

**REPUBLIC OF THE PHILIPPINES AND DIRECTOR OF LANDS,
PETITIONERS, VS. HON. AMADO B. REYES, AS JUDGE OF THE COURT
OF FIRST INSTANCE OF BATAAN, BR. II, AND ELISEO PALATINO,
RESPONDE...**

G.R. No. L-36610. June 18, 1976

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

This is an appeal via certiorari seeking to reverse the final order (decision) of the Court of First Instance of Bataan, Branch II, approving the registration of a parcel of land applied for by the herein private respondent and the setting aside of the order denying petitioners' motion for reconsideration of said decision.

Petitioners registered two assignments of error allegedly committed by the trial court, to wit:

- I. THE LOWER COURT ERRED IN RULING THAT THE APPLICANT POSSESSED AN IMPERFECT AND INCOMPLETE TITLE THAT IS REGISTERABLE;
- II. THE LOWER COURT ERRED IN NOT GRANTING THE OPPOSITOR GOVERNMENT THE OPPORTUNITY TO PROVE THAT THE LAND APPLIED FOR WAS INALIENABLE.[1]

Arguing on these alleged errors, petitioners, in the first error averred that "By the decision of the Cadastral Court rendered before the last world war, Lot 622 of the Mariveles Cadastre was declared public land . . . Such being the case, the lower Court is without jurisdiction over the subject matter of the application for voluntary registration under Act 496 filed by respondent Eliseo Palatino. The land subject thereof having been subjected to compulsory registration proceedings under the Cadastral Act and declared public land per decision of the Cadastral Court, the same land can no longer be the subject of registration by voluntary proceedings under Act 496 * * * The ruling (of the court below) is plainly erroneous. It ignores the conclusiveness of said judgment constituting res judicata. The previous cadastral proceeding was in rem, binding on the whole world."[2]

As to the second error, petitioners argued: ". . . the lower court ruled that 'not the whole of Mariveles was declared a U.S. Military Reservation and there is no evidence to show that the area in question, which is part of Lot 626 of the cadastral survey of Mariveles, is within the U.S. Military Reservation.'

"Precisely, the lower Court deprived the oppositor Government of the opportunity to adduce evidence on the point by denying its motion for reconsideration. True that the Solicitor General was given notice of the initial hearing set on December 21, 1972, but as the record was not forwarded to him pursuant to law (Sections 50, 51, CA 141, as amended), he could not file a timely opposition to the application on or before the initial date of hearing."[3]

For his part, private respondent Eliseo Palatino answers that the aforecited assignment of errors alleged by the petitioners ". . . hinges upon the determination of the following issues . . . :

"1. Whether the failure on the part of the petitioners to file a notice of appeal with the lower court and to serve copy of the same to the respondent, as the original record, the petition, the motion to dismiss and the brief of the petitioners show, the judgment or order becomes final, and as a consequence, this Honorable Court has no jurisdiction to alter the same;

"2. Whether this Honorable Court can consider petitioners' evidence in support of their assignment of errors, which evidence was not formally offered during the trial as the petitioners were declared in default and did not introduce any evidence and they continue to be in default since they did not appeal from the order declaring them in default; and,

"3. Since the appeal raises questions of facts or even mixed questions of facts and law, whether under Section 2, Republic Act No. 5440, approved on September 9, 1968, amending Section 171, Judiciary Act, the petitioners must appeal to the Court of Appeals and not to the Supreme Court." [4]

To understand these issues, We shall examine the facts of this case as they appear in the records, to wit:

1. On September 6, 1972, the herein private respondent Eliseo Palatino filed with the respondent court an application for registration of title under Act No. 496, the Land Registration Law, of a parcel of land situated in Bo. Cabcaben, Municipality of Mariveles, Bataan Province, containing an area of 22,744 sq. meters, more or less; [5]

