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Bolando, pursuant to Article 29 of the Revised Penal Code, as amended.

With costs against appellants.

SO ORDERED.

Fernando C.J., Barredo, Concepcion Jr., Santos, Fernandez, Guerrero, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee, Makasiar, and *Aquino, JJ.*, took no part.

SECOND DIVISION

[G.R. Nos. L-50752-50830. July 13, 1979]

EVA V. CANTELANG, PEDRO ARIETA, RUBEN COLIAT, MR. ABONOWOG, TONY VIRAY, RUDY RAMEN, CLESTINO CANALE, CHAYONG DINOY, WILSON TANA, FRANCISCO MAGAHAS, ELPIDIO FRANCISCO, GAUDENCIO MACABUHAY, MIGUEL ANGELES, MRS. C. BELTRAN, CRICIA DINO, CONCHITA ZAPEDA, SALUD ZAPANTA, MARCELINO ATENDIDO, JULIO RAMEREZ, FELOMINO DINOY, BERNABE DE LEON, ATANACIO SANTOS, MRS. SUBURDO, JUAN DOMDOM, NUMERIANO KAMINO, PEDRO JINERA, MRS. UYACA, SGT. J.R. HERNANDEZ, MRS. NILLAGAS, ERLINDA JAVELOSA, GLORIA PASCUAL, CELESTINO CANALE, FLORENTINO RAYMUNDO, ROSARIO CADCARA, ROLFO BATO, ANTONIO RECIO, ALEJANDRO MALATAS, SANTOS TABANAO, RODRIGO SIBUL, BERNABE GALEON, SGT. SEMILIA, MRS. BALOG, EPIFANIO MACATBAG, MRS. ESPINOSA, HERMINIO MACATBAG, HERMINIO DIEGO, DIONISIA VELASCO,

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FRANCISCO AURINO, ANGEE CABANILLAS, MRS. ADVIENTO, NICOLAS BATO, TOMAS TORREFIEL, CESAR DE LAPUNDA, FERNANDO GUNRAM, ANTONIO FERNANDO, SGT. REGLOS, MRS. ADRIANO SIERRA, GREGORIO CARBANILLA, ROGER MANALO, ERLINDA TANDAYAG, ROMEO RAMOS, PORFIRIO CASALAN, BERNARDO MODYANA, TOMAS INANES, MR. RIFE, B. NEPOMUCENO, E. CASTOR, DOMINGO ALAYRES, MAMERTO ALAYRES, DIEGO MADYANI, JULIO HISANAN, SGT. D. SAGAD, BENEDICTO JAURIQUE, INOCENCIO JAURIQUE, PROFESO HADI, REMEDIOS CRUZ, FLORENTINO BONUS, WILFREDO GUILING, HECTOR SAN JUAN, *petitioners, vs.* HON. RUSTICO C. MEDINA **Presiding Judge of the Municipal Court of Taytay, Rizal; HILLCREST REALTY CORPORATION, BENJAMIN B. ESGUERRA and the Provincial Sheriff of Rizal and His Deputies, and all persons working under their orders and directions,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; NATURE THEREOF.— We rule once again that the office of *certiorari* is limited to the correction of defects of *jurisdiction* solely; it cannot be used for any other purpose, — much less to defeat the right of the prevailing party to the execution of a valid and final judgment. Stated otherwise, the remedy of *certiorari* is available only when a court in the exercise of its judicial functions, has acted without jurisdiction or in excess of jurisdiction or with grave abuse of discretion and there is no remedy by appeal. Where a court had jurisdiction over the subject matter and over the person, its decision of any question pertaining to the cause, however erroneous, cannot be corrected by *certiorari.*

2. ID.; ID.; ID.; *CERTIORARI* NOT PROPER IN CASE OF FAILURE TO AVAIL OF THE ADEQUATE REMEDIES IN THE ORDINARY COURSE OF LAW.— In the present case,

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petitioners failed to avail of the adequate remedies in the ordinary course of law. They did not timely file a motion for reconsideration or new trial under Rule 37 of the Revised Rules of Court. They failed to file a petition for relief from judgment under Rule 38. Neither did they appeal, in either case, from the judgment and from the order denying new trial or relief from the judgment. Furthermore, the questions raised by petitioners, thru counsel, such as the issue of ownership and the issue of possession for "more than one (1) year prior to the filing of the complaints for ejectment and even the correctness of the judgment of the Municipal Court, relate to errors of law which should be taken up in an appeal and do not involve jurisdictional errors which may properly be raised and corrected by *certiorari*. It is settled dogma that where appeal as an adequate remedy has been lost through petitioner's fault or negligence, he will not be permitted to avail of *certiorari* as a substitute for an appeal.

