

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, ALFREDO V. DE OCAMPO, AND OSCAR, ANGLO, RESPONDENTS.*G.R. Nos. L-31303-04. May 31, 1978*

Ponente: SANTOS, J.

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An appeal by certiorari filed on December 5, 1969 by petitioner, Republic of the Philippines (Republic, for short), from the resolution of the Court of Appeals dated August 21, 1969[1] dismissing petitioner's appeal in CA-G.R. Nos. 40683-84-R, as well as from the resolution of the said Court dated November 14, 1969[2] denying petitioner's motion for reconsideration thereof.

The relevant and essential factual and procedural antecedents follow. Both Republic and respondents Alfredo V. de Ocampo and Oscar Anglo claim ownership over the same lots, i.e., Nos. 817 and 2509 of the Sagay-Escalante Cadastre, Negros Occidental, subject matter of this litigation. The basis of Republic's claim is that said lots were bequeathed to the Bureau of Education (now Bureau of Public Schools) on September 21, 1926 by the late Esteban Jalandoni through his will.[3] Republic further alleged that the said parcels of land were already registered under the Torrens System "before 1919 in a cadastral case in the name of Meerkamp and Company" in whose favor Original Certificate of Title (OCT, for short) No. 370 was issued; that said company sold the lots to Esteban Jalandoni who was issued Transfer Certificate of Title (TCT, for short) No. 1251; that TCT No. 6014 was issued to the Bureau of Education when the subject property was bequeathed to it; and that as a matter of fact, a sugar quota (Plantation Audit No. 24-10) was issued for the lots under the name of the Bureau of Education.[4] The lots have a total area of 289.47 hectares.[5]

Respondent de Ocampo, upon the other hand, predicates his claim on an application for registration of the same Lots Nos. 817 and 2509 in Land Registration Case No. N-4, LRC Rec. No. N-19196, wherein a decree of registration No. 105538 was issued over the lots, followed by the issuance in his name of OCT No. 576, on October 1, 1965.[6] He averred that the lots were unregistered lands belonging to and possessed by him, by virtue of a donation dated November 10, 1911 from one Luis Mosquera.[7]

Respondent Anglo intervened in the case on February 21, 1966, having allegedly bought the same lots from respondent de Ocampo on January 6, 1966. TCT No. 42217 was issued to him (Anglo) on January 12, 1966.[8]

Procedurally, the records show that the Bureau of Public Schools, then represented by the Provincial Fiscal of Negros Occidental initiated on December 24, 1958, a forcible entry and detainer case against de Ocampo over Lots Nos. 817 and 2509. On appeal, the Court of First Instance of Negros Occidental dismissed the complaint (Civil Case No. 5353).[9]

Then, on June 29, 1960, de Ocampo filed an application for registration of the same two parcels of land in Land Registration Case No. N-4 LRC Rec. No. N-19196, entitled "Alfredo V. de Ocampo, Applicant, v. Republic of the Philippines, Oppositor." Republic filed its opposition in due time.[10]

On May 2, 1961, Republic, represented by the Solicitor General, filed a complaint against de Ocampo with the Court of First Instance of Negros Occidental (Branch VII) for the recovery of possession of the subject lots, with prayer for the issuance of a writ of preliminary mandatory injunction, docketed therein as Civil Case No. 264 (6154), entitled "Republic of the Philippines v. Alfredo V. de Ocampo, Defendant." [11] De Ocampo averred in his answer that the properties alleged to have been donated by Esteban Jalandoni to the then Bureau of Education were different from the properties involved in this case, the former being titled lands (TCT No. 1251) containing two million nine hundred and twelve thousand four hundred and seventy four (2,912,474) square meters, while Lots Nos. 817 and 2509 applied for by de Ocampo and which Republic sought to recover were unregistered lands, and that granting, without admitting, that they are the same lands, the court no longer had jurisdiction over the subject matter of the action since the issue of possession over said lots was already decided by the Court of First Instance of Negros Occidental. [12]

On May 26, 1961, a preliminary hearing was held before Branch IV of the Court of First Instance of Negros Occidental, where the land registration case was pending, but inasmuch as the issues involved in both Civil Case No. 264 (6154) for recovery of possession and the land registration case were identical, the parties agreed to a joint trial, this time before Branch VII, Judge Jose D. Divinagracia, presiding, where the civil case was pending. [13]

After a joint trial of the above-mentioned two (2) cases, the Court of First Instance rendered judgment on August 3, 1965, dismissing the complaint in Civil Case No. 264 (6154) and adjudging the registration of the subject two lots in the name of the then applicant de Ocampo. On October 1, 1965, OCT No. 576 was issued in his name. [14]

It is admitted by Republic that it received a copy of the decision on August 13, 1965 [15] but no appeal was taken therefrom. However, Republic later filed with the trial court on December 28, 1965, a "Petition for Relief from Judgment with Preliminary Injunction Pending Proceeding" [16] (petition, for short) praying, among other things, that de Ocampo be restrained from enforcing the decision dated 3 August 1965, and that after the hearing, an order be issued declaring the said decision to be not yet final and executory, and granting Republic the right to file a motion for reconsideration and/or appeal within the period granted, to commence upon receipt of the order.

The petition alleged inter alia that the Republic's failure to appeal was due to accident, mistake and/or excusable negligence, specifically, stating that its docket clerk, Cesar Salud, merely committed excusable negligence when he inadvertently attached the copy of the decision to the file of another case; that it was only on November 5, 1965, that Cesar Salud found the copy of the same; and that petitioner has a substantial cause of action in Civil Case No. 264 (6154) and a good and substantial defense in Land Registration Case No. N-4 LRC Rec. No. N-19196.