2. On October 20, 1972, notice of initial hearing was duly issued by the Commissioner of Land Registration; [6]

3. On December 21, 1972, respondent trial court issued an order of general default against all persons, including herein petitioner the Director of Lands, for the failure of anyone, including the said Director of Lands or his representative, to appear and oppose the application; [7]

4. Notice of this order of general default was received by petitioners on January 17, 1973; [8]

5. On January 5, 1973, respondent court issued its order (decision) granting the application for registration, the dispositive portion of which reads as follows:

"WHEREFORE, finding that the applicant is entitled to the registration of this parcel of land known as Lot No. 622-portion of the Mariveles Cadastre, the Court hereby adjudicates said parcel of land subject matter of this application described on plan Sgs-4377-D and its technical description in favor of Eliseo Palatino, of legal age, Filipino, married to Bienvenida M. Palatino and a resident of 13 San Vicente Street, San Francisco del Monte, Quezon City.

"Once the decision becomes final, let corresponding decree of registration issue.

"* * * * *"; [9]

6. Notice of the order (decision) was received by herein petitioners on January 17, 1973; [10]

7. On February 14, 1973, petitioners filed with the trial court a motion to lift order of general default and for reconsideration of the order (decision) on the ground that ". . . contrary to the specific provisions of Sections 50 and 51 of C.A. No. 141 the original record of the case was not forwarded to the Office of the Solicitor General, which thus prevented him from investigating all the facts alleged in the application or otherwise brought to his attention . . . and that the order (decision) adjudicating the lot applied for by the applicant, respondent Palatino, is without basis in fact because the applicant could not have possessed the land applied for at least thirty years immediately preceding the application for the reason that the land was originally part of the United States Military Reservation reserved by the then Governor General under Proclamation No. 10 dated February 16, 1925 and it was only on June 10, 1967 that the President of the Philippines by Proclamation No. 210-B revoked Proclamation

No. 10 and declared such portion of the area therein embraced including the land applied for, as are classified as alienable and disposable, opened for disposition under the provisions of the Public Land Act."[11]

8. In an order dated March 26, 1973, the trial court denied the petitioners' motion to lift the order of general default and for reconsideration of the order (decision) on the ground that the same was without merit;[12]

9. On April 5, 1973, the present appeal by certiorari was filed with this Court.

Of the points and/or issues raised by both parties herein those registered by the respondents appear to be in need of Our prior attention and resolution because they involve jurisdictional questions. They are:

- a) The appeal was filed outside the reglementary 30-day period from receipt of the order or decision;
- b) The appeal was filed direct to the Supreme Court without filing a notice of appeal with the trial court;
- c) Respondent had not been served copy of the appeal.[13]

This Court had reviewed the records of this case and it is convinced that certain essential requisites of procedural law were not complied with by the herein petitioners. There was a failure to perfect an appeal and consequently this failure had the effect of rendering final and executory the judgment or final order of the trial court. This fact certainly deprives the appellate court, this Court, of jurisdiction to entertain the appeal.

In view of the consistent stand of this Tribunal that the perfection of an appeal in accordance with law is the only legal basis for an appellate court to acquire jurisdiction and enter the appeal, this Court finds that the only issue to be resolved in this case, relegating all other questions raised by both parties herein to the background, is the issue of whether or not an appeal had been perfected on time by the herein petitioners. This is a jurisdictional question.

Since the rules in ordinary civil actions and those applied in land registration proceedings are the same,[14] Section 3 of Rule 41 of the new Rules of Court, in relation with Section 17 of the same Rule 41, appear to be pertinent to the matter at hand. Said Section 3 reads:

"Section 3. How appeal is taken. - Appeal may be taken by serving upon the adverse party and filing with the trial court within thirty (30) days from notice of order or judgment, a notice of appeal, an appeal bond, and a record on appeal . . ."

On the other hand, Section 17 of the aforementioned Rule, dealing with appeal in certiorari, provides:

"Section 17. Appeal in certiorari, prohibition, mandamus, quo warranto, and employers' liability cases. - In appeals in certiorari, prohibition, mandamus, quo warranto, workmen's compensation and employers' liability cases, the original record of the case shall be transmitted to the appellate court in lieu of the record on appeal. The clerk of the trial court shall observe the provisions of Section 11 of this rule as far as practicable."

