¹⁶ 523 Phil. 694, 710 (2006).

¹⁷ 688 Phil. 616, 640 (2012).

that this principle is still subject to the rule that if the subsequent demands are mere reiterations or reminders of the original demand, the one-year period to commence an ejectment suit would still be counted from the first demand.

Thus, on the basis of this settled rule, the RTC and the CA correctly ruled that the letter of September 3, 2007, which is a mere reiteration of the original demand, will not operate to renew the one-year period within which petitioner should file her unlawful detainer case because the said period will still be counted from the date of the original demand which was made on May 22, 2006. Hence, on the basis of the foregoing discussions, the instant petition should be dismissed.

Moreover, the Court could not help but agree with the observations of respondents that the present petition is, likewise, dismissible on the ground that petitioner is guilty of a procedural transgression which the Court cannot simply ignore.

As correctly ruled by the CA, petitioner's motion for reconsideration of the questioned CA Decision was belatedly filed.

Doctrinally-entrenched is that the right to appeal is a statutory right and the one who seeks to avail that right must comply with the statute or rules.¹⁸ The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays.¹⁹ Moreover, the perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence, failure to perfect the same renders the judgment final and executory.²⁰

Section 1, Rule 52 of the Rules of Court which, among others, governs the procedure in the CA, clearly provides:

Sec. 1. *Period for filing.* A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party.

As stated above, a motion for reconsideration of a judgment or final resolution should be filed within fifteen (15) days from notice. The fifteen-day reglementary period for filing a motion for reconsideration is non-extendible.²¹ If no appeal or motion for reconsideration is filed within this

¹⁸ *De Leon v. Hercules Agro Industrial Corporation, et al.*, 734 Phil. 652, 660 (2014).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Barrio Fiesta Restaurant, et al. v. Beronia*, 789 Phil. 520, 535 (2016); *Ponciano, Jr. v. Laguna Lake Development Authority, et al.*, 591 Phil. 194, 209 (2008).

period, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgment as provided under Section 10, Rule 51 of the same Rules.

In the present case, petitioner filed her Motion for Reconsideration on July 1, 2015, claiming that she received a copy of the assailed CA Decision on June 16, 2015. However, in his reply to the letter-inquiry²² of the Acting Division Clerk of Court of the former Sixth Division of the CA, the Postmaster of San Juan City certified that a copy of the assailed Decision of the CA was delivered to and received, via registered mail, by petitioner's counsel on June 15, 2015.²³ Under the Rules, petitioner was given fifteen (15) days from such receipt, or until June 30, 2015, to file her motion for reconsideration. Per records of the CA²⁴ and the admission of petitioner,²⁵ the latter's Motion for Reconsideration was filed on July 1, 2015. Thus, the same was filed late.

As a step to allow an inferior court to correct itself before review by a higher court, a motion for reconsideration must necessarily be filed within the period to appeal.²⁶ When filed beyond such period, the motion for reconsideration *ipso facto* forecloses the right to appeal.²⁷

In *Ponciano Jr. v. Laguna Lake Development Authority, et al.*,²⁸ the Court refused to admit a motion for reconsideration filed only one day late, pointing out that the Court has, in the past, similarly refused to admit motions for reconsideration which were filed late without sufficient justification.

Indeed, there are cases where this Court allowed the liberal application of procedural rules, but these are exceptions, sufficiently justified by meritorious and exceptional circumstances attendant therein.²⁹ Not every entreaty for relaxation of rules of procedure, however, shall be so lightly granted by the Court for it will render such rules inutile.³⁰ Certainly, the relaxation of the application of the Rules in exceptional cases was never intended to forge a bastion for erring litigants to violate the rules with impunity.

Petitioner's bare invocation of "the interest of justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their

²² See CA *rollo*, p. 315.

²³ *Id.* at 320.

²⁴ *Id.* at 313.

²⁵ *Id.* at 324.

²⁶ *Barrio Fiesta Restaurant, et al. v. Beronia, supra* note 21.

²⁷ *Id.*

²⁸ *Supra* note 21.

²⁹ *Id.* at 536.

³⁰ *Id.* at 209.

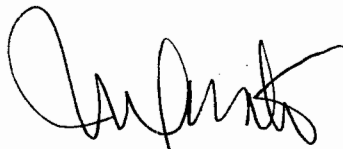
non-observance may have prejudiced a party's substantive rights.³¹ Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.³²

Hence, since petitioner's Motion for Reconsideration was belatedly filed, the Decision of the CA dated March 5, 2015 became final and executory by operation of law. In other words, the petitioner's failure to timely file her Motion for Reconsideration foreclosed any right which she may have had under the rules not only to seek reconsideration of the CA's assailed Decision but more importantly, such failure prevents her from exercising her right to assail the CA Decision before this Court.

The foregoing being the case, all is not lost for petitioner as she can still opt to file another action to recover possession of the subject property which should be brought in the proper court, taking into consideration the assessed value of the lot and the fact that dispossession has lasted for more than one year.

WHEREFORE, the instant petition is **DENIED**. The Decision and Resolution of the Court of Appeals, promulgated on March 5, 2015 and April 12, 2016, respectively, in CA-G.R. SP No. 120047, are hereby **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice


³¹ *Foculan-Fudalan v. Spouses Ocial, et al.*, 760 Phil. 815, 829 (2015).

³² *Id.*

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

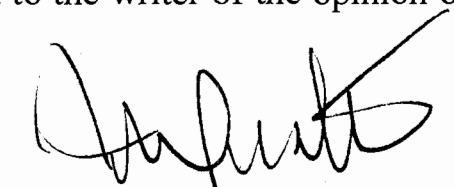

ANDRES B. REYES, JR.
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice


ROSMARI D. CARANDANG
 Associate Justice

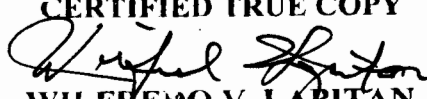
ATTESTATION

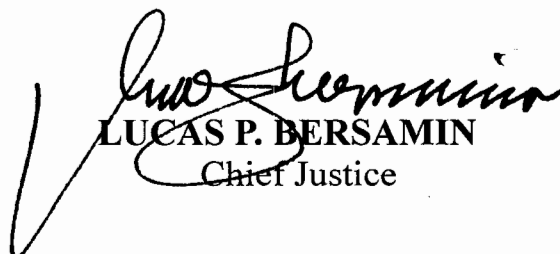
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
 Associate Justice
 Chairperson, Third 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.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 MAY 17 2019


LUCAS P. BERSAMIN
 Chief Justice