

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**EQUITABLE PCI BANK, formerly
EQUITABLE BANKING
CORPORATION,**
Petitioner,

-versus-

**G.R. No. 142950
March 26, 2001**

**ROSITA KU,
*Respondent.***

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D E C I S I O N

KAPUNAN, J.:

Can a person be evicted by virtue of a Decision rendered in an ejection case where she was not joined as a part? This was the issue that confronted the Court of Appeals, which resolved the issue in the negative. To hold the contrary, it said, would violate due process. Given the circumstances of the present case, petitioner Equitable PCI Bank begs to differ. Hence; this petition.

On February 4, 1982, respondent Rosita Ku, as treasurer of Noddy Dairy Products, Inc., and Ku Giok Heng, as Vice-President/General Manager of the same corporation, mortgaged the subject property to the Equitable Banking Corporation, now known as Equitable PCI

Bank to secure Noddy Inc.'s loan to Equitable. The property, a residential house and lot located in La Vista, Quezon City, was registered in respondent's name.

Noddy, Inc. subsequently failed to pay the loan secured by the mortgage, prompting petitioner to foreclose the property extrajudicially. As the winning bidder in the foreclosure sale, petitioner was issued a certificate of sale. Respondent failed to redeem the property. Thus, on December 10, 1984, the Register of Deeds canceled the Transfer Certificate of Title in the name of respondent and a new one was issued in petitioner's name.

On May 10, 1989, petitioner instituted an action for ejectment before the Quezon City Metropolitan Trial Court (MeTC) against respondent's father Ku Giok Heng. Petitioner alleged that it allowed Ku Giok Heng to remain in the property on the condition that the latter pay rent. Ku Giok Heng's failure to pay rent prompted the MeTC to seek his ejectment. Ku Giok Heng denied that there was any lease agreement over the property.

On December 8, 1994, the MeTC rendered a decision in favor of petitioner and ordered Ku Giok Heng to, among other things, vacate the premises. It ruled:

For his failure or refusal to pay rentals despite proper demands, the defendant had not established his right for his continued possession of or stay in the premises acquired by the plaintiff thru foreclosure, the title of which had been duly transferred in the name of the plaintiff. The absence of lease agreement or agreement for the payment of rentals is of no moment in the light of the prevailing Supreme Court ruling on the matter. Thus: "It is settled that the buyer in foreclosure sale becomes the absolute owner of the property purchased if it is not redeemed during the period of one (1) year after the registration of the sale is as such he is entitled to the possession of the property and the demand at any time following the consolidation of ownership and the issuance to him of a new certificate of title. The buyer can, in fact, demand possession of the land even during the redemption period except that he has to post a bond in accordance with Section 7 of Act No. 3155 as

amended. Possession of the land then becomes an absolute right of the purchaser as confirmed owner. Upon proper application and proof of title, the issuance of a writ of possession becomes a ministerial duty of the court. (David Enterprises vs. IBAA[,] 191 SCRA 116).^[1]

Ku Giok Heng did not appeal the decision of the MeTC. Instead, he and his daughter, respondent Rosita Ku, filed on December 20, 1994, an action before the Regional Trial Court (RTC) of Quezon City to nullify the decision of the MeTC. Finding no merit in the complaint, the RTC on September 13, 1999 dismissed the same and ordered the execution of the MeTC Decision.

Respondent filed in the Court of Appeals (CA) a special civil action for certiorari assailing the Decision of the RTC. She contended that she was not made a party to the ejectment suit and was, therefore, deprived of due process. The CA agreed and, on March 31, 2000, rendered a Decision enjoining the eviction of respondent from the premises.

On May 10, 2000, Equitable PCI Bank filed in this Court a motion for an extension of 30 days from May 10, 2000 or until June 9, 2000 to file its petition for review of the CA decision. The motion alleged that the Bank received the CA Decision on April 25, 2000.^[2] The Court granted the motion for a 30-day extension “counted from the expiration of the reglementary period” and “conditioned upon the timeliness of the filing of [the] motion [for extension].”^[3]

On June 13, 2000,^[4] Equitable Bank filed its petition, contending that there was no need to name respondent Rosita Ku as a party in the action for ejectment since she was not a resident of the premises nor was she in possession of the property.

The petition is meritorious.

