SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SPOUSES MARCELO G. FLORES and MEDELYN FLORES, *Petitioners,*	**G.R. No. 251669** Members: GESMUNDO, ***C.J., Chairperson***, CAGUIOA, LAZARO-JAVIER, LOPEZ, M., and LOPEZ, J., *JJ.*
-versus-	
SPOUSES LEOPOLDO A. ESTRELLADO and ENRIQUETA ESTRELLADO, BEDE TABALINGCOS, ATTY. CRES DAN D. BANGOY, ATTY. RAYMOND CARAOS, and ATTY. SOCRATES RIVERA, *Respondents.*	Promulgated: DEC 07 2021

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DECISION

LAZARO-JAVIER, *J.*:

The Case

This petition for review on certiorari assails the following dispositions of the Court of Appeals in **CA GR SP No. 159899** entitled *Spouses Marcelo G. Flores and Medelyn Flores v. Spouses Leopoldo A. Estrellado and Enriqueta Estrellado, Bede Tabalingcos, Atty. Cres Dan D. Bangoy, Atty. Raymond Caraos, and Atty. Socrates Rivera, private respondents, and The*

Honorable Regional Trial Court Branch 32 of San Pablo City, Laguna, the Honorable Clerk of Court and the Sheriff of Regional Trial Court Branch 32 of San Pablo City, Laguna, public respondents:

1. **Resolution**[1] dated April 26, 2019 which outrightly dismissed the *Petition for Annulment of Judgment*[2] of petitioner spouses Marcelo and Medelyn Flores on ground that the rulings sought to be nullified had lapsed into finality due to their own negligence; and

2. **Resolution**[3] dated January 28, 2020 which denied petitioners' motion for reconsideration.

Antecedents

In their *Petition for Annulment of Judgment* before the Court of Appeals *via* CA GR SP No. 159899, petitioners essentially alleged:

In December 2005, they contracted a loan from respondent Spouses Leopoldo and Enriqueta Estrellado in the amount of ₱3,000,000.00. The loan was due in six (6) months and earned 3.5% interest a month.[4] They paid the monthly interest of ₱105,000.00 from February 2006 up to May 2006. But when they obtained a second loan of ₱2,500,000.00 from Spouses Estrellado on June 30, 2006, the latter agreed to defer the collection of interests on both loans until the second loan matured in a year.[5] To cover the loans, they signed a *Kasulatan ng Sanglaan*[6] wherein they offered their 1,505 square meter residential house and lot in Barangay San Agustin, Alaminos, Laguna registered under TCT T-5473324[7] as security.[8]

Despite the agreement to defer payments, however, they received demand letters from Spouses Estrellado even before the second loan became due. Worse, Spouses Estrellado sought to collect 42% interest *per annum* on both loans without deducting or specifying the payments they had already made. Later, they discovered that their mortgaged property got foreclosed and sold at public auction.[9] Aggrieved, they engaged the services of Atty. **Bede Tabalingcos** to protect their rights.

On March 3, 2009, Tabalingcos filed a complaint[10] to nullify the loan documents and foreclosure proceedings. The case, **SP 6569(09)**, was raffled

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[1] Penned by Associate Justice Ricardo R. Rosario (now of the Supreme Court) and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Paño; *rollo*, p. 65.
[2] *Rollo*, p. 196.
[3] *Id.* at 71.
[4] *Id.* at 204.
[5] *Id.* at 205.
[6] *Id.* at 97.
[7] *Id.* at 95.
[8] *Id.* at 205.
[9] *Id.* at 207.
[10] *Id.* at 108.

to the Regional Trial Court – Branch 32, San Pablo City, Laguna, and was submitted for decision on October 23, 2013.[11]

Unknown to them, the Court had already **disbarred** Tabalingcos in its Decision dated July 10, 2012 in A.C. 6622. They, too, were unaware that on December 12, 2012, Tabalingcos withdrew as their counsel[12] in SP 6569(09); his so called law office partner Atty. Cres Dan D. Bangoy entered his appearance[13] as their (petitioners) new lawyer in lieu of Tabalingcos.[14]

But they never engaged the services of Atty. Bangoy. They knew nothing of Atty. Bangoy except for Tabalingcos' representation that he was his law office partner. As far as they were concerned, Tabalingcos was their true lawyer. For Tabalingcos continued to act as their counsel and receive fees from them. They were never made aware of his disbarment.[15]

But this did not stop Atty. Bangoy from filing pleadings on their behalf, including their *Comment* on Spouses Estrellado's formal offer of evidence.[16] Meanwhile, one Atty. Raymond Caraos filed a *Memorandum*[17] in SP 6569(09) on their behalf though he was a stranger to them.[18]

Clearly, Tabalingcos used the credentials of Atty. Bangoy and Atty. Caraos to continue representing them (petitioners) despite his disbarment. In truth, they were never duly represented from the time Tabalingcos withdrew his representation on December 12, 2012 until the case was submitted for decision in October 2013.[19]

By Joint Decision[20] dated December 16, 2013, the trial court dismissed SP 6569(09),[21] thus:

> WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaints in the above-entitled cases.
>
> The Extrajudicial Foreclosure Proceedings in EJF 3189 entitled "Leopoldo A. Estrallado, married to Enriqueta F. Estrellado, Mortgagee, v. Spouses Marcelo Flores and Medelyn Flores, Mortgagors[,"] including the Amended Certificate of Sale issued on April 8, 2008, are hereby DECLARED valid and legal.
>
> The plaintiffs are hereby DIRECTED to pay the defendants the following:

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[11] *Id.* at 207-208.
[12] *Id.* at 114.
[13] *Id.* at 116.
[14] *Id.* at 208.
[15] *Id.* at 208-209.
[16] *Id.* at 119.
[17] *Id.* at 125.
[18] *Id.* at 209.
[19] *Id.*
[20] Penned by Presiding Judge Agripino G. Morga; *rollo*, p. 72.
[21] Together with another case SP 6586(09) entitled *Shagun et al. v. Spouses Estrallado.*

1. P100,000.00, as temperate damages; and

2. P50,000.00, as attorney's fees.

SO ORDERED.

Tabalingcos assured them though that the dismissal was only a minor setback and he would be filing a motion for reconsideration to have the ruling reversed.[22] By Order[23] dated March 10, 2014, however, the trial court denied reconsideration.

They secured copy of their supposed motion for reconsideration[24] and discovered that it was signed by a certain **Socrates R. Rivera**. They did not know Rivera at that time, let alone, engage his services. When they asked Tabalingcos regarding Rivera's personality to file pleadings on their behalf, Tabalingcos simply answered that Rivera was one of his associates.[25]

Tabalingcos again reassured them that the rulings of the trial court may still be rectified through an appeal. Thus, on March 21, 2014, a notice of appeal[26] was filed on their behalf, again signed by Rivera.[27] But their appeal, **CA GR CV No. 102852**, was dismissed under Resolution[28] dated February 12, 2015 for failure to file their appellants' brief.[29]

Disgruntled, they confronted Tabalingcos regarding his omission but the latter only made convoluted excuses such as the destruction of his law office and loss of case records. Tabalingcos again promised that a motion for reconsideration would be filed. But this motion, too, got denied under Resolution[30] dated February 3, 2016.[31]

Tabalingcos represented that he would file a petition for review before the Court. But they were surprised to have learned that on February 25, 2016, a motion for extension[32] was filed not by Tabalingcos but by Rivera.[33]

Under Resolution[34] dated April 18, 2016 in **G.R. No. 222917** entitled *Spouses Marcelo Flores and Medelyn Flores et al. v. Spouses Leopoldo A. Estrallado and Enriqueta Estrellado et al.*, the Court denied their supposed appeal for failure to show that the Court of Appeals erred in its dispositions in CA G.R. CV No. 102852. The Court also noted their counsel's failure to state

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[22] *Rollo*, p. 210.
[23] *Id.* at 147.
[24] *Id.* at 188.
[25] *Id.* at 210.
[26] *Id.* at 149.
[27] *Id.* at 210.
[28] Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Magdangal M. de Leon and Nina G. Antonio-Valenzuela; *rollo*, p. 151.
[29] *Rollo*, p. 211.
[30] *Id.* at 153.
[31] *Id.* at 211.
[32] *Id.* at 154.
[33] *Id.* at 211.
[34] *Id.* at 160.

the material dates and submit soft copy of their petition as required under A.M. No. 11-9-4-SC or the Efficient Use of Paper Rule.

