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SECOND DIVISION

[G.R. No. 178431. November 12, 2012]

V.C. PONCE COMPANY, INC., *petitioner, vs.* **MUNICIPALITY OF PARAÑAQUE and SAMPAGUITA HILLS HOMEOWNERS ASSOCIATION, INC.,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; MOTIONS; PERIOD TO FILE MOTION FOR RECONSIDERATION IS NOT EXTENDIBLE; FAILURE TO FILE ON TIME RENDERS THE DECISION FINAL.— VCP received the CA Decision on April 10, 2007. Based on Rule 52 of the Rules of Court and Rule 7 of the 2002 Internal Rules of the Court of Appeals (IRCA), VCP had 15 days from its receipt of the Decision, or until April 25, 2007, to file a motion for reconsideration, an appeal, or a motion for new trial. Failure to file the necessary pleading within the reglementary period would render the CA Decision final and executory. Instead of filing a Motion for Reconsideration on April 25, 2007, VCP filed a MOTEX on the ground that its lawyer had withdrawn from the case and it was still in the process of retaining a new counsel. The CA was correct in denying petitioner's MOTEX because the period to file a Motion for Reconsideration is not extendible. The Court has pronounced strict adherence to the rule laid down in *Habaluyas Enterprises, Inc. v. Judge Japson* that "no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court (now Court of Appeals)." Since the period to file a Motion for Reconsideration is not extendible, VCP's MOTEX did not toll the reglementary period. Thus, there being no Motion for Reconsideration as of April 25, 2007, the Decision of the CA dated March 23, 2007 became final and executory by operation of law. The CA was correct in denying the Motion for Reconsideration that VCP had belatedly filed on May 25, 2007 as its lateness had rendered it moot.

2. ID.; ID.; ID.; ID.; PARTY'S INACTION TO HIRE NEW COUNSEL CANNOT JUSTIFY APPLICATION OF EQUITY AND RELAXATION OF THE RULES.— The Court, in the interest of equity and justice, sometimes allows a liberal reading of the rules, so long as the petitioner is able to prove the existence of cogent reasons to excuse its non-observance. The Court, however, does not find a justification to warrant such relaxation in this instance. It is incumbent upon the client to exert all efforts to retain the services of new counsel. VCP knew since August 29, 2006, seven months *before* the CA rendered its Decision, that it had no counsel. Despite its knowledge, it did not immediately hire a lawyer to attend to its affairs. Instead, it waited until the last minute, when it had already received the adverse CA Decision on April 10, 2007, to search for a counsel; and even then, VCP did not rush to meet the deadline. It asked for an extension of 30 days to file a Motion for Reconsideration. It finally retained the services of a new counsel on May 24, 2007, nine months from the time that its former counsel withdrew her appearance. VCP did not even attempt to explain its inaction. The Court cannot grant equity where it is clearly undeserved by a grossly negligent party.

3. ID.; ID.; APPEALS; APPEAL IS A SUFFICIENT AND ADEQUATE REMEDY UNLESS THE PARTY PROVES OTHERWISE.— VCP attempts to extricate itself from the effects of its negligence by alleging that an appeal would not have been speedy and adequate for its purpose. The Court, however, finds no merit in its contention. A court with appellate jurisdiction can review both the facts and the law, including questions of jurisdiction. It can set aside an erroneous decision and even nullify the same, if warranted. Appeal is a speedy remedy, as an adverse party can file its appeal from a final decision or order immediately after receiving it. A party, who is alleging that an appeal will not promptly relieve it of the injurious effects of the judgment, should establish facts to show how the appeal is not speedy or adequate. VCP's empty protestations, therefore, fail to impress. There is no reason, and VCP cannot explain, why an appeal would not be speedy and adequate to address its assigned errors. VCP cannot complain of delay because it was guilty of delay itself, and it even waited until the 58th day of its receipt of the CA Decision before taking action. Clearly, petitioner resorted to *certiorari*

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as a substitute for its lost appeal. The CA did not err in dismissing the same.

APPEARANCES OF COUNSEL

Gilberto G. Gordove for petitioner.
YFLim & Associates Law Firm for SHHAI.
Ruben R. Aldea for City of Parañaque.

