Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CITY OF DAGUPAN, represented by the CITY MAYOR BENJAMIN S. LIM, Petitioner,	**G.R. No. 174411**
	Present:
	VELASCO, JR., *J., Chairperson,* PERALTA, VILLARAMA, JR.* MENDOZA, and
-versus-	LEONEN, *JJ.*
ESTER F. MARAMBA, represented by her ATTORNEY-IN-FACT JOHNNY FERRER, Respondent.	**Promulgated:** July 2, 2014

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DECISION

LEONEN, *J.*:

A petition for relief from judgment under Rule 38 is an equitable remedy which allows courts to review a judgment tainted with neglect bordering on extrinsic fraud. In this case, total damages in the amount of ₱11 million was awarded in spite of the evidence on record. The motion for reconsideration of such judgment filed by the legal officer of the City of Dagupan inexplicably omitted the required notice for hearing. Considering the damage that would be suffered by the local government, such mistake was so glaring as to raise suspicion that it was contrived to favor the plaintiff.

* Villarama, Jr., *J.*, designated as Acting Member per Special Order No. 1691 dated May 22, 2014 in view of the vacancy in the Third Division.

We are asked in this petition[1] filed by the City of Dagupan through its then mayor, Benjamin S. Lim, to: (1) reverse the Court of Appeals' decision and resolution and (2) declare that the damages awarded to respondent Ester F. Maramba are excessive. Petitioner, thus, prays that this court affirm the trial court's August 25, 2005 and November 30, 2005 rulings *in toto*.[2]

Respondent Ester F. Maramba was a grantee of a Department of Environment and Natural Resources (DENR) miscellaneous lease contract[3] for a 284-square-meter property in Poblacion, Dagupan City, for a period of 25 years.[4] Sometime in 1974, she caused the construction of a commercial fish center on the property.[5]

On December 20, 2003, petitioner city caused the demolition of the commercial fish center, allegedly without giving direct notice to Maramba and with threat of taking over the property.[6]

This prompted Maramba, through her attorney-in-fact, Johnny Ferrer, to file a complaint for injunction and damages with prayer for a writ of preliminary injunction and/or temporary restraining order.[7]

The complaint alleged that the demolition was unlawful and that the "complete demolition and destruction of the previously existing commercial fish center of plaintiff is valued at Five Million (□10,000,000.00) pesos."[8] The word, "ten," was handwritten on top of the word, "five."

In the complaint's prayer, Maramba asked for a judgment "ordering defendant corporation to pay plaintiff the amount of Ten Thousand (□10,000.00) pesos for the actual and present value of the commercial fish center completely demolished by public defendant."[9] The word, "million," was handwritten on top of the word, "thousand," and an additional zero was handwritten at the end of the numerical figure.

The handwritten intercalation was not explained in any part of the records and in the proceedings.

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1 The petition is filed pursuant to Rule 45 of the Rules of Court.
2 *Rollo*, p. 38.
3 The lease contract is covered by Miscellaneous Lease Application No. (1-1) 4 (E-V-137).
4 *Rollo*, p. 125.
5 Id. at 52 and 125.
6 Id. at 52 and 125.
7 Id. at 49 and 125.
8 Id. at 50.
9 Id. at 51.

She also prayed for □5 million as moral damages and □500,000.00 as attorney's fees.[10]

On July 30, 2004, the trial court decision,[11] penned by Judge Crispin C. Laron, ruled in favor of Maramba and awarded □10 million as actual damages:

> WHEREFORE, judgment is rendered in favor of the plaintiff and against the defendant as follows:
>
> 1. Ordering the defendant City of Dagupan to pay the plaintiff the amount of Ten Million (10M) Pesos for the actual and present value of the commercial fish center which was completely demolished;
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> 2. Ordering the public defendant to pay Php500,000.00 as moral damages;
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> 3. Ordering the defendant to pay plaintiff the amount of Php500,000.00 as attorney's fees;
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> 4. Ordering the public defendant to pay the cost of suit; and
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> 5. The writ of preliminary injunction is made permanent.[12]

On August 26, 2004, petitioner city filed a motion for reconsideration. Maramba filed an opposition on the ground that the motion was not set for hearing. The opposition prayed that the motion be stricken off the records.[13]

On October 21, 2004, the trial court denied petitioner city's motion for lack of notice of time and place of hearing, thus, "the motion for reconsideration is not entitled to judicial cognizance."[14] In a separate order on the same date, the trial court also granted Maramba's motion for execution and ordered that "a writ of execution [be] issue[d] in the above-entitled case upon submission of the certificate of finality."[15]

Petitioner city then filed a petition for relief with prayer for preliminary injunction dated October 29, 2004, together with an affidavit of merit.[16] The city alleged that "the decision, were it not for the City Legal Officer's mistake, negligence and gross incompetence, would not have been obtained by the plaintiff, or should have been reconsidered or otherwise