No longer satisfied with Tabalingcos' excuses, they sought a meeting with Tabalingcos' alleged associate Rivera who, to their utter shock, denied any knowledge or involvement in their case. According to Rivera, his signatures in all the pleadings filed on their behalf were forged;[35] he never worked for Tabalingcos as an associate.[36]

Verily, they were defrauded into believing that Tabalingcos was a lawyer of good standing, and that he was effectively representing their cause with the help of his so called associate. In truth, Tabalingcos was no longer a member of the bar since July 10, 2012 when the case was still pending with the trial court. On appeal, Tabalingcos continued to represent them using Rivera's credentials and forged signatures.[37]

Desperate and still reeling from Tabalingcos' betrayal, they looked up to Rivera to rectify the situation. Rivera emphatically agreed to take on their case and informed them that he would move for reconsideration before the Court and oppose the execution of the trial court's judgment.[38]

But Rivera had nothing for them but more deceit and lies. For instead of filing a motion for reconsideration before the Court, Rivera filed a *Complaint*[39] dated July 12, 2016 with the Court of Appeals, seeking to nullify their loan agreement with Spouses Estrellado and for proper accounting to be made.[40]

Subsequently, Rivera furnished them copy of a Resolution[41] dated November 5, 2016, purportedly of the Court of Appeals in CA G.R. CV No. 102852, which read:

Republic of the Philippines
Court of Appeals
Manila

Former Eight[h] (8th) Division

x x x x

RESOLUTION

LANTION, J.A.C., J.:

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[35] *Id.* at 212.
[36] *Id.*
[37] *Id.*
[38] *Id.* at 212-213.
[39] *Id.* at 166.
[40] *Id.* at 213.
[41] *Id.* at 173.

We, AGREE to the averment and arguments of the Plaintiff-Appellants, that the case has to be decided on the merits of the case but not on mere technicalities.

The Revised Rules of Court was drafted and come into being to served (sic) as a guide in the proper dispensation of justice not as a tool to hinder once (sic) claim, so as to best served the end of justice.

The case at bar was dismissed based on technicalities for failure of the counsel of records of the plaintiffs-appellants to file the required appellant[']s brief within the time prescribed by law, worst, what makes this case extra-ordinary was for the reason that the alleged counsel of record has no knowledge that he is handling this case nor the Plaintiff-Appellants hired his services, this is properly ventilated in the manifestation filed by Atty. Socrates R. Rivera and the Affidavit executed by one of the Plaintiff-Appellant, Marcelo Flores.

From the record of the case, it is clear and apparent that there was a clear violation and/or transgression to (sic) the Law on Foreclosure of Real Estate Mortgage, otherwise known as Republic Act 3135, as there was no Posting and Publication[,] a (sic) jurisdictional requirements absence of which renders the foreclosure null and void, not to mentioned (sic) the excessive interest rate and misrepresentation made by the Defendants-Appellants in entering into contract with the Plaintiffs-Appellants.

Accordingly, the Foreclosure Proceedings initiated by the Defendants-Appellees against the properties of the Plaintiff-Appellants which was used as a collateral are hereby declared null and void, as such, all proceedings at the Regional Trial Court of San Pablo City Branch 32 are hereby declared null and void and shall be expunged from the record of said court.

Likewise, let the record of this case be remanded to the Regional Trial Court of San Pablo City Branch 32 for its disposal.

SO ORDERED.

ORIGINAL SIGNED
JANE AURORA C. LANTION
Associate Justice

WE CONCUR:

ORIGINAL SIGNED
MAGDANGAL M. DE LEON
Associate Justice

ORIGNAL SIGNED
NINA G. ANTONIO-VALENZUELA
Associate Justice

Rivera cheerfully explained to them that he was able to obtain a favorable decision from the Court of Appeals and that the foreclosure proceedings as well as the mortgage were nullified.[42]

In 2018, Rivera furnished them copies of a *Manifestation*[43] dated January 18, 2018 and *Comment*[44] dated April 16, 2018 which he allegedly filed before the Court of Appeals in relation to CA GR CV No. 102852. The manifestation was supposedly made to inform the Court of Appeals of their receipt of a notice of levy for failure to pay realty taxes. Meanwhile, the comment quoted the procedure in the extrajudicial foreclosure of mortgages in opposition to a motion the nature of which was not specified. Both the manifestation and the comment stated that the Court allegedly remanded the case to the Court of Appeals in 2016, thus:

> MANIFESTATION
>
> x x x x
>
> It has been sometimes (sic) since the Honorable Supreme Court remanded the above-entitled case to the Honorable Court of Appeals for reason that the Plaintiff-Appellants Petition for New Trial, anchored on the ground of intrinsic fraud, accident, mistake and excusable neglect;
>
> Plaintiff through counsel received the Order of the Honorable Supreme Court remanding the above-entitled case to the Honorable Court of Appeals;
>
> x x x x
>
> COMMENT
>
> x x x x
>
> 1. As clearly stated in the assailed Order and from the record of this case before the court a quo, it is evident that since 2016 the case was already remanded before the Honorable Court for reason that the order of dismissal of technicality by the latter court was reconsidered by the Honorable Supreme Court;
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> 2. To date the said case was already remanded for disposal fo (sic) the Court of Appeals on appeal level;
>
> x x x x

Rivera, too, supposedly filed a *Compliance Cum Manifestation*[45] dated July 14, 2018 in "G.R. No. 210091-12" to inform the Court that they (petitioners) were actually Tabalingcos' clients; Tabalingcos forged his

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[42] *Id.* at 213.
[43] *Id.* at 179.
[44] *Id.* at 175.
[45] *Id.* at 162

(Rivera's) signature when he supposedly appealed from the dispositions of the Court of Appeals in CA G.R. CV 102852. Said document was purportedly received by the office of former Chief Justice Teresita Leonardo-de Castro on July 16, 2018.

Not learned in the law or legal practice, they believed all of Rivera's representations.[46]

On December 7, 2018, they received the trial court's Order[47] dated October 23, 2018 directing the issuance of a writ of execution to implement its earlier Joint Decision dated December 16, 2013. Surprised by this development, they asked Rivera how the trial court could have issued such writ when the Court of Appeals had already nullified the mortgage over their property. Rivera answered that he would move for reconsideration and, thereafter, filed a *Motion to Implement*[48] the Court of Appeals' purported Resolution[49] dated November 5, 2016.[50]

By Order[51] dated November 20, 2018, the trial court denied reconsideration. Before ruling on the merits, it noted that Rivera sought conflicting relief: he prayed that Spouses Estrellado's motion for execution be "**GRANTED**" and at the same time, for the Order dated October 23, 2018 on the issuance of a writ of execution be set aside.