An opposition to the petition was filed by respondent de Ocampo on February 5, 1966 [17] on the ground that the same was filed beyond the reglementary period. The petition was, however, given due course on January 11, 1966. [18] On February 21, 1966, respondent Oscar Anglo filed a motion for intervention alleging that he bought the subject two (2) Lots Nos. 817 and 1509 from respondent de Ocampo on January 6, 1966 and that TCT No. 42217 of the Register of Deeds for Negros Occidental was issued to him (Anglo) on January 12, 1966. [19] He also filed an answer in opposition to Republic's petition for relief from judgment [20] on the grounds, among others, that the decree of registration and certificate of title had already been issued and that a writ of preliminary injunction will not lie to restrain enforcement of the decision of the trial court.

On June 6, 1966, after respondents filed their respective memoranda, the trial court dismissed the Republic's petition for lack of competent proof, pursuant to Section 6, Rule 38, of the Rules of Court which the court said required a hearing. [21]

On July 25, 1966, petitioner Republic filed a motion for reconsideration of the aforesaid order dismissing its petition;^[22] and on August 4, 1966, it filed a manifestation averring additional grounds in support of the motion for reconsideration.^[23] Respondents Anglo and de Ocampo opposed the same.^[24]

On September 28, 1966, Republic filed an "Amended Petition for Relief from Judgment and/or Review of Decree with Preliminary Injunction"^[25] (Amended Petition, for short). In specific regard to the petition for review of the decree, Republic contended, inter alia, that actual fraud had been perpetrated by respondent de Ocampo in securing the lower court's decision ordering the registration of the lots in his name, as well as the issuance of the decree of registration and the corresponding certificate of title, on the grounds which, briefly restated, advert to respondent de Ocampo's alleged misrepresentations that the two parcels of land applied for by him in the land registration case were "different from the two parcels of land of the same lot numbers, technical descriptions and areas belonging to the Government, knowing such allegations to be false, the truth of the matter being that said parcels of land are the same property owned by the Government";^[26] that there was previous registration of the same parcels of land, Lots Nos. 817 and 2509, under the Torrens System in favor of Meerkamp and Company which later sold the same to Jalandoni who, in turn, gave the lots to the Bureau of Education as a legacy; and that the Court of First Instance no longer had jurisdiction to decree again the registration of Lots Nos. 817 and 2509, in favor of respondent de Ocampo, in view of the earlier registration of the same lands in favor of Meerkamp and Company.

Additionally, Republic claimed that its counsel was not given notice of de Ocampo's motion and the corresponding order dated September 16, 1965, for the issuance of the decree of registration and the issuance of the decree itself by the Land Registration Commission, "in violation of its constitutional rights to due process";^[27] that it has also been "in continuous peaceful, adverse, open and public owner and possessor, in good faith and with just title" of the lots "deriving the fruits and products of said properties and appropriating them to the purpose and purposes they were intended for";^[28] that they were in fact declared for tax purposes;^[29] that on April 11, 1927, the lands were leased for ten (10) years but the lease was amended several times to extend the same;^[30] that on September 17, 1964, Republic's counsel filed a "Petition for an Order to Produce the Original Documentary Exhibits and Submit Same to the NBI for Examination,"^[31] which petition was communicated to de Ocampo's lawyers, Atty. Gemarino and Garingalao, earlier on September 7, 1964; that they did not object or state that the originals were burned or lost; that it was only on September 28, 1964 that de Ocampo's lawyers revealed for the first time in their "Manifestation and Reply" that the purported originals were burned in the house of Atty. Gemarino on May 16, 1963;^[32] and that the "supposed originals were fake and their alleged burning was false and these pretenses were intentionally resorted to only to evade the examination of the spurious documents by the NBI and as a camouflage to hide their fraudulent character."^[33]

On October 4, 1966, the trial court set aside its order of June 6, 1966, dismissing the petition for relief,^[34] having found Republic's motion for reconsideration well-founded, and scheduled December 1 and 2, 1966, for Republic's witnesses to testify, and likewise gave respondents, a chance to oppose the amended petition. Respondents and Republic filed their opposition^[35] and reply;^[36] respectively. Republic alleged in the said reply that "(T)he lands in question and their incomes are used exclusively for a public purpose: public education."^[37]

In a subsequent hearing on June 6, 1967, the trial court ordered Republic to present its evidence in the absence of respondents, who objected thereto for lack of jurisdiction, the parcels of land having been already registered in the name of respondent de Ocampo and in fact transferred to an alleged buyer in good faith, the other private respondent, Anglo.

On August 30, 1967, the trial court rendered its decision on the Amended petition^[38] against Republic, upon resolution of what it considered the "decisive" issue, i.e., that the allegations in the said petition did not constitute

actual and extrinsic fraud which is the only ground available to review or reopen a decree in cadastral cases pursuant to Section 38 of Act 496.[39]

On the other issues, the trial court found that it was through mistake, accident and excusable negligence that the decision of August 3, 1965 was not brought to the attention of Solicitor Emerito Salva "as it was inadvertently clipped to the record of another case".[40] However, while the petition for relief itself was filed within the reglementary period prescribed in Section 3, Rule 38, of the Rules of Court[41] the remedy of relief from judgment was no longer available since the decree, and later the title, were already issued in the name of respondent de Ocampo.[42] It also held that the amended petition was still legally available as it was filed within one (1) year after the issuance of the decree, pursuant to Section 38 of Act No. 496 "in case of actual fraud", and that it had jurisdiction to entertain the amended petition and to receive evidence support thereof,[43] but it had to deny the relief prayed for on grounds already adverted to. In regard to respondent Anglo's claim that the petition for review was no longer tenable as against him because he was a purchaser in good faith, the trial court ruled that competent evidence to that effect should be submitted considering, among other things, that the case pending when he acquired his interest.[44] Finally, it held that the fact that the Republic was not notified of the motion and the corresponding issuance of the decree and title was immaterial since petitions for issuance of decrees in cadastral cases are analogous to petitions for execution in ordinary cases and parties are not entitled to notice thereof as a matter of right.[45] Thus--

"In the light of the decision of this Court dated August 3, 1965, Section 39 of Act No. 496 and the authorities cited x x x this court is persuaded to conclude as it hereby holds, that the evidence adduced by the petitioner in this incident does not establish actual and constructive fraud which is the only kind of fraud that is considered a legal ground to review, reopen or set aside the decree which has already been issued in the name of Alfredo V. de Ocampo.

