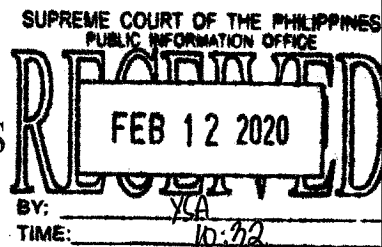




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila



SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 December 2019** which reads as follows:*

“G.R. No. 227660 (*Marcelo Dandan, Bibelyn Rusiana, and Guillermo B. Rusiana, Jr. vs. St. Joseph College of Sindangan, Inc., represented by Fr. Nathaniel¹ Denlaoso*). — This is a petition for review on *certiorari*² under Rule 45 of the Rules of Court assailing the June 22, 2016³ and August 25, 2016⁴ Resolutions of the Court of Appeals (CA), Cagayan de Oro City, in CA-G.R. SP No. 07435-MIN. The CA dismissed the appeal for failure of the petitioners to comply with the requirements of Rule 42 and other provisions of law.

The Facts

On May 8, 2014, a Complaint for “Unlawful Detainer and Damages with Prayer for Issuance of Writ of Preliminary Mandatory Injunction and Prayer for Issuance of a Temporary Restraining Order” was filed by St. Joseph College of Sindangan, Inc. (St. Joseph College) against Marcelo Dandan (Marcelo), Corazon Taco Dandan (Corazon), Bibelyn Dela Cruz Rusiana (Bibelyn), and William Guillermo Barrera Rusiana, Jr. (William) [Petitioners].⁵ An Amended Complaint dated May 22, 2014 was later filed.⁶

St. Joseph College claimed that it is the absolute owner and lawful possessor of a parcel of land described as follows:

A parcel of land identified as Lot No. 7454-B situated in the Poblacion of Sindangan, Zamboanga del Norte, with an area of 4,942 square meters, more or less, bounded on the North by Lot 1582; on the East by Lot 1693;

¹ Referred to as NATHANIELE in some parts of the rollo.

² *Rollo*, pp. 15-34.

³ Penned by Associate Justice Edgardo A. Camello with Associate Justices Oscar V. Badelles and Perpetua T. Atal-Paño, concurring; *id.* at 47-49.

⁴ Penned by Associate Justice Edgardo A. Camello with Associate Justices Oscar V. Badelles and Perpetua T. Atal-Paño, concurring; *id.* at 43-45.

⁵ *Id.* at 56-62.

⁶ *Id.* at 73-79.

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on the South-East by Lot No. 253; on the South by Lot 2969; on the South-West by Lot 7454-A; on the West by Lot 2887-B and on the North-West by Lot 2890, duly covered by Transfer Certificate of Title No. T-83564 and assessed at P617,750.00 according to Tax Declaration No. 22-0001-01056, copies of the aforesaid certificate of title and tax declaration are hereto attached as Annexes "C" and "D", and made part hereof;⁷

having acquired the same from Fr. Bienvenido E. Hamoy, Jr. (Fr. Bienvenido).⁸

In the late 1970s, Estrella Taco (Estrella), then a teacher of St. Joseph College, was allowed by the school to occupy a portion of the subject property without paying any rentals. Later on, Corazon, the sister of Estrella, married Marcelo and both also lived and stayed in the said portion of the property. As a result, St. Joseph College demanded Marcelo and his wife Corazon to vacate the premises, but they pleaded for an extension because they have not found a place to stay. Several demands to vacate were subsequently made but Marcelo and Corazon kept pleading for an extension because they have nowhere to go.⁹

In April 2013, Marcelo constructed a concrete structure on the said portion of land forcing St. Joseph College to bring the matter to the Office of the Punong Barangay of Poblacion Sindangan.¹⁰ During the confrontation at the Office of the Punong Barangay, Marcelo promised to cease all construction activities and to vacate the premises on or before December 2013.¹¹

Sometime in July or August 2013, however, construction by petitioners of a building in the area continued purportedly through an authority issued by the DPWH, claiming that the subject portion of the property is part of the National Highway.¹²

St. Joseph College again brought the matter to the Office of the Punong Barangay but Marcelo did not attend the conciliation meeting despite notice. But to avoid litigation, St. Joseph College appealed to petitioners not to proceed with the construction.¹³

