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FIRST DIVISION

[G.R. No. 146547. June 20, 2006]

VILLA MACASASA and GERTRUDES LANUTAN, *petitioners, vs.* **JUANITA SICAD and ERNESTO MACASASA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; APPEAL BY *CERTIORARI* TO THE SUPREME COURT AS PROPER REMEDY IN ASSAILING COURT OF APPEALS DECISION OR RESOLUTION THAT FINALLY DISPOSES OF THE CASE ON THE MERITS SUSTAINED.— Although the petition does not clearly state whether it is one for review on *certiorari* under Rule 45 or a petition for *certiorari* under Rule 65, both of the 1997 Rules of Civil Procedure, the petition was nevertheless filed within the period provided for under Rule 45. Thus, even if the petitioners' ground in support of their petition is that the CA committed grave abuse of discretion, the Court treats the present petition as one filed under Rule 45 as that is the proper remedy to assail a CA decision or resolution that finally disposes of a case on the merits. As held in *National Irrigation Administration v. Court of Appeals*, to wit: The appeal from a final disposition of the Court of Appeals is a petition for review under Rule 45 and not a special civil action under Rule 65 of the Rules of Court, now Rule 45 and Rule 65, respectively, of the 1997 Rules of Civil Procedure. Rule 45 is clear that decisions, final orders or resolutions of the Court of Appeals in any case, *i.e.*, regardless of the nature of the action or proceedings involved, may be appealed to this Court by filing a petition for review, which would be but a continuation of the appellate process over the original case.

2. ID.; JUDGMENTS; WRIT OF EXECUTION; CONTENTS OF THE WRIT MUST CONFORM TO THAT ORDAINED OR DECREED IN THE DISPOSITIVE PORTION OF THE DECISION; RATIONALE; VIOLATION IN CASE AT BAR.— Verily, it is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. An examination of the original records further reveals

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that the Bill of Costs submitted by the respondents before the RTC did not comply with the then prevailing Sections 8 and 10, Rule 142 of the Rules of Court. . . . As stated in the trial court's Order dated August 6, 1996, said Bill of Costs was approved on June 26, 1996. The total amount reflected in the Bill of Costs went over and beyond the aforequoted dispositive portion of the Decision dated February 10, 1994 in Civil Case No. 1950 which merely ordered petitioners to vacate the premises of the subject parcel of land and to pay plaintiff only the sum of ₱5,000.00 for attorney's fees and all incidental expenses incurred. The amount of ₱800,000.00 representing the estimated loss of income on the subject property of respondent Sicad due to her deprivation of its enjoyment and fruits since 1970s is absolutely arbitrary and has no legal basis as the dispositive portion of the RTC decision did not award the same. It is the dispositive part that controls for purposes of execution. Neither can it be considered as an incidental expense for it involves determination, after full blown trial, of the income that respondents could have derived from the subject property were it not for the undue deprivation thereof; and in fact, the RTC did not dwell on it in the text of its Decision. Furthermore, the Bill of Costs did not show how the litigation and other consequential expenses, including filing fees, attorney's fees, sheriff's fees and other related expenses amounted to ₱400,000.00. It is axiomatic that the writ of execution must conform to that ordained or decreed in the dispositive portion of the decision. To allow the respondents to receive the ₱1.2 Million without any lawful basis would be to sanction unjust enrichment and cause unlawful deprivation of the property levied on execution. The August 6, 1996 Order is void as it was issued in excess of the trial court's jurisdiction and therefore cannot be a valid basis of the RTC in executing the final judgment in Civil Cases Nos. 1942 and 1950.