3. **LEGAL AND JUDICIAL ETHICS; ATTORNEYS; DUTY TO CLIENT.**— As an officer of the Court it was counsel's duty to advise his clients, petitioners herein, of the real merits of their cause or the lack of it. Had he done so, petitioners could have realized the futility of filing this petition, and spared them the need to spend their hard-earned money by way of court fees in the total amount of ₱4,287.50, for a hopeless recourse.

4. **ID.; ID.; DUTY TO SOCIETY AS A WHOLE.**— But on par with the duties of counsel to the courts and to his clients is his responsibility to society as a whole — the social dimension of the law profession. For it is the duty of counsel to promote and enhance instead of defeat and frustrate the objectives and policies of the society in which he lives. An aspect of the social responsibility is very clearly the lawyers' duty to promote the public policy with respect to squatting, which are, firstly, to prevent the same and punish those guilty thereof as legislation and Presidential Directives provide.

RESOLUTION

SANTOS, *J.*:

This is a "Petition for *Certiorari*, Prohibition and/or *Mandamus* with prayer for a Writ of Preliminary Prohibitory Mandatory

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Injunction and Restraining Order" filed on July 14, 1979 by petitioner Eva V. Cantelang and seventy-eight (78) others against Hon. Rustico C. Medina, Presiding Judge of the Municipal Court of Taytay, Rizal, Hillcrest Realty Corporation and the Provincial Sheriff of Rizal and his Deputies,[1] to declare "null and void the Decision[2] of the Respondent Court dated May 4, 1978 and the Orders of Execution and Demolition,[3] dated September 14, 1978 and May 14, 1978" (should be June 29, 1978 and September 14, 1978, respectively). Upon the filing of the petition, petitioners paid ₱3,792.00 docket fee, ₱395.00 legal research fund fee, and ₱0.60 Clerk's commission, or a total of ₱4,287.50.

The next day or on June 15, 1973, petitioners followed up with an "Urgent Motion Reiterating Petitioners' Prayer For Immediate Issuance of Restraining Order With Motion To Make Some Corrections in The Petition."[4]

An examination of the petition and its voluminous annexes reveals the following antecedent facts and proceedings. Petitioners are the defendants in separate complaints for forcible entry and illegal detainer filed on September 22, 1977 by private respondent Hillcrest Realty Corporation (henceforth HILLCREST) with the Municipal Court of Taytay, Rizal presided by respondent judge.[5] Petitioners, defendants below, filed their respective answers alleging, *inter alia* that the subject land forms part of the Don Mariano San Pedro *y* Esteban Estate and "has long been possessed by Don Engracio San Pedro, Legal Administrator of the Don Mariano San Pedro *y* Esteban Estate, through his previous authorized representatives and then by defendants herein as authorized by Mrs. Eva V. Cantelang, Asst. Regional Manager of the aforesaid Estate . . ." their possession thereof being more than ten (10) years already.[6]

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[1] *Roll*, pp. 2-21, and Annexes A to G, *Roll*, pp. 22-355.

[2] ANNEX "C", *Roll*, pp. 33-54.

[3] ANNEX "D", *Roll*, pp. 55-56.

[4] *Roll*, p. 356.

[5] *Id.*, pp. 8-9.

[6] *Roll*, pp. 28-32.

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At the hearing on June 13, 1978, Atty. Vicente Revelo, counsel for defendants below, manifested that he is inhibiting himself from further participation in these cases in view of the filing by defendant Eva V. Cantelang in her behalf of an *ex-parte* motion to consolidate the cases.[7] Because of this manifestation and it appearing that defendants were duly notified of the hearing, and considering the vigorous objection of plaintiff's counsel to further postponement, the Municipal Court allowed the plaintiff "to present further evidence *ex-parte*, at the resumption of the hearing on the same day in the afternoon of June 13, 1978.[8] On June 27, 1978 after plaintiff had presented its evidence and rested its case, the Municipal Court issued an order resetting the hearing on July 18, 1978 in the interest of justice and fairness, to give defendants, their day in court.[9] When the case was called for hearing on July 18, 1978, they did not appear despite due notice to them. Atty. Revelo, counsel for defendants, appeared but manifested that he was not in a position to proceed with the trial for the same reason stated in his manifestation at the hearing of June 13, 1978. In view of this development the Municipal Court issued an order — (1) considering defendants to have waived their right to adduce evidence and (2) declaring the case submitted for decision.[10]