PREMISES CONSIDERED, the petition for Relief from Judgment and/or Review of Decree is hereby dismissed without pronouncement as to costs."[46]

From the said decision, Republic appealed to the Court of Appeals, docketed therein as CA G.R. Nos. 40683-84-R. Private respondents de Ocampo and Anglo moved to dismiss the appeal which was opposed by petitioner, Republic.[47] A supplemental motion to the same effect was later filed by respondent de Ocampo for failure of the record on appeal to show on its face that it was filed on time,[48] followed by an ex parte motion to consider the Solicitor General to have waived his right to oppose the said supplemental motion to dismiss and that the case be submitted for resolution.[49] A new party, Salvacion Marañon, sought to intervene in the case and also filed a motion to dismiss the appeal before respondent appellate court.

In its minute resolution of August 21, 1969,[50] the Court of Appeals resolved--

"(1) To DISMISS x x x the appeal x x x for failure of the record on appeal to show on its face that the record on appeal was filed within the period fixed by the Rules (Secs. 3 & 6, Rule 41, Sec. 1(a) & (b), Rule 50, Rules of Court), it appearing that appellant's motion for extension of 20 days from October 14, 1967 to file the record on appeal was never granted by the lower court (there being no showing to that effect in the record on appeal); and even if there was such an order granting it, the extension asked for would have expired on November 3, 1967 and, therefore, the record on appeal filed on November 9, 1967 was filed six days late x x x; and

(2) to DENY the motion to intervene of intervenor Salvacion Marañon following the doctrine enunciated in Hant, et al. vs. O'Leary, et al., page 993. At any rate, the purpose of intervening; which is to join the appellees in their motion to dismiss the appeal of the appellant, has already been served by the dismissal of the instant appeal."

On September 11, 1969, Republic filed a motion for reconsideration[51] but on November 14, 1969, the Court of

Appeals--

"RESOLVED TO DENY the said motion for reconsideration. Rulings in the pertinent cases are equally applicable to the Republic of the Philippines where the latter is the appellant and that recourse to the original records is immaterial because it is what appears in the record on appeal that is essential." [52]

Hence, this appeal by certiorari on the following assignment of errors, i.e., that the Court of Appeals erred in not holding that -- (1) prescription, the statute of limitations and laches do not lie against the Republic, as a sovereign state, and that, it is not bound or prejudiced by the faults or mistakes of its officers and employees; (2) the dismissal of Republic's appeal is not in accordance with the liberal construction of the Rules of Court and the promotion of its object to assist the parties in obtaining just, speedy and inexpensive determination of actions and proceedings; (3) the trial court has no jurisdiction to entertain the application for land registration of Alfredo V. de Ocampo on the ground that Lots Nos. 817 and 2509 were already registered under the Torrens System before 1919; (4) the dismissal of Republic's appeal placed technicality over substance; and (5) the dismissal of Republic's appeal will abet and promote land grabbing. [53]

Private respondents in turn stress in their respective briefs, inter alia, (1) that Republic shed its immunity and sovereignty and assumed the garb of an ordinary private litigant when it initiated an action for forcible entry and detainer case over Lots Nos. 817 and 2509 against respondent de Ocampo, filed its opposition in the land registration case, and instituted Civil Case No. 264 (6154); [54] (2) that Republic should comply with the mandatory and jurisdictional requirements of the rules on perfection of appeals, citing cases; [55] that there cannot be one set of Rules for ordinary private litigants, and another set for the State otherwise the set-up will result in the denial of due process and equal protection of law to private litigants as well as chaos in the administration of justice; [56] and (4) that public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final at some definite date fixed by the law. [57]

The threshold and, in the ultimate analysis, the decisive issue raised by this petition is whether the dismissal by respondent Court of Appeals of Republic's appeal from the decision of the trial court denying its Amended Petition, is not proper and should be set aside as contended by Republic, or correct and should be maintained, as argued by respondents. The issue - framed in the context of the suit's true significance to the parties involved in this protracted proceeding and in the light of the value the protagonists attach to the outcome of the litigation - may be stated thus--Should the government, represented by petitioner Republic not be permitted by respondent Court of Appeals to show that it stands to lose thru fraudulent machinations close to three hundred (300) hectares of prime sugarcane land to the private respondents, who have allegedly secured their titles to these holdings long after the same parcels of land were already titled in the name of the original owner, Meerkamp and Company and, therefore, the trial court's action in directing the issuance of the title in the name of respondent de Ocampo is null and void ab initio and of no legal effect, simply because petitioner Republic failed to show in its record on appeal that it was perfected on time and that it actually filed its record on appeal six (6) days late?

Respondent Court of Appeals, in a very simplistic approach, which disregards the substantive merits of the appeal, dismissed the same on the grounds that the record on appeal did not show on its face that it was perfected on time, and, additionally, that even if it were to be assumed that the motion for extension of 20 days to file the record on appeal was indeed granted, the appeal was still not perfected on time because the record on appeal was filed November 9, six (6) days after November 3, 1967, when petitioner's requested extension expired.