Generally, no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court.^[5] Nevertheless, a judgment in an ejectment suit is binding not only upon the defendants in the suit but also against those not made parties thereto, if they are:

- a) trespassers, squatters or agents of the defendant fraudulently occupying the property to frustrate the judgment;
- b) guests or other occupants of the premises with the permission of the defendant;
- c) transferees pendente lite;
- d) sub-lessees;
- e) co-lessees; or
- f) members of the family, relatives and other privies of the defendant.^[6]

Thus, even if respondent were a resident of the property, a point disputed by the parties, she is nevertheless bound by the judgment of the MeTC in the action for ejectment despite her being a non-party thereto. Respondent is the daughter of Ku Giok Heng, the defendant in the action for ejectment.

Respondent nevertheless claims that the petition is defective. The bank alleged in its petition that it received a copy of the CA decision on April 25, 2000. A Certification dated June 6, 2000 issued by the Manila Central Post Office reveals, however, that the copy “was duly delivered to and received by Joel Rosales (Authorized Representative) on April 24, 2000.”^[7] Petitioner’s motion for extension to file this petition was filed on May 10, 2000, sixteen (16) days from the petitioner’s receipt of the CA decision (April 24, 2000) and one (1) day beyond the reglementary period for filing the petition for review (May 9, 2000).

Petitioner however maintains “its honest representation of having received [a copy of the decision] on April 25, 2000.”^[8] Appended as Annex “A” to petitioner’s Reply is an Affidavit^[9] dated October 27, 2000 and executed by Joel Rosales, who was mentioned in the Certification as having received the decision. The Affidavit states:

- (1) I am an employee of Unique Industrial & Allied Services, Inc. (Unique) a corporation duly organized and existing under Philippine laws with principal place of business at 1206 Vito Cruz St., Malate, Manila, and I am assigned with the Equitable PCI Bank, Mail and Courier Department, Equitable PCI Bank Tower II, cor. Makati Avenue and H.V. dela Costa St., Makati City, Metro Manila.
- (2) Under the contract of services between the Bank and Unique, it is my official duty and responsibility to receive and pick-up from the Manila Central Post Office (CPO) the various mails, letters, correspondence, and other mail matters intended for the bank's various departments and offices at Equitable Bank Building, 262 Juan Luna St., Binondo, Manila. This building, however, also houses various other offices or tenants not related to the Bank.
- (3) I am not the constituted agent of "Curato Divina Mabilog Nieto Magturo Pagaduan Law Office" whose former address is at Rm. 405 4/F Equitable Bank Bldg., 262 Juan Luna St., Binondo, Manila, for purposes of receiving their incoming mail matters; neither am I any such agent of the various other tenants of the said Building. On occasions when I receive mail matters for said law office, it is only to help them receive their letters promptly.
- (4) On April 24, 2000, I received the registered letter sent by the Court of Appeals, covered by Registry Receipt No. 125234 and Deliver No. 4880 (copy of envelope attached as Annex "A") together with other mail matters, and brought them to the Mail and Courier Department;
- (5) After sorting out these mail matters, on April 25, 2000, I erroneously recorded them on page 422 of my logbook as having been received by me on said dated April 25, 2000 (copy of page 422 is attached as Annex "B").
- (6) On April 27, 2000, this letter was sent by the Mail and Courier Department to said Law Office whose receiving clerk Darwin Bawar opened the letter and stamped on the

“Notice of Judgment” their actual date of receipt: “April 27, 2000” (copy of the said Notice with the date so stamped is attached as Annex “C”).

- (7) On May 8, 2000, Atty. Roland A. Nieto of said law office inquired from me as to my actual date of receipt of this letter, and I informed him that based on my logbook, I received it on April 25, 2000.
- (8) I discovered this error only on September 6, 2000, when I was informed by Atty. Nieto that Postmaster VI Alfredo C. Mabanag, Jr. of the Central Post Office, Manila, issued a certification that I received the said mail on April 24, 2000.
- (9) I hereby confirm that this error was caused by an honest mistake.

Petitioner argues that receipt on April 25, 2000 by Joel Rosales, who was not an agent of its counsel’s law office, did not constitute notice to its counsel, as required by Sections 2^[10] and 10,^[11] Rule 13 of the Rules of Court. To support this contention, petitioner cites Philippine Long Distance Telephone Co. vs. NLRC.^[12] In said case, the bailiff served the decision of the National Labor Relations Commission at the ground floor of the building of the petitioner therein, the Philippine Long Distance Telephone Co., rather than on the office of its counsel, whose address, as indicated in the notice of the decision, was on the ninth floor of the building. We held that:

Practical considerations and the realities of the situation dictate that the service made by- the bailiff on March 23, 1981 at the ground floor of the petitioner’s building and not at the address of record of petitioner’s counsel on record at the 9th floor of the PLDT building cannot be considered a valid service. It was only when the. Legal Services Division actually received a copy of the decision on March 26, 1981 that a proper and valid service may be deemed to have been made.