On May 16, 1978 and August 4, 1978, the Municipal Court of Taytay rendered two separate judgments finding "that plaintiff's cause of action has been fully established by the requisite preponderance of evidence which stands uncontradicted in the records" and ordering all the defendants, "and all persons under them" (1) to vacate and restore to the plaintiff HILLCREST — private respondent herein — the premises in question and (2) to pay plaintiff (a) attorney's fees in the amount of ₱1,000.00 each; (b) reasonable compensation for the use of the subject property at the rate of ₱300.00 a month, beginning September,

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[7] *Id.*, pp. 42-43.

[8] *Id.*, p. 43.

[9] *Id.*, p. 53.

[10] *Id.*, p. 54.

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1977 up to the restitution of the premises in question; (c) actual and compensatory damages in the sum of ₱15,000.00 and (d) costs of suit.[11]

These decisions became final and executory for failure of defendants below, now petitioners, to appeal therefrom. On June 29, 1978, an order of execution[12] was issued followed by the issuance of the corresponding writ of execution. On September 14, 1978, the municipal court issued an order of demolition.[13] On May 14, 1979, Senior Deputy Sheriff Abelardo F. Magsajo served on petitioners the "Notice of Demolition" directing them "to vacate, remove, destroy and demolish the buildings and all appurtenances in the premises in question and subject of the Order, within seven (7) days upon receipt hereof.[14]

Instead of complying with the aforesaid order of demolition, petitioners filed a complaint in the Court of First Instance of Rizal which they amended on January 7, 1979, against private respondent HILLCREST docketed as "*Intestate Estate of the Late Don Mariano San Pedro y Esteban, etc., et al.*" seeking to: (1) Declare null and void the certificates of title of private respondent covering the subject properties; (2) Order the Register of Deeds of Pasig, Rizal to cancel certain Transfer of Certificates of Title of said respondent covering the properties in question; (3) Declare plaintiff Estate legal owners of the lands embraced in certain Original Certificates of Title in the name of respondent corporation; (4) Declare plaintiff Estate and herein petitioners — the alleged lot buyers — as legal owners of the lots in controversy; (5) Order the Register of Deeds to issue Transfer Certificates of Title in lieu of the ones sought to be cancelled and/or declared null and void; and (6) Order private respondents to pay petitioners damages as may be proved at the trial, plus attorney's fees in the amount of ₱20,000.00.[15]

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[11] *Roll*, pp. 33, 54.

[12] *Id.*, p. 10.

[13] *Id.*, pp. 55-56.

[14] *Roll*, p. 57.

[15] *Roll*, pp. 59, 65-66.

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As the respondent Judge refused to hold in abeyance the execution of its decisions aforementioned, petitioners now come before Us and seek to — (a) restrain the respondent Judge from taking cognizance of the cases for ejectment (Civil Cases Nos. 519 to 597) and/or from taking any further action thereon; (b) restrain respondents from harrassing, molesting and disturbing petitioners in their physical possession of subject premises; and (c) render judgment, after due proceedings, declaring as null and void the decision of the Respondent Judge dated August 4, 1978 and the Orders of Execution and Demolition dated September 14, 1978 and May 14, 1979.[16]

Petitioners — in justifying the issuance of the writs prayed for — contend that the trial Court committed grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of the ejectment cases, rendering judgment thereon, and issuing the writ of execution dated June 29, 1978, and the orders of demolition dated Sept. 14, 1978 and May 14, 1979, respectively, allegedly because the correct remedy of respondent HILLCREST, plaintiff below, was an action for recovery of possession and/or ownership in the Court of First Instance (*accion publiciana*).

Petitioners' contention is without merit and is obviously resorted to *solely* as a dilatory maneuver, to prevent or defeat the execution of the final and executory decision of the Municipal Court of Taytay, Rizal.

A.

1. The separate complaints for ejectment filed against petitioners (defendants below) alleged that private respondent is the owner of the lots in question — *its ownership being supported by the corresponding Original Certificates of Title/Transfer Certificates of Title as against the mere claim of ownership of the controversial Estate of Don Mariano San Pedro*; that petitioners forcibly entered the premises on different dates in 1977, through holes in the fence which they

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[16] *Id.*, pp. 2, 20-21.