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10 Id. at 50.
11 Regional Trial Court, Branch 44, Dagupan City.
12 *Rollo*, pp. 57–58.
13 Id. at 62.
14 Id. at 70 and 126.
15 Id. at 73.
16 Id. at 74–82.

overturned, the damage award in the total amount of □11M being not only unconscionable and unreasonable, but completely baseless."[17]

On November 18, 2004, the trial court denied petitioner city's petition for relief and ordered that the writ of execution dated October 26, 2004 be implemented.[18] The court stressed that "[t]he negligence of counsel binds the client."[19] Petitioner city filed for reconsideration.[20]

On August 25, 2005, the trial court, through acting Judge Silverio Q. Castillo, granted the petition for relief and consequently modified its July 30, 2004 decision. It reduced the award of actual damages from □10 million to □75,000.00:

> WHEREFORE, in the highest interest of justice and equity, the petition for relief from judgment is hereby granted. Consequently, the Decision is accordingly modified.
>
> The amount of actual damages is hereby reduced from Ten Million Pesos to □75,000.00.
>
> "*(O)ne is entitled to an adequate compensation for such pecuniary loss suffered by him as duly proved.* (Article 2199, Civil Code)
>
> In this case, the plaintiff Ester Maramba was only able to prove the amount of □75,000.00 as the appraised value of the improvements made on the leased premises.
>
> She was not able to show proof of the □5 million amount of improvements made on the establishment, as she was claiming to have been made.
>
> Too, she did not show any single receipt for her travelling expenses and for the car rental she made during her stay in the country for the purpose of prosecuting this case.
>
> *"It is necessary for a party seeking the award of actual damages to produce competent proof or the best evidence obtainable to justify such award."* (People v. Caraig, 400 SCRA 67).
>
> The Supreme Court has held in a lot of cases that "documentary evidence should be presented to substantiate a claim for damages"
>
> Anent the moral damages, the same is hereby reduced from □500,000.00 to □20,000.00.
>
> *"Moral damages are not punitive in nature and were never intended to enrich the claimant at the expense of the defendant."* (Samson, Jr. v. Bank of the Philippine Islands, 405 SCRA 607).

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17 Id. at 74.
18 Id. at 84.
19 Id. at 83.
20 Id. at 85–90.

> The award of attorney's fees is likewise reduced from □500,000.00 to □20,000.00.
>
> "*The amount of damages awarded should not be palpably and scandalously excessive as to indicate that it was the result of prejudice or corruption on the part of the trial court.* (Cathay Pacific Airways, Ltd. v. Vasquez, 399 SCRA 207).
>
> Consequently, the Writ of Execution is hereby recalled.
>
> Notify parties and their counsel.
>
> SO ORDERED.[21]

Aggrieved by this order and the subsequent denial of her motion for reconsideration, Maramba filed a petition for certiorari before the Court of Appeals. She argued that Judge Castillo "acted without jurisdiction as he ha[d] no authority or legal power to substantially amend or correct a final and executory judgment. . . ."[22] Moreover, Judge Castillo gravely abused his discretion "in granting the petition for relief filed by the other respondent city of Dagupan on the 83rd day from receipt of the judgment or 26 days late."[23]

On June 15, 2006, the Court of Appeals[24] granted Maramba's petition for certiorari. It held that petitioner city's motion for reconsideration lacked a notice of hearing and was a mere scrap of paper[25] that did not toll the period to appeal. Consequently, the July 30, 2004 decision penned by Judge Laron became final and executory.[26] The Court of Appeals also denied reconsideration,[27] prompting petitioner city to elevate the case before this court.

Petitioner city emphasizes that its motion for reconsideration of the July 30, 2004 decision was timely filed, tolling the prescriptive period to appeal. Since this decision was not yet final, its subsequent modification by the trial court was proper.[28] The lack of notice of hearing in the motion for reconsideration was due to counsel's oversight, and a denial of the motion on this ground alone sacrificed substantial rights for mere technicalities.[29] Petitioner city also cites jurisprudence on the suspension of procedural rules when its strict application would only result in grave injustice.[30]

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21 Id. at 92–93.
22 Id. at 107.
23 Id. at 108.
24 Special Tenth Division; penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Hakim S. Abdulwahid and Vicente Q. Roxas.
25 *Rollo,* p. 129.
26 Id. at 130.
27 Id. at 143.
28 Id. at 268.
29 Id.
30 Id. at 268–269.