D E C I S I O N

DEL CASTILLO, *J.*:

"It is a settled rule that relief will not be granted to a party x x x when the loss of the remedy at law was due to his own negligence, or to a mistaken mode of procedure."[1]

Before the Court is a Petition for Review[2] on *Certiorari* of the March 23, 2007 Decision[3] of the Court of Appeals (CA), as well as its June 4, 2007 Resolution,[4] in CA-G.R. SP No. 91791, which dismissed V.C. Ponce Company, Inc.'s (VCP) Petition for *Certiorari*. The CA held that VCP's resort to a petition for *certiorari* under Rule 65 of the Rules of Court was inappropriate and that the trial court's rejection of the commissioners' appraisal report did not amount to a grave abuse of its discretion. The *fallo* of the assailed Decision reads:

WHEREFORE, the petition is **DISMISSED**. Public respondent judge's Decision dated 10 March 2005 and Order dated 15 August 2005 in Civil Case No. 94-0009 for Expropriation are **AFFIRMED**.

SO ORDERED.[5]

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[1] *Amatorio v. People*, 445 Phil. 481, 491 (2003).

[2] *Rollo*, pp. 9-37.

[3] CA *rollo*, pp. 345-360; penned by Associate Justice Monina Arevalo-Zenarosa and concurred in by Associate Justices Marina L. Buzon and Edgardo F. Sundiam.

[4] *Id.* at 398-401.

[5] *Id.* at 359. Emphases in the original.

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The assailed June 4, 2007 Resolution denied VCP's Motions for Extension of Time to file motion for reconsideration, and consequently, dismissed its Motion for Reconsideration for belated filing.[6]

Factual Antecedents

On October 5, 1987, respondent Municipality (now City) of Parañaque (municipality) filed a complaint[7] against petitioner VCP for the expropriation of its property, which is located in the municipality's Barrio San Dionisio and covered by Transfer Certificate of Title (TCT) No. 116554.[8] The municipality intended to develop the property for its landless residents, in line with the Presidential Commission on Urban Poor's classification of the site as an area of priority development.[9] Respondent Sampaguita Hills Homeowners Association, Inc. (SHHAI), consisting of the property's actual occupants, who are also the intended beneficiaries of the action, intervened in the case.[10]

On August 23, 2002, the Regional Trial Court (RTC) of Parañaque, Branch 274, sustained the municipality's right to expropriate the said property[11] and to a writ of possession.[12]

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[6] *Id.* at 401.

[7] Records, Vol. 1, pp. 11-13.

[8] *Id.* at 226-227.

[9] *Rollo*, p. 388.

[10] Records, Vol. 2, p. 664.

[11] *Id.*, Vol. 3, pp. 1077-1081; penned by Presiding Judge Fortunito L. Madrona.

[12] The RTC held, in its August 23, 2002 Order, that, under Section 2 of Rule 67 of the Rules of Court, the plaintiff has the right to take possession of the real property once it deposits an amount equivalent to the property's assessed value for purposes of taxation. Based on the property's Tax Declaration No. B-016-05896 (*Id.* at 1064), its assessed value in 1985 was ₱409,920.00; additionally, according to the certification from the Office of the City Assessor, the above assessed value remained effective from 1985 until 1993 (*Id.* at 1076). Since the Municipality had already deposited the amount of ₱500,000.00 with its City Treasurer, the trial court concluded that the municipality's deposit is adequate and it is entitled to a writ of possession. (*Id.* at 1080)

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The trial court also informed the parties in the same Order of the reckoning period for the determination of just compensation, thus:

> The defenses having thus been ruled [upon], the Court hereby declares that the plaintiff has the lawful right to take the property sought to be **expropriated** for the public use or purpose described in the complaint, upon the payment of just compensation to be determined **as of the date of the taking of the property or the filing of the complaint, whichever came first.**[13]

The parties did not file any objection to the above Order and proceeded to submit the names of their respective nominees for commissioner. On February 26, 2003, the trial court appointed three commissioners[14] to assist in ascertaining the just compensation.[15] The trial court defined the scope of the commissioners' work as follows:

> (1) [T]o undertake the evaluation for purposes of determining just compensation on the property as described and delineated in paragraph 3 of the amended complaint, taking into consideration several factors for assessment with reckoning time of the filing of the complaint and the taking of the property and incidental periods reasonable and fair in determining just compensation;[16]

On March 15, 2004, commissioners Bienvenido Reyes and Jose Marleo Del Rosario informed the trial court that VCP did not participate in the meetings despite notification[17] and that, due to time constraints,[18] the commissioners denied[19] VCP's

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[13] *Id.* Emphases supplied.

