

**FAUSTINO RAZALAN AND INES GUERRERO, PETITIONERS, VS.
SPOUSES ALFONSO D. CONCEPCION AND ISABEL DE CONCEPCION,
THE HONORABLE JUSTICES OF THE COURT OF APPEALS (THIRD
DIVISION), RES...**

G.R. No. L-29374. February 18, 1970

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

This is an original action for certiorari to annul a resolution of the Court of Appeals dismissing Case CA-G.R. No. 39751-R, entitled "Isabel R. de Concepcion and Dr. Alfonso D. Concepcion vs. Faustino Razalan and Ines Guerrero," petitioners herein.

It appears that, in an action for the rescission of a contract of lease, for 10 years, of several parcels of land, with an aggregate area of 169.5009 hectares, later reduced to about 145.5009 hectares,[1] filed by Isabel R. de Concepcion and her husband, Alfonso D. Concepcion, against said petitioners herein, upon the ground of failure of the latter, as lessees, to pay the full amount of the stipulated rentals, the Court of First Instance of Tarlac rendered, after appropriate proceedings, a decision decreeing the rescission prayed for and sentencing petitioners to pay to the Concepcions 650 cavaness of palay, as well as to vacate the leased premises. In due course, petitioners appealed from said decision by Record on Appeal, the requisite printed copies of which were filed with the Court of Appeals on September 2, 1967. On December 26, 1967, the Court of Appeals issued a notice, which was received by counsel for the petitioners on January 9, 1968, advising him that the record of the appealed case was already complete and at his disposal and that his brief should be filed within 45 days from notice, as provided for in Section 10, Rule 46 of the Rules of Court.

On February 4, 1968, petitioners filed a motion for extension of 30 days to file said brief. In a resolution, dated February 10, 1968, petitioners were granted said extension, beginning "from February 23, 1968". On March 21, 1968, petitioners moved for a second extension of 30 days from March 23, 1968, to file said brief, but the Court of Appeals granted merely an extension of 20 days beginning from March 24, 1968 - and, accordingly, ending on April 13, 1968. Notice of the resolution to this effect was issued by the Court of Appeals on April 4, 1968, but it was not mailed until April 17, 1968. Petitioners claim to have received this notice on April 23, 1968. Three (3) days prior thereto, or on April 20, 1968, they moved for a third extension of 30 days from April 22, 1968, to file their brief. This motion was received by the Court of Appeals on April 27, 1968. It having been, in legal contemplation, filed on April 20, 1968, or seven (7) days after the expiration of the second extension of 20 days granted by the Court of Appeals, the same dismissed the appeal taken by petitioners herein.

A reconsideration of the resolution of dismissal having been denied, petitioners commenced the present action against the Concepcions and the Court of Appeals, upon the ground that the latter had acted with grave abuse of discretion in dismissing their (petitioners') aforementioned appeal. This contention is predicated upon the fact that notice of the resolution of the Court of Appeals, dated April 4, 1968, granting them a second extension of 20 days

from March 24, 1968, had not been mailed until April 17, 1968, or four (4) days after the expiration of said extension on April 13, 1968, and was not re-ceived by them until April 23, 1968, or 10 days after the expiration of said period.

Petitioners' claim might have some semblance of validity had they filed their brief not later than April 23, 1968, the last day of the 30 days prayed by them in their motion for a second extension, dated March 21, 1968; but said brief was not filed until May 9, 1968, or 17 days after the expiration of the period they had asked in the afore-mentioned motion. Under these circumstances and those hereafter to be stated, We do not feel the Court of Appeals has gravely abused its discretion in issuing the resolutions complained of.

Pursuant to Section 15 of Rule 46 of the Rules of Court, "(e)xtension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed be-fore the expiration of the time sought to be extended." Petitioners' motion for a second extension states that their brief "has already been finally drafted, the same is now with a printing press for printing." The brief filed by petitioners on May 9, 1968, consisted of 39 pages only, including its table of contents. Any practising lawyer knows that twenty (20) days are more than sufficient to complete the printing of a brief of such length, including its proof reading. Still, petitioners filed it, neither within said period of 20 days nor within the 30 days requested by them.

Besides, in *Yabut vs. Ventura*,^[2] this Court held:

"There was no justification for defendants-appellants' attorney to take for granted that he would be given, or had been given, the entire period of extension he had asked for. Neither the pertinent provision of the Rules of Court nor the practice of this court could have inspired reassurance of a favorable action on his motion to its full extent. Far from favoring automatic or indiscriminate granting of extensions of time to file brief, the rule and the policy of this court on the matter bare a marked tendency to make such concessions sparingly. Section 16 of Rule 48 of the Rules of Court provides that 'extension of time for the filing of brief will not be allowed, except for good and sufficient cause.' And the policy of many years' standing of this court is to grant no more than 15 days for first extension and 10 days for second extension."

This view has been reiterated in a number of subsequent cases, some of which are cited on the margin.^[3]

Again, petitioners' counsel was supposed to be aware of the policy of the Court of Appeals, as set forth in its Resolution No. VIII, dated January 3, 1963, to limit the second extension of time to file briefs to twenty (20) days, and the reason given in their motion of March 21, 1968, was not such as to warrant a departure from that policy.

Lastly, by the contract involved in the main case, the private respondents had leased to petitioners herein several lots aggregating 169.5009 hectares, which were subsequently reduced to 145.5009 hectares. One of the main defenses of petitioners herein, as defendants in said case, was that the amount of rentals collectible by the lessors should be governed by the Agricultural Tenancy Act, or Republic Act 1199, which the lower court did not sustain, upon the ground that the relation between the parties in this case is that arising, not from Agricultural Tenancy, as the term is defined in Section 3 of said Act^[4], but from an ordinary civil lease. The accuracy and wisdom of this view becomes apparent when we consider that petitioners do not claim that the purpose of their contract of lease was for them to cultivate the leased land, of over 145 hectares, through their own labor and that of the members of their immediate household. In other words, petitioners' claim in the main case, as defendants-appellants therein, is manifestly untenable, so that it would serve no useful purpose to re-instate their appeal.

WHEREFORE, this case is hereby dismissed and the writ prayed for denied, with costs against the petitioners.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur. Makalintal, J., did not take part.

[1] Owing to the subsequent exclusion of a lot of 24 hectares.

[2] 77 Phil. 493, 495. Underscoring ours.

[3] Republic v. People's Surety and Insurance Company, L-16780, May 31, 1961; National Lumber & Hardware Co. v. Velasco, 106 Phil. 1098; Wack Wack Golf & Country Club v. Court of Appeals, 106 Phil. 501; Benares Montelibano vs. Benares, 103 Phil. 106; Parina v. Cobangbang, L-8398, March 21, 1956.

[4] "Sec. 3. Agricultural Tenancy Defined. - Agricultural tenancy is the physical possession by a person of land devoted to agriculture belong-ing to, or legally possessed by, another for the purpose of production through the labor of the former and of the members of his immediate farm household, in consideration of which the former agrees to share the harvest with the latter, or to pay a price certain or ascertainable, either in produce or in money, or in both."

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