Petitioner city agrees that "judgments must be final at some definite date," but Rule 38 also provides for relief from judgments, orders, and other proceedings. [31] It submits that it raised substantial issues in its motion for reconsideration such as the excessive damages awarded by the lower court in its July 30, 2004 decision.[32] The petition for relief was correctly granted as "counsel's mistake amounted to extrinsic fraud"[33] and "to give the plaintiff much more than it was able to prove and allow the faulty decision to be implemented is, truly, a deprivation of defendant of its property without due process."[34]

Petitioner city contends that the modification of the July 30, 2004 decision was well established in that only duly proven pecuniary loss may be awarded.[35] Maramba was only able to prove □75,000.00 as the appraised value of the improvements made on the property.[36] According to petitioner city, "the proper amount of damages then should not be Five Million Pesos (□5,000,000.00) as alleged in the complaint, nor Ten Million Pesos (□10,000,000.00) as requested in the prayer of the complaint but only Seventy-five Thousand Pesos (□75,000.00) as embodied in the contract upon which Mrs. Maramba based her claim, the Miscellaneous Lease Agreement."[37] In fact, the commercial fish center made of mere G.I. sheets and light metal bars was constructed around 1998, and its value would have depreciated over time.[38]

Lastly, petitioner city argues that its petition for relief was filed on time. On August 11, 2004, it received a copy of the July 30, 2004 decision penned by Judge Laron. On August 26, 2004, petitioner filed its motion for reconsideration. On October 25, 2004, it received a copy of the October 21, 2004 trial court order denying its motion for reconsideration. Four days later or on October 29, 2004, it filed its petition for relief from judgment.

On the other hand, Maramba maintains that petitioner city is bound by the mistake of its counsel in failing to include a notice of hearing in its motion for reconsideration. This is not excusable negligence that warrants relaxation of the rules.[39]

Maramba submits that the Court of Appeals correctly sustained the award of damages in the July 30, 2004 trial court decision. Since a special

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31 Id. at 269.
32 Id.
33 Id. at 270.
34 Id. at 270, 274–275.
35 Id. at 271.
36 Id.
37 Id. at 272.
38 Id. at 272–273.
39 Id. at 229.

civil action for certiorari was brought before the Court of Appeals, it correctly refrained from resolving factual questions.[40] Petitioner city then elevated this case on Rule 45, thus, only questions of law may be raised.[41]

Maramba adds that petitioner city "failed to nail down in the cross-examination, during the trial of private respondent (plaintiff) and her witness (Johnny Ferrer) on the witness stand after their direct testimony on the damages sustained."[42]

The July 30, 2004 decision was final and executory and cannot be amended even if the court later discovers that its decision was erroneous.[43]

In any case, instead of merely amending the July 30, 2004 decision, acting judge should have proceeded as if a motion for new trial had been granted.[44] This way, "evidence of the damages claimed would have to be taken anew and offered by both parties, and such evidence on the issue of damages would then be complete before the appellate court. . . ."[45]

Lastly, Maramba argues that she was equally deprived of due process when acting judge of the trial court granted petitioner city's petition for relief without conducting a hearing.[46]

The following issues are for resolution:

I. Whether the lack of notice of hearing in a motion for reconsideration is excusable negligence that allows the filing of a petition for relief of judgment;

II. Whether the 60-day period to file a petition for relief from judgment, when reckoned from receipt of the denial of the motion for reconsideration, is considered filed on time;

III. Whether the Court of Appeals erred in ruling that courts have no legal power to amend or correct a final judgment even if it later finds that its decision is erroneous; and

IV. Whether actual damages must be substantiated in order to be awarded.

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40 Id. at 234.
41 Id.
42 Id. at 235.
43 Id. at 236–238.
44 Id. at 236.
45 Id.
46 Id. at 238.

Petitioner city does not deny that its motion for reconsideration lacked a notice of hearing. It offered no explanation for this lapse, except for oversight by its then counsel.

Petitioner city submits that this is excusable negligence by counsel, warranting its filing of a petition for relief from judgment under Rule 38 of the Rules of Court. Thus, the Court of Appeals erred in finding grave abuse of discretion by the trial court in granting the city's petition.

Maramba counters that the lack of notice of hearing is not excusable negligence that warrants relaxation of the rules.[47]

Maramba also cites *Dorotheo v. Court of Appeals,*[48] *International School, Inc. v. Minister of Labor and Employment,*[49] *Florentino v. Rivera,*[50] and *Moneytrend Lending Corporation v. Court of Appeals*[51] to support her position that courts "have no legal power to amend or correct a final judgment even if it later finds that its decision is erroneous."[52]

The July 30, 2004 decision was set aside when the trial court granted petitioner city's motion for reconsideration of the denial of its petition for relief from judgment.[53] While the Court of Appeals found grave abuse of discretion by the trial court in issuing this August 25, 2005 order granting the petition for relief on reconsideration, the Court of Appeals' decision was timely appealed before this court. Thus, there is no final and executory decision yet.