[14] The three commissioners were Engineers Bienvenido Reyes, Cenon Astudillo (*Id.* at 1122-1123), and Jose Marleo P. Del Rosario (*Id.* at 1138, 1141, 1144, 1153).

[15] *Id.* at 1122-1123.

[16] *Id.* at 1122.

[17] *Id.* at 1235.

[18] The commissioners missed their deadline and had to extend their work for an additional two months. (*Id.* at 1183)

[19] *Id.* at 1237.

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request for an additional four months to submit its independent valuation of the property.[20] The commissioners also informed the court that Cenon Astudillo, VCP's choice for commissioner, did not contribute to the commission's work due to his frequent absences.[21]

On even date, the commissioners submitted their appraisal report,[22] stating that they considered sales data of properties within the vicinity from the years 1994 to 2003, and tax declarations from the years 1996 to 2003.[23] Based on these, they determined the just compensation at ₱1,150.00 per square meter.[24]

The trial court admitted the report into the records, after both parties manifested that they were not objecting thereto,[25] and declared the case submitted for decision.[26]

Ruling of the Trial Court

On March 10, 2005, Judge Fortunito L. Madrona (Judge Madrona) rendered his Decision rejecting the report. The trial court explained that just compensation, as Section 4 of Rule 67 of the Rules of Court provides,[27] must reflect the value and character of the property sought to be expropriated, at the time it was taken or at the time the complaint for expropriation was filed, whichever came first. Applying this rule to the facts of

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[20] *Id.* at 1236

[21] *Id.* at 1235.

[22] *Id.* at 1239-1250.

[23] *Id.* at 1240.

[24] *Id.* at 1241.

[25] *Id.* at 1270-1279.

[26] *Id.* at 1282.

[27] SEC. 4. *Order of Expropriation.* – x x x [T]he court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated x x x upon payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

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the case, the reckoning period should have been the time of filing of the complaint in 1987 because it took place before the taking of the property in 2002. The report violated this rule by using data from 1996 onwards.

The trial court then made an independent finding based on the evidence already on hand. It determined that there exists, on record, a certification from the Office of the City Assessor, that the property's market value for the years 1985 to 1993 (which includes the year the complaint was filed) was ₱1,366,400.00.[28] This value roughly translates to ₱75 per square meter, for a total of ₱1,372,350.00. The dispositive portion of the trial court's Decision reads:

> WHEREFORE, based then from [sic] the foregoing considerations, considering that the land was then a rawland in 1987 at the time of the filing of the Amended Complaint for expropriation, it is the determination of the Court that the just compensation for the expropriation of the parcel of land described as Lot No. 4598 of the Cad. Survey of Parañaque, located in San Dionisio, Parañaque City, containing an area of 18,298 square meters, registered under Transfer Certificate of Title No. 116554 of the Registry of Deeds of Parañaque City in the name of the defendant V.C. Ponce Co., Inc., is hereby fixed at ₱75.00 per square meter, or for an aggregate valuation of ₱1,372,350.00.
>
> x x x x x x x x x
>
> SO ORDERED.[29]

VCP moved for a reconsideration, which the trial court denied in its Order dated August 15, 2005.[30]

VCP received its copy of the said Order on August 24, 2005.[31]

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[28] Records, Vol. 3, p. 1076.

[29] *Id.* at 1315-1316; penned by Presiding Judge Fortunito L. Madrona.

[30] *Id.* at 1367.

[31] CA *rollo*, p. 3.