Marcelo, however, reneged on his promise to vacate the property by December 2013 and proceeded with the construction activities despite the protestation of St. Joseph College.¹⁴

⁷ Id. at 74.
⁸ Id. at 74; 82.
⁹ Id. at 74.
¹⁰ Id. at 75.
¹¹ Id. at 96.
¹² Id. at 75.
¹³ Id.
¹⁴ Id

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In April 2014, St. Joseph College again filed a complaint at the Office of the Punong Barangay regarding the continued construction on the subject property despite the lack of legal documents allowing such construction. Petitioner Bibelyn was included in the complaint being the alleged owner of the building being constructed.¹⁵

St. Joseph College alleged that they made their last demand to vacate on or before December 2013. Hence, the filing of the complaint was made within the one-year period for instituting an action for unlawful detainer.¹⁶

In their Answer, Petitioners moved for the dismissal of the case for lack of cause of action. They alleged that the parents of Estrella and Corazon were then occupying an area along the national highway in front of a lot owned by a certain Engineer Cresente Llorente (Engr. Llorente) even before 1970. The same area was being utilized by the Department of Public Works and Highways (DPWH) as its bunkhouse. The house they were occupying was gutted by fire sometime in 1978. As a result, the family of Estrella and Corazon transferred and built a small house across the national highway inside the lot owned by a certain Balanon. In 1979, Estrella was employed by St. Joseph School as a teacher. But in 1980, Estrella terminated her employment and transferred to Cagayan De Oro. In 1982, Engrs. Llorente and Dela Cruz allowed the family to resettle within the reserved area of the national highway where they built a house. The said reserved area is the same area in the instant dispute.¹⁷

In 1983, Corazon went to Luzon where she met Marcelo. They got married and later went back to Sindangan and continued living in the disputed area.¹⁸

In 2013, for the sum of ₱150,000.00, Bibelyn was allowed by Marcelo and Corazon to construct a structure within the disputed area with the agreement that Marcelo and Corazon will occupy the structure as overseers. Bibelyn was made aware that her agreement with Marcelo and Corazon was subject to the right of DPWH to demolish the structure in the future.¹⁹

Petitioners further contended that they did not commit unlawful occupancy of the disputed area. They averred that they have been occupying the area for more than thirty (30) years already, or long before the issuance of Original Certificate of Transfer (OCT) No. P-44682 on June 21, 2006 from where Transfer Certificate of Title (TCT) No. T-83564 registered in the name of St. Joseph College issued on December 13, 2011 originated.²⁰

¹⁵ Id.
¹⁶ Id. at 76.
¹⁷ Id. at 212-213.
¹⁸ Id.
¹⁹ Id.
²⁰ Id.

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The MCTC Ruling

In a Decision²¹ dated August 27, 2015, the Municipal Circuit Trial Court (MCTC) of Sindangan, Zamboanga Del Norte, ruled that St. Joseph College duly established the concurrence of the requisites for unlawful detainer.

The trial court found that the lot in dispute was acquired by respondent from Fr. Bienvenido who applied for free patent and was subsequently issued OCT No. P-44682.²² It was gathered that the said lot was one of the properties owned by the Roman Catholic Church of the Diocese of Dipolog located in Sindangan, Zamboanga del Norte before it was titled in the name of Fr. Bienvenido E. Hamoy by virtue of an Affidavit of Quitclaim executed by Bishop R. Manguiran, then administrator of the Roman Catholic Church of the Diocese of Dipolog. Since its inception, St. Joseph College has been in possession of the subject property up to the present.²³

The trial court likewise ruled that Marcelo, Corazon, and their predecessors occupied, by mere tolerance, a portion of Lot 7454-B.²⁴ In allowing several years to pass without requiring petitioners to vacate the property, St. Joseph College acquiesced to petitioners' possession and use of the premises.²⁵ When it acquired the lot from Fr. Bienvenido, St. Joseph College stepped into the shoes of the previous owners with respect to their relationship with the petitioners and merely maintained the status quo.²⁶ The failure of petitioners to vacate the premises in December 2013, as agreed upon, made their possession illegal and their right to possession was deemed terminated.²⁷ Thus, the filing of the action for unlawful detainer on May 23, 2014 was within the one-year period.