In any case, notwithstanding the doctrine of immutability of judgments, this court has set aside procedural rules in "[t]he broader interests of justice and equity."[54]

Lack of notice in the motion for reconsideration

Maramba cites *Land Bank v. Natividad*.[55] In this case, the trial court ordered the Department of Agriculture (DA) and Land Bank to pay just compensation for the lands owned by private respondents. DA and Land

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47 Id. at 229.
48 377 Phil. 851 (1999) [Per J. Ynares-Santiago, First Division].
49 256 Phil. 940 (1989) [Per J. Paras, Second Division].
50 515 Phil. 494 (2006) [Per J. Ynares-Santiago, First Division].
51 518 Phil. 134 (2006) [Per J. Garcia, Second Division].
52 *Rollo,* p. 236.
53 Id. at 91–93.
54 *Natividad v. Mariano,* G.R. No. 179643, June 3, 2013, 697 SCRA 63, 76 [Per J. Brion, Second Division].
55 497 Phil. 738 (2005) [Per J. Tinga, Second Division].

Bank filed separate motions for reconsideration, but these were denied for lack of notice of hearing.

Land Bank filed a petition for relief from order on the ground of excusable negligence by its counsel who "simply scanned and signed the Motion for Reconsideration for Agrarian Case No. 2005, Regional Trial Court of Pampanga, Branch 48, not knowing, or unmindful that it had no notice of hearing"[56] because of his heavy workload. This was denied, prompting Land Bank to elevate the case to this court.

This court denied Land Bank's petition as the reasons given by counsel for his failure to include a notice of hearing in the motion for reconsideration were not considered excusable negligence.

Nevertheless, this court resolved the other issues Land Bank raised in its petition such as the question of just compensation and private respondents' alleged failure to exhaust administrative remedies.

But in *Jehan Shipping Corporation v. National Food Authority*,[57] this court affirmed the Court of Appeals and focused on whether the purpose of a notice of hearing in a motion for reconsideration was met.[58]

In *Jehan,* the trial court ordered respondent National Food Authority (NFA) to pay Jehan the amounts it claimed as freight services and other expenses. The NFA received a copy of the decision on October 1, 2001, while Jehan filed a motion for execution pending appeal on October 2, 2001. The NFA later filed a motion for reconsideration on October 16, 2001 and a supplemental motion for reconsideration on November 12, 2001. Jehan filed separate oppositions to both motions. A hearing was set for the motions filed, but the NFA's counsel failed to appear. On January 8, 2002, the trial court denied NFA's motions for lack of notice of hearing.

The Court of Appeals ruled in favor of the NFA. It held that even if the NFA's motion lacked a notice of hearing, Jehan's counsel was still able to refute the substantial issues raised in the motions in its oppositions to the motions. This court affirmed this ruling and discussed the purpose behind the notice of hearing requirement as follows:

> This Court has indeed held time and time again that, under Sections 4 and 5 of Rule 15 of the Rules of Court, mandatory is the notice requirement in a motion, which is rendered defective by failure to comply with the requirement. As a rule, a motion without a notice of hearing is

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56 Id. at 742.
57 514 Phil. 166 (2005) [Per J. Panganiban, Third Division].
58 Id. at 171 and 174.

> considered *pro forma* and does not affect the reglementary period for the appeal or the filing of the requisite pleading.
>
> As an integral component of procedural due process, the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion before a resolution by the court. Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.
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> ***The test is the presence of the opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based.*** Considering the circumstances of the present case, we believe that the requirements of procedural due process were substantially complied with, and that the compliance justified a departure from a literal application of the rule on notice of hearing.[59] (Emphasis supplied, citations omitted)

This court held that "when the adverse party has actually had the opportunity to be heard, and has indeed been heard through pleadings filed in opposition to the motion, the purpose behind the rule is deemed duly served."[60]

Jehan was quoted with approval in *Preysler, Jr. v. Manila Southcoast Development Corporation.*[61] In *Preysler,* this court ruled that "a liberal construction of the procedural rules is proper where the lapse in the literal observance of a rule of procedure has not prejudiced the adverse party and has not deprived the court of its authority."[62]

Maramba was able to file an opposition to petitioner city's motion for reconsideration on the ground that the motion was not set for hearing. The opposition prayed that the motion be stricken off the records.[63]

In its one-page opposition, Maramba did not address the substantive issues raised by petitioner city in its motion for reconsideration such as the excessive award of actual damages.[64] Nevertheless, this opposition was an *opportunity* to be heard for Maramba on the matters raised by petitioner city in its motion for reconsideration.

This court has relaxed procedural rules when a rigid application of these rules only hinders substantial justice.[65]

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59 Id. at 173–174.
60 Id. at 167.
61 G.R. No. 171872, June 28, 2010, 621 SCRA 636 [Per J. Carpio, Second Division].
62 Id. at 642, *citing E & L Mercantile, Inc. v. Intermediate Appellate Court,* 226 Phil. 299 (1986) [Per J. Gutierrez, Jr., Second Division].
63 *Rollo,* p. 62.
64 Id.
65 *See Samala v. Court of Appeals,* 416 Phil. 1 (2001) [Per J. Pardo, First Division].