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On October 21, 2005 or 58 days since VCP received the Order denying its Motion for Reconsideration, it filed with the CA a Motion for Extension of Time (MOTEX) to File Petition for *Certiorari*,[32] which the CA granted.[33]

VCP filed its Petition for *Certiorari* on November 7, 2005.[34] It justified its resort to the extraordinary remedy on the ground that "there is no appeal or plain, speedy and adequate remedy in the course of law that is available to the petitioner."[35] It assailed the trial court's rejection of the appraisal report as a grave abuse of discretion. VCP maintained that the appraisal, which is based on the property's value at the time of its taking in 2002, is correct. Assuming *arguendo* that the commissioners committed an error, the trial court should have recommitted the valuation to a new set of commissioners, instead of substituting its own judgment.[36] VCP insisted that the trial court's own valuation of ₱75.00 per square meter is unrealistic and is unsupported by the evidence.[37] Lastly, VCP argued that the trial court committed grave abuse of discretion when it failed to impose legal interests on the just compensation from the time of taking until VCP is fully paid.[38] It prayed for the annulment of the trial court's Decision.[39]

After the parties had filed their respective memoranda, the CA received, on September 4, 2006, a Notice of Withdrawal of Appearance from VCP's counsel, Atty. Candice Marie T. Bandong, which notice contained VCP's conformity.[40]

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[32] *Id.* at 2-6.

[33] *Id.* at 16.

[34] *Id.* at 17-53.

[35] *Id.* at 37.

[36] *Id.* at 41-45.

[37] *Id.* at 38-41.

[38] *Id.* at 45-46.

[39] *Id.* at 48.

[40] *Id.* at 334-335.

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Ruling of the Court of Appeals

At the outset, the CA observed that an ordinary appeal under Rule 41 was available to petitioner and would have constituted a plain, speedy and adequate remedy to correct any perceived error in the RTC Decision. VCP, for unknown reasons, failed to avail itself of the said remedy within the reglementary period. Having lost its right to appeal, VCP resorted to a Petition for *Certiorari* in the hope that it could nevertheless, obtain a reversal of the RTC Decision. The CA held that *certiorari* is unavailing as a substitute for a lost appeal. The CA brushed aside as unfounded VCP's excuse that an appeal would be slow and inadequate. Such excuse, it noted, would allow any litigant to avail itself of extraordinary remedies after they lose their right to appeal.[41]

The CA then held that, even if it were to rule that *certiorari* is proper, it would still dismiss the petition for *certiorari*. It held that grave abuse of discretion was not attendant in the trial court's rejection of the commissioners' report. The CA explained that the trial court has such authority as long as it finds just cause. The report's contravention of the principle regarding the proper reckoning period for the determination of just compensation is such a cause.[42]

Petitioner received the CA Decision on April 10, 2007.[43] On the 15th day from its receipt of the Decision, or on April 25, 2007, it filed, through registered mail, a MOTEX of time to file a Motion for Reconsideration on the ground that it has yet to engage the services of a new counsel.[44] On May 10, 2007, VCP again requested for *another* 15 days to file its Motion for Reconsideration.[45]

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[41] *Id.* at 356-357.

[42] *Id.* at 357-359.

[43] *Id.* at 365.

[44] *Id.* at 365-369.

[45] *Id.* at 371-376.

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On May 25, 2007, which is 45 days since it received the CA Decision, VCP filed its Motion for Reconsideration through its new counsel.[46]

The CA denied petitioner's MOTEX in its Resolution dated June 4, 2007. It ratiocinated that the 15-day period for filing a Motion for Reconsideration cannot be extended. Thus, it dismissed VCP's Motion for Reconsideration for belated filing.[47]

Petitioner's arguments

Petitioner contends that the CA was unreasonably rigid in denying its MOTEX and Motion for Reconsideration. It urges the Court to appreciate its lack of counsel as a justification for its late filing.[48]

VCP maintains that the CA erred in holding that VCP should have appealed from the RTC Decision, instead of resorting to *certiorari*. VCP contends that *certiorari* is proper because an appeal would have been inadequate, and would have further prolonged the resolution of this case, which has already dragged for more than two decades.[49]

Lastly, VCP insists that the CA erred in not finding the trial court guilty of grave abuse of discretion.[50]

Respondents' arguments

Respondents insist that the CA was correct in denying petitioner's MOTEX to file Motion for Reconsideration. Jurisprudence has consistently ruled that the period for filing a Motion for Reconsideration is not extendible.