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made or over ladders which they constructed against the fence; and that petitioners refused to vacate the premises despite repeated demands, to demolish their improvements thereon and deliver the premises to private respondent. These allegations conferred on the Municipal Court of Taytay jurisdiction over the ejectment cases. What is more, private respondent, HILLCREST, submitted overwhelming evidence — documentary and the testimonies of its administrator, security guards and other — to establish its ownership and actual physical possession of the lots in question.

2. On the other hand, *petitioners did not appear at the trial of these cases to prove their claims of ownership and actual occupation of the subject premises for more than one year from the filing of the cases. What is worse, they did not appeal from the adverse decision of the Municipal Court.* Instead, they filed in the CFI of Rizal an action to annul and cancel private respondent's Original and Transfer Certificates of Title in a desperate, *albeit* futile, attempt to make it appear that the question of title and possession over the lots in controversy is a genuine issue in the ejectment cases and, to bolster their transparent pretence that the Municipal Court of Taytay is bereft of jurisdiction to take cognizance of said ejectment cases. The Municipal Court of Taytay, however, was not impressed by the move of petitioners. It was determined, as it should be, to enforce its final and executory decision. We are also unimpressed by the dilatory tactics of petitioners. They had a chance to prove ownership of the lots; they did not avail of that chance. When they received a copy of the adverse decision, they had a right to appeal therefrom; but, again, they did not take advantage of that recourse.

3. At this stage, We cannot lend support to the efforts of petitioners, through Counsel, by means of this special civil action for *certiorari*, to annul the proceedings had in the Court below, which were regular and valid, in every respect. We rule once again that the office of *certiorari* is limited to the correction of defects of *jurisdiction* solely; it cannot be used for any other purpose, — much less to defeat the right of the prevailing

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party to the execution of a valid and final judgment.[17] Stated otherwise, the remedy of *certiorari* is available only when a court in the exercise of its judicial functions, has acted without jurisdiction or in excess of jurisdiction or with grave abuse of discretion and there is no remedy by appeal.[18] Where a court had jurisdiction over the subject matter and over the person, its decision of any question pertaining to the cause, however erroneous, cannot be corrected by *certiorari*.[19]

In the present case, petitioners failed to avail of the adequate remedies in the ordinary course of law. They did not timely file a motion for reconsideration or new trial under Rule 37 of the Revised Rules of Court. They failed to file a petition for relief from judgment under Rule 38. Neither did they appeal, in either case, from the judgment and from the order denying new trial or relief from the judgment. Furthermore, the questions raised by petitioners, thru counsel, such as the issue of ownership and the issue of possession for "more than one (1) year prior to the filing of the complaints for ejectment and even the correctness of the judgment of the Municipal Court, relate to errors of law which should be taken up in appeal and do not involve jurisdictional errors which may properly be raised and corrected by *certiorari*. It is settled dogma that where appeal as an adequate remedy has been lost through petitioner's fault or negligence, he will not be permitted to avail of *certiorari* as a substitute for an appeal.[20]

As petitioners, thru counsel, miserably failed to show that respondent Judge acted in the premises without jurisdiction or in excess thereof, or with grave abuse of discretion that would render the challenged judgment null and void *ab initio*, the present petition must be dismissed.

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[17] Cf. *Herrera vs. Barretto and Joaquin*, 25 Phil. 24.

[18] *Regala vs. Court of First Instance of Bataan*, 77 Phil. 684.

[19] *Herrera v. Barretto, supra.*

[20] *Guevarra vs. Hermoso, et al.*, L-28241, Aug. 6, 1971, 40 SCRA 335, 339.

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B.

A word to counsel. As an officer of the Court it was counsel's duty to advise his clients, petitioners herein, of the real merits of their cause or the lack of it. Had he done so, petitioners could have realized the futility of filing this petition, and spared them the need to spend their hard-earned money by way of court fees in the total amount of ₱4,287.50,[21] for a hopeless recourse. For as adverted to above, the facts — (1) that respondent municipal court of Taytay had jurisdiction over the cases for forcible entry and detainer; (2) that notice to counsel of record, Atty. Vicente Revelo, was notice to petitioners, now his clients, in the proceedings below; (3) that the proper remedies of his clients as defendants against the adverse judgments below were either appeal and/or a motion for new trial and/or petition for relief from judgment whichever was proper; (4) that *certiorari* is a special remedy which cannot be a substitute for any of the foregoing recourses; (5) that the judgment of the municipal court of Taytay became final and executory in 1977, and, finally, (6) that the filing of the action with the CFI, Rizal, to annul the Certificates of Title of respondent HILLCREST did not justify the holding in abeyance of the proceedings on execution in the municipal court — are legal propositions too plain to be missed by any practitioner concerned with the prompt administration of justice and mindful of his client's welfare and interest. More importantly, it would have spared this Court the trouble and efforts of resolving a manifestly unmeritorious, if not sham, petition. Counsel by filing this petition did so in utter disregard of his duty to his clients as well as his obligation to this Court.