The MCTC disposed:

WHEREFORE, the preponderance of evidence leans in favor of the [respondents], judgment is hereby rendered declaring the possession of [petitioners] over the portion of Lot 7454-B unlawful; ordering the [petitioners] and all persons claiming right under them to vacate the portion of Lot 7454-B which they have unlawfully occupied and possessed and restored the same peacefully to herein [respondents] and to demolish and remove whatever improvements they had constructed therein; and for defendants to pay the amount of ₱16,400.00 as cost of materials and labor of the fence that was demolished.

²¹ Id. at 209-220.

²² Id. at 213-214.

²³ Id. at 214.

²⁴ Id.

²⁵ Id. at 216.

²⁶ Id. at 217.

²⁷ Id. at 216.

SO ORDERED.²⁸

The RTC Ruling

The Regional Trial Court (RTC) of Sindangan, Zamboanga Del Norte, Branch 11 affirmed the findings of the MCTC in its March 1, 2016 Decision²⁹ but deleted the monetary award given because it is not in the nature of “rents” or “the reasonable compensation for the use and occupation of the premises” or “fair rental value of the property.”³⁰

The RTC thus decreed:

WHEREFORE, premises considered, and finding no reversible error in the Decision dated August 27, 2015 rendered by Municipal Circuit Trial Court of Sindangan*Siayan*Leon B. Postigo*Jose Dalman, 9th Judicial Region, Sindangan, Zamboanga Del Norte in Civil Case No. 873, the same is hereby **AFFIRMED** with **MODIFICATION**, deleting the award of P16,400.00.

SO ORDERED.³¹ (Emphasis in the original)

Unsatisfied, petitioners elevated the case to the CA via a petition for review that was filed on May 13, 2016.³²

Ruling of the CA

On June 22, 2016, the CA rendered a Resolution³³ dismissing the petition for failure to strictly comply with the requirements of Rule 42 and other related provisions of law.

The appellate court found the petition to suffer from the following infirmities:

1. Filing of the petition and payment of docket and other legal fees was made LATE. Petitioners received the April 4, 2016 Regional Trial Court Order denying the motion for reconsideration on April 12, 2016, thus, they had 15 days or until April 27, 2016. The petition was filed on May 13, 2016 or 16 days late.
2. Payment of docket and other legal fees is short by P1,030.00;
3. Failure to attach a clearly legible duplicate original or certified true copy of the assailed March 1, 2015 RTC Decision, required under Rule 42, Section 2 of the Rules of Court;

²⁸ Id. at 220.

²⁹ Id. at 251-270.

³⁰ Id. at 270.

³¹ Id.

³² Id. at 48.

³³ Id.

4. Pertinent pleadings/material portions of the records are not attached to the petition, i.e., the complaint, amended complaint for unlawful detainer, the answer, plaintiff's position paper before the MCTC, parties' respective memoranda on appeal before the RTC, the motion for reconsideration of the April 1, 2015 RTC Decision, and other supporting documents, required under Rule 42, Section 2 of the Rules of Court;
5. The Verification was signed by petitioner Bibelyn Rusiana for herself and her co-petitioners but there is no proof that she is authorized to sign and file on behalf of her co-petitioners; and
6. There is no attached certification of non-forum shopping.³⁴

Unperturbed, petitioner moved for the reconsideration³⁵ of the June 22, 2016 Resolution, imputing grave error on the part of the CA for its failure "to consider the existence of ratiocinations which supersede the stringent constraints of technicality, pursuant to the higher interest of justice and equity."³⁶ Petitioners also question the jurisdiction of the MCTC for the alleged failure of the respondent to alleged facts to support the complaint for unlawful detainer.³⁷ On August 25, 2016, the CA denied petitioners' Motion for Reconsideration.³⁸ The appellate court ruled that the motion failed to state the date when they received the June 22, 2016 Resolution. It likewise reiterated that the petition was filed late and time-barred.³⁹

The Issues

In the instant petition for review on *certiorari*, petitioners raised the following errors, *viz*:

I = THE COURT OF APPEALS GRAVELY ERRED IN FAILING TO CONSIDER THE EXISTENCE OF RATIOCINATIONS WHICH SUPERCEDE THE STRINGENT CONSTRAINTS OF TECHNICALITY, PURSUANT TO THE HIGHER INTEREST OF JUSTICE AND EQUITY.