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[46] *Id.* at 377-389.

[47] *Id.* at 401.

[48] *Rollo*, pp. 25-26.

[49] *Id.* at 26-27.

[50] *Id.* at 29-33.

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Besides, petitioner does not have a valid excuse for its belated filing. It consented to the withdrawal of its lawyer as early as August 29, 2006 (the date of the Notice of Withdrawal of Appearance). VCP then slept on its rights for eight months until the reglementary period for filing its Motion for Reconsideration lapsed on April 25, 2007. The Court should not reward VCP's negligence with a relaxation of the rules.[51]

Further, respondents insist that the CA is correct in dismissing VCP's petition for *certiorari*. The Rules provide for an appeal of the RTC Decision but VCP neglected to avail of the said remedy within the reglementary period. There is no merit to VCP's contention that an appeal would not have been a speedy and adequate remedy considering that VCP's dilatory pleadings caused the protracted proceedings.[52]

Respondents aver that the CA was correct in ruling that the trial court did not commit a grave abuse of discretion. The trial court cannot accept an appraisal which disregards a basic legal principle.[53] Its action was consistent with jurisprudence and the rules.[54] Further, petitioner cannot claim that it was denied due process. Both parties were sufficiently informed by the trial court, in its August 23, 2002 Order, that the just compensation will be determined as of the date of filing of the complaint.[55] None of the parties objected to the said Order.[56]

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[51] *Id.* at 380-382, 392-394, 396.

[52] *Id.* at 382-383, 394-395.

[53] *Id.* at 382-384, 399.

[54] *Id.* at 398-399.

[55] The relevant portion of the said Order reads as follows:

The defenses having thus been ruled, the Court **hereby declares that the plaintiff has the lawful right to take the property sought to be expropriated** for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first. (Records, Vol. 3, p. 1080. Emphasis in the original)

[56] *Rollo*, p. 398.

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Issues

1. Is petitioner's lack of counsel a justifiable excuse for the late filing of a Motion for Reconsideration?

2. Is a Petition for *Certiorari* the proper remedy to correct alleged errors in the trial court's Decision?

Our Ruling

The petition has no merit.

Period for filing a Motion for Reconsideration not extendible; failure to file Motion for Reconsideration on time renders the Decision final.

VCP received the CA Decision on April 10, 2007. Based on Rule 52 of the Rules of Court[57] and Rule 7 of the 2002 Internal Rules of the Court of Appeals (IRCA),[58] VCP had 15 days from its receipt of the Decision, or until April 25, 2007, to file a motion for reconsideration, an appeal, or a motion for new trial. Failure to file the necessary pleading within the reglementary period would render the CA Decision final and executory.[59]

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

[58] SEC. 1. *Entry of Judgment.* – Unless a motion for reconsideration or new trial is filed or an appeal taken to the Supreme Court, judgments and final resolutions of the Court shall be entered upon expiration of **fifteen (15) days from notice** to the parties. x x x (Emphasis supplied)

[59] SEC. 1. *Entry of Judgment.* – Unless a motion for reconsideration or new trial is filed or an appeal taken to the Supreme Court, **judgments and final resolutions of the Court shall be entered upon expiration** of fifteen (15) days from notice to the parties. x x x (Emphasis supplied)

SEC. 5. *Entry of Judgment and Final Resolution.* – If no appeal or motion for new trial or reconsideration is filed **within the time provided in these Rules, the judgment or final resolution shall forthwith be entered** by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. x x x (Rule VII, 2002 INTERNAL RULES OF THE COURT OF APPEALS, AS AMENDED) (Emphasis supplied)

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Instead of filing a Motion for Reconsideration on April 25, 2007, VCP filed a MOTEX on the ground that its lawyer had withdrawn from the case and it was still in the process of retaining a new counsel. The CA was correct in denying petitioner's MOTEX because the period to file a Motion for Reconsideration is not extendible.[60] The Court has pronounced strict adherence to the rule laid down in *Habaluyas Enterprises, Inc. v. Judge Japson*[61] that "no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court (now Court of Appeals)."[62] Since the period to file a Motion for Reconsideration is not extendible, VCP's MOTEX did not toll the reglementary period.[63] Thus, there being no Motion for Reconsideration as of April 25, 2007, the Decision of the CA dated March 23, 2007 became final and executory by operation of law.[64] The CA was correct in denying the Motion for Reconsideration that VCP had belatedly filed on May 25, 2007 as its lateness had rendered it moot.