If respondents' line of reasoning were to be upheld, the dismissal of the appeal may be sustained. For, as stated in its notice of appeal filed on October 12, 1967, petitioner Republic received a copy of the decision of the trial court on September 14, 1967. [58] Therefore, it had until October 14, 1967 within which to file its record on appeal. The record on appeal does not show that the extension prayed for was granted, but the lower court in its order of

December 4, 1967 approved the same, as there was no opposition to its approval. There is also no mention in the order approving the record on appeal as to whether or not it was filed on time. The record on appeal is, however, dated November 9, 1967. Assuming then that this was also the actual filing date, and on the further assumption that the 20-day extension was impliedly granted with its approval, it was still filed (6) days late, after the requested extension expired on November 3, 1967.[59] And, as to the legal ground for the dismissal on the foregoing bases, this Court has repeatedly construed Section 6, Rule 41, of the Rules of Court[60] as mandatory and jurisdictional in nature, non-compliance with which justifies the dismissal of the appeal.[61]

However, a consideration in depth of the unique and peculiar facts attendant to this case and the procedural and substantive implications of the dismissal of the appeal now sought to be reviewed and reconsidered; and a due and proper regard to the merits of the case rather than a facile reliance on procedural rules, compel this Court to reverse and set aside the dismissal of Republic's appeal by respondent Court of Appeals for the following reasons, viz: (1) Should Republic prove that the subject Lots Nos. 817 and 2509 were registered in favor of Meerkamp and Company before 1919, the trial court's decision decreeing again the same lots in the name of respondent de Ocampo in 1965 is null and void ab initio for lack of jurisdiction and a fatal infirmity necessarily attaches to the said decision; (2) There are strong and substantial allegations of fraudulent misrepresentations and machinations employed by respondent de Ocampo in securing his title. Relevant to this is the express finding of the trial court that the Petition for Relief was filed within the reglementary period prescribed in Section 3, Rule 38 of the Rules of Court, and the Amended Petition was filed within one year from issuance of the decree. If the appeal is dismissed without considering its merits, the above periods will resume to run and will lapse, and the reliefs sought herein will be forever foreclosed to Republic; (3) Assuming that respondents can invoke the material data rule, and/or the fact that Republic's appeal was filed out of time because the record on appeal was submitted to the Court six (6) days beyond the requested extension of 20 days, it is always in the power of this Court to suspend its rules or to except certain cases therefrom whenever countervailing considerations so warrant; and (4) This Court is not powerless to prevent gross miscarriage of justice, which would follow if Republic's appeal is dismissed - since it stands to lose close to 300 hectares of prime sugar land already titled in its name and devoted to educational purposes - if it is true that the land registration court was without jurisdiction to issue a second decree of registration in favor of respondent de Ocampo and, if it is also true that fraudulent misrepresentations and machinations attended respondent de Ocampo's application for registration and likewise prevented Republic from exposing the fake exhibits, on the basis of which he secured his title.[62]

1. Specifically, both Republic and respondents claim ownership over the same Lots Nos. 817 and 2509, hence, this controversy. If Republic's contentions are true that the said lots had been registered twice, with OCT No. 370 issued in favor of Meerkamp and Company before 1919 and another, OCT No. 576, issued in the name of respondent de Ocampo in 1965 - or some forty-six (46) years later - then the decision of the trial court, sitting as land registration court, is null and void ab initio and suffers from a fatal infirmity, which is also a ground for the review of a decree of registration, provided no innocent purchaser for value will be prejudiced.[63]

It is very significant in this connection that respondent de Ocampo admitted the donation of Jalandoni in favor of the Bureau of Education, but averred that the lots so donated were titled (TCT No. 1251),[64] while Lots Nos. 817 and 2509 applied for by him in the land registration case were "unregistered".[65] Yet, both parties claim to be the owners of the same Lots Nos. 817 and 2509. Respondent de Ocampo also gave the area of the lots covered by TCT No. 1251, in the name of Jalandoni, as two million nine hundred and twelve thousand four hundred and seventy four (2,912,474) square meters, or 291 hectares plus.[66] Coincidentally, Lots Nos. 817 and 2509 claimed by Republic have a total area of 289.47 hectares,[67] or only about two (2) hectares less. These factors, brought to light by respondent de Ocampo himself, cannot simply be ignored in reaching the conclusion that the disputed resolutions of respondent Court of Appeals be reversed.

It is also important to advert to the documentary exhibits adduced by Republic in the hearing of the Amended Petition below, one of which was a certification dated November 8, 1952 signed by the Register of Deeds of Negros Occidental, stating that on May 13, 1919, there was registered a sale executed by Meerkamp and Company in favor of Esteban Jalandoni and as a result, OCT No. 370 in the name of the Company was cancelled and TCT No. 1251 was issued to Jalandoni; that TCT No. 1251 was later cancelled by virtue of the will of Jalandoni leaving the parcels of land to the then Bureau of Education; that TCT No. 6014 was correspondingly issued to the Bureau of Education; and that lease contracts were annotated in TCT No. 6014 in favor of Francisco Cooper, executed by the Division Superintendent of Schools.[68] However, the above certification does not mention the lot numbers, and no certificates of title were exhibited in court, the incumbent Register of Deeds having declared that the titles could not be found in his Office.[69]

The trial court also made the express finding that the alleged deed of donation by Luis Mosquera in favor of respondent de Ocampo, dated November 10, 1911, acknowledged before one Notary Public John Boardman does not appear in his notarial book which is on file in the Bureau of Records Management, Manila, from October 16, 1911 to May, 1913.[70]

The Provincial Assessor of Negros Occidental likewise issued a certification, dated November 29, 1966, stating that Lots Nos. 817 and 2509 were never declared in the name of Mosquera.[71] His later certification states that the said lots were assessed in the name of the Bureau of Education, and that the technical descriptions in the Bureau of Lands records show that the same lots were in the name of Meerkamp and Company.[72]

Authorities are in agreement that a land registration court is without jurisdiction to decree again the registration of land already registered in an earlier registration case, and that the second decree entered for the same land is null and void.[73] If there is no valid and final judgment by the land registration court to speak of, then the filing of an admittedly late appeal from the decision denying the Amended Petition would be immaterial and of no moment, in so far as these proceedings are concerned in view of the congenitally fatal infirmity that attaches to the main decision, decreeing for the second time the registration of the same Lots Nos. 817 and 2509 in favor of respondent de Ocampo, despite an earlier registration in the name of Meerkamp and Company. Jurisprudence holds that the appellant's failure to perfect an appeal on time, "although ordinarily decisive, carries no persuasive force" and may be completely disregarded if the trial court acted without jurisdiction.[74] As held in *United States v. Jayme*,[75] lack of jurisdiction over the subject matter is fatal and may be raised at any stage of the proceedings. Jurisdiction is conferred by the sovereign authority which organizes the court; it is given only by law, and in the manner prescribed by law and an objection on the lack of such jurisdiction cannot be waived by the parties. The infirmity cannot be cured by silence, acquiescence, or even by express consent,[76] or by will of the parties.[77]