In *Sy v. Local Government of Quezon City,*[66] Sy's counsel filed the motion for reconsideration one day late. He explained that "his secretary's inadvertent placing of the date January 27, 2012, instead of January 26, 2012, on the Notice of Decision constitutes excusable negligence which should therefore, justify a relaxation of the rules." [67]

This court relaxed procedural rules to give way to substantial justice:

> Be that as it may, procedural rules may, nonetheless, be relaxed for the most persuasive of reasons in order to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. Corollarily, the rule, which states that the mistakes of counsel bind the client, may not be strictly followed where observance of it would result in the outright deprivation of the client's liberty or property, or where the interest of justice so requires.
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> As applied in this case, the Court finds that the procedural consequence of the above-discussed one-day delay in the filing of the subject motion – which, as a matter of course, should render the CA's January 20, 2012 Decision already final and executory and hence, bar the instant petition – is incommensurate to the injustice which Sy may suffer. This is in line with the Court's observation that the amount of just compensation, the rate of legal interest, as well as the time of its accrual, were incorrectly adjudged by both the RTC and the CA, contrary to existing jurisprudence. In this respect, the Court deems it proper to relax the rules of procedure and thus, proceed to resolve these substantive issues.[68] (Citations omitted.)

In *United Airlines v. Uy,*[69] the notice of appeal was filed two days late, and no reason was given by respondent's counsel for the delay. This court still gave due course to the appeal "due to the unique and peculiar facts of the case and the serious question of law it poses."[70] It discussed that "technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration."[71]

In *Samala v. Court of Appeals,*[72] the notice of appeal was filed one day late because the one entrusted to file it suffered from stomach pains. This court considered this as excusable negligence:

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66 G.R. No. 202690, June 5, 2013, 697 SCRA 621 [Per J. Perlas-Bernabe, Second Division].
67 Id. at 629.
68 Id. at 630–631.
69 376 Phil. 689 (1999) [Per J. Bellosillo, Second Division].
70 Id. at 697.
71 Id.
72 416 Phil. 1 (2001) [Per J. Pardo, First Division].

> We said that the general aim of procedural law is to facilitate the application of justice to the rival claims of contending parties, bearing in mind that procedural rules are created not to hinder or delay but to facilitate and promote the administration of justice. In rendering decisions, courts must not be too dogmatic. A complete view must be taken in order to render a just and equitable judgment. It is far better to dispose of a case on the merits, which is a primordial end, than on technicality that may result in injustice.
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> The rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application especially on technical matters, which tends to frustrate rather than promote substantial justice, must be avoided. Even the Revised Rules of Court envision this liberality. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from the courts. (Citations omitted.)[73]

In this case, petitioner city received a copy of the trial court's July 30, 2004 decision on August 11, 2004.[74] Its motion for reconsideration filed on August 26, 2004 was filed within the 15-day period. The purposes behind the required notice of hearing — provide the time to study the motion for reconsideration and give an opportunity to be heard — were satisfied when Maramba filed an opposition to the motion.

Mistake bordering on extrinsic fraud

Rule 38 of the Rules of Court allows for the remedy called a petition for relief from judgment. This is an equitable remedy "allowed in exceptional cases when there is no other available or adequate remedy"[75] that will allow for substantive justice.

Section 1 of Rule 38 provides for the grounds that warrant the filing of a petition under Rule 38:

> SECTION 1. *Petition for relief from judgment, order, or other proceedings.* – 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. (Emphasis supplied)

Courts may set aside final and executory judgments provided that any of the grounds for their grant are present.

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73 Id. at 7–8.
74 *Rollo*, p. 59.
75 *Samala v. Court of Appeals*, 416 Phil. 1, 7 (2001) [Per J. Pardo, First Division].

The presence of "fraud, accident, mistake or excusable negligence" must be assessed from the circumstances of the case.

Excusable negligence as a ground for a petition for relief requires that the negligence be so gross "that ordinary diligence and prudence could not have guarded against it."[76] This excusable negligence must also be imputable to the party-litigant and not to his or her counsel whose negligence binds his or her client.[77] The binding effect of counsel's negligence ensures against the resulting uncertainty and tentativeness of proceedings if clients were allowed to merely disown their counsels' conduct.[78]

Nevertheless, this court has relaxed this rule on several occasions such as: "(1) where [the] reckless or gross negligence of counsel deprives the client of due process of law; (2) when [the rule's] application will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so require."[79] Certainly, excusable negligence must be proven.