There is no justification for the application of equity and for the relaxation of the rules.

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[60] *Amatorio v. People of the Philippines*, *supra* note 1 at 488-490; *Habaluyas Enterprises, Inc. v. Judge Japson*, 226 Phil. 144, 148 (1986).

[61] 226 Phil. 144 (1986).

[62] *Id.* at 148.

[63] *Villamor v. People,* G.R. Nos. 172110 & 181804, August 1, 2011, 655 SCRA 30, 38; *Bolos v. Bolos,* G.R. No. 186400, October 20, 2010, 634 SCRA 429, 438; *Marcelo v. Philippine Commercial International Bank (PCIB),* G.R. No. 182735, December 4, 2009, 607 SCRA 778, 792; *Apex Mining Co., Inc. v. Commissioner of Internal Revenue,* 510 Phil. 268, 273-274 (2005); *Habaluyas Enterprises, Inc. v. Judge Japson, supra*.

[64] *Ibasco v. Private Development Corporation of the Philippines*, G.R. No. 162473, October 12, 2009, 603 SCRA 317, 320; *International Corporate Bank, Inc. v. Court of Appeals*, G.R. No. 129910, September 5, 2006, 501 SCRA 20, 32.

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VCP urges the Court to relax the rules on the reglementary period on the ground that it was impossible for it to meet the deadline without the aid of counsel.

The Court, in the interest of equity and justice, sometimes allows a liberal reading of the rules, so long as the petitioner is able to prove the existence of cogent reasons to excuse its non-observance.[65] The Court, however, does not find a justification to warrant such relaxation in this instance.

It is incumbent upon the client to exert all efforts to retain the services of new counsel.[66] VCP knew since August 29, 2006, seven months *before* the CA rendered its Decision, that it had no counsel. Despite its knowledge, it did not immediately hire a lawyer to attend to its affairs. Instead, it waited until the last minute, when it had already received the adverse CA Decision on April 10, 2007, to search for a counsel; and even then, VCP did not rush to meet the deadline. It asked for an extension of 30 days to file a Motion for Reconsideration.[67] It finally retained the services of a new counsel on May 24, 2007,[68] nine months from the time that its former counsel withdrew her appearance. VCP did not even attempt to explain its inaction. The Court cannot grant equity where it is clearly undeserved by a grossly negligent party.[69] As the Court pronounced in another case:

> x x x Both parties have a right to a speedy resolution of their case. Not only petitioners, but also the respondents, have a right to have the case finally settled without delay.

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[65] *Delos Santos v. Elizalde,* G.R. Nos. 141810 & 141812, February 2, 2007, 514 SCRA 14, 29-30.

[66] *Soriano v. Mendoza-Arcega,* G.R. No. 175473, January 31, 2011, 641 SCRA 51, 57-58.

[67] VCP's MOTEX of April 25, 2007 asked for a 15-day extension or until May 10, 2007. On May 10, 2007, VCP moved for another 15 days or until May 25, 2007 to file its Motion for Reconsideration. (CA *rollo*, pp. 365-369 & 371-376)

[68] *Id.* at 378.

[69] *Delos Santos v. Elizalde, supra*; *Razon v. People*, G.R. No. 158053, June 21, 2007, 525 SCRA 284, 296.

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Furthermore, the failure to file x x x on time was due primarily to petitioners' unwise choices x x x. [T]hey hired their subsequent lawyers too late.

It must be pointed out that petitioners had a choice of whether to continue the services of their original lawyer or consent to let him go. x x x [T]hey delayed in engaging their replacement lawyer. Their poor choices and lack of sufficient diligence x x x are the main culprits for the situation they now find themselves in. It would not be fair to pass on the bad consequences of their choices to respondents. Petitioners' low regard for the rules or nonchalance toward procedural requirements x x x has in fact contributed much to the delay, and hence frustration of justice, in the present case.[70]

This Court cannot ascribe good faith to VCP as it had neglected reglementary periods in the past.