Section 17 of Rule 41 has not substantially changed the requirements of Section 3 of the same Rule in matters of appeals. The reglementary period of 30 days from notice of the order or judgment for perfecting an appeal and the filing of the notice of appeal with the trial court, two essential and jurisdictional requisites enjoined by the latter Section, have not been dispensed with even in Section 17 of said Rule.

The records fail to show that the herein petitioners have complied with these requisites for perfecting an appeal. As had repeatedly been declared by this Court, perfection of an appeal in the manner and within the period laid down by law is not only mandatory but jurisdictional. Failure to perfect an appeal as legally required renders final and executory the judgment of the court below, and deprives the appellate court of jurisdiction to entertain the appeal.[15]

Although it is true that the herein petitioners have filed a motion on February 14, 1973, to lift the order of general

default and for reconsideration of the order (decision) of the trial court, and, applying this Court's rule that where a motion for reconsideration is filed, the period for appeal should be deemed suspended,[16] still by actual reckoning of time, it will be seen that the period for filing and perfecting an appeal had been past overdue.

Commencing on January 17, 1973, the day petitioners had notice of the final order (decision) of the trial court to the day the running of the period for appeal was suspended by the filing of the motion for reconsideration[17] on February 14, 1973 and started running once again on April 3, 1973, the day the petitioners received the order denying their motion for reconsideration,[18] up to May 2, 1973, when the Deputy Clerk of the Court of First Instance of Bataan, Branch II certified that as of said day petitioners have not filed notice of appeal or done any other act tending to show their intention to appeal,[19] is a stretch of time far beyond the 30-day period allowed by law for perfecting an appeal. Petitioners herein have procrastinated too long on their rights and on the duties imposed on them that this Court is now prevented from extending to them the relief they are now seeking.

As We have observed in a similar case,[20] it is truly unfortunate that through inexcusable neglect and laches, the Government lost its case, as it is once again losing this case now for the same avoidable cause. Section 13 of the aforecited Rule 41 of the Rules of Court is crystal clear in its language and tenor: Where the notice of appeal, appeal bond or record on appeal is not filed within the period so prescribed, the appeal shall be dismissed. For all legal purposes, the State in this case has already lost its cause. As clearly and unambiguously declared by this Court in the past, the judgment rendered in a land registration case becomes final upon the expiration of 30 days to be counted from the date on which the interested party has received notice of the decision.[21] The decision or final order granting the registration of the parcel of land applied for by herein private respondent Eliseo Palatino, having become final and executory, there now remains only the issuance of the decree and the certificate of title over the property. Thus, this Court declares, following its time-honored dictum: After a decision has become final, the prevailing party becomes entitled as a matter of right to its execution;[22] that it becomes merely the ministerial duty of the court to issue the writ of execution.[23]

Despite, however, this harsh stricture of our law which had, in many instances, worked against the State and had caused the loss of portions of the national patrimony to those who may not in equity be entitled to a grant thereof, the State is not without remedy in recovering or seeking the reversion of inalienable public lands unduly ordered registered.

This is based on the premise that our Torrens system of land registration is a system for the registration of title to land only. It was not established as a means for the acquisition of title to private land, much less title to lands of the public domain. It is intended merely to confirm and register the title which one may already have over the land. Where the applicant possesses no title or ownership over the parcel of land, he cannot acquire one under the Torrens System of registration.