Fraud as a ground for a petition for relief from judgment pertains to extrinsic or collateral fraud.[80] This court explained this type of fraud as follows:

> Where fraud is the ground, the fraud must be extrinsic or collateral. The extrinsic or collateral fraud that invalidates a final judgment must be such that it prevented the unsuccessful party from fully and fairly presenting his case or defense and the losing party from having an adversarial trial of the issue. There is extrinsic fraud when a party is prevented from fully presenting his case to the court as when the lawyer connives to defeat or corruptly sells out his client's interest. Extrinsic fraud can be committed by a counsel against his client when the latter is prevented from presenting his case to the court. (Citations omitted)[81]

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76 *Madarang v. Spouses Morales,* G.R. No. 199283, June 18, 2014, p. 9 [Per J. Leonen, Third Division], *citing Guevarra v. Bautista*, 593 Phil. 20, 26 (2008) [Per J. Nachura, Third Division].

77 *Spouses Que v. Court of Appeals,* 504 Phil. 616, 626 (2005) [Per J. Carpio, First Division], *citing Insular Life Savings and Trust Company v. Runes, Jr.,* 479 Phil. 995 (2004) [Per J. Callejo, Sr., Second Division].

78 *Spouses Que v. Court of Appeals,* 504 Phil. 616, 626 (2005) [Per J. Carpio, First Division], *citing Aguila v. Court of First Instance of Batangas, Branch I,* 243 Phil. 505 (1988) [Per J. Cruz, First Division].

79 *Spouses Que v. Court of Appeals,* 504 Phil. 616, 626 (2005) [Per J. Carpio, First Division], *citing Sarraga, Sr. v. Banco Filipino Savings and Mortgage Bank*, 442 Phil. 55 (2002) [Per J. Sandoval-Gutierrez, Third Division].

80 *Sy Bang v. Sy*, 604 Phil. 606, 625 (2009) [Per J. Chico-Nazario, Third Division], *citing Garcia v. Court of Appeals,* 279 Phil. 242, 249 (1991) [Per J. Sarmiento, Second Division].

81 *Sy Bang v. Sy*, 604 Phil. 606, 625 (2009) [Per J. Chico-Nazario, Third Division].

On the other hand, mistake as used in Rule 38 means mistake of fact and not mistake of law.[82] A wrong choice in legal strategy or mode of procedure will not be considered a mistake for purposes of granting a petition for relief from judgment.[83] Mistake as a ground also "does not apply and was never intended to apply to a judicial error which the court might have committed in the trial [since] such error may be corrected by means of an appeal."[84]

Mistake can be of such nature as to cause substantial injustice to one of the parties. It may be so palpable that it borders on extrinsic fraud.

Petitioner city recounted the "mistakes, negligence, incompetence and suspicious acts/omissions"[85] of city legal officer Atty. Roy S. Laforteza in the affidavit of merit signed by then Mayor, Benjamin S. Lim:

> a) He did not present testimonial evidence for the defense;
>
> b) He filed a Motion for Reconsideration of a decision most prejudicial to the City on the last day, and did not even base his arguments on the transcripts that clearly show that the plaintiff had presented absolutely no evidence/proof of her claim for damages and attorney's fees; also, he did not directly attack the Decision itself, which awarded □10M as actual damages and □500,000.00 as attorney's fees without stating clearly and distinctly the facts on which the awards are based (because there are actually no such facts).
>
> ***c) He filed a motion for reconsideration without the requisite notice of hearing – his most grievous and fatal error. This resulted in the finality of the Decision, and the issuance of the Order of Execution.***
>
> d) He kept the adverse decision, the denial of his Motion for Reconsideration and the Order of Execution from this affiant, his immediate superior, and relied on his own devices (several times, he received – but completely ignored – the advice and the reminder of the City Administrator that he should consult and coordinate with the City's legal consultant, Atty. Francisco F. Baraan III) despite the already precarious situation he put the City in. As I said, I was informed of the order of execution by another lawyer.[86] (Emphasis supplied)

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82 *See Agan v. Heirs of Nueva,* 463 Phil. 834, 836 and 841 (2003) [Per J. Tinga, Second Division].

83 *See Samonte v. S.F. Naguiat,* G.R. No. 165544, October 2, 2009, 602 SCRA 231, 237 [Per J. Peralta, Third Division], *citing Ibabao v. Intermediate Appellate Court*, 234 Phil. 79, 88–89 (1987) [Per J. Gutierrez, Jr., Second Division].

84 *Samonte v. S.F. Naguiat,* G.R. No. 165544, October 2, 2009, 602 SCRA 231, 238 [Per J. Peralta, Third Division], *citing Agan v. Heirs of Sps. Andres Nueva and Diosdada Nueva*, 463 Phil. 834, 841 (2003) [Per J. Tinga, Second Division], *citing Guevara v. Tuason & Co*, 1 Phil. 27 (1901) [Per J. Willard, En Banc].

85 *Rollo,* p. 78.

86 *Rollo,* p. 78.