Another reason that this Court is unable to accept VCP's plea for indulgence is its observation that VCP has a penchant for disregarding procedural rules and the periods allotted to it for its action.

It did not attend the meetings before the commissioners for the initial and the final valuation of its property despite notice. When the commissioners were finalizing their report to meet its deadline, VCP asked for an additional four months to submit its independent valuation of the property. While the commissioners denied VCP's request, VCP's action betrays its lack of consideration for deadlines.

Further, VCP did not file a timely appeal from the RTC Order denying its Motion for Reconsideration. VCP received the said Order on August 24, 2005. Instead of appealing under Rule 41 of the Rules of Court, VCP filed, on the 58th day from its receipt of the RTC Order, a MOTEX to file a Petition for

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[70] *Alfonso v. Andres*, G.R. No. 166236, July 29, 2010, 626 SCRA 149, 155-156.

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Certiorari. While the CA granted VCP's MOTEX,[71] it was correct in ultimately denying VCP's Petition for *Certiorari* on the ground that VCP cannot exploit the remedy of *certiorari* after it had lost its right to appeal.

Appeal is a sufficient and adequate remedy unless the party proves otherwise.

VCP attempts to extricate itself from the effects of its negligence by alleging that an appeal would not have been speedy and adequate for its purpose. The Court, however, finds no merit in its contention.

A court with appellate jurisdiction can review both the facts and the law, including questions of jurisdiction.[72] It can set aside an erroneous decision and even nullify the same, if warranted. Appeal is a speedy remedy, as an adverse party can file its appeal from a final decision or order immediately after receiving it. A party, who is alleging that an appeal will not promptly relieve it of the injurious effects of the judgment, should establish facts to show how the appeal is not speedy or adequate.[73] VCP's empty protestations, therefore, fail to impress. There is no reason, and VCP cannot explain, why an appeal would not be speedy and adequate to address its assigned errors.[74] VCP cannot complain of delay because it was guilty of delay itself, and it even waited until the 58th day of its receipt of the CA Decision before taking action. Clearly, petitioner resorted to *certiorari* as a substitute for its lost appeal.[75] The CA did not err in dismissing the same.

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[71] CA *rollo*, p. 16.

[72] *Manacop v. Equitable PCI Bank*, 505 Phil. 361, 377 (2005).

[73] *Lee v. People*, 483 Phil. 684, 699 (2004).

[74] *Leca Realty Corporation v. Republic of the Philippines*, 534 Phil. 693, 701 (2006).

[75] *Id; Swire Agricultural Products, Inc. v. Hyundai Corporation*, 499 Phil. 73, 79 (2005).

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In sum, VCP's continued negligence, and its resort to the wrong remedy, placed all perceived errors in the decisions below beyond the CA's and this Court's grasp.

WHEREFORE, premises considered, the petition is **DENIED**. The March 23, 2007 Decision of the Court of Appeals in CA-G.R. SP No. 91791, as well as its June 4, 2007 Resolution, are **AFFIRMED**.

SO ORDERED.

Carpio (Chairperson), Brion, Perez, and *Perlas-Bernabe, JJ.,* concur.

SECOND DIVISION

[G.R. No. 178622. November 12, 2012]

LUCIANO LADANO, [1] *petitioner, vs.* **FELINO NERI, EDWIN SOTO, ADAN ESPANOLA,**[2] **and ERNESTO BLANCO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; CONTEMPT; A CHARGE FOR INDIRECT CONTEMPT CANNOT BE MADE BY A MERE MOTION; IT MUST ALSO BE SUBSTANTIATED.— A charge for indirect contempt, such as disobedience to a court's lawful order, is initiated either *motu proprio* by order of or a formal charge by the offended court, or by a verified petition with supporting particulars and certified true copies of documents or papers involved therein,

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[1] Also spelled as Ladaño in some parts of the records.

[2] Also spelled as Española in some parts of the records.