This was the final straw. They investigated Rivera's legal standing as well as the truthfulness of his representations. Lo and behold, they discovered that the Court had suspended Rivera from the practice of law for three (3) years under Resolution dated August 9, 2016 in A.C. 11350. Hence, he could not have lawfully represented them in the proceedings nor file any pleading on their behalf. With the aid of their new counsel, they secured a certification from the Judicial Records Division of the Court of Appeals that all pleadings Rivera allegedly filed on their behalf were spurious.[52]

All things considered, they were deprived of their day in court by their so-called counsels. They were denied the most basic right to due process of law.[53] Consequently, in their petition for annulment of judgment docketed as **CA G.R. SP No. 159899**, they prayed that the Court of Appeals:

1) Issue a temporary restraining order against the trial court's writ of execution;

2) Issue a writ of preliminary injunction preventing Spouses Estrellado from seeking execution of the trial court's ruling;

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[46] *Id.* at 213.
[47] *Id.* at 90.
[48] *Id.* at 182.
[49] *Id.* at 173.
[50] *Id.* at 214.
[51] *Id.* at 185.
[52] *Id.* at 215.
[53] *Id.* at 216.

3) Render judgment:

a) Making the writ of preliminary injunction permanent;

b) Nullifying the trial court's Decision dated December 16, 2013 and Order dated October 23, 2018 in SP 6569(09); and

c) Recommending that Bede Tabalingcos, Atty. Cres Dan D. Bangoy, Atty. Raymond Caraos, and Socrates R. Rivera be sanctioned.

Dispositions of the Court of Appeals

In its assailed Resolution[54] dated April 26, 2019 in **CA G.R. SP No. 159899**, the Court of Appeals outrightly dismissed the petition for annulment of judgment. It essentially held that the alleged violation of petitioners' right to due process was caused by their own negligence, noting that petitioners were furnished copies of pleadings and orders throughout the proceedings. Tabalingcos was also in continuous and consistent communication with them to give updates on the progress of their case. As it was, petitioners never took steps to keep themselves abreast of the developments of their case before the Court of Appeals and this Court. Failing in this duty, petitioners should bear the consequences of the adverse judgment against them.[55]

The Court of Appeals denied reconsideration on January 28, 2020.[56]

Present Petition

Petitioners now seek the Court's discretionary appellate jurisdiction and pray for the reversal of the dispositions of the Court of Appeals. They maintain that the right to be assisted by counsel includes the right to be assisted by a member of the bar in good standing. Since their so-called counsels were either disbarred or suspended while handling their cases, they were essentially deprived of their right to counsel and denied due process of law.[57]

Whether they were deprived of their right to due process is no longer an issue. The Court of Appeals admitted this much when it dismissed their petition on sole ground of their supposed negligence. Contrary to the Court of Appeals' ruling, however, they consistently and persistently monitored their

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[54] Penned by Associate Justice Ricardo R. Rosario (now of the Supreme Court) and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Paño; *rollo*, p. 65.
[55] *Rollo*, pp. 67-69.
[56] *Id.* at 71.
[57] *Id.* at 33-41.

case. They confronted Tabalingcos on the personality of Rivera to file pleadings on their behalf only to be told that Rivera was allegedly an associate. They, too, confronted Tabalingcos when he failed to file their brief before the Court of Appeals.[58]

Unfortunately, they could not have guarded against the cunning misrepresentations of their so-called counsels. They are an elderly couple with low education whose only guidance was that of their lawyers. When their lawyers gave them a report on their cases and tell them of the next legal strategy, who were they to argue otherwise? Should they be faulted for failing to ask whether their lawyers were suspended or disbarred?[59]

In their Comment,[60] Spouses Estrellado riposted that the petition raises factual issues which the Court may not entertain. At any rate, they agree with the Court of Appeals' finding that the supposed denial of due process was due to petitioners' own fault.

As for respondents Tabalingcos, Rivera, Atty. Bangoy, and Atty. Caraos, they failed to file their respective comments and are therefore deemed to have waived their right to do so.

Meantime, the Court takes judicial notice of its Decision dated November 3, 2020 in A.C. No. 11241, which ordered the disbarment of Rivera.

Our Ruling

We grant the petition.

At the outset, the Court notes that the issue of whether petitioners were negligent in monitoring their case is a purely factual issue. As a general rule, the Court may only entertain questions of law in petitions for review on certiorari. For the Court is not a trier of facts. It is not the Court's function to analyze or weigh evidence all over again in view of the corollary legal precept that findings of fact of the Court of Appeals are conclusive and binding on this Court.[61] But where the judgment is based on misapprehension of facts, as here, it becomes our bounden duty to re-examine the evidence on record for a judicious resolution of the controversy.[62]

Due process violation as ground for annulment of judgment; denial of right to counsel as due process violation

[58] *Id.* at 42-46.
[59] *Id.* at 47.
[60] *Id.* at 253.
[61] *Gimalay v. Court of Appeals,* G.R. Nos. 240123 & 240125, June 17, 2020.
[62] See *Heirs of Villanueva v. Heirs of Mendoza,* 810 Phil. 172, 178-179 (2017).

A petition for annulment of judgment is a remedy in equity which courts view with an attitude of reluctance as it is an exception to the time honored doctrine of immutability of final judgments. Thus, to prevent parties aggrieved by final judgments, orders, or resolutions from abusing this exceptional remedy, the Court installed safeguards limiting its application under Rule 47 of the Rules of Court.[63] Under the rules, the grounds for annulment are limited to extrinsic fraud and lack of jurisdiction.[64] ***Arcelona v. Court of Appeals***,[65] however, recognized a third ground -- denial of due process.[66]

In ***Arcelona***, therein private respondent filed an action against some owners of the fishponds he had been tending to, and prevailed from the trial court all the way to this Court. The Arcelonas, however, sought to have the trial court's ruling nullified on ground that they were indispensable parties over whom the trial court failed to acquire jurisdiction. The Court of Appeals initially denied their petition for failure to invoke a proper ground for annulment. The Court, however, reversed, holding that annulment of judgment is available when the ruling sought to be nullified is void upon its face or by virtue of its own recitals and records. As it was, the records were clear from the beginning that the Arcelonas were co-owners who should have been impleaded as indispensable parties. But they were never made aware of the proceedings until after it got resolved by the Court. Consequently, they were allowed to assail the trial court's ruling *via* annulment of judgment.

Here, petitioners invoke ***Arcelona*** and claim that they, too, were denied due process of law. They essentially assert that the actions of their supposed counsels deprived them of their day in court.

We agree with petitioners.

Section 1, Article III of the Constitution ordains that no person shall be deprived of life, liberty, or property without due process of law. Collateral to this right is the right to be assisted by counsel for the purpose of ensuring that due process rights of litigants are truly observed.[67]

Section 14(2), Article III of the Constitution further mandates that in all criminal prosecutions, the accused shall enjoy the right to be heard by himself

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[63] See *Dare Adventure Farm Corporation v. Court of Appeals*, 695 Phil. 681, 688-689 (2012).

[64] **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.

[65] 345 Phil. 250, 282 (1997), citing *Macabingkil v. People's Homesite and Housing Corporation*, 164 Phil. 328 (1976).

[66] See *Baclaran Marketing Corporation v. Nieva*, 809 Phil. 92, 102 (2017).