II = THE COURT OF APPEALS GRAVELY ERRED IN FAILING TO APPRECIATE THAT THE RESORT TO AN ACTION FOR UNLAWFUL DETAINER AS IN THE CASE AT BAR, IS NOT PROPER BECAUSE THE ELEMENTS SUFFICIENT TO JUSTIFY THE REMEDY DO NOT OBTAIN IN THE INSTANT CASE. ERGO, THE HONORABLE COURT DOES NOT HAVE JURISDICTION OVER THE INSTANT CASE.⁴⁰

³⁴ Id. at 47-48.
³⁵ Id. at 271-283.
³⁶ Id. at 272.
³⁷ Id. at 275.
³⁸ Id. at 43-45.
³⁹ Id. at 44.
⁴⁰ Id. at 23-24.

The Ruling of the Court

A judicious review of the records of the case shows that no reversible error was committed by the CA.

The timely perfection of an appeal is a mandatory requirement.

Petitioners pray for the Court's compassion asking for a waiver of procedural rules in the interest of substantial justice and on the claim that the contentions and arguments contained in the instant petition are meritorious.⁴¹

The Court is not convinced.

The timely perfection of an appeal is more than a mere technicality. Petitioners are reminded that the right to appeal is not a natural right but merely a statutory privilege. A party who wants to avail of the said privilege is expected to comply with the requirements provided by the rules otherwise he loses the right to avail thereof.⁴² In *Cueva v. Bais Steel Corporation*,⁴³ the Court pronounced:

The timely perfection of an appeal is a mandatory requirement.

One cannot escape the rigid observance of this rule by claiming ignorance or oversight. Neither can it be trifled with as a "mere technicality" to suit the interest of a party. Verily, the periods for filing petitions for review and for *certiorari* are to be observed religiously. Just as a losing party has the privilege to file an appeal within the prescribed period, so does the winner have the right to enjoy the finality of the decision.

x x x x

We hold, however, that procedural rules setting the period for perfecting an appeal or filing a petition for review are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right, but a mere statutory privilege. Hence, parties who seek to avail themselves of it must comply with the statutes or rules allowing it. The requirements for perfecting an appeal within the reglementary period specified in law must, as a rule, be strictly followed. Such requirements are considered indispensable interdictions against needless delays and are necessary for the orderly discharge of the judicial business. **Furthermore, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but also jurisdictional.** Failure to perfect the appeal renders the judgment of the court final and executory. Just as a losing party has the privilege to file an appeal within the prescribed period, so does the winner also have the correlative right to enjoy the finality of the decision.⁴⁴ (Citation omitted and emphasis supplied)

⁴¹ Id. at 24.

⁴² *Iloilo Jar Corporation v. Comglasco Corporation/ Aguila Glass*, 803 Phil. 567, 573 (2017).

⁴³ 439 Phil. 793 (2002).

⁴⁴ Id. at 796, 805.

True, procedural rules may be relaxed in the interest of justice. However, liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances.⁴⁵ “To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice.”⁴⁶ No justifying reason was proffered that warrants the relaxation of the rules on perfection of appeal. Resultantly, the assailed decision of the RTC became final and executory.

*An action for unlawful detainer was proper,
the trial court has jurisdiction.*

Petitioners’ allegation that an action for unlawful detainer was not proper divesting the trial court of jurisdiction over the instant case fails to persuade.

Jurisdiction is defined as the power and authority of the courts to hear, try and decide cases.⁴⁷ Determination of the jurisdiction of the court depends upon the nature of the action pleaded as appearing from the allegations in the complaint.⁴⁸ As explained in *Santiago, et al. v. Northbay Knitting, Inc.*:⁴⁹

In ejectment cases, the complaint should embody such statement of facts as to bring the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol evidence.

A complaint sufficiently alleges a cause of action for unlawful detainer if it states the following:

- 1) possession of property by the defendant was initially 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 of the same; and
- 4) within one (1) year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.⁵⁰

⁴⁵ *De Leon v. Hercules Agro Industrial Corp.* 734 Phil. 652, 662-663 (2014).