3. **ID.; RULES OF PROCEDURE; PROCEDURAL RULES MAY BE SUSPENDED BY THE SUPREME COURT WHEN RIGID APPLICATION THEREOF WOULD TEND TO FRUSTRATE RATHER THAN PROMOTE SUBSTANTIAL JUSTICE; APPLICATION IN CASE AT BAR.**— Undeniably, petitioners committed mistakes in not filing a motion for reconsideration of the Order dated August 6, 1996; in not filing a petition for *certiorari* in due time from said arbitrary order; and in not filing the petition for relief from judgment

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in the same cause between the same parties, that is, in Civil Cases Nos. 1942 and 1950. But should the void order be upheld or considered unassailable because of the failure of petitioners to observe certain procedural rules to correct the arbitrary exercise of jurisdiction by the RTC? The answer is a resounding negative. The facts obtaining in *Buan v. Court of Appeals*, are analogous to this case, to wit: . . . The petition was given due course and this Court ruled that: [J]udging from the facts presented by the present case, it is beyond doubt that *serious injustice will be committed if strict adherence to procedural rules were to be followed. It should be remembered that rules of procedure are but mere tools designed to facilitate the attainment of justice, such that when rigid application of the rules would tend to frustrate rather than promote substantial justice, this Court is empowered to suspend its operation* x x x .

4. ID.; JUDGMENTS; FINAL AND EXECUTORY JUDGMENT; CAN NO LONGER BE ATTACKED BY ANY OF THE PARTIES OR BE MODIFIED DIRECTLY OR INDIRECTLY; EXCEPTION; PRESENT IN CASE AT BAR.— Indeed, in *Barnes v. Padilla*, the Court held that: x x x [A] final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land. However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby. The present case involves a matter of property and, as discussed above, compelling circumstances exist to bring it within the ambit of the aforementioned cases where suspension of the rules is called for. There would be a clear case of unjust enrichment in favor of respondents, and deprivation of petitioners' property without due process of law if the Court does not set aside the patently invalid order of the trial court. Thus, the RTC should have granted the petition for relief from the Order of August 6, 1996 and corrected its mistake of awarding ₱1.2 Million arbitrarily referred to as

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"incidental expenses" mentioned in the final judgment; and the CA should have recognized the arbitrariness of the void Order dated August 6, 1996 and accorded petitioners due process. As emphasized in *Barnes v. Padilla*, "this Court cannot look with favor on a course of action which would place the administration of justice in a straight jacket for then the result would be a poor kind of justice if there would be justice at all."

5. ID.; ID.; ID.; THE PRINCIPLE LAID DOWN IN *DAVID VS. AQUILIZAN*, APPLIED BY ANALOGY— The Court applies by analogy the principles laid down in *David v. Aquilizan*, to wit:. . . And it has been held that a final and executory judgment may be set aside with a view to the renewal of the litigation when the judgment is void for lack of due process of law. (Moran, Comments on the Rules of Court, *supra*, p. 523; *Banco Español-Filipino vs. Palanca*, 37 Phil. 921). Being null and void from its inception, the decision sought to be set aside does not exist in the eyes of the law because it is "as though it had not been done." In legal contemplation, it is no judgment at all. "By it, no rights are divested. From it, no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void. x x x" *It may be attacked directly or collaterally, and the action therefor may be brought even after the time for appeal or review has lapsed. The judgment is vulnerable to attack even when no appeal has been taken. Hence, such judgment does not become final in the sense of depriving a party of his right to question its validity.* Respondents alleged that an auction sale had already been conducted with respondent Juanita Sicad as the highest bidder. Considering that the auction sale is based on a void order, the same necessarily had no legal effect. Consequently, the auctioned property must be ordered returned to petitioners. The damages therefor however must be threshed out and determined in the RTC.

APPEARANCES OF COUNSEL

P.M. Moron F.S. Villamero O.S. Cabarron & Associates for petitioners.

Rafael O. Ortiz for respondents.

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DECISION

AUSTRIA-MARTINEZ, *J.:*

This refers to the petition for review under Rule 45 of the Rules of Court seeking the reversal of the Decision[1] of the Court of Appeals (CA) promulgated on January 24, 2000 dismissing the appeal and its Resolution[2] dated October 25, 2000 denying petitioners' motion for reconsideration.

The antecedent facts:

On February 10, 1994, the Regional Trial Court (RTC), Branch 18, Pagadian City, rendered a joint decision in Civil Case No. 1942 wherein petitioner Villa[3] Macasasa is the plaintiff and respondents Juanita Sicad and Ernesto Macasasa are the defendants for reconveyance with damages; and in Civil Case No. 1950 wherein respondents are the plaintiffs and both petitioners-spouses Macasasa and Gertrudes Lanutan are the defendants, for reconveyance of possession.[4] The dispositive portion of the decision reads:

> WHEREFORE, judgment is hereby rendered dismissing Civil Case No. 1942 and ordering defendant and his agents and privies in Civil Case No. 1950 to vacate the premises of the subject parcel of land and to pay plaintiff the sum of ₱5,000.00 for attorney's fee and all incidental expenses incurred.
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> SO ORDERED.[5]

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[1] Penned by then Acting Presiding Justice Salome A. Montoya (now retired) with Associate Justices Bernardo Ll. Salas and Mariano M. Umali (both retired), concurring.