In the interest of justice, which is the paramount consideration in all litigations, and especially considering the cloud surrounding the decision of the land registration court, as aforesaid, the more judicious course to follow is for respondent Court of Appeals to entertain Republic's appeal, not to dismiss it, so that if it finds the same to be meritorious, and the decision appealed from is reversed, the correct identity of the lots that were donated to the then Bureau of Education (admitted by respondent de Ocampo), as well as those parcels of land applied for by said respondent in the land registration case, may already be ascertained once and for all, in the trial court below, and in this same proceeding, without Republic having to resort to relitigation to prove its claim. Further proceedings will not prejudice respondents. On the contrary, the cloud over their titles, OCT No. 576 and TCT No. 42217, issued in favor of respondents de Ocampo and Anglo, respectively, will be removed if Republic's claim is not true.

2. There is a serious charge, which is also crucial to the issue between the parties, that respondent de Ocampo used fraudulent misrepresentations and machinations in securing his title. Firstly, there was the averment in his

Answer in Civil Case No. 264 (6154) for recovery of possession of the subject lots by Republic, which case was jointly tried with the land registration case, that the properties alleged to have been donated by Jalandoni to the then Bureau of Education were "different" from Lots Nos. 817 and 2509, applied for by him, the Jalandoni holdings being "titled" lands, while Lots Nos. 817 and 2509 were "unregistered" lands. The then applicant de Ocampo even cited TCT No. 1251 of the Register of Deeds of Negros Occidental as the title covering the lots in the name of Jalandoni, further stating that the lands donated by him to the Bureau of Education had an area of 2,912,474 square meters,[78] or 291 hectares plus. Lots Nos. 817 and 2509 have a total area of 289.47 hectares,[79] or a difference of only 2 hectares, more or less. The coincidence in area is highly significant since both claim to be the owners of the same lots. Secondly, certain documents which were presented as exhibits by respondent de Ocampo, on the basis of which he secured OCT 576 in his name, were withdrawn from the files of the trial court, and, thereafter were allegedly lost by fire. As a result, Republic's pending motion to have the said exhibits produced for examination of their genuineness by the NBI could not be made. Unless successfully traversed, the inference is strong that respondents did not want a full disclosure of the true nature of the same by the NBI and that the truth had been suppressed. The inference is also buttressed by the Republic's claim that despite their counsel's knowledge of Republic's intention to file the said motion which was orally communicated to them earlier, the alleged loss was not revealed to Republic's counsel.[80]

If the charge is true, there is the element of wilfull intent to deprive Republic of just rights which constitutes the essential characteristics of actual - as distinguished from legal - fraud.[81] As Justice Fernando stressed, "Nicolas v. Director of Lands[82] should erase any doubt as to the extreme judicial displeasure at this species of fraud of an applicant seeking to include as a part of the property to which title is sought land actually in possession of another." [83] This is very relevant in view of the denial of the Amended Petition which was premised on the conclusion that allegations in the said petition did not constitute actual and extrinsic fraud and which, according to the trial court, is "the only ground" available to review or reopen the decree. Of related significance is the express finding of the trial court that the original Petition for Relief was filed within the reglementary period pursuant to Section 3, Rule 38 of the Rules of Court, and the Amended Petition was filed within one year from issuance of the decree. For, if the appeal is dismissed - notwithstanding allegations of fraud which appear to be supported by the evidence adduced during the hearing of the Amended Petition below - the appealed decision will become final and executory, and the aforesaid periods will lapse, foreclosing forever to Republic the reliefs prayed for in the Amended Petition. Although Republic may seek to recover the lots in a different action that may still be legally available to it after the appeal is dismissed, that recourse will involve not only a re-litigation and, therefore, multiplicity of suits, but will also entail the risk that subject lots may be disposed of to innocent purchasers for value to put them beyond recovery. As it is, the other respondent, Anglo, has already intervened, alleging that he bought the same lots from respondent de Ocampo on January 6, 1966, and that TCT No. 42217 was in fact issued to him.[84] A new party, Salvacion Marañon, also sought to intervene in the case and filed in respondent Court of Appeals a motion to dismiss Republic's appeal before the said Court.[85]

Finally, We held in *Reyes, et al. v. Borbon, et al.*[86] that "(W)hen the attention of the Court of Land Registration is called to the fact that the same land has been registered in the name of two different persons, it is the duty of said court to order an investigation of that fact and that should be done even without requiring the parties to show that a fraud has been committed in securing the double registration. When it is established that the same has been registered in the name of two different persons, the title should remain in the name of the person securing the first registration." This Court further held that "(T)he very purpose of the Torrens System would be destroyed if the same land may be subsequently brought under a second action for registration." [87]

3. The foregoing overriding considerations then -- the alleged lack of jurisdiction and the alleged fraudulent misrepresentations and machinations, which, buttressed by strong evidence, can nullify the second registration

and/or set aside OCT 576 issued to respondent de Ocampo -- taken in relation with the procedural and substantive implications which could and would arise if the appeal were dismissed, namely, the risk that the holdings may be transacted to third parties and the fact that Republic's action to recover the holdings would give rise to multiplicity of suits -- compel Us to conclude that the only recourse -- in the interest of just and expeditious proceedings, considering that these have been pending for close to twenty (20) years now -- is to suspend Our rules and/or to except this case from their operation. For when the operation of the Rules will lead to an injustice We have, in justifiable instances, resorted to this extraordinary remedy to prevent it.[88] The Rules have been drafted with the primary objective of enhancing fair trials and expediting justice.[89] As a corollary, if their application and operation tend to subvert and defeat instead of promote and enhance it, their suspension is justified. In the words of Justice Antonio P. Barredo in his concurring opinion in *Estrada v. Sto. Domingo*, "(T)his Court, through the revered and eminent Mr. Justice Abad Santos, found occasion in the case of *C. Viuda de Ordoveza v. Raymundo*, to lay down for recognition in this jurisdiction, the sound rule in the administration of justice holding that 'it is always in the power of the court (Supreme Court) to suspend its own rules or to except a particular case from its operation, whenever the purposes of justice require it...'[90]