[67] See *People v. Liwanag*, 415 Phil. 271, 287-288 (2001).

and counsel.[68] There is no reason, however, not to apply this safeguard to civil cases as well. ***Spouses Telan v. Court of Appeals***[69] elucidates:

> **The right to counsel in civil cases exists just as forcefully as in criminal cases, specially so when as a consequence, life, liberty, or property is subjected to restraint or in danger of loss.**
>
> In criminal cases, the right of an accused person to be assisted by a member of the bar is immutable. Otherwise, there would be a grave denial of due process. Thus, even if the judgment had become final and executory, it may still be recalled, and the accused afforded the opportunity to be heard by himself and counsel.
>
> **There is no reason why the rule in criminal cases has to be different from that in civil cases. The preeminent right to due process of law applies not only to life and liberty but also to property. There can be no fair hearing unless a party, who is in danger of losing his house in which he and his family live and in which he has established a modest means of livelihood, is given the right to be heard by himself and counsel.** (Emphases added)

There, Spouses Pedro and Angelina Telan lost a case for *accion publiciana*, hence, possession of the property in dispute was awarded to the opposing party. Consequently, Spouses Telan hired "Atty. Palma" to represent them before the appellate court. "Atty. Palma," nevertheless, failed to file the required appeal brief within the reglementary period. Thus, the Court of Appeals outrightly dismissed the appeal of Spouses Telan who only came to know of such dismissal much later from an employee of the Isabela Provincial Capitol. They wanted to verify the information but "Atty. Palma" could no longer be found. They hired a new counsel, Peter Donnely A. Barot who discovered that the name of "Atty. Palma" does not appear in the Roll of Attorneys with the Office of the Bar Confidant. They, too, filed an appeal before this Court, albeit the lower court's ruling in the case for *accion publiciana* had already attained finality and a writ of demolition had already been issued therefor. Yet the Court, taking into account the fact that Spouses Telan were denied due process, granted the appeal and reinstated the proceedings before the Court of Appeals.

As well, in ***Polsotin, Jr. v. De Guia Enterprises, Inc.***,[70] therein petitioners' appeal and petition for *certiorari* before the National Labor Relations Commission and the Court of Appeals, respectively, got dismissed on purely technical grounds. The Court noted, though, that in both instances,

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[68] SECTION 14. x x x
(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[69] 279 Phil. 587, 594-595 (1991).

[70] 677 Phil. 561, 567-568 (2011).

petitioners were not represented by a lawyer. They had no counsel on record and had been filing and signing all pleadings only through a co-party. There was no showing that their case was directly handled or at the very least, that they were assisted by a counsel. The Court therefore held that petitioners' procedural lapses ought to be excused and the proceedings before the labor arbiter, reinstated, thus:

> Aware that petitioners are not represented by counsel, the CA could have been more prudent by giving petitioners time to engage the services of a lawyer or at least by reminding them of the importance of retaining one. It is worthy to mention at this point that the right to counsel, being intertwined with the right to due process, is guaranteed by the Constitution to any person whether the proceeding is administrative, civil or criminal. The CA should have extended some degree of liberality so as to give the party a chance to prove their cause with a lawyer to represent or to assist them.
>
> In line with this and as "the right of counsel is absolute and may be invoked at all times[,"] we required petitioners to enter the appearance of a counsel. Upon petitioners' manifestation of their failure to secure the services of a counsel due to financial constraints, the Court resolved to appoint a counsel *de oficio* to assist them in litigating their case.

Verily, a violation of a person's right to be heard by counsel is tantamount to a violation of said person's right to due process. Thus, following ***Arcelona***, proceedings wherein one or both parties were not duly represented by counsel may be susceptible to annulment of judgment under Rule 47 of the Rules of Court.

But just because a party is assisted by counsel in a given case does not automatically mean that his or her right to counsel and due process are observed. For where counsel commits a mistake so gross, palpable and inexcusable as to result in violation of his or her client's substantive rights, such mistake may also constitute due process violation.

Thus, in ***Heirs of Pael v. Destura***,[71] the Court upheld the dispositions of the Court of Appeals which annulled the trial court's ruling on grounds, *inter alia*, that therein respondents' former counsel Atty. Oliver Lozano enigmatically failed to file an answer to the complaint despite the extremely valuable property involved. Atty. Lozano, too, successively filed a notice of appeal from the default judgment and a motion for new trial, though he knew full well that both remedies were utterly inconsistent with and contradictory to each other. Consequently, the Court affirmed the finding of the Court of Appeals that Atty. Lozano's suspicious actuations denied respondents of their day in court. His acts and omissions amounted to reckless negligence of counsel which grossly violated respondents' right to due process, warranting the annulment of the trial court's judgment.

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[71] 382 Phil. 222 (2000).

Petitioners were denied due process of law

Here, petitioners were denied due process of law since they were represented by counsel who were either disbarred or suspended from the practice. The records also bear the systematic way by which petitioners were defrauded by their so-called counsels, *viz.*:

1) In 2009, petitioners engaged Tabalingcos as their counsel in SP 6569(09). Unknown to them, Tabalingcos had been disbarred by the Court in its Order dated July 10, 2012 in A.C. No. 6622. Yet Tabalingcos continued to represent them in the case;

2) Tabalingcos eventually withdrew as petitioners' counsel and caused the entry of appearance of Atty. Bangoy. Though petitioners seemingly gave their conformity to such change of counsel, this was only due to Tabalingcos' misrepresentation that Atty. Bangoy was his law firm partner;

3) Despite the entry of appearance of Atty. Bangoy, petitioners would still follow up their case with Tabalingcos. They only dealt with Tabalingcos, no one else, when the case was still with the trial court; they never stopped paying Tabalingcos his legal fees;

4) Without petitioners' knowledge, Atty. Bangoy filed pleadings on their behalf in SP 6569(09). Meanwhile, Atty. Caraos, another supposed associate of Tabalingcos, filed a *Memorandum* on petitioners' behalf in the same case. As it was, Tabalingcos merely used the credentials of his so-called law firm partner and associate to continue representing petitioners despite his disbarment. To be sure Atty. Bangoy and Atty. Caraos could not have been professionally connected with Tabalingcos who had already been disbarred, hence, no longer allowed to practice law;

5) After the trial court dismissed their complaint, petitioners discovered that Rivera filed a motion for reconsideration on their behalf. Again, Tabalingcos assured them that Rivera was another of his associates;

6) The motion for reconsideration purportedly signed by Rivera got denied. Tabalingcos, nevertheless, assured petitioners that the matter may still be rectified through an appeal. Subsequently, a notice of appeal was filed on their behalf which was also purportedly signed by Rivera. Said appeal got dismissed, however, for failure to file their appellants' brief;

7) Petitioners' case went further up to this Court *via* a petition for review on certiorari, supposedly through Rivera. Said petition got dismissed for failure to state the material dates and to submit a soft copy of the petition as required under the Efficient Use of Paper Rule, among others;

8) Petitioners confronted Rivera who denied having prepared, signed, and submitted any of their pleadings, as well as being a supposed associate of Tabalingcos;

9) Reeling from Tabalingcos' betrayal, they looked to Rivera to rectify the situation. Rivera emphatically agreed and thereafter filed a *Compliance Cum Manifestation* before this Court wherein he stated that his signatures in all previous pleadings were forged;

10) Too, Rivera allegedly filed a *Complaint* with the Court of Appeals, and later on furnished petitioners with a spurious *Resolution* granting said complaint. Rivera filed additional pleadings before the Court of Appeals;

11) Meantime, the trial court sought to implement its earlier decision. Rivera countered with *Motion to Implement* the Court of Appeals' purported Resolution dated November 5, 2016, though the trial court noted that Rivera actually sought for execution to be "**GRANTED**";

12) Upon denial of the motion, petitioners investigated Rivera's legal standing and discovered that the Court had suspended Rivera from the practice of law for three (3) years under Resolution dated August 9, 2016 in A.C. 11350. Hence, he could not have lawfully represented them in the proceedings nor file any pleading on their behalf.

