

DIRECTOR OF LANDS, PETITIONER-APPELLANT, VS. EPIFANIO ROMAMBAN, ET AL, CLAIMANTS-APPELLEES.

G.R. No. L-36948. August 28, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The only issue in this case, certified to us by the Court of Appeals (now the Intermediate Appellate Court) on a pure question of law is whether or not the then Court of First Instance of Zambales, Branch II, Iba, erred in denying the Director of Lands' Petition for Relief from the Order of said Court dismissing the appeal in Cad. Case No. 191, Cad. Rec. No. 641, Lot No. 42-E of the Iba Cadastre.

The antecedental facts follow:

On December 8, 1924, the Director of Lands filed with the Court of First Instance of Zambales, Branch II, a petition for cadastral hearing to settle and adjudicate, in accordance with Section 1855 of the Revised Administrative Code, a tract of land with an area of 17,181,376 square meters more or less, divided into 791 lots, and situated at Iba, Zambales. Attached to the petition was a numerical as well as an alphabetical list of all occupants and claim-ants. The notice of initial hearing was duly published in the Official Gazette.

On July 26, 1928, the Director of Lands filed a claim stating that certain lots in the petition including the lot in question, Lot 42, were of the public domain because they had not been acquired by any person either by composition title from the Spanish Government, or by possessory information title, or by any other means of acquiring public lands, and that even conceding that said lots had been acquired by private persons, any right or interest they might have had therein, had already been lost by prescription, as said lots were adversely, continuously, openly, exclusively, peacefully and notoriously possessed by the Philippine Government as public lands.

An Order of General Default was entered in 1949. On September 16, 1968, or 19 years after the Order of General Default had been issued, claimant Epifanio Romamban filed a cadastral answer for Lot 42-E, with an area of approximately 29 hectares, stating that he had been in possession of the land as owner for over thirty (30) years, and that he had introduced improvements and constructed his house thereon; that his co-owner was claimant Santiago Parong to whom he had sold an eight (8)-hectare-portion on the southern part of said lot. Romamban and Parong will hereinafter be referred to as the Claimants.

On October 1, 1968, Claimants filed a "Motion to Hear Uncontested Lot". The Director of Lands opposed the same alleging that they had not established any right nor acquired any registrable title to the land; that said lot, which had been surveyed as public land, was covered by several valid and subsisting applications pending disposition in the Bureau of Lands (a homestead application over 20 hectares on the northern portion by Jorge Josafat, and a free patent application for 8 hectares on the southern portion by Diego Lim); that an Order of General Default had already been issued, for which reason the cadastral Answer of claimants should not be admitted.

On November 20, 1969, the Court rendered a Decision adjudicating the lot in question to the Claimants.

On December 24, 1969, the Director of Lands moved for reconsideration averring that the cadastral Court erred in admitting Claimants' cadastral Answer and in allowing them to present evidence; in applying the principle of constructive possession in favor of Romamban and awarding Lot 42-E to him; and in not holding that the land in question was still part of the public domain. The lower Court denied re-consideration.

On March 6, 1970, the Director of Lands filed a Notice of Appeal and a Notice of Extension of Time to File Record on Appeal, and prayed that he be granted an extension of twenty (20) days from the expiration of the thirty-(30)-day original period to perfect the appeal.

The Court disallowed the appeal in its Order of March 10, 1970 stating:

"On November 20, 1969, this Court rendered a decision in favor of claimant Epifanio Romamban, et al. This decision was received by Atty. Rico Manzano, counsel for the Director of Lands on December 11, 1969. On December 24, 1969, said counsel filed his motion for reconsideration which was originally set for hearing on January 9, 1970 but transferred to January 30, 1970 and which motion for reconsideration was denied on January 30, 1970, copy of the order denying said motion was received by Atty. Manzano on February 5, 1970. On March 6, 1970, said counsel filed his notice of appeal and motion for extension of time to file record on appeal. From the above-mentioned dates it will appear that from December 11 to 23, 1969, 12 days have already elapsed, and from February 5, to March 5, 1970, 28 days had already elapsed, or a total of 40 days which is far beyond the time to perfect an appeal. Assuming Atty. Manzano received the order of denial of his motion for reconsideration on February 15, 1970, still from February 16, 1970 to March 5, 1970, is a period of 18 days. Adding 12 days to 18 days is a total of 30 days. So when he filed on March 6, 1970 his notice of appeal and motion for extension of period within which to file his record on appeal, the period to appeal has already expired.