Exceptions to the operation of the mandatory and jurisdictional character of the rules on perfection of appeals are to be noted in *Sarmiento v. Salud, et al.*,[91] penned by Justice J.B.L. Reyes, *Dequito v. Lopez*[92] and *Carillo v. Allied Workers Association of the Philippines*[93] both written for the Court by Justice E.M. Fernando, decided years after the Revised Rules of Court took effect in January, 1964. In the *Sarmiento* case, the late appeal was allowed on the ground of laches on the part of the appellees, the filing of the motion to dismiss having taken place six (6) years after the brief for appellees was filed, and after the case was submitted for decision. This, according to the Court, "constitutes a unique instance of laches without comparable precedent in the records of the Court." [94] The *Dequito* and *Carillo* cases, upon the other hand, took into account the fact that labor cases were involved. Justice Fernando expressly noted in the *Dequito* case that "in the light of the constitutional as well as codal and statutory mandates, there being an explicit command of protection to labor as well as the promotion of social justice,"[95] the motion to dismiss the late appeal which was "filed much too late" hardly deserved sympathy or consideration.[96] In the *Carillo* case, no question whatsoever as to the late appeal was raised, hence, "it would seem that whatever right to contest the jurisdiction could have been availed of is by now no longer in existence.[97] Continuing, Justice Fernando stated that "Social justice would be a meaningless term if in a situation like the present, an element of rigidity would be affixed to procedural precepts and made to cover the matter. Flexibility should not be ruled out. Precisely, what is sought to be accomplished by such a fundamental principle expressly so declared by the Constitution is the effectiveness of the community's effort to assist the economically underprivileged." The responsibility to protect labor is incumbent "not only on the legislative and executive branches but also on the judiciary, to translate this pledge into a living reality." [98]

While the above exceptions are predicated on different grounds, they nevertheless support the view that the rigid adherence to the rule on perfection of appeals may and should be relaxed where compelling reasons so warrant. The grounds invoked in this case - not only lack of jurisdiction but gross injustice itself - more than justify the exception - considering further that the delay in the perfection of the appeal involved six (6) days only.

4. Finally, enshrined in our legal and judicial annals is the maxim that no person should enrich himself at the expense or prejudice of others.[99] Courts should not be used as instruments to disregard this elemental and basic norm - which is the essence of justice and fair play. The whole thrust of our laws on civil relations enjoins all those who come before the courts of justice to observe true faith and candor in their dealings with one another - the government included.[100] The commendable and determined efforts on the part of the citizenry to fashion a New Society rid of graft, corruption and the persistent malaise of land grabbing, will be set back, if the subject lots - consisting of close to 300 hectares which are devoted to educational purposes - have indeed been wrongfully

titled to respondent de Ocampo. Happily, We can at this stage still prevent this, if true, by setting aside the dismissal of Republic's appeal and according the parties the opportunity in this proceeding, and without further need to re-litigate, to terminate this litigation, which has been pending for close to twenty (20) long years - in fairness to both parties.

PREMISES CONSIDERED, the resolution of the Court of Appeals, dated August 21, 1969, dismissing the appeal, as well as its resolution of November 14, 1969, denying petitioner Republic's motion for reconsideration in CA G.R. Nos. 40683-84 are hereby SET ASIDE. The case is remanded to the said Court to give due course to and consider on its merits Republic's appeal. No costs.

Castro, C.J., Fernando, Muñoz Palma, Concepcion, Jr., Fernandez, and Guerrero, JJ., concur.

Teehankee, J., concurs in a separate opinion.

Aquino, J., see attached concurring opinion.

Barredo, Makasiar, and Antonio, JJ., took no part.

[1] Rollo, p. 14.

[2] Id., p. 15.

[3] Brief for Petitioner, pp. 4 and 6.

[4] Id., p. 6.

[5] Id., p. 13.

[6] Brief for Respondent de Ocampo, pp. 2-3.

[7] See Answer, Brief for Petitioner, p. 45.

[8] Record on Appeal, pp. 41-42.

[9] Brief for respondent de Ocampo, p. 1.

[10] Id., p. 2; See also, De Ocampo vs. Rep. of the Philippines, G.R. No. L-19533, Oct. 31, 1963; 118 Phil. 1276, 78, (1963).

[11] Ibid.; Brief for respondent Anglo, p. 4.

[12] See Answer, Brief for Petitioner, pp. 46-49.

[13] Brief for respondent de Ocampo, pp. 2-3.

[14] Id., p. 3.

[15] Record on Appeal, pp. 5, 20 and 21.

[16] Id., p. 2.

[17] Id., p. 34.

[18] Id., p. 29.

[19] Id., pp. 41-42.

- [20] Id., p. 43.
- [21] Id., p. 64.
- [22] Id., p. 71.
- [23] Id., p. 76.
- [24] Id., pp. 80 and 83.
- [25] Id., p. 88.
- [26] Id. p. 99.
- [27] Id., p. 98.
- [28] Id., p. 104.
- [29] Id., p. 101.
- [30] Id., pp. 102-104.
- [31] Id., pp. 105-106.
- [32] Id., pp. 106-107.
- [33] Id., p. 107.
- [34] Id., p. 116.
- [35] Id., pp. 119 and 127.
- [36] Id., p. 131.
- [37] Id., p. 134.
- [38] Id., p. 159.
- [39] Id., pp. 186-189.
- [40] Id., pp. 181-182.
- [41] Id., pp. 182-183.
- [42] Id., pp. 183-184, citing *Elviña v. Filamor*, 56 phil. 305.
- [43] Id., pp. 184-185.
- [44] Id., pp. 185-186.
- [45] Id., p. 184.
- [46] Id., pp. 191-192.
- [47] See note 1.
- [48] Ibid.
- [49] Ibid.
- [50] Ibid.