Clearly, petitioners were deprived of their day in court by their so-called counsels. Although on paper, petitioners were supposedly represented by Tabalingcos and Rivera throughout the proceedings, the latter had already been disbarred and suspended by the Court, respectively. Thus, in reality, petitioners had no counsel at all.

It may be that Tabalingcos was still a lawyer in good standing when petitioners engaged his services in 2009 until his disbarment on July 10, 2012. But it bears stress that the right to counsel is absolute and may be invoked at all times. More so, in the case of an on-going litigation, it is a right that must be exercised at **every step of the way**, with the lawyer faithfully keeping his client company.[72] Hence, despite Tabalingcos' earlier assistance to petitioners, we are constrained to rule that petitioners were not afforded their day in court. On this ground alone, the trial court's ruling may already be nullified in accordance with ***Spouses Telan*** and ***Polsotin***.

But the Court finds ***Heirs of Pael*** applicable here as well. For the actuations of Tabalingcos and Rivera do not only constitute gross, palpable and inexcusable mistake or negligence, but something much worse -- fraud.

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[72] *Inacay v. People*, 801 Phil. 187, 191-192 (2016).

To recall, despite Tabalingcos' disbarment, he continued to represent petitioners using the credentials of Atty. Bangoy and Atty. Caraos. But he could not have legally done so, for a disbarred lawyer is no longer permitted to practice law either directly or indirectly. Rivera, on the other hand, had more fraudulent tricks up his sleeve. He concealed the fact of his suspension and he continued to lawyer for petitioners post judgment. More, he lulled petitioners into believing that he had been diligently attending to their case when, in truth, the documents he showed them were either spurious or otherwise not sanctioned by our rules.

To be sure, such legal assistance provided by Tabalingcos and Rivera were ineffectual, if not downright criminal. We, therefore, rule that petitioners were deprived of their day in court, warranting the annulment of the trial court's judgment.

Petitioners are not guilty of negligence

Despite the foregoing backdrop, the Court of Appeals outrightly dismissed petitioners' plea for annulment of judgment on ground that they were supposedly negligent in monitoring their case.

But on the contrary, petitioners had been in constant communication with Tabalingcos and Rivera for purposes of following up on the status of their case. They confronted Tabalingcos on the personalities of Atty. Bangoy, Atty. Caraos, and Rivera to file pleadings on their behalf only to be told that the three (3) were either law partners or associates. Petitioners, too, confronted Tabalingcos when he failed to file their brief before the Court of Appeals. And when petitioners switched to the services of Rivera, they were never remiss on following up their case with him as well. As it was, however, the level of trickery and falsehood employed by their so-called counsels was something petitioners could not have easily guarded against. Thus, we cannot fault petitioners for relying on the assurances given them.

Indeed, we could hardly blame petitioners for falling prey to the machinations of Tabalingcos and Rivera. Not learned in the law or legal practice and being of advanced age, they were defenseless against their counsels' fraudulent schemes. ***Spouses Telan*** further elucidated:

> Even the most experienced lawyers get tangled in the web of procedure. To demand as much from ordinary citizens whose only *compelle intrare* is their sense of right would turn the legal system into an intimidating monstrosity where an individual may be stripped of his property rights not because he has no right to the property but because he does not know how to establish such right.

Petitioners raised a valid concern when they asked: when their lawyers gave them a report on their cases and told them of the next legal strategy, who were they to argue otherwise? Surely, petitioners were in no position to

analyze the legal niceties of the remedies resorted to by their counsels and to realize the deleterious effects of the latter's tactical errors. More so, in this case, where the acts of their counsels were tainted not only with gross negligence, but with actual fraud committed at the expense of petitioners.

In fine, we agree with petitioners that they were denied the most basic right to due process when they got repeatedly deprived of their day in court. Their so-called counsels were no counsel at all. Worse, Tabalingcos and Rivera wasted the finite time and resources of petitioners with their brazen trickery and falsehood. The Court cannot give its imprimatur to such vile acts. As aptly discussed by Associate Justice Aflredo Benjamin S. Caguioa during the deliberations in this case, the Court must perform its legal and moral duty to provide judicial aid to parties who are deprived of their rights.[73]

So must it be.

ACCORDINGLY, the petition is **GRANTED.** The Resolutions dated April 26, 2019 and January 28, 2020 of the Court of Appeals in CA G.R. SP No. 159899 are **REVERSED and SET ASIDE.** The Joint Decision dated December 16, 2013 of the Regional Trial Court – Branch 32, San Pablo City, Laguna in SP 6569(09) and all related issuances are declared **VOID**.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

[73] *Heirs of Pael v. Destura*, supra note 71.

WE CONCUR:

Please see Concurring Opinion

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice

FIRST DIVISION

G.R. No. 251669 — SPOUSES MARCELO G. FLORES and MEDELYN FLORES, *petitioners*, ***versus*** **SPOUSES LEOPOLDO A. ESTRELLADO and ENRIQUETA ESTRELLADO, BEDE TABALINGCOS, ATTY. CRES DAN D. BANGOY, ATTY. RAYMOND CARAOS, and ATTY. SOCRATES RIVERA,** *respondents*.

Promulgated:

DEC 07 2021

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CONCURRING OPINION

CAGUIOA, *J.*:

I concur.

I find that petitioners were denied due process as a result of the various acts of fraud committed by their previous counsels, warranting an annulment of the judgment in Civil Case No. SP-6569(09).

I write this Concurring Opinion to stress that, as exemplified in this case, fraud committed by one's own lawyer may constitute either denial of due process or extrinsic fraud, or both, so as to warrant an annulment of judgment under Rule 47 of the Rules of Court.

I.

First, consonant with the conclusion reached by the *ponencia*, I find petitioners' invocation of denial of due process to be proper within the context of Rule 47 of the Rules of Court.

To stress, the Court has long recognized "extrinsic fraud, and lack of jurisdiction **or** denial of due process" as grounds to seek the annulment of a judgment under Rule 47 of the Rules of Court.[1] As such, while denial of due process is not expressly mentioned in Rule 47 of the Rules of Court, it is well settled that denial of due process can be invoked independently of, or as an alternative to, extrinsic fraud and lack of jurisdiction in order to annul a judgment. Indeed, these grounds may even be invoked singly or in

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1 *City of Taguig v. City of Makati*, G.R. No. 208393, June 15, 2016, 793 SCRA 527; *Genato Investments, Inc. v. Barrientos*, G.R. No. 207443, July 23, 2014, 731 SCRA 35; *Alaban v. Court of Appeals*, G.R. No. 156021, September 23, 2005, 470 SCRA 697; and *Heirs of Lorilla v. Court of Appeals*, G.R. No. 118655, April 12, 2000, 330 SCRA 429.

combination with each other.[2] Stated differently, there is no prohibition against invoking any or all grounds in a petition for annulment of judgment, or, as in this case, invoking one ground (denial of due process) as a result of another (fraud).