IN VIEW WHEREOF, the appeal interposed by the petitioner Director of Lands is hereby dismissed."[1]

On May 5, 1970, counsel for the Director of Lands filed a Petition for Relief from the Order dismissing appeal on the ground of excusable negligence, to which was appended an Affidavit of Merit. Therein, counsel explained:

"4. That on March 6, 1970 I filed a notice of appeal and a motion for extension of time to file a record on appeal and while it was stated in the notice of appeal and in the motion for extension of time to file record on appeal that the order of January 30, 1970 was received on February 5, 1970, such date was in fact the time when it was reportedly delivered to my office and that I was then conducting research for my exhibits in Land Reg. Case No. N-13-O entitled 'Ricardo Baloy vs. Director of Lands, et al.' in the Library of Malacanang and that on February 6, 1970 I was also making research in the justice department library to support a memorandum for another case.

"5. That after coming from the court in Iba on February 14, 1970, I had to rush preparation of pleadings for other cases and I immediately proceeded to Naga City to attend the hearing of Civil Case No. 6610 entitled 'S. Yago, et al. vs. Director of Lands, et al.' on February 16, 1970, and thereafter I proceeded to Tigaon, Camarines Sur, to attend the trial of Land Reg. Case No. N-1060 entitled 'D. Serrano vs. Director of Lands, et al.' on February 17, 18 and 19, 1970;

"6. That from Tigaon, Camarines Sur, I had to prepare and attend the Hearings of the following: Civil Case No. 1970 entitled 'Andres Castillo vs. Director of Lands, et al.' before the Court of First Instance of Isabela in Ilagan on February 24, 1970; Civil Case No. 4850 entitled 'Republic of the Philippines vs. Federico Rivera, et al.' before the Court of First Instance of Nueva Ecija in Cabanatuan City on February 25, 1970; and Land Reg. Case No. 105-IV entitled 'Rizal de Peralta, et al. vs. Director of Lands, et al.' before the Court of First Instance of Ilocos Norte in Batac town on February 26, 27 and 28, 1970;

"7. That from Batac, Ilocos Norte, I had to prepare for and attend the trial of Civil Case No. 6835 entitled 'Mariano de Ramos vs. Director of lands, et al.' before the Court of First Instance of Quezon in Lucena City on

March 3, 1970, and thereafter, I had also to prepare for and attend the trial of Land Registration Case No. N-1715 entitled 'A Doronila vs. Director of Lands, et al.' before the Court of First Instance of Rizal in Pasig, on March 6, 1970;

"8. That in view of my heavy schedule of cases for trial in distant places where I had to commute and consume much time in going to and in returning from the same, there was practically no opportunity or material time for me to prepare and submit earlier the appeal in the above-entitled case and it was only on March 5, 1970 when I had the needed time to finalize and file the notice of appeal together with a motion for extension of time to file the corresponding record on appeal." [2]

Respondents opposed said petition alleging that the basis for the claim of excusable negligence was not meritorious because petitioner heads a bureau with personnel, had ample time to submit within the prescribed period the record on appeal, and that the Affidavit of Merit failed to show a good and substantial cause of action or defense.

On August 28, 1970, the Court denied relief for the reason that:

"x x x To the mind of the court, the alleged heavy schedule of cases for trial and the pressure of time in meeting deadlines in the submission of pleadings in other courts would not prevent petitioner's counsel, with due diligence, to ask for extension of time to file his record on appeal before the expiration of the period, either by himself or through his colleagues in his office. He could even wire the court for such extension with the proper motion to follow later." [3]

Petitioner appealed to the then Court of Appeals which, as aforesaid, certified the case to us on a purely legal issue on April 25, 1973.