[2] Penned by Presiding Justice Salome A. Montoya (now retired) with Associate Justices Candido V. Rivera and Mariano M. Umali (both retired), concurring.

[3] Bella in some parts of the records.

[4] Records, p. 1.

[5] *Rollo*, p. 31-32.

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The decision became final and a writ of execution was issued by the RTC. Petitioners filed a Motion to Quash.

On August 6, 1996, the RTC issued an Order, to wit:

> WHEREFORE, an Order is hereby issued denying the Motion to Quash Execution; giving due course to the Motion to Levy and to Attach Villa Macasasa properties; Declaring Transfer Certificate of Title No. 13,842 with Tax Declaration No. 798 use [sic] by defendant Villa Macasasa as supersedeas bond forfeited in favor of Juanita Sicad; and ordering defendant to pay plaintiff the sum of five thousand (₱5,000.00) as Attorney's fees and to pay the money judgment included in the judgment under "and all incidental expenses incurred" in the total amount of one million, two hundred thousand (₱1,200,000.00) pesos.
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> SO ORDERED.[6]

which petitioners received on August 14, 1996.[7]

On October 4, 1996,[8] petitioners filed a "Petition for Relief From Judgments, Orders, or Other Proceedings with Preliminary Injunction, Temporary Restraining Order and Damages" assailing the Order dated August 6, 1996 on the grounds that it has no legal and factual bases as the very order granting the Bill of Costs was never passed upon by the court or by the clerk of court and if ever there was, the same was taken either by mistake or by fraud against petitioners who were never notified of any hearing where they could have contested and presented evidence against the granting of the same; that it was entered and issued through mistake as the RTC approved respondents' Bill of Costs on items not included and considered as costs under Section 10, Rule 142 of the Rules of Court; that the Bill of Costs is not verified under oath as required under Sec. 8 of the same Rule; that there is a patent mistake in the issuance of the Order as there was no compliance of due process which is the required hearing for approval of the amount of ₱1.2 Million

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[6] Records, p. 12.

[7] *Id.* at 50.

[8] *Id.* at 1.

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where both parties should have presented evidence; and that respondents did not ask for costs and the same were not prayed for in their complaint and counterclaim in the two consolidated cases and therefore the RTC did not acquire jurisdiction on the issue of costs and any award thereof is simply desultory.[9]

In their Answer with Counterclaim dated October 28, 1996, respondents contend that petitioners have no cause of action against them; that the subject order was issued in accordance with law and after all legal and procedural requirements have been duly complied with; that petitioners were afforded due process before the subject order was issued; that records bear out that petitioners were furnished with copies of all pleadings filed by them through their (petitioners') counsel on record; that the petition is now moot and academic since the auction sale had already been conducted on the "subject properties" of which Juanita Sicad is the highest bidder; that the fact that the bill of costs is not verified would not render it invalid; and that respondents are entitled to damages by reason of the malicious and reckless filing of petitioners' baseless and unfounded petition.[10]

Upon Motion to Dismiss filed by respondents, the RTC issued an Order dated February 27, 1997, to wit:

> Before this Court is a Motion to Dismiss the petition for Relief from Judgment with the opposition thereto. The Court finds the Motion to be meritorious and well taken. It appearing that the defendants actively participated when the case was tried on the merits and the Motion for Relief from Judgment has not stated that there was a mistake and excusable negligence on there [sic] part to satisfy the Rules of Court on petition for relief from judgment. Besides, all the while, during the hearing of the case defendant was given the opportunity to present their evidences and facts, and thereafter, rest their case. Subsequently, the Court based on the facts and evidences submitted by both parties decided the case in favor of the plaintiff Juanita Sicad who was also the respondent in Civil Case No. 1942 and as plaintiff in Civil Case No. 1950.