⁴⁶ *Francisco B. Yap, substituted by his heirs, namely: Francisco M. Yap, et al. v. Heirs of Pantalan (MORO)*, namely *Naseron Pantalan, et al.*, 2019.

⁴⁷ *Anama v. Citibank, N.A. (formerly First National City Bank)*, G.R. No. 192048, December 13, 2017, 848 SCRA 459, 469.

⁴⁸ *Specified Contractors & Development, Inc. and v. Pobocan*, G.R. No. 212472, January 11, 2018, 851 SCRA 53, 59.

⁴⁹ G.R. No. 217296, October 11, 2017, 842 SCRA 502.

⁵⁰ *Id.* at 508-509.

All the enumerated preconditions are adequately established in the present case. TCT No. T-83564 clearly shows that St. Joseph College is the absolute owner and lawful possessor of the subject lot having acquired the same from Fr. Bienvenido, who applied for a Free Patent of the said property; through occupation, petitioners and the predecessors had occupied the subject property sometime in the late 1970s; the failure of the petitioners to vacate the property on December 2013 as shown in the agreement executed before the barangay terminated petitioners' right of possession; St. Joseph College, as the absolute owner, was deprived of their right to possess and enjoy the property because petitioners remained in possession of the same; and on May 23, 2014, within one year from December 2013 when the last demand to vacate was made, St. Joseph College filed the instant action for unlawful detainer.

The basis for petitioners' hypothesis on the impropriety of the action for unlawful detainer is the alleged lack of evidence that proves the tolerance supposedly granted by St. Joseph College to Estrella. They claimed that St. Joseph College could not have consented or tolerated Estrella's possession given that they only acquired the subject property on December 13, 2011 as shown in TCT No. T-83564 which was derived from OCT No. P-44682 that was issued on June 30, 2006. Petitioners added that they have been occupying the property since the late 1970s; thus, St. Joseph College's right or title to the subject land was not present from the beginning.

Petitioners' averment is specious.

It was not disputed that the subject property is part of Lot 7454-B then owned by the Roman Catholic Church of the Diocese of Dipolog before it was titled in the name of Fr. Bienvenido as shown in OCT No. P-44682. Fr. Bienvenido acquired the same by virtue of an Affidavit of Quitclaim executed by Bishop R. Manguiran, who was then the administrator of the Roman Catholic Church of the Diocese of Dipolog. But even before they acquired the property on December 13, 2011, as shown by TCT No. T-83564, St. Joseph College has been in possession of the same from the inception.⁵¹ It was also not disputed that Estrella, who was then a teacher of St. Joseph College and herein petitioners' predecessor, was allowed by the school to occupy a portion of the subject property without paying any rentals constituted tolerance. When Estrella's sister and her husband Marcelo decided to live on the said property, they stepped into the shoes of Estrella and acquired a right to possession under the same tolerance. It can be concluded that when the property was titled under the name of Fr. Bienvenido and later transferred to St. Joseph College, both merely maintained the *status quo*.⁵² Hence, St. Joseph College was able to establish that petitioners' possession was by tolerance and are necessarily bound by an

⁵¹ *Rollo*, p. 213-214.

⁵² *Perez v. Rasaceña*, 797 Phil. 369, 380 (2016).

A/M

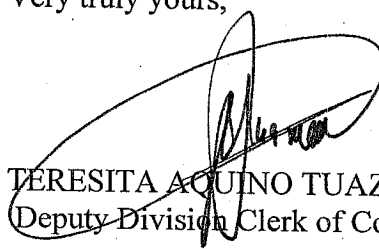
implied promise that they will vacate upon demand.⁵³ Their failure to do so warranted the summary action for unlawful detainer.

Given the foregoing, the Court finds no cogent reason to depart from the assailed rulings of the CA.

WHEREFORE, the petition is **DENIED** for lack of merit. The June 22, 2016 and August 25, 2016 Resolutions of the Court of Appeals, Cagayan de Oro City in CA-G.R. SP No. 07435-MIN are hereby **AFFIRMED**.

SO ORDERED.” (Bernabe, J., on official business; Zalameda, J., on official leave)

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *utb* 1/29
30 JAN 2020

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(Civil Case No. S-893)

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GR227660. 12/04/2019B(108)URES

⁵³ Id. at 379.