On this score, I wholly agree with petitioners that a violation of their right to counsel, brought about by the fraudulent machinations of their previous counsels, is tantamount to a denial of due process within the purview of Rule 47 of the Rules of Court.[3]

Thus, in ruling for petitioners, the *ponencia* aptly cites *Telan v. Court of Appeals*[4] (*Telan*), where the Court found therein petitioners to have been denied due process because they were represented by a fake lawyer, to wit:

> The right to counsel in civil cases exists just as forcefully as in criminal cases, specially so when as a consequence, life, liberty, or property is subjected to restraint or in danger of loss.
>
> In criminal cases, the right of an accused person to be assisted by a member of the bar is immutable. Otherwise, there would be a grave denial of due process. Thus, even if the judgment had become final and executory, it may still be recalled, and the accused afforded the opportunity to be heard by himself and counsel.
>
> There is no reason why the rule in criminal cases has to be different from that in civil cases. The preeminent right to due process of law applies not only to life and liberty but also to property. There can be no fair hearing unless a party, who is in danger of losing his house in which he and his family live and in which he has established a modest means of livelihood, is given the right to be heard by himself and counsel.
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> Even the most experienced lawyers get tangled in the web of procedure. To demand as much from ordinary citizens whose only *compelle intrare* is their sense of right would turn the legal system into an intimidating monstrosity where an individual may be stripped of his property rights not because he has no right to the property but because he does not know how to establish such right.
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> The right to counsel is absolute and may be invoked at all times. More so, in the case of an on-going litigation, it is a right that must be exercised at every step of the way, with the lawyer faithfully keeping his client company.
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> x x x x
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> Curiously, the counsel of the private respondents, ROBERTO TELAN and spouses VICENTE and VIRGINIA, would still insist that the petitioners, spouses PEDRO and ANGELINA TELAN, had lost their right

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2 *Pinausukan Seafood House, Roxas Boulevard, Inc. v. Far East Bank & Trust Co.*, G.R. No. 159926, January 20, 2014, 714 SCRA 226, 242.

3 *Rollo*, p. 43.

4 G.R. No. 95026, October 4, 1991, 212 SCRA 534.

> to appeal because of the negligence of their counsel, referring to "Atty. Palma."
>
> A client is generally bound by the action of his counsel in the management of a litigation even by the attorney's mistake or negligence in procedural technique. But how can there be negligence by the counsel in the case at bar when the "lawyer", "Atty. Palma," turned out to be fake? The Affidavit of the petitioner PEDRO TELAN, the sworn Petition, the Certifications of the Bar Confidant's Office and the Integrated Bar of the Philippines, and the submitted records of Criminal Case No. 389-90 more than sufficiently establish the existence of an Ernesto Palma who misrepresented himself as a lawyer.[5]

Here, a perusal of petitioners' Petition easily reveals that they have consistently raised denial of due process, specifically one arising from a violation of their right to competent counsel as a ground to annul the trial court's judgment in Civil Case No. SP-6569(09).[6] They rely, in particular, on the Court's ruling in *Arcelona v. Court of Appeals*[7] (*Arcelona*), where the Court held that an action for annulment of judgment may be brought where the decision sought to be annulled is void "on grounds of want of jurisdiction or non-compliance with due process of law."[8] Underscoring the importance of being represented by a competent member of the Bar in good standing,[9] petitioners summarized how they were denied due process, as follows:

> [T]he uncontroverted facts point to a similar denial of a litigant[']s right to counsel when[:] ***[F]irst***, while the case was pending before the Trial Court, **they were represented by a disbarred lawyer**. ***Second***, while the same case was pending with the Trial Court, **a lawyer not of their choice and without their authority and consent, entered his appearance**, and submitted numerous pleadings on their behalf including the final memorandum before the case was submitted for decision. ***Third***, **when the case was finally decided by the Trial Court, the same lawyer who entered his appearance without authority, filed a Motion for Reconsideration**. ***Fourth***, when the case was appealed to the Court of Appeals and subsequently to the Supreme Court, **the same disbarred lawyer fraudulently represented them by using the name and credentials of another lawyer**. And finally, it turned out that **even the lawyer whose credentials were used was, at the time, suspended from the practice of law**.[10]

Indeed, as held in *Telan*, the right to counsel is absolute and may be invoked at all times.[11] As well, a violation of a person's right to be heard by

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5 Id. at 540-542; citations omitted.

6 *Rollo*, pp. 4-6, 31-44 & 201.

7 G.R. No. 102900, October 2, 1997, 280 SCRA 20.

8 Id. at 34, citing *Macabingkil v. People's Homesite and Housing Corporation*, No. L-29080, August 17, 1976, 72 SCRA 326.

9 *Rollo*, pp. 33-36. The Petition cites *People v. Holgado*, 85 Phil. 752, 757 (1950): "[T]he right to be assisted by counsel is deemed so important that it has become a constitutional right; *Telan v. Court of Appeals*, supra note 4, where the Supreme Court reversed the decision of the lower court on the ground that petitioners were denied their right to counsel because they were represented by a fake lawyer; and *Inacay v. People*, G.R. No. 223506, November 28, 2016, 810 SCRA 610, wherein the Court remanded the case for re-trial because petitioner was represented by a non-lawyer.

10 Id. at 36; emphasis, italics and underscoring in the original.

11 *Telan v. Court of Appeals*, supra note 4, at 541.

counsel is tantamount to a violation of said person's right to due process.[12] Accordingly, I find petitioners' reliance on denial of due process as a ground for annulment of judgment, as in *Arcelona*, proper in this case.

II.

As well, it is my considered view that fraud by one's own counsel may also constitute extrinsic fraud, which may likewise be invoked as a ground for annulment of judgment by herein petitioners.

To recall, in *Cosmic Lumber Corporation v. Court of Appeals*[13] (*Cosmic Lumber*), the Court had the occasion to state that the concept of fraud may assume different shapes and be committed in as many different ways, **and here lies the danger of attempting to define fraud**. For a man in his ingenuity and fertile imagination will always contrive new schemes to fool the unwary. The Court has ruled:

> There is extrinsic fraud within the meaning of Sec. 9 par. (2), of B.P. Blg. 129, where it is one the effect of which prevents a party from hearing a trial, or real contest, or from presenting all of his case to the court, or where it operates upon matters, not pertaining to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy. In other words, extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the defeated party has been prevented from exhibiting fully his side of the case by fraud or deception practiced on him by his opponent. Fraud is extrinsic where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; **or where an attorney fraudulently or without authority connives at his defeat**; these and **similar cases which show that there has never been a real contest in the trial** or hearing of the case are reasons for which a new suit may be sustained to set aside and annul the former judgment and open the case for a new and fair hearing.[14]

The Court ruled in a similar fashion in *Laxamana v. Court of Appeals*,[15] where the Court held that there is extrinsic fraud (justifying annulment of judgment) in instances wherein a party was prevented from defending the action brought against him on account of the delinquent acts and omissions of his attorney. Thus:

> Lack of due process of law and extrinsic or collateral fraud vitiate a final and executory judgment and are valid grounds for setting it aside x x x. In an adversary litigation, fundamental fairness requires that as much as possible both parties should be heard so that a just and impartial verdict may be promulgated.

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12 Id.
13 G.R. No. 114211, November 29, 1996, 265 SCRA 168
14 Id. at 179-180; emphasis supplied, citations omitted.
15 No. L-37317, November 24, 1978, 87 SCRA 48.

