

HEIRS OF AMANTE P. CABOTAJE, NAMELY: ESTHER M. CABOTAJE, AMANTE M. CABOTAJE, JR., JULINDA M. CABOTAJE, FERNANDO M. CABOTAJE, CHRISTINA IMELDA M. CABOTAJE-NALAM, ALL HEREIN REPRE...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

Before Us is a Petition for Certiorari[1] assailing the Resolution² promulgated on April 4, 2011 of the Regional Trial Court, Branch 8 of Malaybalay City, in Civil Case No. 2663-97 for Quieting of Title and Recovery of Ownership and Possession of parcels of Land plus Damages which denied the Notice of Appeal.[3]

The facts as borne in the records are:

Private respondent Valencia Farmers' Cooperative Marketing Association, Inc. (FACOMA for brevity) represented by its Directors Sergio Belera and Pedro Pagonzaga instituted an action for quieting of title and recovery of ownership and possession of parcel of land, and damages against herein petitioners Heirs of Amante P. Cabotaje, and Francisco Estrada.[4]

On December 3, 2010, the trial court rendered a Decision[5] the fallo of which reads:

“WHEREFORE, judgment is issued in favor of the plaintiff and against the defendants ordering the Annulment and Cancellation of the Deed of Sale executed by Francisco Estrada in favor of Amante Cabotaje and all the Transfer Certificates of Titles issued pursuant thereto as follows:

- TCT No. T-10162, which cancelled TCT No. T-6268;
- TCT No. T-17697, which cancelled TCT No. T-6269;
- TCT No. T-10163, which cancelled TCT No. T-6270;
- TCT No. T-17698, which cancelled TCT No. T-6271;
- TCT No. T-, which cancelled TCT No. T-6272;
- TCT No. T-10161, which cancelled TCT No. T-6273;
- TCT No. [T-]9282, which cancelled TCT No. T-790;

Ordering defendant Amante Cabotaje and members of his family, agents and assigns from interfering with plaintiff's exercise of ownership over the properties and vacate the same if and when they succeed in taking possession thereof;

Ordering the demolition of all improvements introduced thereon in bad faith. Also ordering the Register of Deeds to restore the Certificates of Titles issued to the plaintiff subject hereof.”[6]

Aggrieved, herein petitioners, the Heirs of Amante Cabotaje, filed a Motion for Reconsideration[7] mainly contending the following:

- FACOMA has no legal personality to sue and be sued as defendant Francisco Estrada asseverated in his Answer. FACOMA's failure to present to the trial court original copy of the re-registration, according to herein petitioners, would mean that it had no capacity to sue;

- The Deed of Sale of the subject properties, which was allegedly admitted by FACOMA during the Pre-trial Conference and was allegedly executed and subscribed before a Notary Public is regular and valid contrary to the trial court's findings; and

- The sale made by defendant Francisco Estrada to herein petitioners is also binding and valid.

On February 3, 2011, the trial court denied the aforesaid Motion for Reconsideration.[8] Thus, on February 25, 2011, herein petitioners filed the Notice of Appeal.[9] Incidentally, FACOMA filed a Motion to Dismiss the Notice of Appeal averring that the Motion for Reconsideration earlier filed by petitioners did not toll the running of the reglementary period to appeal for reason that the Motion was but pro forma and raised no new issue.

On April 4, 2011, the trial court issued the assailed Resolution which denied the Notice of Appeal for being filed out of time.[10] Hence, this Petition for Certiorari. The two (2) main arguments in contention herein are:

I

Whether or not the trial court committed grave abuse of discretion when it denied the notice of appeal because the motion for reconsideration was a pro forma?

II

Whether or not the trial court committed grave abuse of discretion when it ruled that the motion for reconsideration on the Decision dated December 3, 2010 pro forma

A motion for reconsideration that merely reiterates issues already passed upon by the court does not automatically make it pro forma. The Supreme Court had ruled that what is essential is compliance with the requisites of the Rules.[11]

In fact in *DAR v. Uy*,[12] the Supreme Court again said that a rehash of arguments may not necessarily be pro forma per se; citing the case of *Security Bank and Trust Company, Inc. v. Cuenca*,[13] it said:

“xxx a motion for reconsideration is not pro forma just because it reiterated the arguments earlier passed upon and rejected by the appellate court; a movant may raise the same arguments precisely to convince the court that its ruling was erroneous. xxx the pro forma rule will not be applicable if the arguments were not sufficiently passed upon and answered in the decision sought to be reconsidered, and xxx the *raison d'etre* of the pro forma principle as follows:

x x x a pro forma motion had no other purpose than to gain time and to delay or impede the proceedings. Hence, “where the circumstances of a case do not show an intent on the part of the movant merely to delay the proceedings, our Court has refused to characterize the motion as simply pro forma.” x x x

We note finally that because the doctrine relating to pro forma motions for reconsideration impacts upon the reality and substance of the statutory right of appeal, that doctrine should be applied reasonably, rather than literally. The right to appeal, where it exists, is an important and valuable right. Public policy would be better

served by according the appellate court an effective opportunity to review the decision of the trial court on the merits, rather than by aborting the right to appeal by a literal application of the procedural rules relating to pro forma motions for reconsideration.

A thorough examination of the Motion for Reconsideration reveals that petitioners had stressed the issue on FACOMA's legal capacity to sue them which were not discussed in the Decision dated December 3, 2010. This alone would readily tell Us that herein petitioners' motion for reconsideration was not pro forma.

In addition, it is Our considered view that petitioners did not intend to delay the proceedings below by the filing of their Motion for Reconsideration. The Decision was rendered against them; the Deed of Sale executed by Estrada had been declared void by the trial court. Delaying their appeal to Us would have been counterproductive and inimical to their interest.

Clearly, the Motion for Reconsideration was not pro forma. Having said so, the Notice of Appeal filed by the petitioners on February 25, 2011 - three (3) days after they received the denial of the motion - was filed within the "fresh period" of 15 days to file the notice of appeal deserves to be given due course. This was in accordance with the ruling of the Supreme Court in *Neypes v. CA*,^[14] thus:

"To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a fresh period of 15 days within which to file the notice of appeal in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.

Henceforth, this "fresh period rule" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals; Rule 43 on appeals from quasi-judicial agencies to the Court of Appeals and Rule 45 governing appeals by certiorari to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution.

WHEREFORE, in view of the foregoing, the instant Petition for Certiorari is GRANTED. The assailed Resolution dated April 4, 2011 is SET ASIDE. The Regional Trial Court, Branch 8, Malaybalay City is ORDERED to give due course of petitioners' Notice of Appeal.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Borja, J., Ch., and Badelles, JJ., concur.

[[□]] Amended Petition for Certiorari, (Rollo, p. 180).

[1] Rollo, pp. 3-17, 180-193.

[2] *Id.*, pp. 161-167.

[3] *Id.*, pp. 217-223.

“At the outset, we note that a reading of the petition shows that what was assailed by the petitioners was the Resolution dated April 4, 2011 denying the Notice of Appeal, xxx, and not the December 3, 2010 decision adverted to by the private respondents.xxx”

[4] Id., pp. 182-183.

[5] Id., pp. 110-131.

[6] Id., pp. 130-131.

[7] Id., pp. 132-139.

[8] Id., pp. 142—156.

[9] Id., pp. 157-158.

[10] Id., pp. 161-167.

[11] ORO v. DIAZ, G.R. No. 140974, July 11, 2001.

[12] G.R. No. 169277, February 9, 2007.

[13] G.R. No. 138544, October 3, 2000.

[14] G.R. No. 141524, September 14, 2005.

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