But on par with the duties of counsel to the courts and to his clients is his responsibility to society as a whole — the social dimension of the law profession. For it is the duty of counsel to promote and enhance instead of defeat and frustrate the objectives and policies of the society in which he lives. An aspect of the social responsibility is very clearly the lawyers' duty to promote the public policy with respect to squatting,

[21] Broken down as follows: ₱3,792.00 docket fee, ₱395.00 legal research fund fees, ₱100.00 sheriff's fee, and ₱0.50 clerk's commission.

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which are, firstly, to prevent the same and punish those guilty thereof as legislation and Presidential Directives provide,[22] and where actually done, to relocate, even at substantial outlay of public funds, squatter families to settlements, *e.g.*, Bahay Pare, Dasmariñas, *etc.* This Court, in recognition of the public policy, thru Justice Conrado Sanchez, in 1967 spoke in no uncertain terms against the evils of squatting.[23]

"Since the last global war, squatting on another's property in this country has become a widespread vice. It was and is a blight. Squatters' areas pose problems of health, sanitation. They are breeding places for crime. They constitute proof that respect for the law and the rights of others, even those of government, are being flouted. Knowingly, squatters have embarked on the pernicious act of occupying property whenever and wherever convenient to their interest — without as much as leave, and even against the will, of the owner. They are emboldened seemingly because of their belief that they could violate the law with impunity. The pugnaciousness of some of them has tied up the hands of legitimate owners. The latter are thus prevented from recovering possession by peaceful means. Government lands have not been spared by them. *They know of course, that intrusion into property, government or private, is wrong. But, then, the mills of justice grind slow, mainly because lawyers who, by means, fair or foul, are quite often successful in procuring delay of the day of reckoning. . .*"

This action, therefore, on the part of counsel, which will tend to encourage or give comfort to, instead of frustrate or discourage squatting, is clearly against public policy and is a great disservice to the legal profession.

This is an opportune occasion as any, therefore, to remind counsel that this Court will ever be vigilant to nip in the bud

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[22] See: P.D. No. 296 (which directs all persons, natural or juridical, to renounce possession and, move out of portions of rivers, creeks, esteros, drainage channels and other similar waterways encroached upon by them and prescribes penalty for violation thereof) and P.D. No. 772 (which penalizes squatting and other similar acts).

[23] *City of Manila v. Garcia, et al.*, Feb. 21, 1967, 19 SCRA 413, quoted in *Pascual v. Hon. De los Angeles*, G.R. No. L-27914, July 31, 1978, 84 SCRA 310.

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any dilatory manuever calculated to defeat and frustrate the ends of justice, fair play and the prompt implementation of final and executory judgments.

WHEREFORE, petition is DISMISSED. Costs charged to Counsel Atty. FERNANDO V. DOMINGO who should reimburse the same to his clients, petitioners herein. Let a copy of this Resolution be furnished each petitioner.

Barredo (Chairman), Antonio, Aquino, and *Concepcion Jr., JJ.*, concur.

Abad Santos, J., concurs. I would charge double costs to counsel and make him report to US that he has paid the same to the petitioners.

SECOND DIVISION

[A.M. No. 1431-MJ. July 16, 1979]

ANA F. RETUYA, *complainant, vs.* **MUNICIPAL JUDGE PAULO A. EQUIPILAG of Maasin, Leyte,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; MUST BE PRUDENT AND CIRCUMSPECT IN THE DISCHARGE OF THEIR DUTIES; CASE AT BAR.— But he is admonished to be more prudent and circumspect in the discharge of his duties so as to obviate the suspicion that, for an ulterior motive, he is in cahoots with the offended party in a criminal case for the purpose of using the strong arm of the law against the accused in an oppressive and vindictive manner.