> The extrinsic or collateral fraud which invalidates a final judgment, "must be such as prevented the unsuccessful party from fully and fairly presenting his case or defense; it must be such as prevented the losing party from having an adversary trial of the issue[".] Thus, the act of the successful party in inducing the lawyer of the losing party to commit professional delinquency or infidelity constitutes extrinsic or collateral fraud x x x.
>
> In other words, there is extrinsic fraud when a party was prevented from having presented all of his case to the court as when the lawyer connives at his defeat or corruptly sells out his client's interest x x x.[16]

I am not unaware of the Court's ruling in *Pinausukan Seafood House, Roxas Boulevard, Inc. v. Far East Bank & Trust Co.*[17] (*Pinausukan Seafood House*), where the Court seemingly held that "extrinsic fraud" as a ground to annul a judgment must arise only from a "fraudulent scheme of the prevailing litigant."[18] Notably, the Court in *Pinausukan Seafood House* cited the foregoing quoted portion of *Cosmic Lumber*, but regrettably concluded that, citing the decision of the Court of Appeals (CA), "[e]ven in the presence of fraud, annulment will not lie unless the fraud is committed by the adverse party, not by one's own lawyer."[19]

However, a cursory review of *Pinausukan Seafood House* would itself reveal that the said case simply involved the negligence of the counsel of therein petitioner to keep track of the case, and his failure to apprise the latter of the developments in the case.[20] The same neither involved actual fraud committed by the counsel on his client, nor at the very least gross negligence on his part in handling the case. Hence, the said statement is, at most, only an *obiter*, and does not definitively carve out fraud committed by a party-litigant's own counsel from the coverage of extrinsic fraud.

Rather, the concept of fraud, as held by the Court in *Cosmic Lumber*, should not be restricted "within too narrow limits,"[21] and may thus include all other "similar cases which show that there has never been a real contest in the trial."[22] This is the more appropriate rule, especially considering that Rule 47 neither defines "extrinsic fraud," nor restricts its definition only to fraudulent acts committed by the prevailing party. In this light, I submit that actual fraud committed by one's counsel which prevented a party-litigant from exhibiting fully his or her side of the case, as in the instant case, should likewise constitute extrinsic fraud.

On point is the Court's ruling in *Heirs of Antonio Pael v. Destura*[23] (*Heirs of Antonio Pael*), where the Court ruled that a petition for annulment

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16 Id. at 56; citations omitted.
17 Supra note 2.
18 Id. at 243.
19 Id. at 249.
20 Id.
21 *Cosmic Lumber Corporation v. Court of Appeals*, supra note 13, at 179.
22 Id. at 180.
23 G.R. Nos. 133547 & 133843, February 10, 2000, 325 SCRA 341.

of judgment on the basis of extrinsic fraud, want of jurisdiction, or lack of due process may be granted "**where the mistake of counsel is so gross, palpable and inexcusable as to result in the violation of his [or her] client's substantive rights.**"[24]

In *Heirs of Antonio Pael*, petitioners filed an action for the annulment of private respondents' title over the disputed property and for reconveyance. Respondents were declared in default for failure to file an answer, and thereafter, judgment was rendered based on default ordering the cancellation of the transfer certificates of title of respondents. Thereafter, Atty. Oliver O. Lozano (Atty. Lozano), counsel for respondents, filed a notice of appeal with the trial court, which was given due course. Seven days later, Atty. Lozano then filed a motion for new trial, alleging that his clients' failure to answer was due to an honest mistake. Respondents, through a new counsel, then filed an omnibus motion, alleging that their sad plight to present on time their side of the controversy was due to the negligence of their previous counsel, Atty. Lozano, whose services they had engaged to file their answer. Both motions, however, were denied by the trial court. Respondents were thus constrained to file a petition for annulment of judgment with the CA.[25]

The CA granted respondents' petition, and in so ruling, found the following acts of their previous counsel, apart from the apparent bias, partiality and collusion by the trial court judge, as **indicative of the attendance of extrinsic fraud**: (a) the enigmatic failure of respondents' former counsel to file an answer to the complaint within the period prescribed by the Rules of Court which resulted in a decision by default; (b) the immediate filing by their former counsel of their notice of appeal from the default judgment, and the filing a few days later of a motion for new trial despite the perfection of their appeal, knowing fully well that both remedies (appeal and new trial) are utterly inconsistent with and contradictory to each other; and (c) the suspicious actuations on the part of respondents' former counsel resulting in the denial on the part of respondents of their day in court, **amounting to gross and reckless negligence of their counsel, which constituted a gross violation of respondents' right to due process.**[26]

Notably, the Court, in affirming the ruling of the CA in *Heirs of Antonio Pael*, found it necessary to directly pass upon the effects of the acts committed by respondents' counsel on the latter's defense. The Court noted that when Atty. Lozano filed a motion for new trial days after filing a notice of appeal, he should have known that his appeal had already been perfected, and hence, the trial court lost its jurisdiction over the case. This ultimately left respondents, through no fault or negligence of their own, "with no remedy to obtain substantive relief from the judgment rendered against them, **thereby**

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24 Id. at 361; emphasis supplied.
25 Id. at 347.
26 Id. at 359-360.

resulting in a flagrant denial of their right to due process."[27] The Court in finding annulment of judgment as the proper remedy for respondents held:

> x x x Petitioners in both cases maintain that respondents should be bound by the mistakes of their counsel and, thus, must suffer the consequence of the dismissal of their appeal due to the mistake of Atty. Oliver Lozano in resorting to two clearly inconsistent remedies, namely, appeal and motion for new trial. However, the rule, as correctly held by the Court of Appeals, is not a hard and fast one and admits of exceptions, **such as where the mistake of counsel is so gross, palpable and inexcusable as to result in the violation of his client's substantive rights. For while it is true that the acts of a lawyer in the defense of a case, including his mistakes and negligence, are the acts of his client, this rule does not extend where such mistakes or negligence would result in serious injustice to the client. In cases of gross and palpable negligence of counsel, the courts must step in and accord relief to a client who suffered thereby**.
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> x x x x
>
> x x x **In cases such as the one at bar, the courts have the legal and moral duty to provide judicial aid to parties who are deprived of their rights**. Indeed, respondents were then in no position to analyze the legal niceties of the remedies resorted to by their counsel and to realize the deleterious effects of the latter's tactical errors and the invalid acts of the trial judge on their cause. x x x[28]

As such, fraud by one's own counsel, or even the latter's "gross, palpable and inexcusable [negligence],"[29] may itself constitute extrinsic fraud, as long as it results in a denial of a party-litigant's day in court.

III.

In the instant case, I emphasize the systematic way by which petitioners, both of whom were advanced in age,[30] were defrauded by their so-called "counsels:" (i) they engaged Atty. Bede Tabalingcos (Tabalingcos) as their counsel to represent them in Civil Case No. SP-6569(09) for the annulment of loan documents and foreclosure proceedings from its commencement in 2009;[31] (ii) unknown to them, Tabalingcos had been disbarred by the Court in its Order in A.C. No. 6622 dated July 10, 2012, but Tabalingcos continued to represent them in the case, which was submitted for decision only on October 23, 2013;[32] (iii) likewise unknown to petitioners, Tabalingcos withdrew as their counsel and caused the entry of appearance of another lawyer, Atty. Cres Dan D. Bangoy (Bangoy), who was allegedly Tabalingcos' law office partner;[33] (iv) although unauthorized by petitioners,

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27 Id. at 363; emphasis supplied.
28 Id. at 361-363; emphasis and underscoring supplied, citations omitted.
29 Id. at 361.
30 *Rollo*, p. 58.
31 Id. at 108 & 203.
32 Id. at 16 & 208.
33 Id. at 16, 118 & 208.