[51] See Rollo, p. 8.

[52] See note 2.

[53] Brief for Petitioner, pp. 1-3.

[54] Brief for respondent Anglo, p. 18; See also Brief for respondent de Ocampo, pp. 47-48.

[55] Brief for respondent Anglo, pp. 18-19.

[56] *Id.*, p. 25.

[57] *Id.*, p. 45.

[58] Record on Appeal, p. 193.

[59] *Ibid.*

[60] Rule 41, Section 6 reads in part: "Section 6, Record on appeal; form and contents thereof. The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the order or judgment from which the appeal is taken, and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed order or judgment and necessary for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time x x x" (Emphasis supplied.)

[61] *Berkenkotter v. Court of Appeals*, No. L-36629, September 28, 1973, 53 SCRA 228; *Development Bank of the Philippines v. Santos*, No. L-26857, Sept. 27, 1966, 18 SCRA 113; *Araneta v. Madrigal & Co., Inc.*, Nos. L-26227-28, October 25, 1966, 18 SCRA 446; *Atlas Consolidated Mining & Development Corp. v. Progressive Labor Association*, No. L-27125, Sept. 15, 1967, 21 SCRA 110; *Ozaeta v. Court of Appeals*, No. L-26938, Oct. 29, 1971, 42 SCRA 79; *Reyes v. Carrasco*, No. L-28783, March 31, 1971, 38 SCRA 296; *Workmen's Ins. Co. v. Augusto*, No. L-31060, July 29, 1971, 40 SCRA 123; *Imperial Ins. Inc. v. Court of Appeals*, No. L-28722, Oct. 29, 1971, 42 SCRA 97.

[62] See notes 31, 32 and 33.

[63] *Republic v. Kalintas*, L-25141, January 31, 1969, 26 SCRA 716; See also *Vda. de Cuaycong vs. Vda. de Sengbengco*, 110 Phil. 113 (1960).

[64] See note 12.

[65] *Ibid.*

[66] *Ibid.*

[67] See note 5.

[68] Record on Appeal, pp. 186-187.

[69] *Id.*, p. 187.

[70] *Ibid.*

[71] *Id.* pp. 187-188.

[72] *Id.*, p. 188.

[73] *Mabuhay Dev. Co. v. Ronquillo*, Nos. L-24705-06, April 29, 1971, 38 SCRA 439; *Government of the*

Philippine Islands v. Zamora, 41 Phil. 905, (1920) and cases cited; See also Reyes, et al, v. Borbon, et al, 50 Phil. 791 (1927) citing Legarda and Prieto v. Saleeby, 31 Phil. 590 (1915); Acantilado v. De Santos, 31 Phil. 350 (1915); Roman Catholic Bishop of Cebu v. Phil. Railway Co. and Reynes, 49 Phil. 546 (1926); Singian v. Mla. Railroad Co., 60 Phil. 192 (1934).

[74] The Leyte-Samar Sales Co., et al. v. Cea, etc., et al., 93 Phil. 100 (1953), citing authorities.

[75] 24 Phil. 92 (1913).

[76] Villa v. Ibañez, 88 Phil. 405 (1951).

[77] Del Espiritu v. David, et al. 112 Phil. 292 (1961).

[78] See note 12.

[79] See note 5.

[80] See notes 31, 32 and 33.

[81] See Grey Alba v. Cruz, 17 Phil. 57-58 (1910); See also Minlay v. Sandoval, L-28901, Sept. 4, 1973, 53 SCRA 8.

[82] L-19147, December 28, 1963, 9 SCRA 934.

[83] See Minlay v. Sandoval, supra, pp. 8-9.

[84] See note 8.

[85] See note 1.

[86] See note 13, at 796, citing cases; Emphasis supplied.

[87] Id., p. 797.

[88] Tiglao v. COMELEC, Nos. L-31566 and 31847, August 31, 1970, 34 SCRA 467, citing Ordoveza v. Raymundo, 63 Phil. 275 (1936); Ocampo v. Sanchez, 97 Phil. 472 (1955); Ronquillo v. Marasigan, L-11521, May 31, 1962, 5 SCRA 312-313; and Justice Barredo's concurring opinion in Estrada v. Sto. Domingo, L-30570, July 29, 1969, 28 SCRA 890, 933.

[89] Shioji v. Harvey, 42 Phil. 341 (1922).

[90] Cit. supra at p. 933.

[91] L-25221, August 18, 1972, 46 SCRA 365, (Resolution on Motion for Reconsideration).

[92] L-27757, March 28, 1968, 22 SCRA 1352.

[93] L-23689, July 31, 1968, 24 SCRA 566.

[94] Supra, p. 366.

[95] Supra, p. 1355.

[96] Ibid.

[97] Supra, p. 572.

[98] Id., p. 574.

[99] See Civil Code, Art. 22.

[100] Id., Art. 19.

SEPARATE CONCURRING OPINION

TEEHANKEE, J.:

This case illustrates graphically once more the correctness of the Court's turning away from and setting aside of the rigid material data rule in the perfection of appeals and its adoption, in the interest of substantial justice as against mere technicality, of the liberal rule since the leading case of *Berkenkotter vs. Court of Appeals*[1] that "the mere absence of a formal order granting the motion for extension of time to file the record on appeal should not be fatal to the petitioner if the record on appeal filed within the requested extension period was approved by the court a quo."