Atty. Laforteza's "mistake" was fatal considering that the trial court awarded a total amount of □11 million in favor of Maramba based merely on her testimony that "the actual cost of the building through continuous improvement is Five Million (5M) more or less";[87] that her husband spent $1,760 for a round trip business travel to the Philippines to attend to the case; and that "for his accommodation and car rental, her husband spent more or less, □10,000.00 including round trip ticket."[88]

First, nowhere in the trial court's July 30, 2004 decision penned by Judge Laron did it state or refer to any document presented by Maramba to substantiate her claimed costs. In fact, the amounts she testified on did not even add up to the □10 million the court awarded as actual damages.

On the other hand, the August 25, 2005 trial court decision penned by Judge Castillo discussed that "Maramba was only able to prove the amount of □75,000.00 as the appraised value of the improvements made on the leased premises."[89] The renewal lease agreement covering the property, signed by Maramba, clearly stated this amount.[90] The decision also explained that Maramba "was not able to show proof of the □5 million amount of improvements made on the establishment, as she was claiming to have been made[,]" [91] and "she did not show any single receipt for her traveling expenses and for the car rental she made during her stay in the country for the purpose of prosecuting this case."[92]

Second, the body of the trial court's July 30, 2004 decision mentioned that Maramba was entitled to □1 million as moral damages and □500,000.00 as attorney's fees.[93] This is inconsistent with the dispositive portion that awarded □500,000.00 as moral damages and □500,000.00 as attorney's fees.[94]

The affidavit of merit discussed that Maramba testified on her shock, sleepless nights, and mental anguish, but she never expressly asked for moral damages or specified the amount of □500,000.00.[95]

On the amount of attorney's fees, the affidavit of merit explained that Maramba did not show a legal retainer but only mentioned in passing, "Of

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87 Id. at 56–57.
88 Id. at 56.
89 Id. at 92.
90 Id. at 42.
91 Id. at 92.
92 Id. at 93.
93 Id. at 57.
94 Id. at 58.
95 Id. at 80.

course, (I am asking for) my attorney's fees in the amount of □500,000.00."[96]

Maramba now wants this court to overlook all these blatant discrepancies and maintain the □11 million unsubstantiated award in her favor on the sole ground that petitioner city's assistant legal officer failed to include a notice of hearing in its motion for reconsideration that was filed within the 15-day reglementary period. She did not even attempt to address the lower court's findings that her claimed amounts as damages were all unsubstantiated.

The gross disparity between the award of actual damages and the amount actually proved during the trial, the magnitude of the award, the nature of the "mistake" made, and that such negligence did not personally affect the legal officer of the city all contributed to a conclusion that the mistake or negligence committed by counsel bordered on extrinsic fraud.

There were discrepancy and lack of proof even on the amount of moral damages and attorney's fees awarded. This only heightened a sense of arbitrariness in the trial court's July 30, 2004 decision. Petitioner city's petition for relief was correctly granted in the trial court's August 25, 2005 decision.

Petitioner city followed the procedure under Rule 38 of the Rules of Court. Section 4 of Rule 38 provides that "[i]f the petition is sufficient in form and substance to justify relief, the court in which it is filed, shall issue an order requiring the adverse parties to answer the same within fifteen (15) days from the receipt thereof."

The trial court mentioned in its November 18, 2004 order denying petitioner city's petition for relief from judgment that an answer with motion to dismiss was filed before it.[97] Maramba prayed that the "petition for review be outright denied for lack of merit [and] that the writ of execution dated October 26, 2004 be accordingly implemented."[98]

Thus, the requirement under Section 4 of Rule 38 was complied with when Maramba filed an answer with motion to dismiss, and the court considered this pleading in its resolution of petitioner city's petition for relief from judgment.

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96 Id. at 81.
97 Id. at 83.
98 Id.

Periods for filing a petition for relief under Rule 38

The time for filing a petition for relief is found under Section 3, Rule 38 of the Rules of Court, which reads:

> SEC. 3 *Time for filing petition; contents and verification.* – A petition provided for in either of the preceding sections of this Rule must be verified, ***filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken***; and must be accompanied with affidavits showing the fraud, accident, mistake or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be. (Emphasis supplied)

The double period required under this provision is jurisdictional and should be strictly complied with.[99] Otherwise, a petition for relief from judgment filed beyond the reglementary period will be dismissed outright.[100]

The 60-day period to file a petition for relief from judgment is reckoned from actual receipt of the denial of the motion for reconsideration when one is filed.[101]

Petitioner city received a copy of the July 30, 2004 decision on August 11, 2004. It filed a motion for reconsideration on August 26, 2004. On October 25, 2004, it received a copy of the October 21, 2004 trial court order denying its motion for reconsideration. Four days later or on October 29, 2004, it filed its petition for relief from judgment. Thus, the petition for relief from judgment was considered filed on time.

Actual damages

The issue on the amount of damages is a factual question that this court may not resolve in a Rule 45 petition.[102] However, this rule admits of recognized exceptions:

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99 *Madarang v. Spouses Morales,* G.R. No. 199283, June 18, 2014, p. 6 [Per J. Leonen, Third Division], *citing Spouses Reyes v. Court of Appeals,* 557 Phil. 241, 248 (2007) [Per J. Garcia, First Division].