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[9] *Id.* at 5-6.

[10] Records, pp. 41-42.

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Moreover, the petition sought only to question the propriety of the award for damages which the Court has previously granted on a Motion of plaintiff Juanita Sicad, in its Order dated August 6, 1996, and on this Order, no Motion for Reconsideration has been filed by the defendant Villa Macasasa to challenge said Order.

Moreover, the petition has not stated that there was a mistake and excusable negligence on the part of petitioner to merit the petition for the reopening of the case.

Furthermore, the decision was received by defendant on December 11, 1995 and this petition was filed only on October 4, 1996 beyond the 60 days [sic] period, a mandatory requirement for filing Relief from Judgment. For a petition for Relief from Judgment filed after the lapse of the reglementary period cannot be entertained. (*Villeza versus Olmedo*, 1 SCRA 761; *J.M. Tuazon and Co. Inc. versus Aguila,* 9 SCRA 537; *Concepcion versus Presiding Judge, Branch V, CFI of Bulacan,* 119 SCRA 222; *Zabat Jr. versus CA*, 142 SCRA 587) Besides, the petition must be filed within 60 days after knowledge is acquired of the proceeding provided, it is not beyond 6 months after the proceedings had actually occurred. (*Dizon versus Sheriff of Manila*, 73 SCRA 40)

With these circumstances considered, the petition is found without merit and the reopening of this case is no longer proper. For a case has to find a rest after having reached finality and had been executed.

Besides, petitioner had appealed the decision of the Court, but the same has been denied.

With the reasons aforecited, the Motion to Dismiss this petition is hereby granted. This petition is hereby DISMISSED, and accordingly all orders before this Motion to Dismiss follows and considered moot and academic.

SO ORDERED.[11]

Petitioners appealed to the CA claiming that the trial court gravely erred: in finding that the petition has not stated that there was a mistake and excusable negligence on the part of petitioners (appellants) to merit the petition for the reopening of the case; in finding that the petition was not filed on time;

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[11] Records, pp. 66-67.

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in granting the motion to dismiss filed by the appellees; in dismissing the petition; and in not granting the reliefs prayed for by the appellants in their petition.[12]

The CA dismissed the appeal on the grounds that not one of the grounds for a petition for relief from judgment is present in this case; that the petition, although grounded on mistake, did not refer to a mistake of the petitioners that had prevented them from defending their case; that mistake on the part of the trial court in its Order of August 6, 1996, basing the amount of ₱1.2 Million on the Bill of Costs filed by respondents, is not the mistake that is a proper ground for a petition for relief, but should have been assailed in a petition for *certiorari*; that a petition for relief is an equitable remedy and is allowed only in exceptional cases from final judgments or orders where no other remedy is available; that it will not be entertained when the proper remedy is appeal or *certiorari*, citing Regalado *Remedial Law Compendium*, Vol. I, p. 253 citing *Arante v. Rosal, 49 O.G. 2333* and *Fajardo v. Bayona, 52 O.G. 1937*; and that petitioners had reasonable time to file a petition for *certiorari* upon receipt of the August 6, 1996 Order on August 14, 1996 but failed to do so.[13]

Petitioners filed a motion for reconsideration which the CA denied for lack of merit in its Resolution dated October 25, 2000, ratiocinating thus:

> Petitioners-appellants contend that their petition for relief is an exceptional case and should have been considered by the trial court. Petitioners-appellants claim that they were not able to attend to the filing of the proper remedy after the issuance of the August 6, 1996 order of the trial court because the latter had cited them in contempt and issued an order for their arrest allegedly prompting their lawyer to give priority to the situation, thus, it was only on October 4, 1996 when they realized they had no other recourse but to file the said petition for relief.

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[12] CA *rollo*, pp. 56-57.

[13] *Id.* at 33.

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It is clear that under the Rules of Court, Rule 38, Section 1, "when a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through *fraud, accident, mistake or excusable negligence*, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside. Unfortunately, for herein petitioners-appellants, their cited reason does not constitute excusable negligence or mistake which had prevented them from defending their case and thus resulting in the issuance of the August 6, 1996 Order of the trial court. The negligence which they cited which is not excusable, in fact refer to their failure to file an appeal or for *certiorari* to question the Order dated August 6, 1996 of the trial court because they were evading a warrant of arrest for contempt instead of a petition for relief from judgment. Therefore, the trial court properly dismissed their petition for relief for lack of sufficient grounds.

Evidently, petitioners-appellants had failed to present any new ground to disturb the earlier decision of this Court.[14]

Hence, the present petition.

Petitioners claim that the RTC and the CA committed grave abuse of discretion in dismissing the petition for relief from judgment and in affirming the RTC Order dated August 6, 1996 which approved the amount of ₱1.2 Million without giving the petitioners the opportunity to object to the same; that it is alleged in the petition for relief from judgment that the said Order has no factual and legal bases as the very order granting the Bill of Costs was never passed upon by the court or by the clerk of court and if ever there was, the same was taken either by mistake or by fraud against petitioners who were never notified of any hearing where they could have contested, and presented evidence against the granting of the same.

Respondent Sicad filed a Comment contending that the petition is solely intended to further delay the proceedings; that the arguments and discussions in the petition have been fully resolved in the proceedings before the lower court; and that petitioners have been at times declared in contempt by the lower court due to their constant defiance to obey its lawful orders.

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[14] *Id.* at 75.

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Parties filed their respective memoranda.

Before proceeding any further, it is noted that although the petition does not clearly state whether it is one for review on *certiorari* under Rule 45 or a petition for *certiorari* under Rule 65, both of the 1997 Rules of Civil Procedure, the petition was nevertheless filed within the period provided for under Rule 45. Thus, even if the petitioners' ground in support of their petition is that the CA committed grave abuse of discretion, the Court treats the present petition as one filed under Rule 45 as that is the proper remedy to assail a CA decision or resolution that finally disposes of a case on the merits. As held in *National Irrigation Administration v. Court of Appeals*,[15] to wit:

> The appeal from a final disposition of the Court of Appeals is a petition for review under Rule 45 and not a special civil action under Rule 65 of the Rules of Court, now Rule 45 and Rule 65, respectively, of the 1997 Rules of Civil Procedure. Rule 45 is clear that decisions, final orders or resolutions of the Court of Appeals in any case, *i.e.*, regardless of the nature of the action or proceedings involved, may be appealed to this Court by filing a petition for review, which would be but a continuation of the appellate process over the original case.[16]

The Court finds the petition to be with merit. Under the peculiar facts and circumstances of the case, the RTC committed grave abuse of discretion in dismissing the petition for relief from the Order dated August 6, 1996; and the CA committed a reversible error in dismissing the appeal therefrom.

This case had actually been before the Court as far back as 1999, when herein petitioners filed an administrative case against Judge Fausto H. Imbing, then presiding judge of the trial court where Civil Cases Nos. 1942 and 1950 were filed. That earlier, the Court, in *Macasasa v. Imbing*,[17] had ruled that Judge Imbing acted with grave abuse of authority by awarding ₱1.2 Million as incidental expenses. The Court explicitly stated the

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[15] 376 Phil. 362 (1999).

[16] *Id.* at 371.

[17] 371 Phil. 314 (1999).

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circumstances which demonstrate that respondent judge acted outside the scope of his authority, thus:

In filing the "Bill of Costs" on June 25, 1996, the Sicads did not pray that it be approved. Although a copy of the same was furnished the complainants as the losing parties, it did not contain any notification as to when it would be submitted for approval of the respondent's court. As a matter of fact, there apparently was no hearing to approve or disprove it as the Order granting the same was issued the very next day.

It is noteworthy that the judgment rendered by respondent in Civil Cases Nos. 1942 and 1950 did not provide for any damages suffered by plaintiffs. All that the said judgment required was for the defendants (complainants herein) 'to vacate the premises of the subject parcel of land and to pay the plaintiff the sum of ₱5,000.00 for attorney's fees and all incidental expenses incurred.'

Evidently, what could only be collected under this judgment was the sum of ₱5,000.00 as attorney's fees and nominal amounts for incidental expenses. It did not provide for rentals for the use of the property nor damages for the deprivation of its enjoyment. Under no circumstance could we consider the astronomical sum of ₱1,200,000.00 as incidental expenses.

Respondent, however, reasons that he did not really treat the Bill of Costs as such as he was aware of the things which could be included as costs. Rather, he granted the amount as recompense for the deprivation of the enjoyment of the property for a number of years. Apparently, he did not consider the fact that this was not included in his judgment which had already become final. For him to amend the judgment as to include such substantial amount, without it being established by evidence at an adversarial proceeding where the defendants were given the opportunity to contest the same, is clear evidence of respondent's failure to understand the limitations of his powers and betrays his ignorance of the cardinal principles of due process.

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x x x *[T]he Order issued by Judge Imbing which included the astronomical amount of ₱1,200,000.00 as incidental expenses and which was not in anyway prayed for or mentioned in the judgment which had become final, without benefit of a hearing is clear evidence of respondent's failure to understand the limitations of*

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his powers and betrays his ignorance of the cardinal principles of due process.

x x x *Since the judgment was merely to vacate the premises and to pay the amount of ₱5,000.00, respondent judge, apparently made the mistake of going overboard by approving and awarding the horrendous amount of ₱1.2 million, without giving the adverse party the opportunity to contest the same.* x x x[18] (Italics supplied)

Verily, it is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law.[19] An examination of the original records further reveals that the Bill of Costs submitted by the respondents before the RTC did not comply with the then prevailing Sections 8 and 10, Rule 142 of the Rules of Court, to wit:

SEC. 8. *Costs, how taxed.*— In inferior courts, the costs shall be taxed by the justice of the peace or municipal judge and included in the judgment. In superior courts, costs shall be taxed by the clerk of the corresponding court on five days' written notice given by the prevailing party to the adverse party. With this notice shall be served a statement of the items of costs claimed by the prevailing party, verified by his oath or that of his attorney. Objections to the taxation shall be made in writing, specifying the items objected to. Either party may appeal to the court from the clerk's taxation. The costs shall be inserted in the judgment if taxed before its entry, and payment thereof shall be enforced by execution.

x x x x x x x x x

SEC. 10. *Costs in Courts of First Instance.* — In an action or proceeding pending in a Court of First Instance, the prevailing party may recover the following costs, and no other:

a) For the complaint or answer, fifteen pesos;

b) For his own attendance, and that of his attorney, down to and including final judgment, twenty pesos;

c) For each witness necessarily produced by him, for each day's necessary attendance of such witness at the trial, two pesos, and his lawful traveling fees;

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[18] *Id.* at 321-323.

[19] Section 1, Article III, 1987 Constitution.

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d) For each deposition lawfully taken by him, and produced in evidence, five pesos;

e) For original documents, deeds, or papers of any kind produced by him, nothing;

f) For official copies of such documents, deeds, or papers, the lawful fees necessarily paid for obtaining such copies;

g) The lawful fees paid by him in entering and docketing the action or recording the proceedings, for the service of any process in action, and all lawful clerk's fees paid by him.

The Bill of Costs dated June 18, 1996, submitted by respondents reads as follows:

JUANITA SICAD, through counsel, unto this Honorable Court, hereby respectfully submits the following bill of costs:

1. ₱800,000.00 — Estimated loss of income over the conflicted riceland since Juanita Sicad's deprivation over its enjoyment and fruits sometime in the early 1970s.

2. ₱400,000.00 — Litigation and other consequential expenses, including filing fees, attorney's fees, sheriff's fees, and other related expenses.

₱1,200,000.00 – Total.[20]

As stated in the trial court's Order[21] dated August 6, 1996, said Bill of Costs was approved on June 26, 1996. The total amount reflected in the Bill of Costs went over and beyond the aforequoted dispositive portion of the Decision dated February 10, 1994 in Civil Case No. 1950 which merely ordered petitioners to vacate the premises of the subject parcel of land and to pay plaintiff only the sum of ₱5,000.00 for attorney's fees and all incidental expenses incurred. The amount of ₱800,000.00 representing the estimated loss of income on the subject property of respondent

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[20] Records, p. 13.

[21] *Id.* at 10-12.

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Sicad due to her deprivation of its enjoyment and fruits since 1970s is absolutely arbitrary and has no legal basis as the dispositive portion of the RTC decision did not award the same. It is the dispositive part that controls for purposes of execution.[22] Neither can it be considered as an incidental expense for it involves determination, after full blown trial, of the income that respondents could have derived from the subject property were it not for the undue deprivation thereof; and in fact, the RTC did not dwell on it in the text of its Decision.

Furthermore, the Bill of Costs did not show how the litigation and other consequential expenses, including filing fees, attorney's fees, sheriff's fees and other related expenses amounted to ₱400,000.00.

It is axiomatic that the writ of execution must conform to that ordained or decreed in the dispositive portion of the decision.[23] To allow the respondents to receive the ₱1.2 Million without any lawful basis would be to sanction unjust enrichment and cause unlawful deprivation of the property levied on execution. The August 6, 1996 Order is void as it was issued in excess of the trial court's jurisdiction and therefore cannot be a valid basis of the RTC in executing the final judgment in Civil Cases Nos. 1942 and 1950.

Undeniably, petitioners committed mistakes in not filing a motion for reconsideration of the Order dated August 6, 1996; in not filing a petition for *certiorari* in due time from said arbitrary order; and in not filing the petition for relief from judgment in the same cause between the same parties,[24] that is, in Civil Cases Nos. 1942 and 1950. But should the void order be upheld or considered unassailable because of the failure of petitioners

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[22] *Espiritu v. Court of First Instance of Cavite*, G.R. No. L-44696, October 18, 1988, 166 SCRA 394, 399.

[23] *Buan v. Court of Appeals*, G.R. No. 101614, August 17, 1994, 235 SCRA 424, 432; *Flores v. Conanan*, 415 Phil. 123, 127 (2001).

[24] *Servicewide Specialists, Inc. v. Sheriff of Manila*, 229 Phil. 165, 171 (1986).

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to observe certain procedural rules to correct the arbitrary exercise of jurisdiction by the RTC? The answer is a resounding negative. The facts obtaining in *Buan v. Court of Appeals*,[25] are analogous to this case, to wit:

> In the civil action for sum of money between the La Torre spouses and G.L. Mejia Enterprises, Inc., the judgment award in favor of the former amounted to a total sum of ₱20,729.00 exclusive of legal interest. It is undisputed that pursuant to the writ of execution issued by the court, *two parcels of land then registered in the name of the judgment debtor were levied upon*, the first one covered by TCT No. 21846 having been sold that the auction sale to the La Torre spouses themselves for ₱33,958.54. It is therefore mathematically conclusive that by reason of this sale, the judgment award in favor of the La Torre spouses in the total sum of ₱20,729.00 had already been satisfied in full. Correspondingly, the notice of levy annotated on the other parcel of land now covered by TCT No. 60152 should have been cancelled.
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> However, instead of cancelling the annotation, the La Torre spouses pursued the execution of the remaining property levied upon despite the apparent satisfaction of the judgment debt. This property was by then registered in the name of the Buan spouses who resisted the attempted execution.[26] (Italics Ours)

The Buan spouses then filed a petition for cancellation of notice of levy and a complaint for quieting of title against the La Torre spouses. The trial court ruled in favor of the Buan spouses but on appeal, the CA ruled in favor of the La Torre spouses, thereby ordering the cancellation of TCT No. 60152 in the name of the Buan spouses and the issuance of a new title in favor of the La Torres. The Buan spouses filed a petition for review with this Court but the same was denied for being filed out of time. A second petition filed by them was likewise denied for failure to attach the required certified true copy of the questioned decision. *Thus, the CA's decision in favor of the La Torres became final and executory.* In the meantime, the Buan spouses then filed a complaint against G.L. Mejia Enterprises, Inc. for damages

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[25] *Supra* note 23.

[26] *Id.* at 432-433.