Here, even conceding that the record on appeal was filed six (6) days late beyond the requested extension period, special considerations have been shown in the case at bar for the application of the principle of substantial justice as set out in the main opinion of Mr. Justice Santos. Among others, it should be stressed that the State's record on appeal was approved as per the trial court's Order of December 4, 1967 with the express statement that there was no opposition from respondents-appellees to its approval; and that the State's claims, that its evidence preponderantly shows that the trial court had no jurisdiction to entertain the land registration application of respondent de Ocampo filed belatedly after forty-six years and with alleged fraudulent misrepresentations and machinations since the lots in question (some 289 hectares of prime sugar land) were long ago before 1919 already duly registered in the name of the predecessor-vendor of Esteban Jalandoni who subsequently bequeathed the same to the Bureau of Education exclusively for educational purposes, which were rejected by the trial court on erroneous grounds, raise a jurisdictional issue that should properly be reviewed and determined by the appellate court.

It should be further stressed that to uphold the appellate court's peremptory dismissal of the State's appeal would bar the State from "seeking again to recover the lots in a different action that may still be legally available to it after the appeal is dismissed" notwithstanding the main opinion's declaration to this effect[2] since the petitioner State would be foreclosed by the principle of *res adjudicata* from filing still another suit for the recovery of the lots in question. And the State itself in its comment of February 13, 1970 on respondents' motion to dismiss (filed through then Solicitor General, now a member of this Court, Associate Justice Felix Q. Antonio) expressly so admitted "that if the petition is dismissed, thereby sustaining the resolution of the Court of Appeals dismissing the appeal by the Government, then the latter would have no further remedy. Certainly, to lose a remedy resulting in unjust deprivation of one's property cannot be categorized except as substantial." [3]

The precedent of *Paulino vs. Court of Appeals*[4] where the Court ordered the giving of due course to an appeal notwithstanding that the same was admittedly filed two days beyond the reglementary period and had been therefore rejected by the appellate court is fully applicable the case at bar. We cited therein *inter alia* the demands of substantial justice and the presence of special circumstances (as in this case) for giving due course to the appeal and reiterated that "(T)he underlying principle in the administration of justice and application of the rules is substantial justice and fair play. As restated by the Court in *Obut vs. Court of Appeals*[5], '(W)e cannot look with favor on a course of action which would place the administration of justice in a straightjacket for then the result would be a poor kind of justice if there would be justice at all. Verily, judicial orders, such as the one subject of this petition, are issued to be obeyed, nonetheless a non-compliance is to be dealt with as the circumstances

attending the case may warrant. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities.'"

As in the case of *Carco Motor Sales, Inc. vs. Court of Appeals*[6] wherein we also set aside the appellate court's dismissal of an appeal for failure to file appellant's brief due to the fault and negligence of counsel's office secretary, we are herein persuaded that the higher interests of justice and fairness justify the setting aside of respondent court's peremptory dismissal of petitioner's appeal and that the exercise of the Court's "inherent right" to reinstate an appeal that was dismissed as the result of fraud, mistake or unavoidable casualty is fully justified under the circumstances of the case at bar.

Referring briefly to the view expressed that the State's record on appeal be remanded so that its appeal would cover not only the denial of its petition for relief but the lower court's adverse judgment on the merits,[7] it should be noted that as stated hereinafter the trial court in effect granted the petition for relief and reopened the case, setting aside its first adverse decision of August 3, 1965 (from which no appeal was taken), although it again rendered an adverse judgment against the State as per its decision of August 30, 1967, which is the subject of the State's appeal. The judgment of the Court has therefore properly ordered the reinstatement of the State's appeal and remanded the same to respondent Court of Appeals for determination on its merits without need of amending the record on appeal, since the State's notice of appeal (as well as its pleadings and brief) duly appealed from the trial court's decision of August 30, 1967 "on the ground that said decision is not in accordance with law and the evidence adduced in these cases." [8]

One final word. The record shows a sorry lack of care and dedication to duty on the part of the staff of the State's counsel that almost cost the State by default the forfeiture and loss of the valuable lots involved, were it not for the special circumstances and the interests of substantial justice which have led the Court to set aside respondent court's summary dismissal of the appeal. The State's suit against respondents for recovery of the land was first dismissed by the trial court in its judgment of August 3, 1965 and although the State was duly served with copy thereof on August 13, 1965, it took no appeal therefrom since the docket clerk misfiled the same in another case and the period for appeal lapsed.[9] Fortunately, the State's petition for relief from judgment was eventually granted by the trial court which reopened the case and received additional evidence from the State, although ultimately it rendered its questioned judgment of August 30, 1967 again dismissing the State's suit. Here again, the appeal taken by the State appears to have been perfected late by six (6) days, which normally would have meant forfeiture of the right of appeal. The attention of the Solicitor General should be called to these acts of carelessness and neglect so that the proper remedial and administrative measures may be taken to avoid the recurrence thereof.

[1] 53 SCRA 228 (1973), followed by *Pimentel vs. Court of Appeals*, 64 SCRA 476 (1975) and a host of other cases.

[2] At page 22.

[3] *Rollo*, at pages 78-79.

[4] L-46723, Oct. 28, 1977, citing *Bagalanon vs. Court of Appeals*, 76 SCRA 233, 236-237 (March 31, 1977).

[5] 70 SCRA 546, 554 (April 30, 1976), per Muñoz Palma, J.

[6] 78 SCRA 526, 530 (Aug. 31, 1977).

[7] See concurring opinion of Mr. Justice Ramon C. Aquino.

[8] Record on appeal, pp. 192-193.

[9] See main opinion at pp. 4-5.

CONCURRING OPINION

AQUINO, J.:

I concur in the well-written opinion of Justice Santos. I will even go farther. I vote for the remand of the case to the trial court so that the State can amend its record on appeal and appeal from the lower court's decision of August 3, 1965, dismissing its complaint for recovery of the possession of the disputed land and ordering the registration thereof in the name of Alfredo V. de Ocampo. The appeal from a judgment denying relief under Rule 38 includes the review of the judgment on the merits (Sec. 2, Rule 41, Rules of Court).

The ultimate issue is whether the land already registered as patrimonial property of the State (for the use of the Bureau of Public Schools), as allegedly shown in TCT No. 6014, can still be registered in the name of another person. My answer is that it cannot be done because section 46 of Act 496 provides that "no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession". The action to recover possession of registered land does not prescribe.

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