Applying the foregoing provisions and jurisprudence, petitioner submits that actual receipt by its counsel was on April 27, 2000, not April 25, 2000. Following the argument to its logical conclusion, the

motion for extension to file the petition for review was even filed two (2) days before the lapse of the 15-day reglementary period. That counsel treated April 25, 2000 and not April 27, 2000 as the date of receipt was purportedly intended to obviate respondent's possible argument that the 15-day period had to be counted from April 25, 2000.

The Court is not wholly convinced by petitioner's argument. The Affidavit of Joel Rosales states that he is "not the constituted agent of 'Curato Divina Mabilog Nedo Magturo Pagaduan Law Office.'" An agency may be express but it may also be implied from the acts of the principal, from his silence, or lack of action, or his failure to repudiate the agency, knowing that another person is acting on his behalf without authority.^[13] Likewise, acceptance by the agent may also be express, although it may also be implied from his acts which carry out the agency, or from his silence or inaction according to the circumstances.^[14] In this case, Joel Rosales averred that "[o]n occasions when I receive mail matters for said law office, it is only to help them receive their letters promptly," implying that counsel had allowed the practice of Rosales receiving mail in behalf of the former. There is no showing that counsel had objected to this practice or took steps to put a stop to it. The facts are, therefore, inadequate for the Court to make a ruling in petitioner's favor.

Assuming the motion for extension was indeed one day late, petitioner urges the Court, in any event, to suspend its rules and admit the petition in the interest of justice. Petitioner invokes *Philippine National Bank vs. Court of Appeals*,^[15] where the petition was filed three (3) days late. The Court held:

It has been said time and again that the perfection of an appeal within the period fixed by the rules is mandatory and jurisdictional. But, it is always in the power of this Court to suspend its own rules, or to except a particular case from its operation, whenever the purposes of justice require it. Strong compelling reasons such as serving the ends of justice and preventing a grave miscarriage thereof warrant the suspension of the rules.

The Court proceeded to enumerate cases where the rules on reglementary periods were suspended. Republic vs. Court of Appeals^[16] involved a delay of six days; Siguenza vs. Court of Appeals,^[17] thirteen days; Pacific Asia Overseas Shipping Corporation vs. NLRC,^[18] one day; Cortes vs. Court of Appeals,^[19] seven days; Olacao vs. NLRC,^[20] two days; Legasto vs. Court of Appeals,^[21] two days; and City Fair Corporation vs. NLRC,^[22] which also concerned a tardy appeal.

The Court finds these arguments to be persuasive, especially in light of the merits of the petition.

WHEREFORE, the petition is **GIVEN DUE COURSE** and **GRANTED**. The decision of the Court of Appeals is **REVERSED**.

SO ORDERED.

Davide, Jr., C.J., Puno, Pardo and Ynares-Santiago, JJ., concur.

[1] Rollo, pp. 74-75.

[2] Id., at 3.

[3] Id., at 6.

[4] The last day to file the petition was on June 9, 2000 but because of the Court's 99th Anniversary Celebration, business transactions were suspended on said date per Memorandum Circular No. 03-2000.

[5] Matuguina Integrated Wood Products, Inc. vs. Court of Appeals, 263 SCRA 490 (1996).

[6] Oro Can Enterprises, Inc. vs. Court of Appeals, 319 SCRA 444 (1999).

[7] Rollo, p. 198. Emphasis supplied.

[8] Id., p. 189.

[9] Id., at 198.

[10] SEC. 2. Filing and service defined. - Filing is the act of presenting the pleading or other paper of the clerk of court. Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court. Where one counsel appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side.

- [11] SEC. 10. Completeness of service. — Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever date is earlier.
- [12] 128 SCRA 402 (1984).
- [13] CIVIL CODE, ART. 1869.
- [14] Id., ART. 1870.
- [15] 246 SCRA 304 (1995).
- [16] 83 SCRA 453 (1978).
- [17] 137 SCRA 570 (1985).
- [18] 161 SCRA 122 (1988).
- [19] 161 SCRA 444(1988).
- [20] 177 SCRA 38 (1989).
- [21] 172 SCRA 722 (1989).
- [22] 243 SCRA 572 (1995).