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and preliminary injunction. The trial court then issued a preliminary injunction and the Deputy Sheriff of the RTC was enjoined from canceling TCT No. 60152. Said injunction was eventually made permanent. In view of said development, the La Torres then filed a petition for *mandamus* with the CA to compel the Register of Deeds of Angeles City and the Deputy Sheriff to cancel TCT No. 60152. The CA again ruled in favor of the La Torres, holding that the RTC, Branch 56 of Angeles City acted with grave abuse of discretion when it enjoined the execution of a final judgment. The Buans then elevated the CA decision to this Court. The petition was given due course and this Court ruled that:

> [J]udging from the facts presented by the present case, it is beyond doubt that *serious injustice will be committed if strict adherence to procedural rules were to be followed. It should be remembered that rules of procedure are but mere tools designed to facilitate the attainment of justice, such that when rigid application of the rules would tend to frustrate rather than promote substantial justice, this Court is empowered to suspend its operation* x x x.
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> x x x It is beyond question that as per the applicable laws and jurisprudence on the matter, *the levy and attempted execution of the second parcel of land is void for being in excess and beyond the original judgment award granted in favor of the La Torre spouses*. For, as this Court held in the case of *Mutual Security Insurance Corporation vs. Court of Appeals* (153 SCRA 678 [1987]), "where the writ of execution is not in harmony with and exceeds the judgment which gives it life, the writ has pro tanto *no validity*" (italics supplied). Stated categorically, an execution has been regarded as void when issued for a greater sum than is warranted by the judgment (*Windor Steel Manufacturing Co., Inc. v. Court of Appeals*, 102 SCRA 275 [1981]).[27] (Italics Ours)

Indeed, in *Barnes v. Padilla*,[28] the Court held that:

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[27] *Id.* at 431-433.

[28] G.R. No. 160753, September 30, 2004, 439 SCRA 675.

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x x x [A] final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.

However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.[29]

The present case involves a matter of property and, as discussed above, compelling circumstances exist to bring it within the ambit of the aforementioned cases where suspension of the rules is called for. There would be a clear case of unjust enrichment in favor of respondents, and deprivation of petitioners' property without due process of law if the Court does not set aside the patently invalid order of the trial court.

Thus, the RTC should have granted the petition for relief from the Order of August 6, 1996 and corrected its mistake of awarding ₱1.2 Million arbitrarily referred to as "incidental expenses" mentioned in the final judgment; and the CA should have recognized the arbitrariness of the void Order dated August 6, 1996 and accorded petitioners due process. As emphasized in *Barnes v. Padilla*,[30] "this Court cannot look with favor on a course of action which would place the administration of justice in a straight jacket for then the result would be a poor kind of justice if there would be justice at all."

The Court applies by analogy the principles laid down in *David v. Aquilizan*, to wit:

And it has been held that a final and executory judgment may be set aside with a view to the renewal of the litigation when the judgment is void for lack of due process of law. (Moran, Comments on the Rules of Court, *supra*, p. 523; *Banco Español-Filipino vs. Palanca*,

[29] *Id.* at 686-687.

[30] *Id.* at 690.

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37 Phil. 921). Being null and void from its inception, the decision sought to be set aside does not exist in the eyes of the law because it is "as though it had not been done." In legal contemplation, it is no judgment at all. "By it, no rights are divested. From it, no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void. x x x" *It may be attacked directly or collaterally, and the action therefor may be brought even after the time for appeal or review has lapsed. The judgment is vulnerable to attack even when no appeal has been taken. Hence, such judgment does not become final in the sense of depriving a party of his right to question its validity.*[31]

Respondents alleged that an auction sale had already been conducted with respondent Juanita Sicad as the highest bidder. Considering that the auction sale is based on a void order, the same necessarily had no legal effect. Consequently, the auctioned property must be ordered returned to petitioners. The damages therefor however must be threshed out and determined in the RTC.

WHEREFORE, the Court *GRANTS* the petition and *SETS ASIDE* the Decision of the Court of Appeals promulgated on January 24, 2000 dismissing the appeal and its Resolution dated October 25, 2000 denying petitioners' motion for reconsideration in CA-G.R. CV No. 58152.

In lieu thereof, the Court renders judgment *ANNULING* the trial court's Order dated August 6, 1996 and all proceedings taken pursuant thereto. The Regional Trial Court, Branch 18, Pagadian City, is ORDERED to cause the return of the auctioned property to petitioners.

No pronouncement as to costs.

SO ORDERED.

Panganiban, C.J. (Chairperson), Ynares-Santiago, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

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[31] G.R. No. L-49360, December 14, 1979, 94 SCRA 707, 714.