In such action for reversion, petitioners may perhaps be permitted to raise the question belatedly sought to be raised herein that the private respondent was not possessed of registerable title, on the strength of their allegation that Lot No. 622 of the Mariveles Cadastre, alleged to be the same lot finally awarded by the lower court to the herein respondent, is part of the Mariveles Military Reservation established by then Governor General Leonard Wood under Proclamation No. 10 issued in 1925 and that it was only on June 10, 1967 that this Military Reservation area had been declared as disposable and alienable land of the public domain by Presidential Proclamation No. 210-B. Should petitioners duly establish by competent evidence these allegations, they may then raise the crucial question whether the private respondent and his predecessors-in-interest may be deemed to have validly and legally commenced occupation of the land and physically occupied the same en concepto de dueño for thirty years or more to entitle them to registration under section 48(b) of the Public Land Act - a question which we cannot resolve now in view of our finding that we are without jurisdiction to entertain the

appeal since the decision or final order granting registration has long become final and executory besides the fact that petitioners' evidence has not been duly presented and admitted. Such questions as may be raised by the petitioners in a separate case of reversion are of course understood to be subject to such counter-evidence and defenses as the private respondent may properly put up including res judicata where applicable.

WHEREFORE, the petition for certiorari to review the decision or order of the Court of First Instance of Bataan, and seeking to nullify all proceedings had in connection with the application for registration of respondent Eliseo Palatino; to make the preliminary injunction granted earlier by this Court permanent, and/or to grant new trial to the herein petitioners, is hereby denied. This is without prejudice, however, to whatever separate action petitioners may take in the proper court for the annulment of the decision and/or reversion of the land involved to the public domain and the proper defenses thereto in turn of the private respondent as indicated in the Court's opinion. This is further without prejudice to the Solicitor General's institution of appropriate proceedings against those whose inexcusable neglect has prejudiced the State and for indemnification of any consequent loss or damages incurred by the State.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Martin, JJ., concur.

[1] Brief for the petitioners, pp. 4-5; Rollo, p. 78.

[2] Ibid., pp. 5-6.

[3] Ibid., p. 7

[4] Brief for the respondents-appellees, pp. 4-5.

[5] Respondents Answer, p. 8; Rollo, p. 49.

[6] Supra.

[7] Petition, p. 2; Rollo, p. 5.

[8] Supra; supra

[9] Decision, Annex "C", Petition, Rollo, p. 18

[10] Petition, p. 3; Rollo, p. 6

[11] Brief for the Petitioners, pp. 3-4, Rollo, p. 78

[12] Supra

[13] Answer of Respondents, p. 2 & p. 9; Rollo, pp. 43 & 50

[14] Sanchez vs. Director of Lands, 63 Phil. 370

[15] Miranda vs. Guanzon, et al., 92 Phil. 168; Garganta vs. Court of Appeals, et al., G.R. No. L-12104, March 31, 1959; Mallare vs. Panahon, 52 O.G. 219; Espartero vs. Ladaw, 49 O.G. 1439; Malina vs. Court of Appeals, et al., G.R. No. L-21026, Jan. 31, 1966; Roque vs. Del Rosario, G.R. No. L-24873, Sept. 23, 1966

[16] Recto vs. Bardos, et al., G.R. No. L-19459, Oct. 21, 1965

[17] Guerrero vs. Dela Cuesta, et al., 59 Phil. 464

[18] Director of Lands vs. Maureta & Tiongson, 37 Phil. 410; Layda vs. Legaspi, 39 Phil. 82

[19] Exhibit "1", Answer of Respondents, Rollo, p. 61

[20] Republic of the Philippines & Director of Lands vs. Hon. Amado B. Reyes, et al., G.R. No. L-35545

[21] Government vs. Saenz, 45 Phil. 119

[22] Fiesta vs. Llorente, 25 Phil. 554; Lim vs. Singian, 37 Phil. 817; Phil. Trust Co. vs. Santamaria, 53 Phil. 463; Buenaventura vs. Garcia, 78 Phil. 759; Ebero vs. Cañizares, 79 Phil. 151; Villaroman vs. Sta. Maria, 54 O.G. 6257; Delos Angeles vs. Victoriano, et al., G. R. No. L-13632, July 27, 1960.

[23] Facundo vs. Pabalan, Ulep vs. Carbonell, G.R. Nos. L-17746 & L-17807.

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