and despite not knowing anything about Bangoy, the latter nevertheless filed pleadings which were material to their case, namely their Comments on Defendant's Formal Offer of Documentary Exhibits dated January 17, 2013 and a Manifestation dated March 8, 2013; (v) Bangoy and Tabalingcos could not have been partners in the same law firm, considering that Tabalingcos was already disbarred at that time;[34] (vi) it was only later that petitioners realized that Tabalingcos "may have used the credentials of Bangoy" to continue representing them in the case, "knowing that he can no longer do so in his own name because he has been disbarred;"[35] (vii) meanwhile, another lawyer unknown to petitioners, Raymond Caraos (Caraos), filed on their behalf their Memorandum in Civil Case No. SP-6569(09) before the trial court;[36] (viii) after the trial court dismissed their complaint, petitioners then discovered that a motion for reconsideration was filed on their behalf signed by yet another lawyer unknown to them as well, Atty. Socrates R. Rivera (Rivera), whom Tabalingcos thereafter revealed to them to be one of his associates;[37] (ix) upon Tabalingcos' reassurance that the matter can still be rectified through an appeal, a notice of appeal was filed on their behalf, again signed by Rivera;[38] (x) unfortunately, their appeal was dismissed by the CA via Resolution dated February 12, 2015 in CA-G.R. CV. No. 102852 for failure to file their appellant's brief;[39] (xi) a petition for review was then filed before the Supreme Court on their behalf, again signed by Rivera, but was dismissed via Resolution[40] dated April 18, 2016 in G.R. No. 222917 due to, among others, failure to state the material dates and to submit a soft copy of the petition as required under the Efficient Use of Paper Rule; (xii) no longer satisfied with Tabalingcos' excuses, they confronted Rivera, but Rivera denied having prepared, signed and submitted any of their pleadings, and denied that he was an associate attorney for Tabalingcos;[41] (xiii) reeling from Tabalingcos' betrayal, they looked to Rivera to rectify the situation, who emphatically agreed;[42] (xiv) Rivera thereafter allegedly filed with the Supreme Court a Compliance Cum Manifestation,[43] wherein he stated that his signatures in all previous pleadings were forged; (xv) Rivera thereafter reported that he filed a "complaint" with the CA, and later on furnished them with a spurious "order" from the CA granting the said "complaint;"[44] (xvi) upon checking with the Judicial Records Division of the CA, they found out that no such pleadings have been filed on their behalf with the CA;[45] and (xvii) finally, on December 7, 2018 to their surprise, they received a Writ of Execution.[46]

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34 Id. at 209.
35 Id.
36 Id.
37 Id. at 210.
38 Id. at 149-150 & 210.
39 Id. at 211.
40 Id. at 160-161.
41 Id. at 212.
42 Id. at 212-213.
43 Id. at 162-165.
44 Id. at 213.
45 Id. at 215.
46 Id. at 213-214.

Clearly, petitioners were deprived of their day in court by their "pseudo-legal counsels."[47] Here, Tabalingcos fraudulently continued to represent them (before the trial court and on appeal) after already being disbarred,[48] misrepresenting that Bangoy and Rivera were his law office partner and associate, respectively, in order to use the latter's credentials to continue representing them.[49] In fact, Rivera later on expressly denied having any part in the pleadings previously filed on their behalf, and denied that he was Tabalingcos' associate. Moreover, as sufficiently alleged by petitioners, they actually confronted Tabalingcos regarding Bangoy and Rivera, but the latter fraudulently assured them that they were his law firm partner and associate, respectively — where in fact, they were not. In fact, as mentioned, Rivera later on denied having any involvement with Tabalingcos, and even allegedly filed a so-called Compliance Cum Manifestation before the Court expressly repudiating his signatures in the pleadings signed by him previously.

Indeed, petitioners may not be faulted for trusting their (then) counsels' representations. After all, the client-lawyer relationship is one based on trust and confidence, and imposes on the lawyer a fiduciary duty in favor of his or her client.[50] Furthermore, as similarly held in *Heirs of Antonio Pael*, petitioners "were then in no position to analyze the legal niceties of the remedies resorted to by their counsel and to realize the deleterious effects of the latter's tactical errors."[51] More so, in this case, where the acts of their counsels were tainted not only with gross negligence, but with actual fraud committed at the expense of petitioners.

I submit that petitioners were indeed denied proper representation, as they were represented "either by a disbarred lawyer, or by a lawyer who appeared without [p]etitioners' consent and authority."[52] This resulted in a flagrant violation of petitioners' right to be heard by counsel, and ultimately, deprived them of due process. This, as well, constituted extrinsic fraud which effectively "prevented [petitioners] from fully and fairly presenting [their] case or defense."[53]

IV.

Finally, a perusal of the record also reveals that in Civil Case No. SP-6569(09), petitioners expressly put in issue the validity of the interest rate of three point five percent (3.5%) interest per month, or **forty-two percent (42%)** *per annum*,[54] which iniquitous interest rate ultimately resulted in the foreclosure of their family home.[55] Despite the foregoing however, the trial

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47 Id. at 47 & 218.
48 Id. at 215-216.
49 Id.
50 *Regala v. Sandiganbayan, First Division*, G.R. No. 105938, September 20, 1996, 262 SCRA 122.
51 *Heirs of Antonio Pael v. Court of Appeals*, supra note 23, at 363.
52 *Rollo*, p. 209.
53 *Laxamana v. Court of Appeals*, supra note 15, at 56.
54 *Rollo*, p. 11.
55 Id. at 10.

court, in its Decision[56] in Civil Case No. SP-6569(09) and Civil Case No. SP-6586(09) dated December 16, 2013, nevertheless upheld the validity of the interest rate stipulation simply because petitioners acceded to it and that they ultimately "benefited" from the transaction.

It bears stressing however that as early as 2003, the Court in *Ruiz v. Court of Appeals*,[57] has already considered a stipulated **three percent (3%)** interest rate per month, or **thirty-six percent (36%)** interest *per annum* — **an interest rate even lower than the one in the instant case** — as excessive and unconscionable.[58] Moreover, in *Castro v. Tan*,[59] the Court has reiterated the long-accepted rule that:

> The imposition of an unconscionable rate of interest on a money debt, **even if knowingly and voluntarily assumed**, is immoral and unjust. It is tantamount to a repugnant spoliation and an iniquitous deprivation of property, repulsive to the common sense of man. It has no support in law, in principles of justice, or in the human conscience nor is there any reason whatsoever which may justify such imposition as righteous and as one that may be sustained within the sphere of public or private morals.[60]

It is without dispute that the trial court's ruling on this point was erroneous. Indeed, had petitioners been properly represented by counsel, they could have validly raised this issue at the proper venue, even on appeal. Unfortunately for petitioners, they were not.

A final word. I echo the Court's ruling in *Heirs of Antonio Pael*, that in cases such as the one at bar, we, as the final arbiter, "**have the legal and moral duty to provide judicial aid to parties who are deprived of their rights.**"[61] To my mind, the totality of the facts of this case warrants a re-trial, in order to finally give petitioners a fair chance of litigating their case, and in addition, to rectify the evidently incorrect judgment of the trial court which upheld the unconscionable monthly interest rate of three point five percent (3.5%), resulting in petitioners losing their family home.

For the foregoing reasons, I vote to **GRANT** the Petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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56 Id. at 72-89.
57 G.R. No. 146942, April 22, 2003, 401 SCRA 410.
58 Id. at 420-422.
59 G.R. No. 168940, November 24, 2009, 605 SCRA 231.
60 Id. at 232-233, citing *Ibarra v. Abeyro*, 37 Phil. 273, 282 (1917); emphasis and underscoring supplied.
61 *Heirs of Antonio Pael v. Court of Appeals*, supra note 23, at 363; emphasis supplied.