It should be noted that notwithstanding the disallowance of the appeal, the Trial Court had approved the Record on Appeal in its Order of October 30, 1970.

For resolution is the propriety of the denial by the lower Court of the Director of Lands' Petition for Relief, which was filed by reason of the dismissal of his appeal submitted beyond the reglementary period.

Relief from judgment or order is premised on equity and it is granted only in exceptional cases [4], as when a judgment or order is entered, or any other proceeding is taken through fraud, accident, mistake or excusable negligence. [5] The petition must be filed within 60 days after petitioner learned of the judgment or order or other proceeding, and not more than 6 months after said judgment or order was entered, or such proceeding was taken, and must be accompanied with an Affidavit showing fraud, accident, mistake or excusable negligence relied upon, and the facts constituting petitioner's good and substantial cause of action or defense. [6]

The Petition for Relief was filed within the statutory period. The Affidavit of petitioner's counsel did show an extremely heavy schedule of trial in different places of Luzon, from the Bicol area to Isabela, Ilocos Norte, Nueva Ecija, Lucena City, and Rizal, Pasig, which prevented him from seasonably interposing his appeal. Apparently, petitioner's legal staff was, indeed, "few and overworked", its members having been "assigned several cases distributed in the various courts all over the country." It could reasonably be believed, therefore, that under the circumstances, counsel's failure to interpose petitioner's appeal on time could be attributable to pardonable oversight. Moreover, considering the nature of the controversy, which is, whether the lot in question is public land, it is in the interest of substantial justice that the evidence presented be reviewed by a higher judicial authority.

Petitioner appears to have a good and substantial cause of action, too. The Order of General Default was entered in 1949, but it was only on September 16, 1968, or after a lapse of 19 years, that respondents filed their Cadastral

Answer to Lot 42-E. Respondents were not in the numerical nor the alphabetical list of claimants appended to the petition for cadastral hearing. The lot is also covered by a pending homestead application on the northern portion, and a free patent application on the southern portion indicating that it was considered public land.

The statement of the lower Court that, since the claim of the Director of Lands that the disputed property is part of the public domain is "an affirmative allegation, it is duty bound to prove that fact," is inaccurate. On the contrary, all lands belong to the public domain, unless it is shown that they have been in the possession of an occupant or his predecessors in interest since time immemorial.[7]

Additionally, dismissal of appeals based on purely technical grounds is frowned upon by Courts as it is their policy to encourage hearings of appeals on the merit.[8] Rules of procedure are intended to promote, not to defeat substantial justice, and therefore, they should not be applied in a very rigid and technical sense.[9]

WHEREFORE, the Order, dated August 28, 1970, of the then Court of First Instance of Zambales, Branch II, Iba, in Cad. Case No. 191, Cad. Rec. No. 641, Lot 42-E of the Iba Cadastre, disallowing petitioner's appeal is hereby set aside. The Regional Trial Court corresponding to the former Court of First Instance of Zambales, at Iba, is hereby ordered to give due course to petitioner's appeal from its judgment dated November 20, 1969, and to elevate the records to the Intermediate Appellate Court. No costs. SO ORDERED.

Teehankee, Acting C.J., Plana, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

[1] Record on Appeal, pp. 86-87.

[2] Ibid., pp. 92-94.

[3] Ibid., p. 99.

[4] *Dirige vs. Biranya*, 17 SCRA 840 (1966).

[5] Section 2, Rule 38, Rules of Court; *Ocampo vs. Caluag*, 19 SCRA 971 (1967).

[6] Section 3, Rule 38, Rules of Court; *Domingo vs. De la Cruz*, 23 SCRA 1121 (1968).

[7] *Oh Cho vs. Director of Lands*, 75 Phil. 890 (1941); *Director of Lands vs. CA*, 38 SCRA 634 (1971).

[8] *Catindig vs. CA*, 88 SCRA 675 (1979).

[9] *Calasiao Farmers Cooperative Marketing Association vs. CA*, 106 SCRA 630 (1980).

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