100 *Madarang v. Spouses Morales,* G.R. No. 199283, June 18, 2014, p. 6 [Per J. Leonen, Third Division].

101 *See Sarraga, Sr. v. Banco Filipino Savings and Mortgage Bank,* 442 Phil. 55, 65 (2002) [Per J. Sandoval-Gutierrez, Third Division].

102 RULES OF COURT, rule 45, sec. 1.
Section 1. Filing of petition with Supreme Court. – A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. ***The petition shall raise only questions of law which must be distinctly set forth.*** (Emphasis supplied)

> The recognized exceptions to this rule are: (1) when the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) when the inference made is manifestly mistaken; (3) when there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellee; (7) when the findings of fact of the Court of Appeals are contrary to those of the trial court; (8); ***when said findings of fact are conclusions without citation of specific evidence on which they are based;*** (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record. (*Sarmiento v. Court of Appeals*, 353 Phil. 834, 846 [1998]).[103] (Emphasis supplied)

The July 30, 2004 trial court decision penned by Judge Laron only summarized Maramba's testimony as basis for its award of □10 million as actual damages:

> She asked her husband to help her on her legal problem regarding the demolished fish market, telling him to go to the Philippines and find out what happened and help her family. Her husband came to the Philippines. He left on December 30, 2003 and arrived on December 31, 2003. Her husband stayed in the Philippines for twenty-one (21) days and paid 1,760 dollars for the business class round trip fare. For his accommodation and car rental, her husband spent more or less Php10,000.00 including the round trip ticket. She has been in possession of that property subject of this case for more than thirty-two (32) years and for the duration of more than 32 years that they are in possession of the property, ***she spent for the construction and improvement of the building and the actual cost of the building through continuous improvement is Five Million (5M) more or less. The amount of Php75,000.00 was her expenses incurred for the year 1972.*** Due to her sufferings, she asked the Court for moral damages in the amount of Ten Million (10M) pesos for the damages, attorney's fees in the amount of Php500,000.00 and all those expenses incurred in coming to the Philippines together with her husband to seek redress, they spent 1,760 dollars times two (1-8 TSN March 9, 2004) (Emphasis supplied).[104]

On the other hand, in the August 25, 2005 order penned by Judge Castillo, the court explained that "Maramba was only able to prove the amount of □75,000.00 as the appraised value of the improvements made on

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[103] *Tan v. OMC Carriers Inc.,* G.R. No. 190521, January 12, 2011, 639 SCRA 471, 480 [Per J. Brion, Third Division], *citing Sarmiento v. Court of Appeals*, 353 Phil. 834, 846 (1998) [Per J. Kapunan, Third Division].

[104] *Rollo*, pp. 56–57.

the leased premises."[105]

In its petition filed before this court, petitioner city attached a copy of the miscellaneous lease agreement between Maramba and the DENR which provides:

> THIRD – It is hereby understood and agreed that the appraised value of the land for the first ten (10) years, from May 13, 1998, is □400.00 per square meter or □13,600.00 for the whole tract of land and ***the appraised value of the improvements existing on the land and those proposed to be introduced thereon is □75,000.00.***[106] (Emphasis supplied)

Article 2199 of the Civil Code defines actual damages. It states that "[e]xcept as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proven."[107] Competent proof of the amount claimed as actual damages is required before courts may grant the award:

> Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. To justify an award of actual damages, there must be competent proof of the actual amount of loss, credence can be given only to claims which are duly supported by receipts.[108]

Petitioner city emphasized the argument it made in its motion for reconsideration that "the improvements allegedly destroyed or damaged consists [sic] only of G.I. sheets and some makeshift stalls used for buying and selling of fishery products [and] [b]y no stretch of imagination would said materials amount to Php10,000,000.00 as claimed by the plaintiff."[109]

Considering the foregoing, substantial justice warrants the grant of the petition.

WHEREFORE, the petition is GRANTED. The Court of Appeals' June 15, 2006 decision and August 14, 2006 resolution are REVERSED and SET ASIDE. The trial court orders dated August 25, 2005 and November 30, 2005 are AFFIRMED.

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105 Id. at 92.
106 Id. at 42.
107 CIVIL CODE, art. 2199.
108 *Tan v. OMC Carriers Inc.*, G.R. No. 190521, January 12, 2011, 639 SCRA 471, 481 [Per J. Brion, Third Division], *quoting Viron Transportation Co., Inc. v. Delos Santos*, 399 Phil. 243, 255 (2000) [Per J. Gonzaga-Reyes, Third Division], *citing Marina Properties Corporation v. Court of Appeals*, 355 Phil. 705 (1998) [Per J. Davide, Jr., First Division].
109 *Rollo*, pp. 269 and 60.

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice